

STATES OF JERSEY

Corporate Services Scrutiny Panel

Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel

Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel

Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogleby made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogleby made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogleby made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogleby made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel

Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogleby made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogleby made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogleby made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furor, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogleby made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel
Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogleby made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]

STATES OF JERSEY

Corporate Services Scrutiny Panel Jersey Development Company Sub-Panel

FRIDAY, 20th AUGUST 2010

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Deputy D.J. De Sousa of St. Helier (Vice Chairman)
Senator S.C. Ferguson
Mr. R. Law (Panel Adviser)

Witnesses:

Mr. S. Izatt (Managing Director, Waterfront Enterprise Board)
Jurat J. Tibbo (Acting Chairman, Waterfront Enterprise Board)
Connétable D.J. Murphy of Grouville (Director, Waterfront Enterprise Board)

In attendance:

Ms. K. Boydens (Scrutiny Officer)

[10:27]

Deputy C.H. Egré of St. Peter (Chairman):

Gentlemen, firstly thank you for coming to speak to us today. Before I start the proceedings I would just like to explain the reason why we initially invited 2 of you here and then we were asked that the whole board might sit in front of us. Purely from an administration exercise it is a lot easier to deal with the managing director, the chairman of the board, who we from the panel expect to represent the board's views, and as you are aware I am quite happy to have another. From that perspective, having a huge crowd of people in front of you it is not easiest thing to manage when one is posing questions. So, please bear with me on that one.

Acting Chairman, Waterfront Enterprise Board:

May I just correct one point, Chairman?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

I am not Chairman of W.E.B. (Waterfront Enterprise Board), I am Acting Chairman. I have never been appointed Chairman.

The Deputy of St. Peter:

Acting Chairman of the board. The point I make is that in the role of Acting Chairman I would be expecting you to represent the board. Thank you. As you will be aware, these proceedings do follow a set process and part of that process is that you should be aware - and I shall read it from our plan here - that the proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. (Public Accounts

Committee), and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue.

[10:30]

This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering your questions. So, on procedural aspects that has now been covered. Are you all happy with that statement? If we could start by dealing with issues. I think you have already had a copy of our proposed question plan and we start with what do you expect to see ... This is the way you get your wrist slapped carefully; a post-it note gets passed to you. Before we start the proceedings it is important that we check our microphones are all working. So if we could go, Stephen, through you, just say who you are, your position, and go round the corner and we will just check the level. Please do not tap the microphones because the poor lady down the other end is going to be ... **[Laughter]** So, Stephen, if you would just like to introduce yourself and we will go round.

Managing Director, Waterfront Enterprise Board:

Stephen Izatt, Managing Director, Waterfront Enterprise Board.

Acting Chairman, Waterfront Enterprise Board:

John Tibbo, Acting Chairman.

Director, Waterfront Enterprise Board:

Dan Murphy, Director, Waterfront Enterprise Board, inter alia.

Deputy D.J. De Sousa of St. Helier (Vice Chairman):

Deputy Debbie De Sousa, Vice Chair of this sub-panel.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

The Deputy of St. Peter:

Deputy Collin Egré, failing in his duties yet again, Chairman.

Mr. R. Law (Panel Adviser):

Richard Law, adviser.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

The Deputy of St. Peter:

Any other administration exercises? Okay, so we will start again with that first question: what do you expect to see in the S.o.J.D.C. (States of Jersey Development Company) business plan in the first 5 years and particularly can you identify - and it gives you 3 bullet points there - any phased programme of new developments?

Acting Chairman, Waterfront Enterprise Board:

May I, Chairman, ask a question?

The Deputy of St. Peter:

Certainly.

Acting Chairman, Waterfront Enterprise Board:

In what context are we talking today?

The Deputy of St. Peter:

We are talking in the context of W.E.B. and proposition P.73, which is going in front of the States, which indicates quite clearly that the role of W.E.B. would be subsumed into the new company if it is developed.

Acting Chairman, Waterfront Enterprise Board:

So we have answered this point to you in writing, have we not, this question, by saying that we are not able to answer because we are not the Jersey Development Company? Jersey Development Company will be formed if this proposition were to go through. It would be a separate board of directors, separate chairman and separate board of directors, and so have responsibilities, presumably under the direction of the Minister, to produce a business plan.

The Deputy of St. Peter:

What involvement at the moment, if any, therefore has W.E.B. had in the current development of the P.73 proposition?

Managing Director, Waterfront Enterprise Board:

As you know, this is a proposition that has been put forward by the Council of Ministers. We have not been involved in any discussions with regard to a business plan at all.

Mr. R. Law:

Chairman, would it be helpful perhaps if we start from the proposition actually articulated the way in which the Development Company would be formed and what its terms of reference were? If we then go back to what has been the DTZ report, very much the final report is dealing with, of course, answering some of the critical questions and contributions to that report were made by a number of the bodies, that is Property Holdings, for example. Whoever it was thought appropriate was approached and W.E.B. made an important contribution to that. Perhaps if we go through that it will in fact address some of these issues that I think were referred to and are referred to, because the DTZ report is looking at the future and how that can be managed through the new company and they made various suggestions as to what should be done, for example the establishment of protocols, the establishment of risk and how that should be managed. The way in which, may I suggest, we go is by going to the report and it is explained the contribution that W.E.B. made to that.

Acting Chairman, Waterfront Enterprise Board:

As you have referred to that report I would like to refer to this which is a headline which appeared last night in the *Evening Post* and which I think is most unhelpful to any association and certainly unhelpful to the Island because that is a suggestion that the directors of W.E.B. have been responsible for altering the tone, as it says, of the report. Now, W.E.B., like any other organisation which has a report made of it, was given a draft; the draft was commented on. If DTZ have been given information in the first instance and if some of that information they reported was inaccurate, as a result of which they drew certain conclusions, when the correct information was given it is not really surprising that they might have drawn different conclusions. The report was not commissioned by W.E.B., it was not released by W.E.B. as suggested in this article. It was released by the States, by the Council of Ministers I think, and I think that this report is most unhelpful and frankly is an insult on the members of the board.

The Deputy of St. Peter:

Before we move on to the question that is being put forward by our adviser, part of our role, as I am sure you are aware, as a scrutiny panel is to look at issues as they arrive. The transcripts of the meeting yesterday will be made available once they have been clarified for

content and detail by the people involved in the meeting on Wednesday. The reason why this was looked at was because initially we were told by the Chief Minister quite clearly that the reason for the delay in taking this forward was because there had been some dispute between the role of W.E.B. and the role of DTZ. Now, that is factual.

Director, Waterfront Enterprise Board:

Sorry, can I just come in here, Chairman? I was at the meeting, as you know, and the Chief Minister denied absolutely. He said that the word "dispute" was used mistakenly. He did not think there were any disputes. Also Bill Ogley made it perfectly clear that there were absolutely no disputes between W.E.B. and DTZ.

The Deputy of St. Peter:

If I could just interrupt for a minute, Dan, because I did not finish. The purpose of the questioning, and you will see the questions, was to establish whether what was said was correct and, as you have pointed out quite clearly, the Minister said that it was a possible mistake on his part in the words that he had used. That is the purpose of scrutiny, to establish those facts. The reasons those questions were asked were to establish those facts. The way that is interpreted by the media is for them. We have had no contact with the media. Despite a phone call asking me to comment, I did not. So, if you would appreciate the fact that our role in scrutiny is to bring these areas to the fore to make sure what detail exists is either true or false.

Director, Waterfront Enterprise Board:

I quite agree with you but I think the word "dispute" now is passé. Surely we can forget the word "dispute". It has been denied all round.

The Deputy of St. Peter:

The reason why I answered the question in the way that I did - and it is important it is being recorded now - was because of the input from the chairman of the board and it is to resolve that particular problem.

Mr. R. Law:

Chairman, if I can just ... First of all, it is my understanding that the questions are posed by the panel but I can fully understand and appreciate why that article may have been referred to. What matters is what is actually transcribed and will be circulated so that the discussion as to what is the content and what occurred at the hearing should wait for that because I think if that patience could be so that there is no more reference to that as a question of the panel one will find that you should be much comforted by ... you will take your own view of that evidence because I think a lot of these matters were dealt with in a different way to what is in the press. As experienced as you will be of media and the reporting, that may not be a surprise to you. So, if we then follow the suggestion, Chairman, which I am saying is the role that W.E.B. had in the report it will, of course, give you the opportunity in answering those questions to put your position and restate your position into evidence. So it really is not to be awkward or whatever but to ensure that W.E.B.'s position is accurately and clearly understood by the panel in relation to the report and also to get a feeling of the experience of W.E.B. from the history and knowledge it has as to how that will be applied in the future in the challenging economic circumstances and climate on delivery of its role. That is why there are questions that are put about how does it see the future in relation to the proposition.

Acting Chairman, Waterfront Enterprise Board:

But it is extremely difficult for this board to answer that question because you are going to have a completely new board, you are going to have a completely new mandate from the States; who knows what directions will be given to that new company.

Mr. R. Law:

It is going to have what is set out in the proposition, unless it is otherwise altered, is it not? I am suggesting that the questioning should start from the viewpoint of the DTZ report and the involvement that W.E.B. had in that process and the contribution it made because you have referred to the matter of the correction of things that were incorrect in the draft. That seems to me fundamental for that to be ...

Acting Chairman, Waterfront Enterprise Board:

But surely we are not going back to the draft. There is no point in doing that, is there?

The Deputy of St. Peter:

Let us not talk about the draft. What we are talking about is the fact that the DTZ report, would you confirm that there was an input from W.E.B. within that DTZ report?

Acting Chairman, Waterfront Enterprise Board:

In response to the questions put to us.

The Deputy of St. Peter:

Yes. So, in effect what we are asking is what was the input from W.E.B. within that report in its final draft form?

Managing Director, Waterfront Enterprise Board:

Shall I perhaps lead you through exactly what happened with regard to the DTZ report?

The Deputy of St. Peter:

Yes, that would be useful.

Managing Director, Waterfront Enterprise Board:

DTZ visited W.E.B.'s offices on 11th and 12th January 2010 and 1st February 2010. The W.E.B. executive and the W.E.B. board met with DTZ and W.E.B. provided DTZ with access to all of the company's records. DTZ took copies of whatever information they required. The W.E.B. board responded to the early working draft of DTZ, which is the one I believe you are talking about, with comment on factual inaccuracies and also with regard to the commercially confidential nature of some financial information which could not be included within the published report. What this relates to, of course, is the contractual relationships with our development partners, and indeed within those contracts there are confidentiality clauses.

The Deputy of St. Peter:

Yes, totally accepted.

Managing Director, Waterfront Enterprise Board:

Here is where the W.E.B. board sought to clarify what the factual issues were and I think it is the breadth of the work in the engagement and consultation, because this was commented upon. The specific examples that we mentioned were in 1990 a model of the entire waterfront area was exhibited around the Island over a 10-year period, the Waterfront 2000 being an open invitation to the public to attend a weekend workshop to establish what the Islanders wanted on the waterfront. These outputs formed a land use master plan. A public exhibition was held for a week in respect to the Leisure Complex. There was a one-day public meeting in 2005 to establish public opinion on tall buildings on the waterfront that you remember resulted in the Waterfront S.P.G. (Supplementary Planning Guidance). There was a 2-week public exhibition for the Liberty Wharf scheme and that was manned by W.E.B. and the developer. I will not bore you too much. There was a one-week road show around various parishes for the Crossland Center Parcs scheme that was manned by W.E.B. and the developer.

[10:45]

Then of course latterly there was the 3-week exhibition for the Esplanade Quarter master plan that we also assisted in the manning of, which was helpful to receive comments from the public and that then led to some changes to that master plan. There was also an example of the work with regard to design, because there is commentary on design within that report, and particularly we made the point that the Victoria and Albert housing was procured by a design competition and the introduction of design coding in May 2007. We were a little sensitive to the comments that as a board we had not responded to good design and would very much like to point out there that what we did very early on was bring in the whole concept of design coding which was based on the C.A.B.E. (Commission for Architecture and the Built Environment) reports and other work that was done in Scotland which strangely was a move forward from the C.A.B.E. activities. So we sought to establish full design coding which has become the basis of all design that we have discussed, we have looked at in terms of planning applications and discussions with developers in terms of projects. A case in point would be the Castle Quay phase 2 application that was made in response to that and was approved by Planning recently. We also clarified the arrangements regarding the assets that W.E.B. held, particularly obviously it is frightfully easy just to look at the balance sheet of the company but not understand what the underlying assets are that make it up. That is the reason that within those accounts that were published with respect to last year we had a commentary relating to the possible value of those assets in the open market which is not reflected in the way they are shown in the accounts. We also provided examples of how we had marketed the waterfront development sites, because again there was commentary there that DTZ initially felt that we had not marketed those sites to a wider audience. So we explained that the Esplanade Quarter was marketed internationally by Barnes Daniels and indeed all of the shortlisted developers were international companies. We pointed out that Liberty Wharf was developed by an Irish developer. Perhaps we will stop there. The Leisure Complex was developed by a U.K. (United Kingdom) firm. We also provided further examples of public and political interest in the work, because I am sure some of you will remember the history of the hotel, the petitions, the rescindment motions and also the interplay between what was required first by the then Chief Minister, by Planning Department and ourselves. We also identified information that had been included in the early working draft which was, as I say, commercially and contractually confidential because they were looking at transaction details that we had provided them with and we felt they should not be included in a published report. The terms of reference for the review made it quite clear that the W.E.B. board would have the opportunity to discuss and check facts as part of the review process. For clarity, I would say that all comments and further information with regard to these reports was channelled through the Chief Minister's Department. We presume but we do not know that they acted as the conduit between our comments and DTZ. I believe that the Chief Minister made comment to you on Wednesday with regard to a statement that was made by Nick Lambert, the partner of DTZ, where he made it clear that it is quite normal for any report for the people that are being reported on to have comment.

Mr. R. Law:

Absolutely, and may I say that that is absolutely right in my experience and that is to be expected and that in this particular case ... I was just going to ask the question because you referred to what are items that are in the report: are you content with what DTZ have reported, i.e. in their final report? If you are not, what are your areas of discomfort? I am putting it carefully because, again, parties do have their own view of these reports, particularly when they are contributing and have contributed as to whether or not ... because for DTZ, a highly regarded and respected independent review that was carried out by them, for them to not necessarily accept the contributions.

Managing Director, Waterfront Enterprise Board:

If I may answer you, obviously because of our press release we were content with the conclusions. Were we content with all of the commentary? Probably not. However, that in

my view would indicate that DTZ have done quite a good job because they have raised issues. We may not agree with them but it is their report.

Acting Chairman, Waterfront Enterprise Board:

We may have reported them slightly differently but it is their report, not ours

Mr. R. Law:

That is what I am saying. We do not know what has been reported and you do and you know what is in your final report and it was a matter for them to decide.

Acting Chairman, Waterfront Enterprise Board:

It is for them to draw their own conclusions.

Director, Waterfront Enterprise Board:

No argument there, providing the facts were right on day one.

Mr. R. Law:

I think in the report there is much reference to risk and they have put forward a regime. Did you make any contribution to that particular element of the report?

Managing Director, Waterfront Enterprise Board:

No. What we did was provide them with our own risk assessment and risk management procedures. I would point out that from my experience of the last 30 years of running development companies we probably have risk assessment and risk management procedures that are at the forefront of the industry. We use Monte Carlo assessment. We are able to sensitise every input of a development model and use those inputs. Even though they might be considered as inputs, we are able to use them as variables.

Mr. R. Law:

If one casts back to previous panels that have been related to this topic, although it is 2008 and 2009, the whole question of the market conditions was very different then as compared with today. It is my recollection that the market conditions, so far as affecting Jersey is concerned, was it was not as exposed to global market conditions as, for example, elsewhere within the United Kingdom, so one could not make direct comparisons. Since then, of course, market conditions are such that various projects that were looking to have started within the Island have not and I gather that there may have been changes in occupation or buildings on the waterfront are no longer occupied as a product of market conditions. What are your views in terms of against the generality of risk now, the broad church of risk? With your, as you have said, 30 years of experience as a developer you will be fully aware of the cycles that were in the past where occupiers seemed to become scarce, cash becomes scarce, risks are greater. I am talking about this very simple straightforward approach: how do you see addressing that?

Managing Director, Waterfront Enterprise Board:

Can I answer the question in a number of parts, because I think you posed it that way. First let us look at the market conditions and in market conditions we clearly have to differentiate between the particular sectors.

Mr. R. Law:

You mean by that, for example, residential as opposed to commercial offices and leisure or whatever?

Managing Director, Waterfront Enterprise Board:

In residential there is unquestionably a slowing of transactions. However, one only has to point to the level of pre-sales within Castle Quay phase 1 and the continuation of sales before

occupation. That particular project, and it is common currency to know, is over 90 per cent pre-sold and there are still purchasers. That is residential relating to the waterfront. With regard to offices, certainly in the conversations that we have been having over the last 2 weeks with potential occupiers - and remember this is specific significantly to the finance sector - there is a very robust and large demand from the finance sector to occupy purpose-built, build-to-suit, efficient space because most of the space that is occupied by that sector at the present time was not purpose-built and is highly inefficient in the sense of its efficiency ratio of net to gross. What we are seeing is, and as you would expect, Richard, what they are looking to do is to use their resource and to get a higher return on their assets so therefore they are very, very keen to have buildings where that percentage of their costs, i.e. their occupancy costs, is reduced. That is a sector that we believe presently to be very robust. We also have indications that private sector funding is available for those projects but again these are based on pre-lets to prime tenants. That private sector finance is not only available on the Island but is available on highly competitive terms and on terms that I would not expect to see that are available say in the U.K. at the present time or indeed in other parts of Europe. So it is an indication of the level that these lending institutions feel that Jersey is vis-a-vis the rest of the economy, i.e. they feel that it is much more robust. If I then answer your question with regard to risk, all of the proposals within the States of Jersey Development Company are based on a risk minimisation such that for any developments it should be done on the basis that no construction is considered unless that cost is covered either by pre-sales or pre-lets. The construction and the contract is set on an open market tender but on fixed price, fixed delivery. So, in fact, what is really the only risk that it entails is does the contractor go bust. Now, how does one look at that? Of course one looks at the probity of that contractor, looks at the history, looks at their financial ability. Does that answer your question?

Mr. R. Law:

I am going to say you have answered the question but, no, I want to go back to 2 parts of it, if I may. You speak of large scale of offices, demand for. You are talking about a lot of office demand. What do you mean by that? There are proposals of financial services, in loosely termed the financial sector, wishing to consolidate which would address the issues you are talking about. What square footage are we talking about? If they are decanting from these traditional, inefficient offices how do they sit once they have decanted from them?

Managing Director, Waterfront Enterprise Board:

The sort of square footage we are talking about at the moment is in excess of 250,000 square feet. You are quite right with regard to consolidation because a lot of these institutions are consolidating their space but they are looking for efficient space. So, while maybe the rentals they are paying presently on their square footage are lower than is envisaged with this grade A purpose-built office space, their actual total occupation costs may well be reduced.

[11:00]

We are talking about primarily here the wealth management sector. However, we are also talking about the general banking sector as well. That is not as robust as the wealth sector.

Mr. R. Law:

But of course if you are moving out of 250,000 square feet, for example, my question is this is not relating to the role of those direct parties to it but I am now putting the question in relation to the States as whole. You talk about the pre-let and of course those buildings that are decanted from are empty. Who is queuing up to go into those?

Managing Director, Waterfront Enterprise Board:

Without giving too much information, a number of the tenants we are talking to will be decanting from premises where the owner of those premises is very, very keen to redevelop themselves. That is their view to take as to whether they would have the demand to do that.

Mr. R. Law:

Yes, but you understand the point that I am making, because one is finding elsewhere that there have been these moves made but then there is a vacuum surrounding the properties that are left empty which it was thought would be ideal candidates for change of use and regeneration or redevelopment or reoccupation after refurbishment.

Managing Director, Waterfront Enterprise Board:

That may be the case although I would suspect that a lot of the accommodation we are talking about will be refurbished and would remain either secondary or tertiary offices that are available for a different marketplace.

Mr. R. Law:

If we are looking at the overall picture of the Island, one has to have a stock of property available that is fit for the purposes of the occupiers but at the same time the States is concerned about the overall mix to ensure that you are not losing income on the one hand and gaining on the other. The impact of emptiness is something far greater than just the ...

The Deputy of St. Peter:

If I can just add to that concern: what concerns do you have with regard to the waterfront at the moment where we do have 2 major high profile buildings that are now in effect empty? From a let us look at the waterfront perspective in the public domain it does cause a problem.

Managing Director, Waterfront Enterprise Board:

I think we can only make supposition because, as I am sure you are aware, what happened there was that was sold to AXA Insurance. We dislike to have empty space there. It does not make the waterfront attractive. I think one of the problems has been with that particular institution - and I am sure Richard can help here - they have never been known to be quick to react to anything and we would wish them to be probably more proactive in trying to find either an alternative use or another tenant that would work there. The only restriction they have on that is that it is for leisure use. That is the restriction on the lease.

Mr. R. Law:

But if I may put it to you, as a developer with the considerable experience that you have referred to, as part of your remit that you currently have as W.E.B. it is an important element of the waterfront. Do you see it having a future in the way that you have referred to? It is one thing to say it is tied to being leisure use but the reality is that one is seeing a complete review of use profiles to fit the changing market conditions.

Managing Director, Waterfront Enterprise Board:

Richard, I think I can make a comment as a developer, possibly not relating to this particular inquiry. As a developer what I would like to see is that the whole of that leisure complex, i.e. the cinema and other things, was redeveloped but the cinema, which is a natural candidate for going below ground because you do not need windows in cinemas, potentially, without wishing to cause a furore, it also has the ability for shopping, because that could go below ground, and then that whole complex will be redeveloped to be very much more attractive. Now, it is very easy with 20:20 hindsight to look at it and say why was it there? It was there to make provision for a leisure industry use that was expected on the waterfront years ago. Would you put big box retail there today? Of course not.

Mr. R. Law:

That, of course, is entirely driven by the unprecedented experiences of economic conditions that are imposed. The drivers have changed. There are new developments elsewhere that have been completed which are not occupied and the solutions that are being looked at are really starting again.

Managing Director, Waterfront Enterprise Board:

If I may stress here, Richard, the whole of the basis as I understand it of where we are going looking at S.o.J.D.C. is not to take development risk as such, so everything is developed on the back of either pre-sales or pre-lets that cover the costs of the construction and obviously their end value should be well in advance of all of the development costs. Then whatever that value is is available for the States of Jersey for reinvestment.

Mr. R. Law:

That, of course, is the answer that is given and was given before the economic downturn and all those boxes were ticked and articulated in the way that you have. However, in spite of the due diligence that was done at the time, some of these things have failed and stopped for whatever reason and it has been necessary in spite of the contract, if you like, covering the risk in the way that you have correctly ... I have no disagreement with what is articulated, it has still become a real risk. Where does that at the end of the day risk fall? In fact, who is it that finishes up carrying the can in the circumstances that you are articulating? Who do you see?

Managing Director, Waterfront Enterprise Board:

I will answer that but I think I must also come in with that commentary because what we are looking at is prime prime tenants and so therefore their creditworthiness is likely not to be questionable, and indeed Jersey is a different animal to other jurisdictions in that sense. We are very much more able to check that creditworthiness. Second, you are quite right in asking the question: where does it finally lie? Of course it finally lies with the public or the States of Jersey. That happens in any jurisdiction where the provider of the land is a partner in any way. In this case, of course, it is very much more than a partner but there is also the point that what we are seeking to do is develop here with private sector money, not the States of Jersey's money. So, therefore, you have the added benefit of the checks that are being made by the lenders. What we will be looking at in lenders it is probably more than one because of scale and, second, what we are looking at is to try and match the lending liability to the risk. So you may well have construction funding; you will have takeout funding; you will also probably have purchase.

Mr. R. Law:

I understand mezzanine and all this sort of funding. If we just take it that what you are saying is quite simply and straightforwardly we can get the private funding, that has been put and I am not in any way challenging that at all or suggesting that that is contrary in your statement. But can we then look at that in each project - and what little I know and I have seen for example on the Esplanade scheme - there is a significant element of any project that is infrastructure, by definition does not earn any money per se but can facilitate the opportunity to income on the one hand and I am going to say public good, and that is the wish list of goodies that become embraced through your process of planning to ensure that, for example, there are certain quality issues, design codes, all first class work and fundamental, there is a question of degree and affordability. You talk of the private end of it but what few of the projects I have seen there has been an enormous requirement of what you would call the public sector element, the infrastructure and the public good, open spaces, et cetera.

Managing Director, Waterfront Enterprise Board:

I think that is one of the fundamental issues of this company which is to deliver high quality development for the benefit of the Island.

Mr. R. Law:

High quality is one of those things, and I am not suggesting one does not go for high quality but there has to be at the end of it a viable, sustainable, completed project. Although private

funding will deal with it, how do you account for what is the public sector contribution? How is that going to be paid for?

Managing Director, Waterfront Enterprise Board:

Well, the public sector contribution will be the land. I think here we have to divorce the situation of W.E.B. to potentially the future because quite clearly within the proposition it is outlined that there will be a transfer value of that land. It is expected that the transfer land will be the market value, although it also makes the point that it is up to the Minister for Treasury to determine what that transfer value is. If there is a significant requirement to fund extra infrastructure then the project will not bear that heavy cost upfront but it may well be able at the end to pay it back because the funding cost has not been carried throughout the period of the development.

Mr. R. Law:

There have been figures used for, I think, the one version of Esplanade, the one that did not go ahead. I am not asking for the accurate figures but the scale of the infrastructure costs of going underground and doing that work were very significant.

Acting Chairman, Waterfront Enterprise Board:

About £50 million.

Mr. R. Law:

Thank you. I thought it was £50 million or £70 million but it is a lot of money.

Managing Director, Waterfront Enterprise Board:

I think what we have to do there, however, is be very, very careful with looking at the Esplanade Quarter.

Mr. R. Law:

I was using it get to the point that there is a huge amount of cost to produce your offices or whatever there may be, could be.

Managing Director, Waterfront Enterprise Board:

Well, yes and no.

Mr. R. Law:

It seems to me that elsewhere, for example - to try and cut through so I can see how it is being addressed - there is currently going on a complete review of the balance of infrastructure costs and conditions to planning consents for low cost housing and other public open spaces, parks and things, that were in prospect because, even with your pre-sales, pre-lets, it is not a viable, sustainable development. That is the issue I am seeking to get an answer on.

Managing Director, Waterfront Enterprise Board:

May I address this, because if we take the Esplanade Quarter as an example, the way we would envisage that being in development is in phases which therefore allows one to minimise that upfront expenditure.

Mr. R. Law:

But you cannot, for example, build the road in phases, can you?

Managing Director, Waterfront Enterprise Board:

You do not have to build the road until possibly the first or second phases are completed.

Mr. R. Law:

You have to get access, I am getting at. What you are saying is you are not going to incur infrastructure costs.

Acting Chairman, Waterfront Enterprise Board:

Sorry, but I think you are looking at the Esplanade site as it was envisaged to be developed.

Mr. R. Law:

With respect, I am not looking at the Esplanade site. I am looking at the principles here and how what I am seeing ...

Acting Chairman, Waterfront Enterprise Board:

You are talking about going underground. That is the cost bit, that is the cost.

[11:15]

Mr. R. Law:

You came back to the Esplanade but what we are looking at here is the overall outputs from any development at the end of the day are secure income, good tenants. That has worked very well in an increasing profile of values and rates increasing. We are not in those comfortable circumstances economically. We are not in that position currently so we have got to ...

The Deputy of St. Peter:

Richard, there looks to be a challenge on what you have just said.

Managing Director, Waterfront Enterprise Board:

The rental rates we are talking about are ones that are equal to the best that have been achieved on the Island at the present time. The capitalisation rates are ones that are currently being achieved and there is a great deal of interest in the institutions of around 6 per cent. So I think we are confident that there is a marketplace there that is not in the same situation as other large areas.

The Deputy of St. Peter:

Before we continue, I am aware we are dealing with fairly technical details so there is a fair amount of quietness coming from other members of the panel. I just want to check whether my panel members have anything that they wish to add or question at the moment before we move on.

Senator S.C. Ferguson:

Not at the moment.

Deputy D.J. De Sousa:

No, not at the moment.

Director, Waterfront Enterprise Board:

I am sorry, can I just come in here? I do not think we have made the point strongly enough: the phasing of the development is very, very important for the infrastructure costs. The first 2 phases of the development, without giving away too much, would in fact incur no infrastructure costs. If there was a demand we would do the first phase; further demand can do the second phase. If there is further demand then we can look at the infrastructure costs which you are talking about, i.e. dropping the road.

Managing Director, Waterfront Enterprise Board:

There is enough headroom in the value of those projects to afford to provide that infrastructure.

Mr. R. Law:

I was seeking not to deal with this on a case basis, in other words using real circumstances, for a whole host of reasons. I am looking at the approach in principle to what are the critical issues in managing risk, because there are quite a number of the projects where the tension is being the public wish list ... I am talking about the quality of the build now, that there has to be a compromise because one has to get a cost base to keep the model viable. If we just ...

Managing Director, Waterfront Enterprise Board:

It is a very valid point. However, the proposed structure here is that that is why the Regeneration Steering Group is there and what you have is separation of roles. Quite clearly the Planning Department may wish to impose certain conditions. That is their prerogative. However that is divorced from this company and that is why the Regeneration Steering Group is there. Regeneration areas are set out, development briefs are provided. It is then up to the Regeneration Steering Group to comment or not on the ability to provide whatever those conditions that are attached to it are.

Mr. R. Law:

Then you are saying the J.D.C. would deliver to that?

Managing Director, Waterfront Enterprise Board:

All J.D.C. is is a delivery vehicle.

Mr. R. Law:

But that delivery vehicle is now in the form of a developer. That is what we are told. You have moved from facilitator into that as a developer.

Managing Director, Waterfront Enterprise Board:

Although it is still a facilitator inasmuch as a developer. What one is looking at is bringing in private sector where possible and if for any reason there is a better return, whatever that might be, socioeconomic, for the States of Jersey then that company acts as a primary developer but it still looks at all forms of development. Do you bring in joint venture partners? Do you have financial partners? All of that is considered and that will be at the direction of the Regeneration Steering Group.

The Deputy of St. Peter:

Do you perceive that within the Regeneration Steering Group that there could be some fairly serious tensions built up between that particular group and S.o.J.D.C. in regard to more requests for public realm within a development and the S.o.J.D.C. struggling to make profit?

Managing Director, Waterfront Enterprise Board:

I think it would obviously. I think really I would ask you to ask that yourself because that Regeneration Steering Group is made of politicians and the J.D.C. would only be able to deliver what is viable within the financial returns. If there are tensions I am sure that the input to the regeneration group will be vocalised and that depends very much on the strength of the board of J.D.C. and how that input is put to the R.S.G. (Regeneration Steering Group), together with hopefully the strength of the executive, but at the end of the day it is the board to advise to that R.S.G.

Director, Waterfront Enterprise Board:

Can I just say something here, just to back up Stephen? If you read the DTZ report and the executive summary on page 5: "The conclusion of our review is in the light of considerable constraints W.E.B. has performed better than the perception allows." There is then a list of problems that we have had, one of them being: "Inappropriate intervention in some of the operational commercial dealings by the States Assembly and a political process which

produces slow decisions.” So you are absolutely right, you hit it bang on the head when you say it is political intervention.

The Deputy of St. Peter:

I did not say it was political intervention. I said do you believe there could be tensions that could build up within the setting up of the S.o.J.D.C., which of course is where our interest lies in making sure that what comes out of this is successful.

Managing Director, Waterfront Enterprise Board:

All we can do is point you to what is within the report. How it works is not there but what it says is the prime purpose of the R.S.G. is: “To provide a political steer and/or guidance to inform policy guidelines.” Then also it says: “Provides political guidance and co-ordination in the process of establishing development plans for regeneration zones.”

Mr. R. Law:

But the reality in many instances now is the political guiders need guidance and that has to come from those that are at the coalface of delivery in causing there to be as necessary a rebalancing in order to give the result that you so clearly articulated which ticks all the boxes because we have managed the risk profiling. One of the tools you use to determine whether this is going to be a goer or not is, of course, the development appraisal where you put in the things of rent and cost and return and the scale, taking into account the phasing, the cost of the money, and if it is a plus at the end Q.E.D. (quod erat demonstrandum), if it is a minus it is not. In the DTZ report there is reference ...

Managing Director, Waterfront Enterprise Board:

I think we do have a little more sophisticated manner than that.

Mr. R. Law:

I know, but I am trying to put in very much simple terms that we understand that the tools are available to assist you and as far as possible one likes to have a cost plan. You need a cost plan to support it which if it is market tested, which ultimately it is, then those figures would substitute the estimates. So, taking that on board, in the DTZ report there was reference to your 2010 draft business plan and cash flow and it is talking about 10 years hence and there are some figures of accumulated cash. In terms of getting a dividend, something back to the States, in other words the shareholders are always asking for something, it is usually money, when do you see ... you have cast your thinking forward because you have got assets which are under long leases, et al, and the proposals. In other words, you have got a view of the future as W.E.B. and how it is. When do you think it is realistic to expect a return coming back, some cash coming back?

Managing Director, Waterfront Enterprise Board:

There already is a return but it is entirely up to our sponsoring Ministers, which is the Minister for Treasury and the Chief Minister, to decide whether they wish to receive a dividend or whether they wish to see the cash resources in the company to be used for future projects. That is up to them.

Mr. R. Law:

So at the moment, of course, any cash plus value is being utilised to pledge into future projects?

Managing Director, Waterfront Enterprise Board:

Not at the moment.

Acting Chairman, Waterfront Enterprise Board:

Future development.

Mr. R. Law:

Yes. That is what I meant by future projects.

Managing Director, Waterfront Enterprise Board:

We have the resources to do that.

Mr. R. Law:

That is the way you have addressed it. Looking at future opportunities as one of the ways without going cap in the hand is the way that you can achieve that.

Managing Director, Waterfront Enterprise Board:

Also I think it is important to mention, Richard, that the way we see in this current climate the unlocking of funding is the ability to use those cash resources to fund pre-development costs. Those pre-development costs then become an equity contribution to the overall funding scheme and that equity contribution remains there obviously to improve the loan to value ratios.

Mr. R. Law:

Do you anticipate that you would recover all of the pre-development costs?

Managing Director, Waterfront Enterprise Board:

At the end of the project?

Mr. R. Law:

No, within the project.

Managing Director, Waterfront Enterprise Board:

Oh, yes.

Mr. R. Law:

When you say at the end what do you mean? You mean it could be 10 years down the road?

Managing Director, Waterfront Enterprise Board:

No. You would do it on your phasing. You would expect to see a recovery.

Mr. R. Law:

So you would expect to get them all?

Managing Director, Waterfront Enterprise Board:

Absolutely.

Mr. R. Law:

And the value?

Managing Director, Waterfront Enterprise Board:

Again, I can only point to the values that are being created. What we are looking at is at the end, say, we have an effective rent of £30 a foot you then capitalise, say, at 6 per cent, which is probably a sales yield at present time, which produces you an extremely high return on the equity contribution, together with the land contribution obviously.

The Deputy of St. Peter:

Panel members, any other comments at this stage? We have sort strayed, rightly, from the question plan, because these things are, in all honesty, significant at this particular stage and

we have been delving into all the technical aspects, which I thank you for being so open in response. Richard, do you have any other ...

Mr. R. Law:

You mentioned experiences elsewhere, because your knowledge base is very broad church and we are aware of that: the lessons out of Edinburgh or some of the things that they have done?

Managing Director, Waterfront Enterprise Board:

I am not sure the lessons out of the Edinburgh are relevant to here unfortunately because what has happened in Edinburgh specifically is a significant downturn. The project was always a significant regeneration of an area that had had a number of highly contaminative uses. Pointing to the Scottish economy, of course what has happened is Edinburgh is in contraction, both in terms of its economic activity and in terms of its population. So, when you are looking at an area which is secondary at best what has happened to it is that it has stalled and in fact my understanding is that particular company is now going into a care and maintenance basis. The city of Edinburgh does not have the money. Scottish Enterprise, which is probably the most idiosyncratic name of any organisation, is effectively not working and I suspect that the Barnett formula will change very, very quickly and that there will not be any capital contribution to Scotland as a whole. So it is an interesting model but not one that one should look at as a comparator to here.

The Deputy of St. Peter:

Just changing the subject, deviating from the track we have been going on, one of the question lines that we took on Wednesday was with regard to W.E.B.'s involvement with the airport and one of the concerns that was being commented on, both in the public arena and in the States arena, is that the W.E.B. have gone out of their sort of States understood remit by getting involved at this particular stage in developments outside of the ...

Acting Chairman, Waterfront Enterprise Board:

Can I make a point, Chairman? W.E.B. have not been involved in the airport. I think what is happening is that the expertise of Stephen has been used but the W.E.B. board has never made any decisions or considered anything to do with the airport.

[11:30]

The Deputy of St. Peter:

The difficulty is, as you would appreciate, the Managing Director of W.E.B. is Stephen and Stephen takes with him the name in the public perception.

Acting Chairman, Waterfront Enterprise Board:

Is there any harm in using the expertise that is available?

The Deputy of St. Peter:

That is why I am just making the point now.

Director, Waterfront Enterprise Board:

Because of the lack of transcript, it is not your fault obviously that we do not have the transcripts from Wednesday, my memory of that answer from the Chief Minister was that in fact it was within the terms of the Managing Director's contract to be asked to do work outside of his remit at W.E.B. and I think that was quite clear. So, really I do not think there is a question there.

Mr. R. Law:

So you could build a house for me, could you?

Managing Director, Waterfront Enterprise Board:

Only with the Chief Minister's permission.

Mr. R. Law:

I see. When you say go outside his contract it seems to me a very strange thing that could happen.

Director, Waterfront Enterprise Board:

No, it is not, it is within his contract.

Mr. R. Law:

No, to do work outside W.E.B.

Director, Waterfront Enterprise Board:

Yes, but it is within his contract to do that.

The Deputy of St. Peter:

Yes, but the point of asking the question at the time was to bring out, to deal with rumour and whatever, conjecture, to get to the truth of the matter and, as you said, we will double check on the transcript to find the exact detail on that question.

Director, Waterfront Enterprise Board:

Just because we have got the Constable of St. Peter on the board does not give us aspirations in that direction.

The Deputy of St. Peter:

I will be checking on that later.

Senator S.C. Ferguson:

Well, I think the extra land at the airport is actually in St. Brelade.

The Deputy of St. Peter:

Sarah, anything to add? We are coming towards the end.

Senator S.C. Ferguson:

Yes. The DTZ report suggests that you are going to need extra resources. What do you envisage in that area?

Managing Director, Waterfront Enterprise Board:

It will quite clearly, Sarah, depend on how many projects and the scale of it. The resources that we are talking about would be project managers specifically to monitor those projects and the way we would look at taking those on. In fact in this marketplace it is probably much the best way of doing it because there will be people available we could take on on contract where that contracts relates to the specific development. If they do a very good job we will then look at saying could they be permanent but the one thing that we would wish to do is minimise our standing costs.

Director, Waterfront Enterprise Board:

Can I just come in here and quote from the DTZ report where they say on page 7: "The W.E.B. organisational staffing is that their views, supported by those who were interviewed inside and outside, was that W.E.B. was a very lean organisational structure which is understaffed for carrying out its remit."

The Deputy of St. Peter:

Absolutely. That is why the question was asked because it is understood that new resources would be required and as a consequence we are probing as to what those resources might be.

Director, Waterfront Enterprise Board:

In the present climate when you ask for new resources people throw their hands in the air and say: "No, you cannot have more resources."

The Deputy of St. Peter:

Hence the question.

Senator S.C. Ferguson:

Yes, I am the first one.

Director, Waterfront Enterprise Board:

I was justifying the fact that they do need new resources.

Senator S.C. Ferguson:

The other thing that intrigues me, obviously with your particular development background, I Googled "waterfronts" some time ago and there are sort of millions round the world. What would you compare Jersey with? A waterfront development, if you Google a waterfront development I think there are about 9 million references and I just wondered what waterfront would you compare this to?

Managing Director, Waterfront Enterprise Board:

It is a very good point. I think it is very difficult to compare it to any of them. Aspirationally where we should go is another one. I think we also need to look at perhaps our competitor because we would always need to look at Jersey against Guernsey.

The Deputy of St. Peter:

That saves a question. [Laughter]

Managing Director, Waterfront Enterprise Board:

Guernsey has the great benefit in St. Peter Port of a natural bowl and so the approach to St. Peter Port in my view is pretty breathtaking. Aspirationally, what I would like to see is when one comes into Jersey by boat that we had an approach to the Island within the harbours that is at least as attractive as that and that that approach then provides the cohesion of the whole of St. Helier. That to me is the regeneration of bringing together the totality of the offer of St. Helier and we believe from the work that we have done in the past that that is achievable. Unfortunately, the scale of the development would have to be undertaken in a number of stages because it is rather large.

The Deputy of St. Peter:

Debbie?

Deputy D.J. De Sousa:

My question was asked earlier by our adviser.

The Deputy of St. Peter:

Richard, do you have any further areas?

Mr. R. Law:

I think one of the issues that came out at the first hearing was really about when looking at success and failure of development in these times that you have got the ingredients of cash and construction and cost of but there are schemes which have not succeeded where they

have got all the components, the structure of the deal and everything is right and the boxes are ticked but some go and some do not. I think it came out that the issue is, of course, the quality of the team that are, if you like, leading it or conducting it and that, of course, is your contractor but also in really fitting these and managing these projects from cradle to grave. That is something that is becoming more and more apparent is the need to ensure that your team, looking at your team, is one that fits the criteria of the day, in other words going forward, because when the remit changes ... and I think that quite rightly the panel raised the question in its report last year of the need to ensure that resourcing was made available not only to yourselves as necessary but also to the other departments. In other words, it is realised by the panel that this is a fundamental requirement, ever more so now. So that the whole question of looking at the resource, the people resource, in just the same way as you said you really do have to scrutinise the money, and we are perhaps in a better position to look at that, the sources of funding and how secure they are.

Managing Director, Waterfront Enterprise Board:

It quite helps having grey hairs because one has been through a number of cycles.

Mr. R. Law:

How do you, those of us that are losing it? I am at a halfway house but others ...

Acting Chairman, Waterfront Enterprise Board:

We are very conscious of the resources and indeed I have been discussing it recently in the context of what might or might not happen in the next 6 months.

Mr. R. Law:

So you have obviously been thinking what might or might not happen.

Acting Chairman, Waterfront Enterprise Board:

We have, absolutely. We have not got somebody who could ... We would not want to leave you with the ...

Mr. R. Law:

No, the point you are making is that the need to do a complete and robust review of resources is part and parcel of ...

Managing Director, Waterfront Enterprise Board:

It is an ongoing review.

Acting Chairman, Waterfront Enterprise Board:

It is an ongoing one but of course it will also be part of the new Development Company.

Managing Director, Waterfront Enterprise Board:

But the staff that we have were taken on in the expectation of the role that we are considering because, as you well know, this has not been a short process.

Deputy D.J. De Sousa:

That is an understatement.

Mr. R. Law:

That is very carefully put, yes.

The Deputy of St. Peter:

Any other areas, apart from our lack of hair, we wish to go forward with? Thank you very much indeed. I am glad we aired some of the little problems that may have existed early on so we could get on with the real job. I thank you for being so open.

Acting Chairman, Waterfront Enterprise Board:
Glad to have been of help.

The Deputy of St. Peter:
Thank you.

[11:39]