

STATES OF JERSEY



STATES OF JERSEY DEVELOPMENT COMPANY: PRE-SALES PROVISIONS FOR RESIDENTIAL DEVELOPMENTS AND PRE-LET(S) PROVISIONS FOR COMMERCIAL DEVELOPMENTS (P.88/2024) – AMENDMENT

Lodged au Greffe on 11th February 2025
by the Council of Ministers
Earliest date for debate: 25th February 2025

STATES GREFFE

STATES OF JERSEY DEVELOPMENT COMPANY: PRE-SALES
PROVISIONS FOR RESIDENTIAL DEVELOPMENTS AND PRE-LET(S)
PROVISIONS FOR COMMERCIAL DEVELOPMENTS (P.88/2024):
AMENDMENT

1 PAGE 2, PARAGRAPH –

Substitute the words “sufficient level of legally binding pre-sales in line with” with the words “minimum of 25% of the Gross Development Value as legally binding pre-sales and meet”.

COUNCIL OF MINISTERS

Note: After this amendment, the proposition would read as follows –

THE STATES are asked to decide whether they are of opinion –

That The States of Jersey Development Company Limited should accord with the following pre-sales provisions for residential developments and pre-let(s) provisions for commercial developments:-

If it is proposed that a specific development is undertaken directly by SoJDC, before committing to construction costs SoJDC will, on a residential development, have to secure a minimum of 25% of the Gross Development Value as legally binding pre-sales and meet third party funding requirements or, on a commercial development, a sufficient level of legally binding pre-let(s) that, together with the unlet space, will deliver an end value of the completed building that exceeds the costs of constructing the development. This will remove part of the sales/letting risk of a particular development project.

REPORT

The Council of Ministers would like to thank the Corporate Services Scrutiny Panel (CSSP) for their engagement with P.88/2024 - including liaison with officers, the States of Jersey Development Company and the Minister for Treasury and Resources - to better understand the rationale and risk management associated with the proposition. We have been happy to postpone the debate on P.88/2024 to allow sufficient time for this to happen, and we are grateful for the feedback that has since been received.

As has been clarified to the CSSP, the States of Jersey Development Company (SoJDC) do not undertake development speculatively and is already duty bound to, wherever possible, limit exposure and mitigate risk. The company are also required to seek Shareholder approval for certain activities, which includes borrowing for development. The Minister for Treasury and Resources acts in the capacity of Shareholder and will routinely undertake detailed third-party assurance evaluations and seek the input of relevant Policy Leads, before making any decision to allow the company to proceed.

These are just some of the many features of both P.73/2010 and the Memorandum of Understanding between the Shareholder and the States of Jersey Development Company [“the MOU”] that respond to Islanders’ legitimate expectation that there are robust and thorough governance arrangements between the Shareholder and a States’ Owned Entity. SoJDC also has a duty to operate at all times with a view to the best interests of the company, as is required by the terms of Article 74 of the Companies (Jersey) Law 1991, and which is re-affirmed in the MOU.

The Council of Ministers have no doubt that there are robust and proper processes in place which provide assurance that development risk and exposure is well managed by both the company and shareholder relationship with Government, and that hence, the wording of P.88/2024 is appropriate.

However, whilst the proposed wording for P.88/2024 is silent on a prescribed level of residential pre-sales, it will always be the case that a level of pre-sales will be expected before a development commences, which has been confirmed to the Panel by SoJDC as part of their engagement.

The Council of Ministers do also appreciate that minimum pre-sale obligations being explicitly stated - at some level – has the potential to provide assurance and confidence to those who sit outside of the direct company/shareholder relationship, and that removal of such stipulation may otherwise feel unsettling.

We very much welcome the engagement of the Panel on this matter, and having received their feedback, we are happy to be able to make this amendment which we hope will provide the desired assurance that residential developments will require a minimum of 25% of the Gross Development Value as legally binding pre-sales.

We are satisfied that stipulating this level of pre-sales will not unreasonably bind SoJDC to a point that would be detrimentally above the level otherwise to be expected by a third-party lender; for Board approval; or, as part of the normal course of Shareholder approval in accordance with the MOU.

We therefore hope that the Assembly can accept this Amendment, which we believe finds an acceptable balance between the intention of P.88 to ensure pre-sale obligations

are not detrimental to financial risk management of SoJDC, whilst equally ensuring the Assembly and wider public have confidence that SoJDC will not undertake speculative, high-risk development activities.

Comparison to the original P.73/2010 wording in relation to presales

The Council of Ministers appreciate it's helpful to include a comparison of wording from the original P.73/2010 to ensure members can clearly see the effect of P.88/2024 and this proposed amendment.

P.88/2024 as originally lodged would have the effect of amending the provisions of P.73/2010 as follows:

“Sales – If it is proposed that a specific development is undertaken directly by SoJDC, before committing to construction costs SoJDC will, on a residential development, have to secure a sufficient level of legally binding pre-sales in line with third party funding requirements or, on a commercial development, a sufficient level of legally binding pre-let(s) that, together with the unlet space, will deliver an end value of the completed building that exceeds to fund the costs of constructing the development first phase of a scheme. This will remove part of the sales/letting risk of a particular development project. and will ensure that there will be no financial liabilities relative to a particular development's construction costs.”

P.88/2024, if AMENDED by this amendment, would have the effect of amending the provisions of P.73/2010 as follows:

“Sales – If it is proposed that a specific development is undertaken directly by SoJDC, before committing to construction costs SoJDC will, on a residential development, have to secure a minimum of 25% of the Gross Development Value as legally binding pre-sales and meet third party funding requirements or, on a commercial development, a sufficient level of legally binding pre-let(s) that, together with the unlet space, will deliver an end value of the completed building that exceeds to fund the costs of constructing the development first phase of a scheme. This will remove part of the sales/letting risk of a particular development project. and will ensure that there will be no financial liabilities relative to a particular development's construction costs.”

Financial and staffing implications

There are no new financial or staffing implications arising from this amendment.

Children's Rights Impact Assessment

A Children's Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.