

STATES OF JERSEY



CHIEF MINISTER: VOTE OF CENSURE

**Lodged au Greffe on 16th June 2008
by Deputy G.P. Southern of St. Helier**

STATES GREFFE

PROPOSITION

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

to censure the Chief Minister for not providing full and accurate information to the Assembly in relation to the financial and economic considerations during the debate on the Esplanade Quarter Masterplan and, in the absence of such information, for misleading the Assembly about the financial analysis of the proposed developer.

DEPUTY G.P. SOUTHERN OF ST. HELIER

REPORT

I believe that States members have been seriously misled in the debate on P60/2008, the Esplanade development. Material that I consider to be essential to the debate and fundamental to a proper understanding of the serious issues involved was withheld from members, and almost certainly this information would have influenced the way members voted.

Whatever the outcome, there can be no doubt that the way in which the decision of the esplanade development was arrived at was unsatisfactory in many ways. This decision, described by many as the most important decision on the future of St. Helier and of Jersey to take place in a hundred years, took place in the absence of many of the important financial and economic facts essential to a proper understanding of the case. It was marked by repeated calls for further information which were refused by the Chief Minister. Instead we got repeated sets of assurances that all was and would be fine, reminiscent of the worst debates which took place under the old committee system.

Members will recognise that the debate took part in 2 separate parts, the first of which largely concerned the design of the waterfront project, led by the Minister for Planning and Environment, and the second concentrated on the financial and economic issues underpinning the development, led by the Chief Minister. My concerns relate to this second part of the debate.

The essential material that was missing from the debate consists of 2 reports, as follows –

1. The PricewaterhouseCoopers Report (PwC) “Harcourt Developments Limited Financial Capacity Assessment: Draft report for discussion”, presented to WEB September 2007. This document was released to members after the debate had concluded.
2. Report of the Economic Adviser to the Council of Ministers on the Economic impact of the proposals for the development of the Waterfront, February 2006

The responsibilities and role of the States members nominated as directors of the Waterfront Enterprise Board, namely Senators Perchard and Routier and Deputy Huet, has been dealt with elsewhere. This proposition deals only with the role of the Chief Minister in heading up the debate.

My concerns are essentially twofold –

- The first concerns the manner in which we conduct debates, and the level of information required by members in order to satisfactorily make decisions. All members pay tribute to the need under ministerial government to make better informed decisions. In this case, the principle we all support was not put into practice.
- The second concerns the quality of the actual decision taken over P.60/2008 and whether this decision was materially affected by the conduct of the debate.

The case to answer centres on 3 issues –

1. whether the PwC and Economic Advisor’s reports contain information which is important to the proper consideration of the decision to proceed;
2. the extent of the Chief Minister’s knowledge and understanding of the contents of these reports, and
3. his consequent actions and statements before and during the debate on P.60/2008.

In order to clarify the position, I asked the following 3 questions as a matter of urgency on 10th June 2008 –

Were the CM and WEB representatives aware of the results contained in section 2.2 of the PwC report and, if so, when did they become aware and if not why not?

Why did they choose not to reveal this important information to members in advance of the debate?

Having failed to release this data earlier, why, when pressure was applied over information relating to the financial deal, was it not revealed during the debate so that members could properly consider it?

The full answers, given by the Deputy Chief Minister to these questions will soon be published in Hansard. Selected answers are given here.

The PwC Report

Members learned on 10th June that the Chief Minister was unaware of the contents of the PwC report before the debate –

“This (the PwC report) was a confidential report and I do not believe that the Chief Minister would have been made aware of the content I do not believe he was aware of the content of the report until after the conclusion of the debate last week”

Following the release of this report *after the debate had concluded*, members were able to read the crucial assessment in Section 2.2 of the ratio of company turnover (A) to peak annual construction cost (B) as a means to test whether a particular development is likely to overstretch a partner. A ratio (A/B) of 5:1 is suggested as suitable. The table below this statement shows a figure of only 1.41:1, and the final test comment is **Fail**.

This is the test used in this sector to decide whether a particular development is likely to overstretch a partner. Not only does Harcourt fail this test, it fails by a substantial margin. Instead of peak construction costs being 20% of turnover, it is 70%.

The document then goes on to discuss, in the 4 paragraphs on page 8, what appear to be the circumstances and mitigating factors for such a wide margin of failure on this test.

I highlight some of these comments here. They do not particularly add any comfort.

Para. 1– As a result we would recommend a wider consideration of Harcourt’s financial capacity.

Para. 2– The proposed scheme therefore appears to represent a substantial commitment in comparison to the Company’s 2006 year end values.

Para. 3– Harcourt management suggest that the true market value of their total property portfolio is in the region of €1.1 billion, although we have not been provided with any data to substantiate this. At the same time recent turbulence in global financial markets may impact on trading conditions in property markets and associated values.

Para. 4– is entirely cautionary. It reads as follows –

A peak annual construction cost of €69million may appear less material in the context of values quoted by Harcourt management. However, caution should be exercised as the bulk of the Group’s asset base is not liquid. In this context their business model relies to some degree on the ability to raise funds from banks on the back of property values. This ability is influenced by a number of factors including banks’ capacity and willingness to lend and their pricing of risk. As part of its assessment of the ongoing suitability of Harcourt as a development partner we would recommend that WEB should consider requesting detailed information from Harcourt concerning the valuations of the Company’s full property portfolio in order to provide comfort on the level of the Company’s reported net asset base.

I believe that anyone examining this report, either in its entirety or section 2 alone, would surely insist that this data was put before members as a matter of course to ensure a complete and informed debate. Anything less, in

and of itself, would constitute a dereliction of duty.

The Chief Minister, as the proposer of this part of the Masterplan scheme, should surely have made himself aware of some of the detailed assessment of the financial position of Harcourt before coming to the Assembly. Failing this, he should not have allowed himself to make statements such as the ones he did, for example –

“The ruler has been run over Harcourt thoroughly and they have come up AI every time”

A score on a vital test of financial capacity of 1.4 out of a minimum 5 is far from “AI every time”, it is in the words of PwC a “fail”. The Chief Minister’s statement was misleading.

The considerable reservations expressed above and elsewhere in the report also contradict the further statement made by the Chief Minister –

“PwC confirmed that Harcourt are low-g geared, very well placed, particularly since the sub-prime crisis – very well placed because of the capital available to them and their low gearing – to undertake this development.”

This statement is simply incorrect.

In Appendix D, the Evaluation Proforma, which was included in the report accompanying P.60/2008, gearing is not described as “low”. In the section entitled ‘Review of the Financial Position’, whilst it is accepted that gearing levels are in line with the range generally observed for property development companies, the gearing levels are described as “substantial” and “significant”.

Also, in the Review of Solvency, PwC point out the predominantly short-term nature of the Group’s debt, with only €9 million (14.6%) out of €405 million being repayable in more than one year. Furthermore, in the Review of financial performance, PwC note also the increasing debt position of the company and the way in which gross profits are swallowed up by debt repayments.

At one stage in the debate, the Chief Minister appeared to offer greater information on the financial arrangements, *in camera*, if needed, but when asked as the debate ended to do so by me, he refused.

In addition to the thrust of the reference back proposed by Deputy Baudains, which was based on the need for the provision of further financial information, and my own proposal to have the financial and economic aspects referred to Scrutiny, many members expressed their reservations about proceeding with this important decision. Deputy Mezbourian had the following interpretation –

“it is naïve of them, to bring a proposition of this substance without producing some of the due diligence and without being prepared to answer questions.”

Deputy Gorst, not one to criticise the actions of Ministers as a matter of routine, and one with a reputation for some financial acumen, was also sceptical –

“Due diligence by Dunn & Bradshaw and by PwC ... gives me no great comfort”

The Chief Minister came under considerable pressure during the debate to take the opportunity to offer more financial information in order to ensure well-informed and well-founded decision. He singularly failed to do so.

The Economic Advisor’s Impact Assessment

Turning to the second of the missing reports which might have enabled members to form a more fully rounded view of the decision, the Economic Advisor’s economic impact assessment, this was commissioned by the Council of Ministers and the Chief Minister therefore had complete discretion to release it. He chose not to do so, despite a request from me. He stated that the report was confidential, and I have since asked for reasons why this should be so.

Its confidentiality is open to question in that an economic impact assessment is by its very nature a high-level document concerned with the Island's economy and the net economic effects of the project. It is certainly unlikely to be commercially sensitive. A very similar assessment, the Socio-economic impact of the previous Waterfront scheme, undertaken by PwC for WEB and dated February 2006 was made available to members within a month of its presentation to WEB.

In it are to be found figures and estimates for leakage, displacement and multiplier factors on the sectors of the Island economy both during the build and longer term impacts of the development of office, retail, housing and hotel space proposed at that time.

In it we find statements referring to the build as –

- Approximately 95% of construction materials will be sourced outwith the Island and thus at worst there is limited benefit retained within the local economy;

and consequent on completion –

- All office developments will involve relocation of **existing** companies to sites on the Harbour and adjacent sites and, consequently, will not in themselves generate any economic benefit (although the sites on which they may previously have been located will now be 'freed-up' for other development);

We were informed that today 80% of the new Masterplan envisages 80% displacement. Why the change? Would members like to see the arguments around this issue before ploughing on with this decision? I believe many would. However this was not possible in the absence of the new report. Instead we had to content ourselves with the Chief Minister's assurance that –

“The Economic Adviser's Report was overwhelmingly positive.”

The question must remain in many minds, and certainly does in mine – Ah yes, but is it comprehensive, accurate and realistic; and do the longer term secondary impacts also stack up?

We simply did not know because the Chief Minister refused access to the report.

Further on, in the previous report we find the following statements on the impact of the old scheme?

As indicated, by Table 3.4, adopting these assumptions indicates that under the revised masterplan the total gross levels of employment likely to be generated is in the region of 4,458 FTEs and £333 million to £344 million GVA.

Table 3.4: Indirect and Multiplier Operational Impacts

Usage	Base impacts		Multiplier effects		Adjusted gross impacts	
	Jobs	Income	Jobs	Income	Jobs	Income
Construction	541	19.81-23.33	54	1.98-2.33	595	21.79-25.66
Retail	551	13.20-16.53	55	1.32-1.65	606	14.52-18.18
Leisure	434	8.04-9.55	43	0.80-0.95	477	8.84-10.50
Office	2,112	254.71	211	25.47	2,323	280.18
Hotel/ serviced apartments/ Center Parcs	415	7.34-8.48	42	0.73-0.84	457	8.07-9.32
Total	4,053	303.10-312.60	405	30.30-31.24	4,458	333.40-343.84

Again one has to ask where the new estimates are. Are they significantly different? Do we wish to commit ourselves to a creating a further 4,500 jobs, many of which require migrant labour along with their families, at a time when the population has just risen by 1,400 to top 90,000? More importantly, where were these figures in the debate? They were largely absent because the Chief Minister decided that the relevant report would stay firmly closed.

It was completely spurious to state that these figures had been seen by Scrutiny so they had been accepted. That was and remains simply not true. These sorts of Economic Impact figures had no relevance to the terms of reference of the Scrutiny investigation. That merely covered the tiny issue of the “heads of terms” of the agreement.

The Chief Minister himself stated clearly during the debate that it would be –

“wrong to take a decision on anything other than full information”.

Yet that precise outcome is exactly what the Chief Minister engineered – a decision made with less than the full information. It was indeed wrong. He deserves the censure of the Assembly for doing so.

There are no financial or manpower implications arising from this proposition.