

STATES OF JERSEY



JERSEY DEVELOPMENT COMPANY (S.R.9/2009): RESPONSE OF THE CHIEF MINISTER

**Presented to the States on 20th October 2009
by the Chief Minister**

STATES GREFFE

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Introduction

The report of the Corporate Services Scrutiny Panel provides useful advice to improve the States of Jersey Development Company proposals. Whilst the report confirms that the central features of this proposition remain robust, it has identified areas where further clarity may be required or where further detailed work is required as part of implementation. These are issues that will be addressed.

In terms of further clarity, the Panel's recommendations are accepted and will be implemented as set out in the key actions below. In terms of implementation issues, the Jersey Development Company Report and Proposition contains an overview of the principles and structure of the company, rather than details of implementation which would naturally be developed as part of the process of implementation. Notwithstanding this, the Panel's recommendations with regard to reviewing activities and assets of the Waterfront Enterprise Board, detailed risk management regime, protocols for asset transfer and protocols relating to the purchase of privately owned assets will be addressed before the States of Jersey Development Company is formed. Furthermore, the Minister for Treasury and Resources has committed to ensure that all the above issues are addressed before the States of Jersey Development Company becomes operational.

The Panel has also requested more clarity on the departmental resource and manpower implications of the proposal. A more detailed breakdown of this is included as part of this response.

Findings

	Findings	Comments
1	The proposition rightly reflects the fact that the Minister for Planning and Environment should be independent in the discharge of planning and master-planning responsibilities.	This is a key part of clarifying roles and responsibilities as identified in Section 10 of the Report and Proposition.
2	The proposition did not clearly show the relationship between the Jersey Development Company; the Regeneration Steering Group; and the Minister for Treasury and Resources.	<p>Whilst it is believed that the roles and responsibilities of both the Minister for Treasury and Resources and the Regeneration Steering Group are made clear in the report, the question of ultimate accountability is not explicitly stated.</p> <p>As the sub-panel has identified, the Regeneration Steering Group will be a highly beneficial body in providing appropriate guidance to the Jersey Development Company. This body provides a consensual approach to help to guide the activities of the Company. Although part of the Regeneration Steering Group, the Minister for Treasury and Resources will be politically accountable for the company, as defined within the revised Memorandum and Articles of Association. Section 11 of the Report and Proposition clearly identifies the Role of the Minister for Treasury and Resources in terms of how the company goes about its business. Ultimate political accountability for the States of Jersey Development Company will therefore be with the Minister for Treasury and Resources.</p> <p>In terms of the Regeneration Steering Group, in general the decisions it makes as far as they relate to the States of Jersey Development Company will be discharged through the Minister for Treasury and Resources. There may be occasions where the Regeneration Steering Group contractually employs the States of Jersey Development Company to undertake work on particular projects. In such circumstances, the relationship between the two will be defined by the terms of any agreement established for such work.</p> <p>In addition, the Regeneration Steering Group will direct Jersey Property Holdings in terms of the release of public sites for regeneration projects. For the avoidance of</p>

		<p>doubt, property transfers will –</p> <ul style="list-style-type: none"> (a) comply with detailed protocols for the transfer of assets, which will be based on the principles set out under item 5 of this report; (b) be subject to a published Ministerial Decision of the Minister for Treasury and Resources; (c) allow transparency and scrutiny through Ministerial Decisions relating to the States of Jersey Development Company being subject to a 15 day ‘grace’ period as per Standing Order 168(2)
3	<p>The proposition did not accurately convey the intentions of the Council of Ministers that the Jersey Development Company would be different from the Waterfront Enterprise Board.</p>	<p>It is accepted that the Report and Proposition could have been clearer in this area and that the intentions of the Council of Ministers could be more clearly conveyed. The Proposition seeks to change the operational remit of WEB through and it is not the intention that the States of Jersey Development Company will continue its activities in exactly the same way as WEB has done in the past. Section 10 of the report sets out very clearly the remit of the constituent elements of the regeneration process and clarifies the more focused remit of the States of Jersey Development Company as follows:</p> <p>10. The Regeneration Process</p> <p><i>The proposed regeneration process is fundamentally identical to a typical property development process with the addition of the need to establish overarching policy guidelines and master-plans within which site-specific plans may be developed. This leads to a succession of inter-related activities with the following phases:</i></p> <p><u>Responsibility of the States Assembly:</u></p> <ul style="list-style-type: none"> • Approving the Island Plan – which identifies Regeneration Zones. <p><u>Responsibility of the Minister for Planning and Environment:</u></p> <ul style="list-style-type: none"> • Strategic master-planning – developing the major environmental and socio-economic planning objectives in order to establish clear policies and political direction for property and infrastructure regeneration. This leads to a Masterplan for a defined area.

		<ul style="list-style-type: none"> • Masterplanning – developing an overall development strategy for a defined area which includes both present property uses as well as future land development plans. • Development Briefs – developing a brief which provides information on the type of development, the design thereof and layout constraints relating to a particular site. <p><u>Responsibility of the Regeneration Steering Group:</u></p> <ul style="list-style-type: none"> • Development Planning – the development of economically viable Development Plans to meet the objectives of the Masterplans and Development Briefs. <p><u>Responsibility of the States of Jersey Development Company:</u></p> <ul style="list-style-type: none"> • Design development – the development of detailed design proposals for the redevelopment / regeneration of specific sites. • Promotion – the promotion of specific site proposals through the planning process to secure relevant development permissions. • Commissioning – the entering into of a construction contract with an independent contractor, the procurement of a development partner or the disposal of a site to a developer able to finance and implement the development. • Financing – the provision of risk finance to procure the implementation of the development. • Implementation – procurement and management of the construction of the development. • Utilisation – marketing and securing occupiers for the completed development and the overall investment interest where appropriate. <p>The Council of Ministers has lodged an amendment to address this issue.</p>
4	The challenge in defining the rôle of the Jersey Development Company goes beyond the wording of the proposition.	This is accepted. The role will become clearer as the new Island Plan and individual regeneration schemes are developed. In particular the greater clarity about the role of the Minister for Planning

		<p>and Environment in defining a Masterplan and the role of the Regeneration Steering Group in relation to implementing these Masterplans will set very clear requirements for the States of Jersey Development Company as an implementation body. This is a much clearer and focused remit for the company than was the case in relation to WEB.</p>
5	<p>Arrangements for transfers from Jersey Property Holdings to the Jersey Development Company should be clearly established at the time of transfer, taking into account that terms can be subject to change and including the strategy for returning value to the States upon completion of the project.</p>	<p>This is accepted. The following sets out the main principles which will guide these arrangements. The development of more detailed protocols is in the process of being developed and the Minister for Treasury and Resources has committed to ensure that this is completed before the States of Jersey Development Company is operational.</p> <p><i>Protocols for the Transfer of assets to States of Jersey Development Company (SoJDC)</i></p> <p><i>1 Principles</i></p> <p><i>1.1 The prime purpose of SoJDC is to deliver regeneration projects which add value to States' property assets. This will be in the form of enhancing the value of existing properties through refurbishment, the development of new properties, infrastructure and public realm. Regeneration assets may be retained by the Public or disposed of to realise capital proceeds.</i></p> <p><i>1.2 Jersey Property Holdings is required by law to ensure that the Public receives full commercial value for any property transactions.</i></p> <p><u><i>Transfers to SoJDC</i></u></p> <p><i>1.3 Jersey Property Holdings (JPH) will ensure that the full Market Value (MV) of property assets currently owned by the Public or acquired by the Public for the purpose of site assembly for a regeneration project is returned to the States..</i></p> <p><i>1.4 The definition of Market Value assumes the most probable value of a property which might reasonably</i></p>

		<p><i>be obtained in an unrestricted market at a specific time.¹</i></p> <p><i>1.5 JPH will engage an independent professional property valuer to determine the Market Value of any assets immediately prior to transfer.</i></p> <p><i>1.6 Where a regeneration project requires significant forward funding for infrastructure delivery the Minister for Treasury and Resources may elect to defer some or all of the value of assets transferred to meet these costs. In these situations SoJDC will provide a justification for the reduced initial transfer value and enter into an undertaking to meet the shortfall in transfer value in accordance with an agreed timeframe. This will be incorporated in a project specific development agreement.</i></p> <p><i>1.7 The land which forms the basis for a Regeneration Zone will generally comprise a combination of property currently in Public ownership and privately owned property which will be acquired by mutual agreement or by Compulsory Purchase at Market Value prior to development.</i></p> <p><i>1.8 Where property is acquired by JPH of behalf of the Public under Compulsory Purchase powers for transfer to SoJDC, SoJDC will meet the full acquisition costs inclusive of all fees and disbursements at the time of transfer.</i></p> <p><u><i>The Transfer of assets from SoJDC</i></u></p> <p><i>1.9 Unless otherwise agreed in a Development Agreement, the transfer of Assets from SoJDC, either to Property Holdings (acting on behalf of the Public) or to a Parish shall be at a nominal sum.</i></p>
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¹ In accordance with the RICS Appraisal and Valuation Manual 6th Edition Practice Statement 3 Market Value (MV) is defined as –

“The estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arms-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.”

		<p><i>1.10 Public realm and infrastructure transferred back to the Public must be accompanied by an appropriate fund which provides sufficient income to meet the future property operating costs</i></p> <p>2 Accounting Issues</p> <p><i>2.1 Any transfer of assets to SoJDC at less than open market value (see 1.6) will require a balancing adjustment to JPH's target for the delivery of capital proceeds from disposal (currently £20 million over the next five years).</i></p> <p><i>2.2 In accordance with GAAP accounting requirements, assets must be transferred at "carrying value" with this being re-assessed by external valuation prior to transfer at Market Value. As SoJDC will be a limited company, any assets transferred by JPH at less than Market Value will result in a revenue charge to JPH and a balancing budget allocation by Treasury from the consolidated fund at the time of transfer</i></p> <p>3 Detailed Protocols</p> <p><i>3.1 Detailed protocols will be prepared for the transfer of assets in accordance with the principles set out above.</i></p>
6	<p>A review of the activities currently undertaken by the Waterfront Enterprise Board, and the assets it holds, would confirm what activities the Jersey Development Company would undertake and thereby lead to a clearer understanding of the rôle of the new Company.</p>	<p>This is accepted. It is not the intention that the company operates in the same way in terms of its activities, nor that it holds assets when developments have been completed.</p> <p>The kind of review suggested would be helpful in clarifying this and such a review has been initiated by the Minister for Treasury and Resources. The Minister for Treasury and Resources has committed to ensure that this review is completed before the States of Jersey Development Company is operational.</p>
7	<p>The proposition relied upon the Memorandum of Understanding between the Company and the Minister for Treasury and Resources to manage and mitigate risk. However, further attention is required to ensure that risk management is active</p>	<p>This is accepted. 'Live' risk plans will be established and managed as part of individual projects and this will be a natural part of the management of risk.</p> <p>A detailed risk management regime is</p>

	and transparent.	being developed. The Minister for Treasury and Resources has committed to ensure that this is completed before the States of Jersey Development Company is operational.
8	Arrangements for the Jersey Development Company's capacity to purchase privately-owned assets should be carefully managed.	<p>This is accepted. It is important that the arrangements around the purchase of privately owned assets are clearly stated and understood by all parties. The development of these arrangements has begun. The Minister for Treasury and Resources has committed to ensure that this is completed before the States of Jersey Development Company is operational.</p> <p>It should be noted that in circumstances where Compulsory Purchase powers are required, a decision of the States Assembly is required and the Minister for Planning and Environment is the acquiring authority.</p>
9	The proposition provided insufficient detail on the resource and manpower implications for States Departments.	This is accepted. The Appendix of this report provides a more detailed analysis of the resource and manpower implications of the proposition.

Recommendations

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
1	Prior to the debate on P.79/2009, the Chief Minister should clarify to which body the Jersey Development Company would ultimately be accountable.	CM	Accept	These arrangements are clarified both within this report and within the report which accompanies the Council of Ministers amendments to P.79/2009.	19/10/09
2	Prior to the debate, the Chief Minister should ensure that the proposition is amended to show, <u>without any room for doubt</u> , that the Jersey Development Company would not be the same as the current Waterfront Enterprise Board.	CM	Accept	The Council of Ministers has made an amendment to P.79/2009 which seeks to address this point.	19/10/09
3	Before the Jersey Development Company begins operation, the Minister for Treasury and Resources should set out clear protocols for the transfer of assets between Jersey Property Holdings and the Company.	T&R	Accept	<p>Whilst the key principles are set out above, the development of detailed protocols has been instructed and it is planned to be completed in November 2009.</p> <p>The Minister for Treasury and Resources has committed to ensure that this is completed and shared with the Corporate Services Scrutiny Panel before the States of Jersey Development Company becomes operational.</p>	Nov 09
4	Before the Jersey Development Company begins operation, the Chief Minister should implement a review of the activities undertaken by the Waterfront Enterprise Board, and the assets it holds; present the results of the review to the States Assembly; and implement any actions arising.	CM	Accept	<p>The Minister for Treasury and Resources has instructed an independent review of the activities and assets of WEB and this is planned to be completed in November 2009.</p> <p>The Minister for Treasury and Resources has committed to ensure that this is completed and shared with the Corporate Services Scrutiny Panel before the States of Jersey Development Company becomes operational.</p>	Nov 09

5	Before the Jersey Development Company begins operation, the Minister for Treasury and Resources should develop a detailed risk management regime that includes individual project Risk Management Plans.	T&R	Accept	<p>The development of a detailed risk management regime has been instructed and it is planned to be completed in November 2009.</p> <p>The Minister for Treasury and Resources has committed to ensure that this is completed and shared the Corporate Services Scrutiny Panel before the States of Jersey Development Company becomes operational.</p>	Nov 09
6	The Minister for Treasury and Resources should review the capacity of the Jersey Development Company to purchase privately-owned assets and put in place protocols to ensure that the most effective vehicle is used to effect such purchases.	T&R	Accept	<p>The development of clear arrangements for the purchase of privately owned property has been instructed and it is planned to be completed in November 2009.</p> <p>The Minister for Treasury and Resources has committed to ensure that this is completed and shared with the Corporate Services Scrutiny Panel before the States of Jersey Development Company becomes operational.</p>	Nov 09
7	Prior to the debate on P.79/2009, the Chief Minister should clarify how resource and manpower implications for States Departments would be addressed.	CM	Accept	Clarification of the resource requirements is appended to this report.	19/10/09

APPENDIX

Departmental manpower and resource implications

P.79/2009 included within it a resources and manpower statement which related solely to the States of Jersey Development Company. S.R.9/2009 has identified that the proposition will also require departmental support and has asked for clarification as to how these requirements will be met. The following provides an analysis of the departmental resource implications of the proposition.

Planning and Environment

Under the Planning and Building (Jersey) Law 2002, the Minister for Planning and Environment is responsible for formulating plans for the future development of the Island. It is therefore an existing responsibility for the Planning and Environment Department to undertake this work and therefore to fund the costs associated with it. Future masterplanning will incur additional costs, and these will need to be managed within existing departmental resources and will be offset against the likely planning and building fee income associated with planning and building applications that will ensue from sites within the regeneration zones.

Chief Minister's Department

The Chief Minister's department will provide executive and administration support to the Regeneration Steering Group. This requirement is likely to vary considerably over the year, depending on the work being undertaken and the frequency of meetings. Overall, however the manpower requirement is thought to be light and this will be supported from within the Chief Minister's Department's existing manpower.

Treasury and Resources Department

The Treasury has undertaken an analysis of the manpower required to support the roles and responsibilities of the Minister for Treasury and Resources as set out in Section 11 of P.79/2009. In addition, the Minister will be responsible for actively managing the shareholding in SoJDC on behalf of the States in accordance with the MoU, which is likely to include approving major transactions, monitoring governance processes, establishing the risk parameters within which the company will operate and agreeing returns from the company. The Minister will also be responsible for advising the Regeneration Steering Group on the financial implications of all proposals and for determining the source of funding or level of return.

Although difficult to quantify in advance it is estimated that to discharge these responsibilities an additional 0.3 FTE is required within Treasury and Resources. This would equate to approximately £23,000 per annum including on-costs associated with this additional manpower requirement. Whilst this requirement will be considered as part of the current review of the Treasury, this requirement will need to be included within the 2011 Business Plan.

Jersey Property Holdings will require additional resources to meet the workload and costs of external property valuation prior to transfer, and for the preparation of project specific development agreements. These costs would be met by SoJDC on a project specific basis (see below).

Project Activities

On a project by project basis, it is expected that each individual project would have an established Project Board, which would include officer representatives from each department. It is not thought that this activity would incur additional manpower requirements. Where costs are incurred by individual departments in relation to specific projects (e.g. Jersey Property Holdings for valuation and development agreements), these costs would be funded by the project.

Overall

Overall, the key area where additional departmental resources may be required is within the Treasury in terms of its ability to support the enhanced roles and responsibilities of the Minister for Treasury and Resources. This requirement will be included within the current Treasury review and will need to be addressed through the 2011 business planning process.