States of Jersey
States Assembly

États de Jersey
Assemblée des États

Corporate Services Scrutiny Panel

Jersey International Finance Centre

Presented to the States on 14th July 2017

S.R.8/2017

Contents

Figure 1: Outline of the Esplanade Quarter included in the Esplanade Masterplan

Figure 2: Artist's impression of Jersey International Finance Centre, included in 2014 Phasing Plan

Executive Summary

This review was commenced in October 2014 against a backdrop of numerous public concerns about the way Jersey's waterfront is being developed.

The Panel's objective was to examine the overall viability of the Esplanade Quarter Masterplan, as well as the actions taken by the Minister for Treasury and Resources in relation to the development. In particular, this revolves around the conditions imposed by the States Assembly which had to be met by the States of Jersey Development Company before any building work could commence. These conditions were set out in P.73/2010, Property and Infrastructure Regeneration: The States of Jersey Development Company.

The Panel published an interim report in October 2015 which focused on the financial viability of the first building of the Jersey International Finance Centre (referred to as Building 4) and included the report of the Panel's expert advisor, EY LLP (Ernst & Young LLP). The report also commented on potential wider implications for the JIFC and the Esplanade Quarter Masterplan.

This final report now draws all elements of the review together, building on the Panel's interim report and the advice of EY.

Chapter 1 of this report looks at the background and context to the Esplanade Masterplan and the way it is being implemented. Chapter 2 goes on to look at the role of the Regeneration Steering Group, a political body chaired by the Chief Minister. Chapters 3 and 4 of the report look at the detail of the conditions imposed upon SOJDC by the States Assembly, the financial viability of the JIFC and the likely demand for the office space it will create. Finally, chapter 5 looks at the States of Jersey Development Company and the role it plays in delivering regeneration.

In the introduction, the Panel also comments on the difficulties encountered in accessing confidential information relevant to the review. To a large extent, these difficulties are the reason for this review taking far longer than would usually be the case.

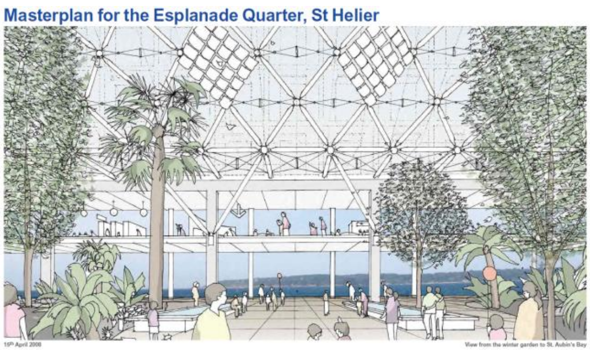
The key messages from this report are as follows:

- The Panel is concerned that delivery of key parts of the Masterplan including the sinking of the road, the winter gardens and the hotel may never materialise.
- As with earlier piecemeal development of Jersey's waterfront, an opportunity to maximise the potential of the land will have been lost.
- The issue of connectivity between the sites south and north of La Route de la Liberation has not yet been resolved.
- The review of the Esplanade Masterplan by the Minister for the Environment, which was announced in 2016, is critical and must be completed in a timely manner.
- The profitability of Buildings 4 and 5 is not certain and may not generate enough to cover the costs of the planned public car park or make the required contribution to the costs of the later phase of development.
- The conditions to be met before SOJDC can commence a development are open to interpretation and should be clarified to bring certainty to all parties.
- SOJDC and the Minister for Treasury and Resources have, at best, stretched the conditions to enable development to commence.

- Development of Building 4 was commenced with a lower level of pre-lets than would usually be the case in the private sector for such a development.
- The role of SOJDC in delivering development projects and the way it can best be scrutinized should be reviewed, in light of the current economic situation and bearing in mind the increased financial pressures currently experienced in the Island.

Chairman's Foreword
Introduction

In June 2008 the States were asked to approve a (new) Masterplan for the Waterfront [1]. It was meant to provide a vision for a new quality development with references to the Jersey vernacular, significant public realm - open space; water features and a large winter garden (covered space). A crucial element was the sinking of the dual carriageway, and utilisation of the space above it. It was going to be completed within 7-10 years and generate a substantial return which (it was held) would be invested in St Helier:

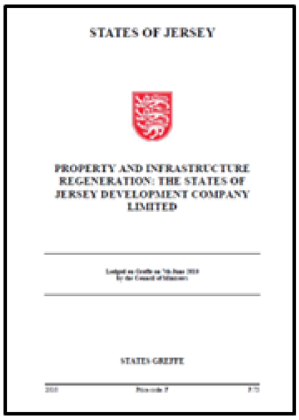


"…The £75 million W.E.B. estimates which will come out of the Esplanade Quarter must be invested in the rest of the town… It is not hard to imagine how much £75 million seed investment can change our town…."[2]

Financial implications of Masterplan

Evidence clearly exists that soon after these proposals were approved, **the financial implications of the plans were revised, and showed a loss of £50m rather than a receipt of £75m**[3]. This emphasises the importance of clear and realistic financial appraisals being available for States members, prior to decisions being made.

Creation of SOJDC


STATES OF JERSEY

PROPERTY AND INFRASTRUCTURE REGENERATION: THE STATES OF JERSEY DEVELOPMENT COMPANY LIMITED

STATES GREFFE

In 2010 a proposition, ("P.73/2010"), was approved by the States Assembly which created the SOJDC[4]. Amongst many things the States laid down a critical condition which determined at what stage the company could commit to a development. We have considered this in our report, and **do not agree with the interpretation that has been applied to justify the commencement of construction of the first building – Building 4 ("B4")**[5]. Also approved by the States was that certain assets would be transferred back to the States, but which have not been to date. These assets generate a gross annual income of approximately £1.3m[6]. According to the 2016 accounts some of these assets are to be sold (£4m). In order to comply with P.73/2010 these disposal proceeds should go to the States and not be retained by SOJDC. All of the issues raised in our report remain relevant today, and need to be urgently addressed, given the context of any plans for the future development

[1] The Esplanade Quarter Masterplan – P60/2008
[2] Hansard, Senator F.E. Cohen (The Minister for Planning and Environment - rapporteur) – P60/2008, 3 June 2008
[3] The final report by Trowers & Hamlins (sometimes referred to as the King Sturge report) was delivered in Nov 2008, but work commenced in August
[4] States of Jersey Development Company
[5] Note – Building 5 is also referred to as "B5"
[6] SOJDC accounts – y/e 31st December 2015

of the remainder of the site. What concerns us is that there appears increasingly to be a narrow legalistic interpretation applied to conditions laid down by the States **which in our opinion does not sit happily with the original intention behind these safeguards.**

Process – conditions set by the States – provision of information to Scrutiny – issue of summons – timing

Our review started in November 2014. It is indicative of the problems that the Panel has had in getting information that I am writing this Foreword in June 2017. It has taken much longer than we expected.

In February 2015, development of B4 commenced with the clearance of the site. The tenant agreement was signed on 22 May 2015. There were parts of the Minister's interpretation of the condition set out in P.73 that the Panel has not been able to reconcile with the specific wording of the condition. **In the Panel's view the instigation of B4 with a pre-let of just 24% has, at best, stretched the conditions of P73/2010 to the limit.**

Our first hurdle was in obtaining a copy of a 'valuation' which formed the basis of statements concerning the profitability of the JIFC. After a general request for information, it was specifically requested on 12th March 2015. After numerous exchanges, Treasury were asked specifically whether they held the report themselves.

Only at that point was it identified that they did; that they had held it for approximately 12 weeks and had failed to inform us, despite it being patently clear that (a) the information was relevant, and (b) that in being held by Treasury it was accessible by Scrutiny under the existing Code of Practice.[7]

This reluctance to provide us with information (on a confidential basis) led ultimately to the Panel issuing (against SOJDC) the first ever summons issued by a Scrutiny Panel in Jersey. This delayed matters by approximately 12 months, with both parties having to appear in front of the Privileges and Procedures Committee, accompanied by legal representation. It is appalling that taxpayers' money had to be spent on lawyers by Scrutiny in order to obtain information held by a company owned by the States, particularly when P.73/2010 specifically stated that Scrutiny would scrutinise all elements of the process.

The Panel was granted a 3 month window to view the documents during the summer of 2016. Following this, the Panel entered the report writing stage of the review, which unfortunately coincided with a number of other large reviews requiring the Panel's time and attention (including the MTFP Addition, 2017 Budget, Hospital Funding and Electoral Reform reviews). We also requested updated cost estimates for B4, on 1 July 2016. Whilst SOJDC were agreeable to us receiving this information, the time frame has again been protracted. We were finally able to view the data in early March of this year, too late (in practical terms) to be included in this report. We have therefore made recommendations to improve this process.

Financial Return of the JIFC

B4 was completed in March 2017. At the time of writing (June 2017), 60% of B4 has been let to tenants. In this Report, the Panel has not dwelt hugely on financial viability, which we examined in our 2015 interim report. We have been granted access to updated figures provided by SOJDC in respect of both B4 and B5, and whilst noting the remarks of SOJDC and its confidence in the market, **the Panel remains unconvinced that the overall JIFC project will deliver the**

[7] Ministers are expected to "…provide any additional relevant information, whether or not this is specifically requested…" - Code of Practice for Scrutiny Panels and the Public Accounts Committee

quantum of profits envisaged by both the company and its political masters. We will return to this in an addendum once we are in a position to properly draw conclusions following receipt of the updated information and also the planned disposal of B4 and B5[8].

I note 3 matters:

1) Any 'profit' of the scheme should take account of all costs;
2) It should also be assessed in the context of the value of the land.
3) SOJDC have publically stated that the company estimated that B4 would deliver a net receipt (i.e. a profit) of £7.5 million[9]. Anecdotally, markets appear to have improved since then. This would usually mean that there would be a greater profit than previously forecast. If that is not demonstrably the case, then it will raise questions about the scheme as commented on by EY[10].

The Esplanade Quarter

Whilst the tone that initially greeted our work was more than difficult at the start - we were 'an irritation'[11] at one point – I do welcome the improvement in relations that has taken place over time.

The press release responding to our 2015 report concluded that the Deputy Chief Minister was unable to see how it would be possible for the conclusions and recommendations of the Panel to be accepted. Given that one of those recommendations was that there should be a re-appraisal of the Esplanade Quarter, which has now been instigated by the Planning Minister, I am glad that cooler heads appear to have prevailed.

One of the key drivers behind the Masterplan, (aside from the financial return outlined earlier) was the delivery of significant public realm, with vastly improved connectivity from sinking the road. Yet Ministers have also known for years that this was not financially viable. So, why not just recognise the problem, and then have an open discussion about how to arrive at a proper, holistic, solution?

Looking forward

Some comments have been made to us during our review which do not really fall within our terms of reference, but should be borne in mind when looking at the future of the Masterplan. I stress that these have not been tested in any way, but are germane to the present review of the Masterplan, and should be taken in that context only:

- Burying the road is commercially unrealistic, yet connectivity between town and the waterfront is critically important, as is the provision of public realm if the scheme is to have any semblance to what the States approved.

- The ways by which the site to the south of this road can be linked to the JIFC site should be revisited, perhaps by raising land levels either side of the road, and bridging a section at a very much lower cost. Having a very wide bridge could still enhance the public realm. Some examples are illustrated below[12]:

[8] SOJDC accounts – y/e 31st December 2016
[9] Written Question – Deputy Hilton – 6th October 2015
[10] Our advisers for the Interim report
[11] Comments reported in the Jersey Evening Post, 10th January 2015
[12]Jersey image: http://nicholassocrates.co.uk/portfolio/bridge-design-esplanade-quarter-st-helier-jersey

- If the cost of decontamination proves disproportionate, then the alternative of capping the site and developing from the ground level upwards should be explored as a more realistic / cost effective solution. This might suggest alternative parking solutions (e.g. semi-basement) which might improve returns and could also assist in raising ground levels either side of the road, thus facilitating any 'bridging' rather than burying of the road.

- The overall site offers a massive opportunity to deliver a high quality mixed use development enhancing the profile of St Helier. A more balanced and commercially viable mix of uses and public realm improvements should be considered. Offices should not be seen as a sole driver to this – there is an insufficient size to the market and little prospect for this to be able to grow to sustain the size of scheme proposed.

Whither Jersey?

In the view of the Panel, the States Assembly should be asked to look again at the role it wishes SOJDC to play in development projects. Is it acceptable for the States to act as a developer (with all of the inherent costs involved) in competition with private sector developers and to assume all the risks of development without a guaranteed return? If the answer is yes, then SOJDC will have a renewed mandate to continue development of the Esplanade area. If the answer is no, then it is perhaps time for a re-think of how development projects can best be delivered by the States.

I remind readers that at this stage there is a Masterplan on the table which has been assessed as financially unviable, and therefore runs the risk of being ignored. The JIFC seems to have taken over from the Masterplan. It is critical that the present review of the Masterplan revisits the original aspirations of the original plan. I commend this report and hope it enables the relevant parties to learn from the mistakes that have taken place and fulfil the original intention of giving a Jersey flavour to an important landmark site which is a gateway to this Island. This may require some brave and innovative thinking which must invigorate as well as deliver an appropriate return. The alternative is that we run the risk of up to 6 office blocks which one could find anywhere in the world, sitting in mundane surroundings that have no relevance to the Island which we hold so dear.

Deputy John Le Fondré

Chairman, Corporate Services Scrutiny Panel.

Key Findings and Recommendations

Key Findings

1. The Ministerial approval for the enabling loan for Building 4 of the Jersey International Finance Centre was signed on 14th October 2014 (the day before the 2014 elections). (page 16)

2. The Panel encountered one instance where information requested from SOJDC was actually held by the Department for Treasury and Resources and could have been provided at an earlier stage (in contravention of the Scrutiny Code of Practice). (page 17)

3. The Panel was asked to sign non-disclosure agreements which included unlimited personal liability for Panel members and Scrutiny Officers. This would have conflicted with the parliamentary privilege afforded to States Members, as members of a parliament. (page 18)

4. There is evidence that the financial implications of delivering the Esplanade Masterplan as laid out in P60/2008 significantly changed during 2008 from a predicted return of £70 million to a loss of £50 million. This would have been known to Ministers at the time. (page 20)

5. The Trowers & Hamlin/ King Sturge report on the 2008 deal with Harcourt to implement the Esplanade Masterplan was never published, despite assurances that it would be made available to States Members. (page 20)

6. A proposition supported by the Council of Ministers requiring SOJDC to deliver the Esplanade Quarter in phases was rejected by the States in 2011 but delivery has still taken place in phases. (page 24)

7. The timetable for delivery of the Esplanade Masterplan has changed, such that the majority of the public realm will be delivered at an unspecified later date. (page 22)

8. The Panel is concerned that delivery of the other key parts of the Masterplan may never materialise. This includes sinking La Route de la Libération, public space including the winter garden and ultimately, the delivery of a new town quarter. (page 25)

9. Sinking La Route de la Libération is key to delivering the current version of the Esplanade Masterplan. However, no planning has yet gone into implementing this. The connectivity benefits envisaged by the present Esplanade Masterplan will not be achieved if the road is not sunk. (page 27)

10. It is not clear, from the minutes of the Regeneration Steering Group, how much room the members of the RSG have to independently and privately discuss policy matters, in order to provide an appropriate level of political guidance to regeneration projects. (page 32)

11. The wording of the Proposition which set up the States of Jersey Development Company (P.73/2010) lays down a specific condition in relation to the value of legally binding pre-lets that must be obtained by SOJDC before committing to construction

costs. The Minister for Treasury and Resources accepts that this condition relates to the capital value of the lease but considers that it includes the value of the unlet part of the building. (page 34)

12. Whilst the Minister for Treasury and Resources includes the value of the unlet part of the building in his interpretation of P.73/2010, this is not mentioned anywhere in the P.73 condition. (page 34)
13. It is clear that an unlet space cannot have a legally binding pre-let agreement attached to it. (page 35)

14. The States put in place conditions to ensure that a risk averse approach was followed. In the event that the Council of Ministers wished to take a more risky approach, this should have been brought back to the States Assembly. (page 39)

15. The condition included in P.73/2010 in relation to pre-lets is not sufficiently clear. (page 38)

16. Development of JIFC Building 4 commenced before the pre-let agreement with UBS and the construction contract with Camerons were signed. (page 40)

17. Relative to other recent private sector developments, JIFC Building 4 commenced with a significantly lower level of pre-lets. (page 41)

18. In providing an update on the profitability of the JIFC in 2015, the Minister for Treasury and Resources referred publicly to a draft report. This report has not been made available to Scrutiny. (page 44)

19. The valuations of profitability for the JIFC do not take account of the land value of the JIFC plots. (page 44)

20. The Panel is not convinced that the predicted profits of the JIFC will be sufficient to cover the costs of providing the public realm as set out in the Esplanade Quarter Masterplan. (page 46)

21. The majority of space within the JIFC is likely to be taken up by existing on-Island businesses. There is little evidence of the JIFC attracting inward investment (i.e. businesses from outside the Island). (page 49)

22. Taking into account the JIFC and all other private sector developments, there is a development pipeline of around 1.5 million sq.ft. of office space. To put this into context, approximately 470,000 sq.ft. of office space has been developed and taken up over the last 10 years. (page 53)

23. The move to direct development has led to greater risk being borne by SOJDC, and ultimately the States. That is why the pre-let condition set by the States in P.73/2010 is more onerous in order to mitigate such risk. (page 56)

Recommendations

1. There is a fifteen day 'grace' period which applies to Ministerial Decisions in relation to the States of Jersey Development Company. This should mirror the provisions contained within the Standing Orders of Jersey in relation to Land Transactions, so that any decisions taken by the Minister must be presented to the States in a report at least 15 days before the decision is effective. (page 16)

2. Ministers and Departmental Officers should ensure that they are aware of the provisions of the Code of Practice for Scrutiny Panels which require the Executive to provide any additional relevant information relevant to a review, whether or not this is specifically requested. (page 17

3. The Chief Minister should work with the Chairmen's Committee to ensure that the protocol for engagement between Scrutiny and the Executive provides for appropriate access by Scrutiny to information held by arm's-length entities. Once complete, the Privileges and Procedures Committee should bring forward any necessary changes to Standing Orders to provide a legal basis for Scrutiny to obtain such information in a straightforward and expedient way. (page 18)

4. Where a Masterplan for development of a particular site or area is of sufficient importance to require endorsement or approval by the States Assembly, any significant changes made to it should be brought back to the Assembly for approval. The States Assembly should be asked to endorse any Masterplans for development of land owned either directly or indirectly by the States of Jersey. (page 24)

5. The Minister for the Environment should ensure that where public realm is included in a planning approval, delivery of that public realm is prioritised. (page 26)

6. It is important that the ongoing review of the Esplanade Masterplan by the Minister for the Environment includes careful consideration of how connectivity can realistically be achieved. (page 28)

7. It is important that the ongoing review of the Esplanade Masterplan by the Minister for the Environment is completed in a timely manner, and includes appropriate consultation and time for scrutiny as mentioned in the Minister's announcement in September 2016. The Panel notes that the existing Esplanade Masterplan will continue to apply to any new planning applications for the site until a new Masterplan is agreed. (page 30)

8. Any changes to the Esplanade Masterplan resulting from the ongoing review by the Minister for the Environment should be brought to the States Assembly for approval. (page 29)

9. The Regeneration Steering Group ("RSG") should take a more clearly defined role in guiding (and leading) regeneration projects in line with the approved policies of the States Assembly. (page 33)

10. Attendance at RSG meetings should be limited to members approved by the States Assembly other than officers where updates are required. The RSG should ensure that sufficient time is allowed in meetings for confidential policy discussions. (page 33)

11. In order to avoid any future ambiguity, the wording of P.73/2010 needs to be clarified in clear and simple terms to reflect the wishes of the States Assembly. Any amendments should be brought back to the States for approval. (page 39)

12. The condition set out in P.73/2010 regarding the level of pre-lets required by SOJDC in relation to a particular building or development should be interpreted to mean that the legally binding pre-lets (when capitalised) must equal or exceed all costs that relate to completing the project, without taking into account the unlet part of that building or development. (page 38)

13. For the purposes of P.73/2010, development should be deemed to commence in line with the Planning Law definition of development. (page 41)

14. All contracts signed by the States of Jersey should include express provision for Scrutiny access to information. (page 44)

15. The Minister for Treasury and Resources should adopt a risk averse approach when assessing profit estimates for development undertaken by SOJDC, by using current market yields (rather than anticipated yields), backed up by appropriate evidence. (page 48)

16. It is important that yields used to assess the pre-let condition are in line with market norms at the time of commitment to development. Assumptions and forecasted yields should be demonstrated to be prudent and in line with market norms. (page 47)

17. SOJDC and the Minister for Treasury and Resources should outline clearly for each development project undertaken by SOJDC, the specific reasons why direct development is preferable. (page 57)

18. Both the Regeneration Steering Group and the Treasury and Resources Department should keep the operating model underpinning SOJDC under regular review to ensure it represents the best value for money and best risk profile for the island. This should include review of the specific circumstances which lead to direct development being favoured. (page 58)

19. An exit strategy for SOJDC assets, in line with the requirements of P.73/2010, should be published by the Minister for Treasury and Resources and should contain specific exit dates for each asset. (page 61)

20. By the end of December 2017, the Minister for Treasury and Resources should publish a clear exit date for the assets which the States Assembly agreed as part of P.73/2010 should be transferred to Jersey Property Holdings. (page 60)

21. The Panel notes the planned review by the Comptroller and Auditor General in relation to Arm's-Length Organisations connected to the States. The Panel recommends that once this report is published, consideration is given as to whether a specific review of the effectiveness of the role played by SOJDC should be undertaken by the Public Accounts Committee or the Comptroller and Auditor General. (page 61)

22. In the interests of transparency, the conditions for achieving bonuses for SOJDC Personnel should be published. (page 61)

Introduction

Review background and rationale

i. This report builds on the Panel's interim report, S.R.7/2015: Jersey International Finance Centre – Financial Viability. The interim report commented on the financial viability of Building 4 of the Jersey International Finance Centre (JIFC) in particular, but also the wider JIFC and included as an appendix the report of the Panel's advisers, EY.

ii. It has taken a considerable amount of time for this review to be finalised, having commenced in December 2014. A significant element of this is down to resistance encountered in accessing information relevant to the review, which ultimately led in one case to the Panel issuing a summons in order to obtain the information. This was an unprecedented step for Jersey's Scrutiny system as it was the first time that a Scrutiny Panel had issued a summons in this way. Some of the evidence contained in this report was received over a year ago, however in the Panel's opinion, it still remains relevant.

iii. The review was commenced on the basis of widely expressed concerns over the way the Esplanade Quarter Masterplan and in particular the Finance Centre element of it, was being implemented. These can be evidenced by the number of public submissions received by the Panel (available on www.scrutiny.gov.je).

iv. The Esplanade Quarter Masterplan was approved in June 2008, however despite changes in the economic environment and in some of the assumptions on which the Masterplan was based, it has not been subject to a full and in-depth review[13]. This report concentrates on the Finance Centre element of the Masterplan but one of the Panel's recommendations is to endorse the ongoing review into the Esplanade Masterplan, which needs to be completed in a timely manner.

v. Similarly, the States of Jersey Development Company has not been subject to a full review since it started operating in 2011.

States of Jersey Development Company

vi. The States of Jersey Development Company[14] (SOJDC) was set up in 2011 (following approval by the States in 2010) to replace the Waterfront Enterprise Board (WEB) and was given an expanded remit to include regeneration projects beyond the area of the Waterfront.

vii. The sole shareholder of SOJDC is the States of Jersey. Political accountability and responsibility for SOJDC rests with the Minister for Treasury and Resources. The relationship between SOJDC and the States is set out in a Memorandum of Understanding[15].

viii. SOJDC receives no direct funding from the States of Jersey. Instead it holds a number of "public" assets, including car parks, the ground lease of a hotel, offices[16], the bus station

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[13] See Appendix 1 for a list of relevant propositions seeking to amend the Masterplan.
[14] SOJDC operates under the registered business name "Jersey Development Company"
[15] Memorandum of Understanding between SOJDC and the Minister for Treasury and Resources on SOJDC website
[16] This report was written prior to release of SOJDC's 2016 Accounts. These show that the office property was disposed of in 2016 and the hotel interest is held for disposal during 2017.

and public spaces, from which it derives income[17]. This is expanded upon in section 5 of this report.

ix. The Governance arrangements in relation to the oversight of SOJDC require any Ministerial Decisions signed by the Minister for Treasury and Resources to be "subject to a fifteen day 'grace' period to allow for sufficient transparency and scrutiny"[18]. This requirement has routinely been followed by the Department of Treasury and Resources. It would, however, benefit from being strengthened to require active notification to States Members of any such decisions, by mirroring the provisions contained within the Standing Orders of the States of Jersey in relation to Land Transactions[19].

Recommendation
There is a fifteen day 'grace' period which applies to Ministerial Decisions in relation to the States of Jersey Development Company. This should mirror the provisions contained within the Standing Orders of Jersey in relation to Land Transactions, so that any decisions taken by the Minister must be presented to the States in a report at least 15 days before the decision is effective.

The Jersey International Finance Centre

x. The JIFC is one part of the wider Esplanade Quarter Masterplan and is planned to include 6 office blocks, an underground public car park and a "significant amount of public space", including public gardens[20]. It was originally intended to be delivered at the same time as the rest of the Masterplan by a sole third party developer.

xi. As a result of changes in the economic climate following the onset of the global financial crisis in 2008, various amendments were made to the delivery plan for the Masterplan. The effect of these was that the JIFC would be implemented as the first phase of the Masterplan, with other elements to follow in a later phase. Development would also be undertaken directly by SOJDC and not by a third party developer.

xii. SOJDC has stated that the JIFC will generate a profit of £50 million[21].

xiii. Construction of the first building of the JIFC (Building 4) commenced in 2015. The Ministerial approval of the enabling loan was signed on 14th October 2014. This was the day before the 2014 elections.

Key Finding
The Ministerial approval for the enabling loan for Building 4 of the Jersey International Finance Centre was signed on 14th October 2014 (the day before the 2014 elections).

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[17] Information sourced from SOJDC 2015 Financial Statements, p29
[18] P.73/2010, Property and Infrastructure Regeneration: The States of Jersey Development Company Limited, p22
[19] Standing Orders of the States of Jersey, Article 168
[20] Masterplan Report, Eric Parry Architects, July 2013
[21] Public Hearing with SOJDC, 8 June 2015

Confidential Information

xiv. During the course of this review, the Panel has been provided with large amounts of confidential information. For obvious reasons, the Panel has not referred to any of this information in this report, however access to such information has been valuable in informing the Panel's understanding of the circumstances surrounding the JIFC.

xv. In some cases, the Panel encountered resistance in being provided with important confidential information relevant to the JIFC. This included the contracts entered into by SOJDC in relation to the construction, financing and pre-letting of Building 4 of the JIFC, as well as independent valuations commissioned by the Department for Treasury and Resources.

xvi. Any information requested has been within the terms of reference for the review and in line with the role given to Scrutiny in overseeing the actions of the States of Jersey Development Company (as laid out when the States agreed to establish SOJDC[22]).

xvii. Although evidence received by Scrutiny would usually be made public, Panels are able to accept evidence confidentially and this happens on a regular basis. Panel members are used to respecting confidentiality and, where appropriate, offer a signed confidentiality undertaking to the relevant Minister prior to receiving information.

xviii. The Code of Practice for Scrutiny Panels makes it clear that Ministers are expected to *"provide any additional relevant information, whether or not this is specifically requested…"*. The Panel encountered one instance where it was attempting to obtain a copy of a valuation from SOJDC but later became aware that the Treasury and Resources Department had a copy of the valuation which should have been provided at an earlier stage. This only came to light when the Panel specifically asked if the Department had a copy.

> Key Finding
>
> The Panel encountered one instance where information requested from SOJDC was actually held by the Department for Treasury and Resources and could have been provided at an earlier stage (in contravention of the Scrutiny Code of Practice).

> Recommendation
>
> Ministers and Departmental Officers should ensure that they are aware of the provisions of the Code of Practice for Scrutiny Panels which require the Executive to provide any additional relevant information relevant to a review, whether or not this is specifically requested.

xix. The Panel wishes to emphasise that, on its part, there has never been any possibility that the information would not be handled in a confidential manner. It is therefore concerning that, in one case, the Panel had to go through a summons process in order to obtain the information.

[22] P.73/2010, page 8-10

xx. Although the usual confidentiality undertakings were offered in relation to the documents requested, these were not acceptable to SOJDC. In order to be given access to the documents, SOJDC required the Panel to enter into various forms of non-disclosure agreements, which included unlimited personal liability for Panel members and Scrutiny Officers.

xxi. Whilst such agreements are not uncommon in the commercial world, the inclusion of clauses which made the agreements legally binding would have conflicted with the parliamentary privilege afforded to States Members, as members of a parliament. For this reason the Panel was not in a position to sign them.

xxii. Following the summons and subsequent challenge by SOJDC, a public hearing was held before Privileges and Procedures Committee to determine the outcome, with legal representation on both sides.

xxiii. The decision of the Privileges and Procedures Committee in relation to the Summons (available online[23]) upheld the right of Scrutiny to access confidential information held by a wholly owned States company.

xxiv. The precedent set by PPC is particularly important as the number of States owned incorporated bodies and quangos continues to grow (in recent years Andium Homes and Ports of Jersey have been incorporated to add to the traditional utility and telecommunications companies)[24]. It will therefore be increasingly important that access to information by Scrutiny and the Public Accounts Committee is maintained. If it is not, there is a risk that such companies will not be subject to proper independent oversight. Barriers to accessing information will stop Scrutiny fulfilling its role of safeguarding the interests of taxpayers by holding the relevant Minister to account for the actions taken as shareholder and ultimate owner of the company.

Key Finding

The Panel was asked to sign non-disclosure agreements which included unlimited personal liability for Panel members and Scrutiny Officers. This would have conflicted with the parliamentary privilege afforded to States Members, as members of a parliament.

Recommendation

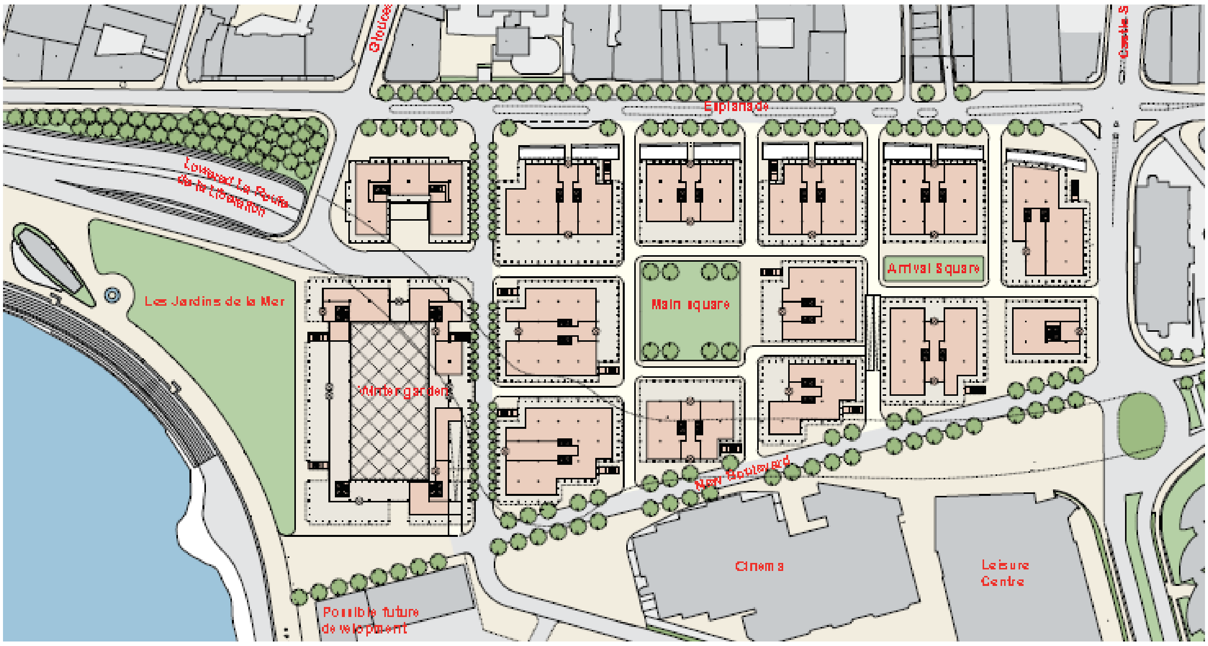
The Chief Minister should work with the Chairmen's Committee to ensure that the protocol for engagement between Scrutiny and the Executive provides for appropriate access by Scrutiny to information held by arm's-length entities. Once complete, the Privileges and Procedures Committee should bring forward any necessary changes to Standing Orders to provide a legal basis for Scrutiny to obtain such information in a straightforward and expedient way.

[23] R.54/2016, States of Jersey Development Company: Challenge to a Summons dated 12 August 2015 issued by the Corporate Services Scrutiny Panel – Decision of the PPC

[24] The Panel notes the recent establishment of Jersey Sport as a single purpose charitable trust (along the same lines as Visit Jersey) which moves functions previously undertaken by a government department and places them in an entity with limited accountability to the States and potentially outside the scope of the scrutiny process.

1. The Esplanade Masterplan

Figure 3: Plan of the Esplanade Quarter, Esplanade Masterplan 2008



Background

1.1. Plans for the Jersey International Finance Centre were included within the Esplanade Quarter Masterplan which was presented by the Minister for Planning and Environment and endorsed by the States Assembly in June 2008 (P.60/2008 – Esplanade Quarter, St Helier – Masterplan)[25].

1.2. The Masterplan contained 6 principal objectives and included promises of: "**high quality public realm**" "**a new town quarter**", a **winter garden** that would be "a key all-weather public space for the town" and "**high quality, landscaped boulevards and public squares**". Perhaps the most crucial of all was the proposal to address the fundamental issue of connectivity between the old town and the waterfront **by lowering La Route de la Liberation** either side of the existing underpass.[26]

> *The Masterplan's principal objectives are to:*
>
> - *Integrate the old town with the waterfront and address the separation presently caused by the road;*
> - *Create a distinctive mixed use quarter of quality which makes a step change in design and appearance;*
> - *Create a new office quarter to serve the financial services industry;*
> - *Provide new homes for local residents;*
> - *Create new areas of public space that provide a real sense of place for residents and visitors to enjoy; and to*
> - *Create new opportunities to broaden the offer within the tourism and visitor sector, providing a new hotel and self-catering accommodation.*
>
> *Masterplan for the Esplanade Quarter, St Helier - Summary*

[25] P.60/2008, Esplanade Quarter, St. Helier: Masterplan
[26] Masterplan for the Esplanade Quarter, St Helier, Introduction and Sections 1,2 and 4

1.3. The earlier proposed scheme for the Waterfront in 2005 proposed a similar mix of uses including leisure, residential and commercial but incorporated taller buildings which were deemed not suitable for Jersey. In 2006, the Minister for Planning then issued Supplementary Planning Guidance for the Waterfront, informed by a public consultation specifically on taller buildings[27].

Figure 4: 2005 Waterfront scheme

1.4. The Esplanade Masterplan was based on the Supplementary Planning Guidance and continued the theme of mixed leisure, residential and commercial use. However, it introduced the sinking of La Route de la Libération which meant a scheme could be delivered spread over a wider area, with reduced building heights, and delivering a greater financial return.

1.5. In his speech to the States proposing P60/2008 the then Minister for Planning stated the expected return to the States once the Masterplan had been delivered to be *"£50 million guaranteed, another £25 million based on overage and a lowered road paid for by the developer at no risk to the States".* The lowered road was valued at £45 million[28]. The return to the States would have been guaranteed through the agreement to be signed with the intended developer, Harcourt Developments Limited. The scheme was estimated to take 7 years to complete (and not more than 10 years)[29]

1.6. In July 2008, in response to the strong concerns raised by States Members, the then Treasury Minister commissioned an independent review of the deal with Harcourt to "ensure the contract is right for Jersey".[30]This review was conducted by UK law firm Trowers & Hamlin, and is sometimes referred to as the "Trowers & Hamlin Report" or the "King Sturge Report". Despite assurances from the then Minister for Treasury and Resources that he would *"make that advice given to me available to States Members",*[31] the full report was not released and has never been since.

1.7. The Panel asked the Minister for Treasury and Resources to comment on previous references that the report showed that the Harcourt deal would make a £50 million loss:

> ***Deputy J.A.N. Le Fondré:***
> *"So, just to put it into context, in June 2008 the financial implications for the proposition was £70 million positive and in November 2008 they were £50 million negative…*
>
> ***The Minister for Treasury and Resources:***
> *Yes."*[32]

[27] Jersey Waterfront Supplementary Planning Guidance April 2006
[28] Hansard, 03 June 2008, see also P.60/2008, Esplanade Quarter, St Helier: Masterplan, Appendix 4
[29] P.60/2008
[30] www.gov.je, Independent scrutiny for Esplanade Quarter developer, 18 November 2008
[31] Hansard, 3rd July 2008
[32] Public Hearing with the Minister for Treasury and Resources, 15 June 2015

1.8. In July 2009, the Minister for Treasury and Resources announced that the agreement with the intended developers, Harcourt, had been terminated as they were not able to provide the Bond required by the States:

> *"One of the fundamental provisions of the Heads of Terms is that the funding of the infrastructure works and the payments to W.E.B. should be backed by a bond to be issued by a bank or insurance company acceptable to W.E.B. in the sum of at least £95 million. I have previously advised Members that W.E.B. have been seeking appropriate confirmations from Harcourt and its funders that such a bond can and will be provided. While letters of comfort have been provided to W.E.B. by 2 potential funders they are not expressed in terms which provide W.E.B. with the level of commitment that W.E.B. is seeking…the board has come to the decision that the Heads of Terms should be terminated as the framework for negotiations of the development documentation."*[33]

Key Finding
There is evidence that the financial implications of delivering the Esplanade Masterplan as laid out in P60/2008 significantly changed during 2008 from a predicted return of £70 million to a loss of £50 million. This would have been known to Ministers at the time.

Key Finding
The Towers & Hamlin/ King Sturge report on the 2008 deal with Harcourt to implement the Esplanade Masterplan was never published, despite assurances that it would be made available to States Members.

Phasing of the Masterplan

1.9. Following the termination of the deal with Harcourt, the States of Jersey Development Company was incorporated (following the approval of P73/2010) in 2010 to take over the role previously played by the Waterfront Enterprise Board in overseeing the development of property within designated regeneration zones, including the Waterfront and Esplanade areas of Jersey.

1.10. SOJDC was given an expanded remit, including the ability, under certain circumstances, to undertake direct development of regeneration zones rather than working with third party developers.

1.11. SOJDC has followed the direct development route with both the Jersey International Finance Centre and its other current development, College Gardens. This shift in operating model, which involves taking on a higher degree of risk, is discussed further in Section 5 of this report.

1.12. In plans submitted to the Planning Department in August 2012[34] and July 2013[35], SOJDC outlined the planned phased delivery of the Masterplan.

[33] Statement by the Minister for Treasury and Resources, 15 July 2009, Hansard
[34] Planning Application P/2012/1141, Masterplan Phasing Plan
[35] Planning Application P/2013/0993, Master Phasing Report

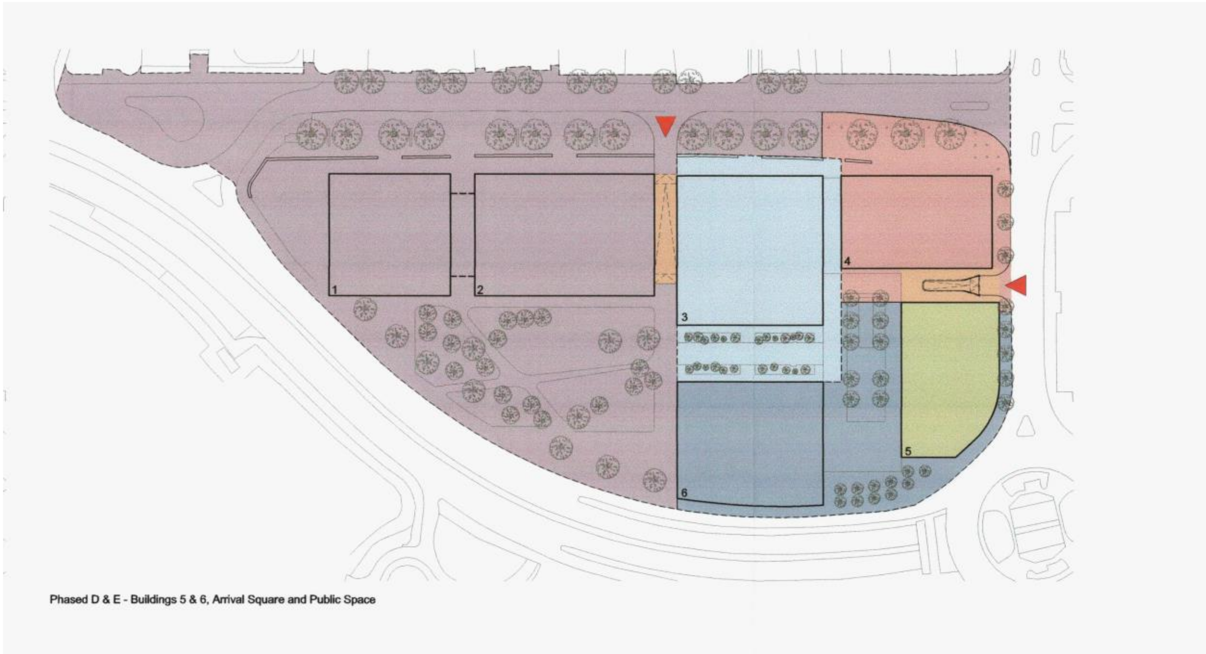
1.13. The office quarter, branded the Jersey International Finance Centre (or JIFC) would be delivered in Phase 1 on the site of the Esplanade car-park. This also enabled SOJDC to split the delivery of Phase 1 into sub-phases. Other elements of the Masterplan would be delivered in Phase 2 once the JIFC had been completed.

1.14. The Report submitted in July 2013 states that *"the global economic crisis and local demand for office and residential accommodation has resulted in the Esplanade Quarter needing to be delivered in phases".*[36] The report also stated that Phase 2 would be completed "at a later date", without putting a timeframe on this.[37]

1.15. A further adjustment to the phasing plans was made in December 2014 to alter the order in which the buildings in Phase 1 would be delivered.[38] The phasing plans are included on the next page.

1.16. Site clearance of the Esplanade car park in preparation for Building 4 commenced in February 2015. The main contractor commenced work on Building 4 in June 2015.

Figure 5: Phasing Plan August 2012[39]



[36] Ibid. p14
[37] Ibid. p26
[38] [Planning Application P/2014/2192, Supporting Document Masterplanning Phasing Report Addendum]
[39] Phasings plans provided by Planning Office

Figure 6: Phasing Plan 2013

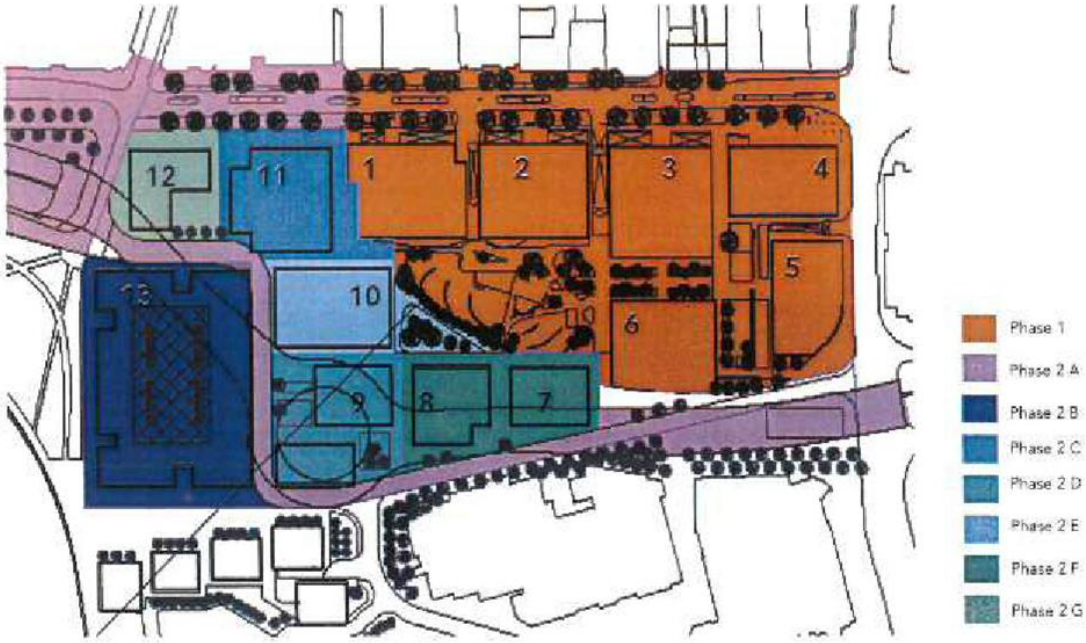
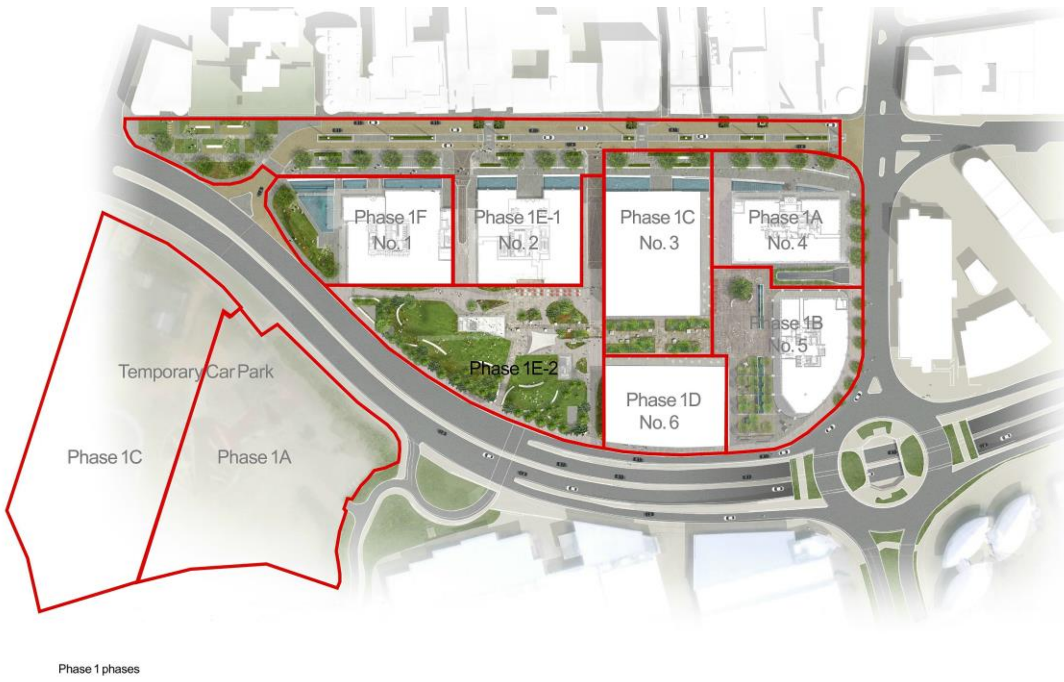


Figure7: Phasing Plan Dec 2014



1.17. As a Planning document, there was no requirement to submit the Masterplan or any alterations to the States Assembly for approval. However, the original approval of the Masterplan *was* taken to the States for approval, which in the Panel's opinion, was in recognition of the States' involvement as land owner and also the strategic importance of the site.

1.18. The phasing plans submitted by SOJDC, however, were not taken to the States Assembly and instead were dealt with through the planning application process.

1.19. The Panel questioned the Minister for the Environment on how individual planning applications are assessed against the Masterplan. The Minister told the Panel:

> *"…The master plan is a vision, it delivers something ... it is a policy that we want to deliver and quite how we get to the end result is a detail which is not specified in the exact terms. We are doing it in local chunks. Provided the end goal is achieved at the end of the day that is the important thing."*[40]

1.20. In response to a similar question, the Minister for Treasury and Resources also stressed the need for flexibility within the Masterplan:

> *"I would suggest that a masterplan needs to be flexible. That is a point that I raised with your expert, E&Y [Ernst & Young], when they were over recently and they agreed that a masterplan is something that evolves over the passage of time. It is certainly not a straightjacket but, as I say, it is being dealt with in phases."*[41]

1.21. The Panel recognises the need for flexibility in delivering a Masterplan, but considers that where fundamental changes to a Masterplan previously approved by the States are proposed, these should be brought to the States Assembly for approval.

1.22. The Panel also notes that a proposition debated by the States Assembly in 2011 (P24/2011) would have required the delivery of the Masterplan to be phased and the sinking of the road to be undertaken in a later phase. This Proposition was rejected by the States Assembly, however phasing has happened in any event.

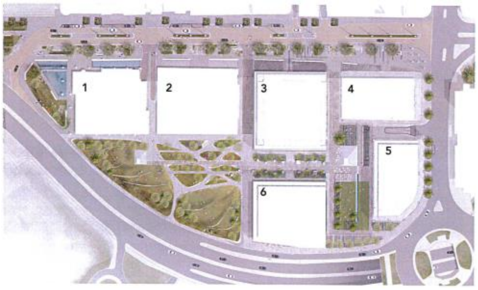
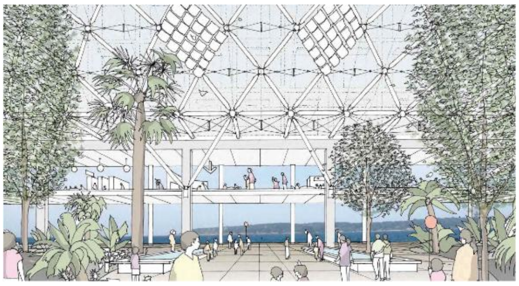
Key Finding
A proposition supported by the Council of Ministers requiring SOJDC to deliver the Esplanade Quarter in phases was rejected by the States in 2011 but delivery has still taken place in phases.

Key Finding
The timetable for delivery of the Esplanade Masterplan has changed, such that the majority of the public realm will be delivered at an unspecified later date.

Recommendation
Where a Masterplan for development of a particular site or area is of sufficient importance to require endorsement or approval by the States Assembly, any significant changes made to it should be brought back to the Assembly for approval. The States Assembly should be asked to approve any Masterplans for development of land owned either directly or indirectly by the States of Jersey.

[40] Public Hearing with Minister for Planning and Environment, 20th March 2015
[41] Public Hearing with Minister for Treasury and Resources, 15th June 2015

1.23. The approach to delivering the Masterplan is broken down into two main phases, as explained in the phasing plans submitted by SOJDC: [42]

Phase 1	**Phase 2**
“The first phase will provide six standalone buildings of office accommodation and will be referred to as Phase 1 and has been re-branded "Jersey International Finance Centre". Phase 1 has been divided further, to ensure construction matches demand and is of the highest quality.” *Figure 8 - Phase 1 plan[43]* 	*“The second phase, which will see the development of the waterfront and the sinking of the Route de la Libération, is referred to as Phase 2.”* *Figure 9 – Phase 2 Winter garden[44]* 

1.24. Phase 1 has been divided into sub-phases 1A-1E, which broadly equate to the separate buildings of the JIFC.

1.25. It should be noted that Phase 1 includes provision of a public car park on the Esplanade site, which will have a value of approximately £10 million[45].

1.26. The stated expected return to the States from Phase 1 is £40 million plus the car park (making a total value of approximately £50 million).[46]

1.27. The Panel was told that it will take around 20 years to deliver the overall masterplan and about 10 years to deliver Phase 1.[47]

1.28. The Panel was concerned that delivering the Masterplan in a phased manner might mean that parts of it never come to fruition:

Deputy K.C. Lewis:
What guarantee is there that what was established by the masterplan to the public, including the winter garden, underground parking and sinking the road, will be delivered?

[42] Esplanade Quarter Masterplan Report, Eric Parry Architects July 2013, p7
[43] Picture from Esplanade Quarter Masterplan Report, Eric Parry Architects July 2013, p23
[44] Picture from Esplanade Quarter Masterplan, front cover
[45] Public Hearing with SOJDC, 8th June 2015
[46] Public Hearing with SOJDC, 8th June 2015
[47] Public Hearing with SOJDC, 8th June 2015

The Minister for Treasury and Resources:
I do not think there is any guarantee in life of anything specifically, but you mentioned the winter garden and the sinking of the road. That is in phase 2 in any event and, as I have said, the sequencing was changed in 2011. So phase one is just the car park side, the 6 office buildings and the community space. Fifty per cent or so of that car parking site is going to be community space and that is what is being focused on at the moment. I should also point out that the winter gardens, phase 2 that you have just mentioned, are to the south. That is an area of land which is currently under review as a potential new hospital site. So there are other factors which perhaps one might bring into mind when considering the need to be flexible in our masterplan. As I have said, a masterplan is a vision which will, over the passage of time, evolve.[48]

1.29. The Chairman of SOJDC explained that they could not give a commitment to deliver everything that is in the Masterplan, but they are operating in a way that enables the full Masterplan to be delivered:

SOJDC Chairman:

The master plan is something that would take 20 years to deliver, something like that. That is what master plans are. We are looking at the first phase of it and we are working in such a way that we are then able to deliver the rest of the master plan. However, we are very conscious that the States at any time may choose to review the master plan in the light of the experience with phase 1 and other pressures that the Island has to cope with.[49]

1.30. As the development of the first phase of the Masterplan (the JIFC) is likely to take 10 years, the Panel is concerned that delivery of other key parts of the Masterplan may never materialise. This would call into question the strategy of developing in phases, starting with the JIFC. In the Panel's view, in terms of its position within the overall Masterplan, the JIFC only works in the wider context of delivery of the rest of the Masterplan, in order to achieve the "mixed use quarter" envisaged by the Masterplan. [50]

1.31. The overall emphasis of the Masterplan is on the importance of all elements of the scheme in contributing to regeneration of the area. The Panel is concerned that there is a real danger that many of the key elements of the scheme will never come to pass and as with earlier piecemeal development of Jersey's Waterfront, an opportunity to maximise the potential of the land will have been lost.

Key Finding
The Panel is concerned that delivery of the other key parts of the Masterplan may never materialise. This includes sinking La Route de la Libération, public space including the winter garden and ultimately, the delivery of a new town quarter.

Recommendation
The Minister for the Environment should ensure that where public realm is included in a planning approval, delivery of that public realm is prioritised.

[48] Public Hearing with Minister for Treasury and Resources, 15th June 2015
[49] Public Hearing with SOJDC, 8th June 2015
[50] Esplanade Masterplan, p8

Connectivity

Figure 10: North and south sections of the Esplanade, bisected by La Route de la Libération

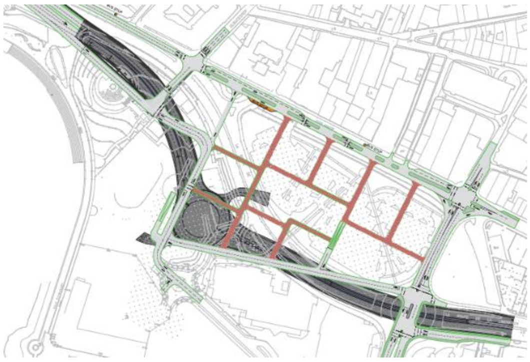


Figure 11: Proposed linking of north and south sections by burying the road

1.32. It is evident from the Esplanade Masterplan that the sinking of La Route de la Libération is key to achieving a number of the principal objectives of the Masterplan. It will solve the problem of the separation of the sites to the north and the south of the road and will help with the integration of the old town and the waterfront. The Masterplan also notes that sinking the road "*maximises development space*".[51] This will also help generate the predicted returns of the scheme.[52]

1.33. SOJDC maintained that the road *could* still be sunk and that the scheme will produce the funding necessary for this to happen. However, the Panel was surprised to learn that the board of SOJDC has not yet considered this in any detail.

1.34. When asked whether it was still the intention to sink the road, the Chairman of SOJDC told the Panel that this was something for the future:

> ***Deputy S.M. Bree:***
> *"Okay. With regards to the sinking of the road, if I may just go back to it, obviously part of the overall master plan as envisaged by the States was the sinking of the road, which is obviously a fairly fundamental part of the overall master plan as opposed to individual phases of it. You mentioned that there is some question over whether or not you will be sinking the road, i.e. if it is the States' wishes. The States' wishes are detailed in the master plan, which includes sinking of the road. So you are intending to sink the road at the moment in accordance with States wishes?*
>
> ***SOJDC Chairman:***
> *We will do everything in accordance with States wishes, but States wishes tend to change from time to time.*
>
> ***Deputy S.M. Bree:***
> *At the moment States wishes have not changed. The master plan still exists.*
>
> ***SOJDC Chairman:***
> *Yes, and as I said, to say we intend to, that would be putting it too far. We are able to deliver that and we are acting entirely in accordance with the master plan to do that. But to say we intend, at the moment we are looking forward 5*

[51] Section 5 of the Esplanade Masterplan, p38
[52] Senator F.E. Cohen speech, Hansard, 2 July 2008

years to delivering the first phase on the car park. The board has spent no time looking at this because it has had no need to look at this. This is something for some years to come."[53]

1.35. The Panel's advisors, EY, have concluded that the proposals to lower the road are unrealistic:

"The proposal to lower La Route de la Libération beneath the development proposed at a cost of £45m (2008) is commercially unrealistic. The ways by which the site to the south of this road can be linked to the JIFC site should be revisited, perhaps by bridging a section at a very much lower cost."[54]

1.36. The Group Property Director of C Le Masurier also felt that sinking the road would not happen, which had knock on implications for the rest of the Masterplan:

"…I would say to the panel now, and I will put it on public record, the road will never be sunk. The master plan, therefore, can never be delivered because without sinking the road you cannot do the development on top of the land you have created…"[55]

1.37. The Panel is of the view that the issue of connectivity between the north and south sides of La Route de la Libération will form a crucial part of the forthcoming review of the Waterfront Masterplan and needs to be resolved categorically without delay.

Recommendation

It is important that the ongoing review of the Esplanade Masterplan by the Minister for the Environment includes careful consideration of how connectivity can realistically be achieved.

Key Finding

Sinking La Route de la Libération is key to delivering the current version of the Esplanade Masterplan. However, no planning has yet gone into implementing this. The connectivity benefits envisaged by the present Esplanade Masterplan will not be achieved if the road is not sunk.

The Masterplan and Harcourt

1.38. At the time that the Masterplan was developed, it was anticipated that Harcourt would act as developer through an agreement with WEB/SOJDC. The Masterplan is worded accordingly and refers to "the developer" throughout. For various reasons, the agreement with Harcourt was terminated in 2009. A new third party developer was not engaged and SOJDC took on the role of "the developer".

[53] Public Hearing with SOJDC, 8 June 2015
[54] EY Report, Proposed Jersey International Finance Centre: Phase 1A Building 4. Assessment of Potential Viability, page 55
[55] Public Hearing with C Le Masurier Limited, 11 June 2015

1.39. Although the Masterplan is still in place, the absence of a third party developer means that parts of it are no longer clear. For example, the Summary section says:

*"Under an agreement with WEB, **the developers** of the Esplanade Quarter will be required to make guaranteed payments of £50m to the States. In addition to this guarantee some other overage payments will be payable to the States and these are currently estimated to be not less than £25m.Furthermore **the developers** will be required to complete the sinking of the road at no cost and no risk to the States. The cost to **the developers** of lowering the road is estimated at £45m".*[56]

1.40. To some extent, these outcomes will still be delivered by SOJDC acting as "the developer", but the cost and financial risk of sinking the road will be borne by SOJDC. As SOJDC is a fully owned States company, this equates to a risk to the public purse.

Review of the Esplanade Masterplan

1.41. The Panel notes the announcement in September 2016 by the Minister for the Environment that a review of the Waterfront Masterplan is to be undertaken.

1.42. Such a review was recommended by EY:

> *"…we believe that SoJ and SoJDC should use this as an opportunity to review the development strategy of not just the JIFC but also of the Esplanade Quarter"*[57]

and was also included in the Panel's interim report:

> ***Key Finding 15***
>
> *The Masterplan for the Esplanade Quarter will need to be re-appraised, and then presented to the States Assembly for debate.*[58]
>
> ***Recommendation 3***
> *Regardless of the outcome of the fully-disclosed viability assessment for B4, appropriate processes for the re-appraisal of both the full JIFC proposals and the wider Esplanade Quarter Masterplan, as recommended by EY, should be implemented. Such re-appraisal should also take into account development proposed by the private sector along the Esplanade immediately adjoining the JIFC site.* [59]

1.43. In response to this recommendation, the Minister for Treasury and Resources said:

"While the Minister for Treasury and Resources does not disagree with the recommendation, any review of the Esplanade Quarter Masterplan is a matter for the Minister for Environment in conjunction with the Council of Ministers."[60]

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[56] Esplanade Masterplan, p4
[57] EY report, page 55
[58] S.R.7/2015 Jersey International Finance Centre Financial Viability (Interim Report)
[59] S.R.7/2015 (JIFC Interim Report)
[60] S.R.7/Res, Jersey International Finance Centre: Financial Viability (Interim Report) - Response of the Minister for Treasury and Resources, page 18

1.44. During the course of this review, the need to review the Masterplan came up a number of times.

1.45. In a public hearing, the Group Property Director of C Le Masurier told the Panel that the Masterplan should be reviewed and in fact such a review should have been carried out either in 2009 or in 2011.[61]

1.46. In May 2016, the planning appeal in relation to Building 5 of the Jersey International Finance Centre, conducted by an independent planning inspector, included the following recommendation:

> *"That the Minister gives consideration to the findings of this report in terms of the case to review and update the Masterplan for the Esplanade Quarter 2008 to provide a sound basis for future decision making and scheme delivery".*[62]

1.47. The Panel notes that the review announced in September 2016 included reference to a review of the range of uses in the Masterplan and the mechanism for delivery.

> *"The first stage of the review, which will start in the autumn, will look at the six main objectives of the Masterplan and consider if they are still relevant.*
>
> *The Minister will also review the range of uses in the existing masterplan to see if they are still relevant and right for the development of this new urban quarter and the regeneration of St. Helier. The mechanism for the delivery of the masterplan will also be examined".*[63]

Recommendation

It is important that the ongoing review of the Esplanade Masterplan by the Minister for the Environment is completed in a timely manner, and includes appropriate consultation and time for scrutiny as mentioned in the Minister's announcement in September 2016. The Panel notes that the existing Esplanade Masterplan will continue to apply to any new planning applications for the site until a new Masterplan is agreed.

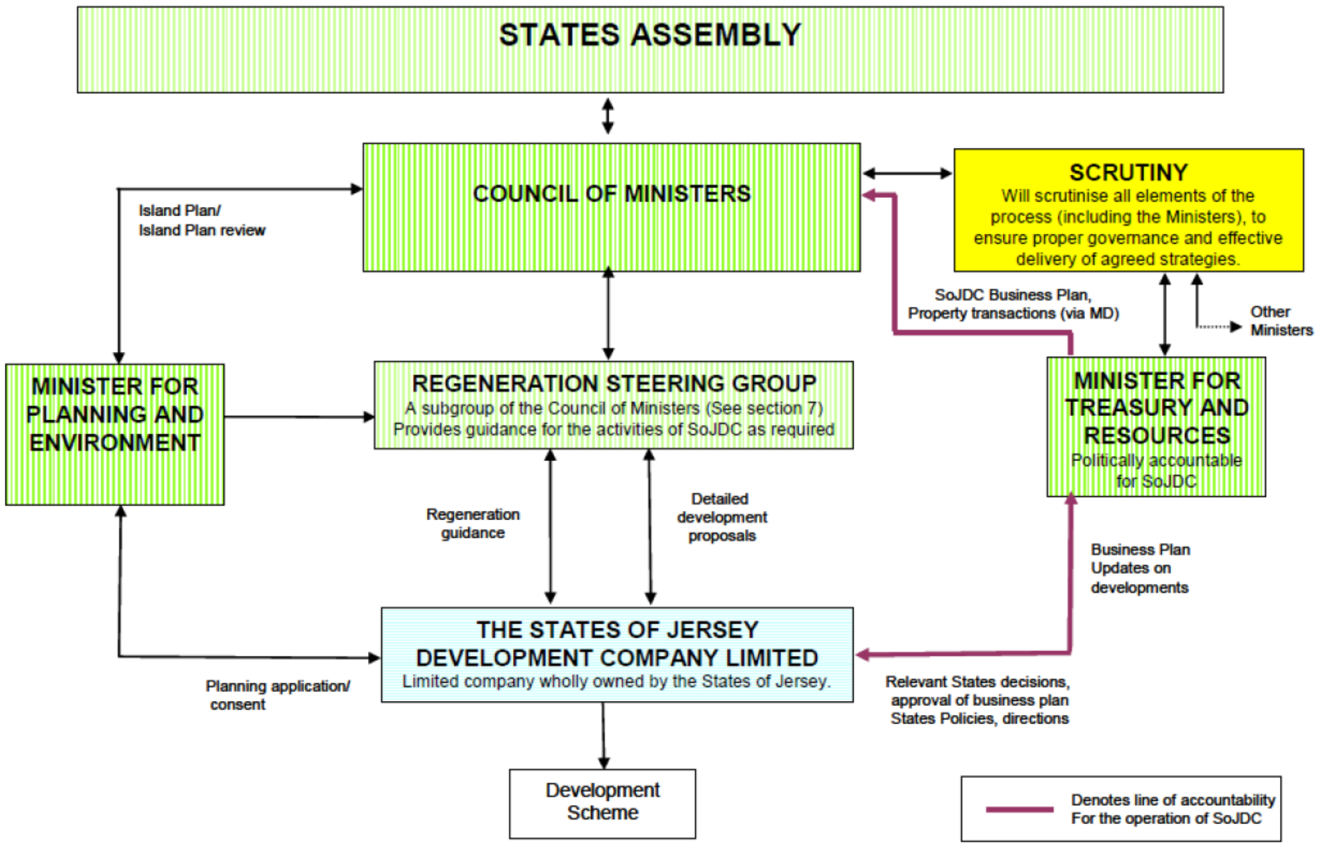
Recommendation

Any changes to the Esplanade Masterplan resulting from the ongoing review by the Minister for the Environment should be brought to the States Assembly for approval.

[61] Public Hearing, 8 June 2015
[62] Planning Appeal report regarding P/2014/2192
[63] Waterfront Masterplan – review announced, 15 September 2016

2. Regeneration Steering Group

Figure 12: Governance structure for SOJDC, P.73/2010



Formation and remit

2.1. The recommendation for a political oversight group of States Members for SOJDC's predecessor, the Waterfront Enterprise Board, was originally made by the Corporate Services Scrutiny Panel in 2009, building on a recommendation by the Comptroller and Auditor General. It was recognised that such oversight fell between the Corporate Services Scrutiny Panel and the Public Accounts Committee.[64]

2.2. In answer to these concerns, the RSG was proposed by the Council of Ministers and was formed in 2011 to provide oversight to regeneration projects in Jersey and the activities of the States of Jersey Development Company. The terms of reference state:

"The prime purpose of the Regeneration Steering Group is to provide a political steer and/or guidance in order to inform policy guidelines for all major Public property and infrastructure regeneration projects in Jersey."[65]

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[64] S.R.1/2009, Waterfront Enterprise Board
[65] Regeneration Steering Group Terms of Reference, included in P.73/2010, Property and Infrastructure Regeneration: The States of Jersey Development Company Limited

2.3. The remit of the RSG is to translate Masterplans proposed by the Minister for Planning and Environment into workable development plans. These are then passed to the States of Jersey Development Company, which is responsible for implementing the development plan. The RSG continues to have a role through the delivery of the development plan:

"…the Regeneration Steering Group provides a guiding framework for the activities of The States of Jersey Development Company in delivering a particular Development Plan"[66].

2.4. The members of the RSG are the Chief Minister, the Minister for Treasury and Resources, the Minister for Economic Development, Tourism, Sport and Culture, the Minister for Infrastructure, the Connétable of St Helier and a co-opted Connétable for a parish in which a project is taking place.

2.5. In relation to the Jersey International Finance Centre, the role of the RSG is to provide the "guiding framework" to the activities of SOJDC. The Esplanade Masterplan and Development Plan for the JIFC were already in place at the time the RSG was formed.

2.6. The minutes of the RSG are confidential[67], however redacted copies have been published in answer to a Freedom of Information request, together with a list of dates and attendees.[68] It appears that a number of officials and ministers attend the meetings without being formal members of the RSG, including the Chief Executive of SOJDC. This leads the Panel to question how much room the RSG has to discuss policy matters privately.

2.7. A review of the minutes suggests that the function of the meetings is to receive updates on regeneration projects rather than providing a political steer.

Key Finding
It is not clear, from the minutes of the Regeneration Steering Group, how much room the members of the RSG have to independently and privately discuss policy matters, in order to provide an appropriate level of political guidance to regeneration projects.

2.8. The RSG does not generally report publicly on its activities. In answer to a request by former Deputy Young of St Brelade in 2014[69], a report on the activities of the RSG was promised in September 2014. However, the Panel was informed that this report was never completed.

The Role of Scrutiny

2.9. Membership of the RSG is comprised primarily of ministers, however the role of Scrutiny was recognised when the States approved the establishment of SOJDC in

[66] P.73/2010, p11
[67] The Panel was provided with full access to the minutes
[68] Freedom of Information request, 10 November 2016
[69] Question 1240/5(8480)

2010. The structure diagram which formed part of P.73/2010 confirmed that Scrutiny "*Will scrutinise all elements of the process*".[70]

2.10. Two of the Primary objectives of regeneration strategy identified in P.73/2010 were*:*

- *"To ensure the primacy of the States of Jersey in the governance of regeneration policy in Jersey and any associated property development agency.*

- *To ensure the effective participation of the appropriate scrutiny panel in effective oversight of such governance..."*[71]

Later in the Proposition it states:

> *"It is important that all bodies involved in the proposed regeneration process will also be open to scrutiny by –*
>
> - *The Public Accounts Committee*
> - *The Corporate Services Scrutiny Panel*
>
> *All scrutinising authorities will remain independent of the Regeneration Steering Group and The States of Jersey Development Company Limited in order that their respective positions will not be compromised."*[72]

2.11. In light of the composition of the RSG and to ensure effective checks and balances are in place, it is important that Scrutiny and the Public Accounts Committee play an active role in scrutinising regeneration policy and the activities of SOJDC. The Panel will in future request copies of the minutes on a timely basis following each meeting.

Recommendation
The Regeneration Steering Group ("RSG") should take a more clearly defined role in guiding (and leading) regeneration projects in line with the approved policies of the States Assembly.

Recommendation
Attendance at RSG meetings should be limited to members approved by the States Assembly other than officers where updates are required. The RSG should ensure that sufficient time is allowed in meetings for confidential policy discussions.

[70] See diagram at start of this Section
[71] P.73/2010, p6
[72] P.73/2010, p8

3. Pre-lets and Construction

Conditions imposed upon SOJDC

3.1. The decision to set up the States of Jersey Development Company was taken by the States Assembly in 2010 through proposition P.73/2010.

One of the conditions within P.73/2010 was that SOJDC must obtain a particular level of pre-let agreements before committing to the construction costs for a development: [73]

Sales – If it is proposed that a specific development is undertaken directly by SoJDC, before committing to construction costs SoJDC will have to secure a sufficient level of legally binding pre-sales or pre-lets to fund the costs of constructing the first phase of a scheme. This will remove part of the sales risk of a particular development project and will ensure that there will be no financial liabilities relative to a particular development's construction costs.

3.2. It has become clear to the Panel that there is a lack of clarity around this condition and that this has led to different interpretations.

3.3. At face value, this condition seeks to ensure that enough tenants are secured in advance for a building before construction commences so that rental income (when capitalised) from those tenants will cover, in full, the building costs.[74]

3.4. SOJDC's analysis of this condition (as accepted by the Minister for Treasury and Resources) was explained to the Panel as follows:

"A sufficient level of legally binding pre-let will need to be:-

i. *Sufficient to secure third party (private) finance for the construction of the building (using only the pre-let, the land for that building and expended pre-development costs as SoJDC equity);*
ii. *Cover the interest costs of the third party financing on Practical Completion and expiry of rent-free period; and*
iii. *Be sufficient so that if the building needed to be sold on Practical Completion with only the initial pre-let(s) in place, that the consideration (disposal value) would exceed the debt (construction loan)."*[75]

3.5. In considering the P.73 condition, the Panel initially looked at whether it related to the interest costs on the borrowing required for construction or to the total cost of construction of the building.

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[73] P.73/2010, P14
[74] A common approach to valuing a building is to divide the rental income of the building by the percentage return, or "yield" that the owner/investor would expect to receive. This process of "capitalisation" results in an estimated value of the building. For more on this valuation method, see the Royal Institution of Chartered Surveyors Red Book, p66
[75] SOJDC written submission, 27 February 2015

3.6. The Minister for Treasury and Resources was asked in a public hearing to explain his understanding of the condition:

> ***Deputy J.A.N. Le Fondré:***
> *"…what does it mean to you? Is it we are covering the interest on the loan we are using to build it or is it the capital value of that pre-let compared against the cost of the building?*
>
> ***The Minister for Treasury and Resources:***
> *Essentially the capital value."*[76]

3.7. Whilst this interpretation leans more closely to the Panel's interpretation, in a separate hearing the Minister also introduced the concept of the unlet value of the building.

3.8. The Minister explained to the Panel that, in his opinion, the un-let value of the building must be factored into any calculation of the compliance with P.73/2010:

> ***The Minister for Treasury and Resources:***
>
> *"The value of the pre-let, but just let me be clear about this: it is not just the value of the pre-let, you have got to also take into consideration - and there has been some debate about this - that there is value in the unlet space as well. The pre-let of course secures the majority of the value, I suppose is the best way of putting it, but there is value in the rest of the building. It is not value; it is clearly once it has been constructed…"*[77]

3.9. In taking account of the eventual disposal value of the Building, the analysis by SOJDC (as detailed above), which is accepted by the Minister, includes the value of the unlet space in the building, rather than the capital value of the pre-let only.

3.10. SOJDC's interpretation of the condition does not, in the Panel's opinion, mitigate risk in the way that the original condition was meant to achieve.

3.11. It is very clear in the P.73 condition that there is no reference to the unlet value of the building. An unlet space cannot have a legally binding pre-let attached to it.

Key Finding
The wording of the Proposition which set up the States of Jersey Development Company (P.73/2010) lays down a specific condition in relation to the value of legally binding pre-lets that must be obtained by SOJDC before committing to construction costs. The Minister for Treasury and Resources accepts that this condition relates to the capital value of the lease but considers that it includes the value of the unlet part of the building.

[76] Public Hearing, 15 June 2015
[77] Public Hearing, 9 Nov 2015

Key Finding

Whilst the Minister for Treasury and Resources includes the value of the unlet part of the building in his interpretation of P.73/2010, this is not mentioned anywhere in the P.73 condition.

Key Finding

It is clear that an unlet space cannot have a legally binding pre-let agreement attached to it.

3.12. In the Panel’s view, enough tenants must have been found for Building 4 to cover the total construction costs, including the costs of borrowing, before physical construction began. This does not include the value of the un-let part of the building, which is not mentioned in the condition in P.73/2010. It is the Panel’s opinion that this is the interpretation of this condition that the States intended when it agreed to set up SOJDC through P.73/2010.

3.13. This is a more risk averse approach which ensures that the building can be justified solely on the basis of evidential demand. The remaining un-let space in the building is effectively the profit for the development.

3.14. The differing interpretations of this condition are illustrated in Figure 13 and Figure 14 using a notional cost to build of £10 million.

Figure 13: P.73 condition to commence construction as understood by the Panel

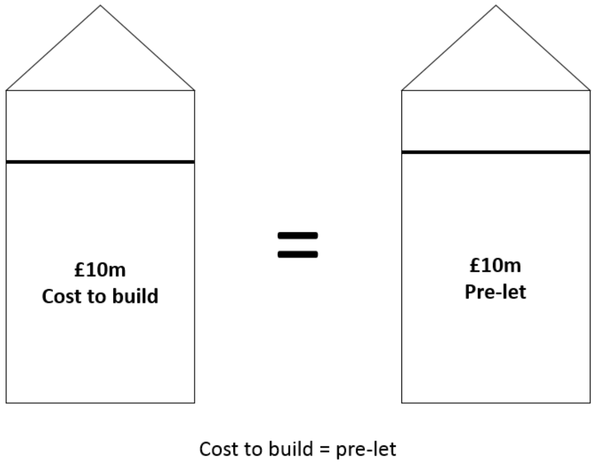
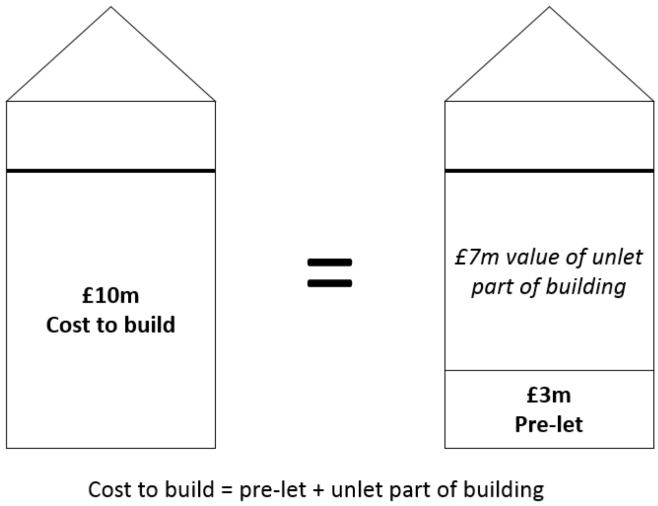


Figure 14: P.73 condition to commence construction as applied by SOJDC/Treasury



3.15. The second interpretation (Figure 14) is more risky as the pre-let by itself does not cover the costs to build. A partly let building will sell for less than a fully let building.

3.16. During a public hearing, it was accepted by SOJDC that this condition imposed by P.73/2010 is over and above the usual requirements that a property development company would be subject to, but SOJDC is bound to comply with it even if it is unhelpful in the longer term.

> ***SOJDC Chairman:***
> *"You know we are concerned as the board collectively to deliver what the States has set us up to do and that will deliver a substantial return to the people of Jersey, not only the £50 million we have talked about but also a much better*

car park and significant amount of public realm. In doing that we are not as a board going to do anything that is not viable. Why should we individually? We have no wish to take any undue risks. So we do all the things a developer would do, something that Roger and Ann in the course of their business would do, and I have been on the board of a property company. Then you have got the bank which normally is going to be far tougher and the fact that the bank is prepared to lend at all is helpful. You then have imposed on us uniquely another set of requirements in the legislation and in the memorandum of understanding.

Deputy J.A.N. Le Fondré:
That is obviously what we are looking at.

SOJDC Chairman:
Understandably that. All of which are designed to mitigate risk but actually the effect of them might not be to mitigate risk in the longer term but nevertheless we comply with them. We have absolutely no choice but to do so, even if we think some of them were a bit unhelpful in the longer term. We have done that. We take the necessary professional advice where we need to and the Minister has signed it off. Obviously there is scope to argue about whether within the strict letter it means this or that, we are satisfied that what we have done is entirely in accordance with the requirements on us."[78]

3.17. SOJDC confirmed that its interpretation of the condition (as opposed to the Panel's interpretation) had been accepted by the Minister for Treasury and Resources when he approved SOJDC entering into the funding agreement for Building 4.

"Deputy J.A.N. Le Fondré:
…Is this tied into a decision that is dated, I think, 14th October 2014? There is a ministerial decision on site that confirms the funding for building 4 and so the terms and conditions will be laid out in that and that is what you are taking as the acceptance and the approval under the, if you like, sign off by the Minister?

SOJDC Managing Director:
Yes."[79]

3.18. The wording of this particular part of P.73 requires further clarification. In the Panel's view, this is about risk when SOJDC is undertaking direct development and therefore extra measures need to be in place over and above the conditions that private developers would usually operate under.

Construction costs

3.19. The following figures were quoted by the Minister for Treasury and Resources during the States sitting on 16th June 2015:

[78] Public Hearing, 8 June 2016
[79] Public Hearing, 8 June 2016

"*The bank commissioned an independent valuation of Building 4 which found that with the UBS pre-let the value of the building was £28.5 million. Taking away costs it leaves a £7 million surplus on the value of the building over borrowings although this reduces to £4.2 million when current unlet space is fitted out.*" [80]

This would seem to indicate that the construction costs for Building 4 are in the range of £21.5m to £24.3m.

3.20. Following the Panel's interpretation of P.73/2010, a pre-let agreement of the size agreed with UBS (for approximately a quarter of the space in Building 4) would not be sufficient to cover the "costs of construction".

3.21. In a public hearing, SOJDC told the Panel that professional fees and public infrastructure were funded through a separate loan facility and that public infrastructure did not form part of the pre-let condition.[81] The Panel considers that the condition set out in P.73/2010 requires all costs associated with delivery of a development to be taken into account when considering the value of the associated pre-let.

Key Finding

The States put in place conditions to ensure that a risk averse approach was followed. In the event that the Council of Ministers wished to take a more risky approach, this should have been brought back to the States Assembly.

Key Finding

The condition included in P.73/2010 in relation to pre-lets is not sufficiently clear.

Recommendation

In order to avoid any future ambiguity, the wording of P.73/2010 needs to be clarified in clear and simple terms to reflect the wishes of the States Assembly. Any amendments should be brought back to the States for approval.

Recommendation

The condition set out in P.73/2010 regarding the level of pre-lets required by SOJDC in relation to a particular building or development should be interpreted to mean that the legally binding pre-lets (when capitalised) must equal or exceed all costs that relate to completing the project, without taking into account the unlet part of that building or development.

[80] Hansard 16/06/15
[81] Public Hearing, 8 June 2015

When did construction commence?

3.22. Pre-enabling works, which included clearance of shrubs and trees in the Esplanade Car Park and preparation of the additional car park at Les Jardins, started in February 2015. SOJDC have stated that this was necessary in order to prepare the site for the main construction works, which commenced in June 2015.

3.23. For the purposes of the planning consent issued to SOJDC for Building 4, the Department for Environment confirmed to the Panel in a public hearing that this initial clearance work meant that development had commenced:

> ***"Deputy S.M. Bree:***
> *With regard to the planning permission permit that you gave, P/2012/1141, which is building 4 of the International Finance Centre, with reference to the recent clearance work undertaken by S.o.J.D.C. from a planning point of view, can you confirm that as far as you are concerned development has commenced on that particular permit?*
>
> ***Principal Planning Officer:***
> *…Yes, development has commenced on that permit."*[82]

3.24. The Planning department were unable to comment on whether the commencement of development from a planning perspective constituted a commitment to construction costs as outlined in P.73/2010:

> ***"Chief Officer, Planning and Environment:***
> *…Ultimately I think the conversation or the commitments that the development company have made with the States is not a matter for us in the planning process, that side of the discussion…"*[83]

3.25. It is clear that development started when the pre-enabling works commenced in February 2015, prior to the pre-let being signed.

3.26. The view put forward by the Minister for Treasury and Resources and SOJDC is that the pre-enabling works are separate from the main construction work and therefore the commitment to construction costs was made on 29 May 2015 when the contract with Camerons for Building 4 was signed. The pre-let with UBS was signed prior to this on 22 May 2015.

3.27. Whilst this part of the condition is open to different interpretations, in the Panel's view it is clear that work started and money was expended on JIFC Building 4 prior to the construction contract with Camerons being signed.

Key Finding

Development of JIFC Building 4 commenced before the pre-let agreement with UBS and the construction contract with Camerons were signed.

[82] Public Hearing, 20 March 2015
[83] Public Hearing, 20 March 2015

3.28. There have been questions raised regarding compliance by SOJDC with planning permits. The Planning department has confirmed that the pre-enabling works were within the planning permit for Building 4 and that all planning conditions for the pre-enabling works have been discharged. Compliance with planning conditions is not within the Panel's Terms of Reference and therefore the Panel has not looked into this further.

3.29. The Panel received a number of submissions from concerned members of the public regarding the nature of the work undertaken at the Esplanade car park, its sudden commencement, and raising concerns regarding such works occurring prior to SOJDC securing any tenants. This is echoed in the headlines in the local media at the time:

"Anger over 'carnage' at Esplanade wildlife habitat"[84]

"Campaigners stumped by car park clearance"[85]

3.30. There appeared to be little notice that SOJDC would be commencing the pre-enabling work and this in itself caused great public concern as can be evidenced by the submissions received by the Panel from environmental groups and members of the public.

> *"This unannounced act caused great public concern and this could have easily been avoided, had the JDC followed best practice, used common sense, consulted with, and considered the feelings of the public"*[86]

Recommendation
For the purposes of P.73/2010, development should be deemed to commence in line with the Planning Law definition of development.

Speculative development

3.31. In its interim report, the Panel made a case for the development of Building 4 being speculative in nature. In his response, the Minister for Treasury and Resources stated:

> *"The Minister is satisfied that the construction of Building 4 is not "speculative". That term, in itself, is considered by the Minister to be emotive and not helpful in achieving a balanced and reasoned perspective on the JIFC. EY do not appear to use this description, and the Minister would welcome further justification by the Panel of their choice of words..".*[87]

3.32. The level of pre-let secured by SOJDC in order to begin construction of Building 4 (24%) suggests a degree of speculation in developing Building 4. The Panel notes

[84] JEP article 10th February 2015
[85] Bailiwick Express article 11th February 2015
[86] Save Our Shoreline submission 26 February 2015
[87] S.R.7/Res, Ministerial Response, page 5

that Gaspé House (66-72 Esplanade), commenced with a pre-let to Royal Bank of Canada of approximately 50% in place. 27/28 Esplanade commenced with a pre-let in place of around 42%.[88]

3.33. The Panel also received evidence on the level of pre-lets at which a developer would usually commence construction of an office development from The Group Property Director of C Le Masurier:

> *"It depends on the risk appetite of the particular developer. There has been locally, 37 Esplanade being an example, development on a more speculative basis but that was with a more aggressive developer who has got a very good track record. They saw a particular point in the market, size of floor plate and delivery at that particular time, but for a conservative, risk averse developer I would say that 70 per cent to 75 per cent is normal to have pre-let in order that you can get funding as well."*

> Key Finding
>
> Relative to other recent private sector developments, JIFC Building 4 commenced with a significantly lower level of pre-lets.

3.34. In a public hearing with the Minister for Economic Development, it was acknowledged that there was a degree of speculation involved in the development of Building 4.

> ***The Minister for Economic Development:***
> *Okay, although there is some speculation in this there has to be pre-lets in place before the phases can continue, so that reduces the risk significantly. If you are purely private you might decide to build without any pre-let or any agreement like that. The risk is reduced, and correct me if I am wrong, by the masterplan, which was approved by the States in 2010, which I think stipulated this, I might be wrong. But there are safeguards, those are the safeguards. It is not as speculative as a pure private development who was going ahead and building something without any pre-let signed."*[89]

3.35. The Panel also repeats the comments contained in its interim report on Risk and Speculative Development:

> ***4.3 Risk and Speculative Development***
> *"It has been assessed by our advisers that this 'weak' profit margin for B4 is below the level "at which a developer would normally undertake a speculative office development with a pre-let of only circa 24% of the total floor space."*
>
> *This assessment, that the development is speculative in nature, with margins that would be unattractive to a private developer, is in keeping with analysis seen by the Panel in documentation provided to it by SOJDC.*

[88] Information taken from: Jersey Office Market 2016 Report, BNP Paribas
[89] Public Hearing with the Minister for Economic Development, 27 April 2015

This appears, to the Panel, to be a very unsatisfactory approach to development by a publicly owned company and not in keeping with repeated assurances by the current and previous Minister for Treasury and Resources, and other Ministers since 2008, that development would be approached with minimal risk to the public purse."[90]

[90] S.R.7/2015 (JIFC Interim Report), p8

4. Financial viability and demand

4.1. The Panel's interim report, S.R.7/2015: Jersey International Finance Centre – Financial Viability, published in October 2015, focused on financial viability and profitability of the JIFC.

4.2. This section of the report will expand on some of the key issues identified by the Panel.

Predicted level of return

Figure 15: Building 4, JIFC

4.3. SOJDC publicly stated that Building 4 of the JIFC is expected to generate a profit of £7.5 million[91] and that the overall JIFC project is expected to generate a profit of around £50m[92]. This is based on independent valuations conducted by BNP Paribas Real Estate in 2014.

4.4. In October 2015, the Minister for Treasury and Resources publicly referred to a valuation from DTZ indicating a profit of £95m which, when inflation is removed, is broadly equivalent to earlier valuations[93].

4.5. The Panel understands that the Minister was quoting from a draft report from DTZ which has still to be finalised and which the Panel has been unable to obtain a copy of. It is not satisfactory that this report has not been made available to Scrutiny or that taxpayers' money has been spent on a report which has never been finalised.

Key Finding

In providing an update on the profitability of the JIFC in 2015, the Minister for Treasury and Resources referred publicly to a draft report. This report has not been made available to Scrutiny.

Recommendation

All contracts signed by the States of Jersey should include express provision for Scrutiny access to information.

4.6. These valuations as to the profitability do not include the land value of the JIFC plots, as the land was transferred to SOJDC's predecessor, the Waterfront Enterprise Board, by the States of Jersey. All calculations given to and used by the Panel do not

[91] S.R.7/2015 Ministerial Response, page 4
[92] Public Hearing, 8 June 2015
[93] www.gov.je, International Finance Centre valuation, 19 October 2015

include the site cost. This is unusual for this type of valuation, which E&Y expanded upon in their report.

Key Finding
The valuations of profitability for the JIFC do not take account of the land value of the JIFC plots.

4.7. It is important to note that neither of the valuations referred to in the Panel's interim report and examined by EY were assessments of development viability. EY commented on this in their report:

> *"We have been provided with copies of valuations which have been undertaken by both DTZ as at 27 April 2015 and BNP Paribas Real Estate (March 2014) which examine and advise upon the GDV of the JIDC and/or Building 4. In neither case is there a focus upon development viability.*
>
> *Both valuations report the Gross Development Value of the completed scheme only and are subject to special assumptions such as assuming the scheme is fully let on practical completion. This is a hypothetical value and does not represent the Market Value of the development opportunity nor does this examine viability and development risk."*[94]

4.8. The report from EY, commissioned by the Panel, therefore represents the only analysis of viability and development risk in relation to the JIFC.

4.9. If they were achievable, the profit estimates stated by SOJDC and the Minister would be sufficient to fund the costs of building the underground car park and associated community public space within the JIFC (estimated to cost £27m).[95] The balance of the profits would be used to fund in part the lowering of La Route de la Libération (which forms part of Phase 2 of the implementation of the Esplanade Masterplan):

> ***"Deputy J.A.N. Le Fondré:***
> *… to bury the road will be funded from the profits from phase 1, so the £55 million will go into the funding of the burying of the road. Now, sorry, I am just trying to ... does that cover all your costs or projection for burying the road? I presume you have some indication of what that might be?*
>
> ***SOJDC Managing Director:***
> *Well, no, we think it will be more than that. So there is then the development plots that are created above the road that is lowered that are, in effect, not existing today and those development plots will also aid that funding."*[96]

4.10. The Panel is of the opinion that burying the road is not realistic financially, based on the expected levels of profit that will be generated by the JIFC.

94 EY Report, p46
95 S.R.7/2015 Ministerial Response, page 4
96 Public Hearing, 8 June 2015

4.11. As detailed in the Panel's interim report, EY have calculated that Building 4 will generate a profit of £3m (before decontamination costs). When extrapolated across the whole of Phase 1 of the JIFC (470,000 Sq ft), this would generate a profit in the region of £21m. This level of profit would not cover the costs of the public car park and public space, let alone contribute to Phase 2 and the lowering of La Route de la Libération. Therefore, the Jersey International Finance Centre, as presently envisaged, will generate a loss.

Key Finding The Panel is not convinced that the predicted profits of the JIFC will be sufficient to cover the costs of providing the public realm as set out in the Esplanade Quarter Masterplan.

4.12. Furthermore, the profit level for Building 4 would be reduced below £3m if tenant incentives offered by SOJDC exceed market norms or if the costs for decontaminating the site are excessive.

4.13. Tenant incentives typically include a combination of rent-free periods, takeback of existing property and contribution to enhanced fit out of the premises. The EY valuation allowed for rent-free periods of between 18-24 months (which in their view is representative of the local market) and no other incentives. If the combination of tenant incentives offered by SOJDC exceeded the amount allowed by EY, then this would impact on the overall profit predicted by EY.

4.14. EY highlight in their report the difficulties of developing the JIFC site, which is on reclaimed land. The construction agreement with Camerons for Building 4 is a fixed price contract and excludes decontamination costs. Therefore, any risk associated with high decontamination costs sits with SOJDC. If these costs turn out to be excessive, the overall profit level is reduced. It is hoped that SOJDC will be able to apply the experience of Building 4 in incorporating a realistic allowance for decontamination into future contracts for buildings in the JIFC, rather than relying on contingencies.

4.15. The EY valuation excluded costs of site decontamination, as these were unknown at the time of the appraisal. They might be covered by the contingency allowance (£500,000) without affecting the overall profit of £3m, but any other calls on contingency would then impact on the profit prediction. The Panel has established from the Department for Infrastructure that charges to the contractor for depositing waste from the JIFC as at May 2016 were £877,000 (this figure would exclude the costs of extracting the waste from the JIFC site, haulage etc), although the Panel has been unable to ascertain the actual cost charged to SOJDC.

4.16. If these costs are correct, then EY's profit calculation would be reduced to £2.1 million, assuming that contingency is left for other unforeseen costs.

4.17. The Panel requested up to date financial reports on the costs incurred to date on the construction of Building 4 to enable it to identify how actual costs will impact on profitability. Access to these confidential documents was not granted in time to inform this report. The Panel will, however, follow up on this matter and should anything of note arise from its review of the current costs, the Panel will publish an addendum to this report.

Yield

4.18. One of the main reasons for the difference in the valuations produced by SOJDC and EY is in the investment yield used in the calculations. SOJDC used 6.5%. EY modelled scenarios at 6.5% and 7% yields, but commented that 7% is more realistic:

> ***Rental Yield***
>
> *The rental yield on a property is the annual rental income expressed as a percentage of the value of the property.*
>
> *A lower yield means a higher overall value of the property.*

"We are aware that SoJDC, based upon advice from DTZ, believe the completed development would attract an investment yield of 6.5%. Whilst we do not agree that this concluded yield reflects current market conditions, we have modelled the impact on value of adopting this lower yield, all other assumptions remaining consistent with our analysis as described above…[97]

…We would stress that this analysis has been carried out in order to demonstrate the impact of these assumptions on the profitability of the scheme if the views of SoJDC come to pass. This does not represent our opinion of value and market conditions as at the valuation date."[98]

4.19. The adjusted yield of 6.5% produced a profit figure of £6.7m, compared with the estimated profit of £3m when adopting a 7% yield (both figures exclude any decontamination costs above the amount budgeted for contingencies).

4.20. EY also comment that:

"with a lot size of £30m it is unlikely that a sale could be achieved at a yield better than 7%"[99]

4.21. The Panel notes that the yield of 6.5% has been used by BNP Paribas Real Estate and DTZ in connection with valuations for SOJDC and its lenders (HSBC) respectively.[100]

4.22. Property markets move over time and it should be noted that the analysis by EY was undertaken in October 2015. The Panel has not sought an update to EY's work but presents below other evidence in relation to yields.

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97 EY report, p51
98 Ibid. p51
99 Ibid. p52
100 S.R.7/2015 Ministerial response, p16

4.23. The analysis by EY is consistent with submissions from other local property developers received by the Panel. For example, Dandara:

Yield *Recently Dandara have tested the market for office sales with 37 Esplanade, which has a value in excess of (Redacted), with Institutional leases up to 15 years in place with the most blue chip of tenants. Following a year of marketing Dandara only received concrete bids at yields between (Redacted). The last substantial office sale completed In the Jersey marketplace in January 2015 was of 44 Esplanade which was sold at a yield of 7.85%. It is noted that the Proposed Development will ultimately be sold by way of long leasehold, which has traditionally diluted Investment value compared to freehold sale, never the less the Feasibility allows the most generous yield possible of 7.15%.*[101]

4.24. The Panel notes that the transaction for the sale of Liberation House and Winward House, two recently built modern office blocks on the site adjacent to the Jersey International Finance Centre, completed at a yield of 7.63% in the course of 2016.[102] This was a very similar lot size to Building 4, being valued at £34 million, with 84,000 sq.ft of accommodation and £2.6 million annual rent.

4.25. This yield is significantly different to the yield used by SOJDC, although the Panel notes comments by SOJDC in private correspondence in November 2016, that the yield of 7.63% in this transaction may not be representative of the current market, due to particular circumstances surrounding this transaction.

4.26. The Panel acknowledges that property yields move over time. Based on the evidence it has seen, the Panel considers that the yield adopted by SOJDC and its advisors at the time the project commenced was overly optimistic. This contributed significantly to an inflated projected profit figure for the development at that time.

Recommendation

The Minister for Treasury and Resources should adopt a risk averse approach when assessing profit estimates for development undertaken by SOJDC, by using current market yields (rather than anticipated yields), backed up by appropriate evidence.

Recommendation

It is important that yields used to assess the pre-let condition are in line with market norms at the time of commitment to development. Assumptions and forecasted yields should be demonstrated to be prudent and in line with market norms.

[101] Dandara written submission, 26 February 2015, p5
[102] Channel Islands Property Fund, 2016 Financial Statements, p4

Demand for the JIFC

4.27. An essential element of the likely profitability of the scheme is the level of demand for office space in Jersey. Issues around supply and demand were raised by a number of stakeholders in submissions to the Panel.

4.28. Some submissions to the panel made reference to a letter in 2011 by SOJDC's predecessor, WEB, which forecast overall office demand at 538,000 sq.ft and highlighted a potential for over-supply.[103] It is difficult to accurately predict current demand as this changes over time[104], however in its submission to the Panel, Dandara estimated demand of 168,000 sq.ft in the next 5 years.[105] Other submissions referred to demand between 330,000 sq.ft and 500,000 sq.ft[106].

4.29. In his response to the Panel's interim report, the Minister for Treasury and Resources maintained that he was satisfied that there is sufficient demand for Buildings 4 and 5 and to plan for the remainder of the JIFC. The Minister also noted that the phased approach to development means that delivery of buildings can be matched to demand.

4.30. In a comment to the States Assembly on 26 April 2016, the Assistant Minister for Treasury and Resources stated that SOJDC were in negotiation with 20 companies looking to acquire space up to 375,000 square feet.[107] This has been the consistent message from SOJDC and the Department for Treasury and Resources since construction started on the JIFC. Taking into account the 40,000 sq.ft of Building 4 pre-let to UBS and BNP Paribas and the announcement in November 2016 of 35,000 sq ft of Building 5 let to Sanne Trust the Panel is not persuaded that there is enough demand to proceed with the whole of the JIFC as envisaged by the Waterfront Masterplan.

4.31. It was put to the Panel by Jersey Finance that the JIFC will play an important role in attracting new businesses to the Island and encouraging existing businesses to consolidate here.

"Having a clearly identifiable financial services centre will be a core marketing attribute for the island. It will act as a valuable business attraction tool that will powerfully underpin Jersey's pre-eminence as a leading IFC. The JIFC brand manifested in a clearly identifiable and discreet finance centre will act as a hub, attracting high quality businesses and high value employers. It will be far more preferable to firms than being disparately spread over St Helier, or the incremental piecemeal development of the waterfront area. This concept is reinforced by the success of the Dubai International Finance Centre."[108]

4.32. The Economic Development Department emphasised the importance of available unlet office space when marketing the Island:

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[103] Letter included as an appendix to written submission by C Le Masurier
[104] See section on "Current Requirements" in EY report, p30
[105] Dandara written submission, 26 February 2015
[106] For example, BNP Paribas and Jersey Finance submissions
[107] Hansard, 26 April 2016
[108] Jersey Finance Written Submission, 6 March 2015

"The Connétable of St. John:
But the demand you are trying to create is inward investment.

Economic Development Department Chief Officer:
It is.

The Connétable of St. John:
That demand is increasingly dependent upon the availability of office space.

Economic Development Department Chief Officer:
Yes, it is.

The Connétable of St. John:
What are you doing to facilitate that office space?

Economic Development Department Chief Officer:
We are making it clear to the private sector developers and to the construction sector what the pipeline of inward investment is, that would hopefully stimulate some activity. But, from our perspective, as I just reiterate, our role is to stimulate demand, which is what we are doing now. The developments that are planned, be it the Dandara development which does have unlet space and indeed if one of the buildings on the S.o.J.D.C. Esplanade Quarter site goes ahead, there will be unlet space and that gives us something to sell into. There is a reason why that unlet space is there…"[109]

4.33. The Panel was informed by SOJDC that incoming businesses are only likely to be interested in accommodation which is available almost immediately:

"SOJDC Managing Director:
At this point the business that we were discussing with is now on-Island, but businesses that are looking to relocate to Jersey will be looking to do so within the next 6 months and they are only, therefore, going to look at propositions that are delivered within that timeframe…"[110]

4.34. It is feasible that the private sector pipeline will generate space that will meet the demands of the inward investment market. This point was raised with the Department for Economic Development:

"Economic Development Department Chief Officer:
… at the moment when we are out in the investment market and there is a short-term demand for high-quality space it is very difficult to fulfil that. In the fullness of time the current Dandara development at the Esplanade, and if one of the buildings on the Esplanade were to go ahead, will there be available space? Yes, there will. Will we match up inward investors with that space? Yes, we will.

[109] Public Hearing, 27 April 2015
[110] Public Hearing, 8 June 2015

Deputy J.A.N. Le Fondré:
Looking ahead, would it be fair to say you welcome the provision of any space compared to where we are now? It does not matter whether it is S.o.J.D.C. or private sector or whatever.

Economic Development Department Chief Officer:
No, as I said earlier, it is a capacity issue."[111]

4.35. There will clearly be some level of interest from inward investors, however the majority of space within the JIFC is likely to be taken by existing on-island businesses. This was noted in the Esplanade Masterplan itself;

> *"It has been determined that the Esplanade Quarter development will provide office space for approximately 4,700 workers and that this space will mostly be taken up by relocation of existing businesses."*[112]

and also by EY;

> *"We have concluded that the most likely source of tenants for the JIFC will be from organisations already present on the Island."*[113]

4.36. The Panel also notes that approximately two years after building started, there is still little evidence of the JIFC attracting inward investment and the associated increased employment that this would generate.

Key Finding
The majority of space within the JIFC is likely to be taken up by existing on-Island businesses. There is little evidence of the JIFC attracting inward investment (i.e. businesses from outside the Island).

Development pipeline

4.37. The JIFC is planned to deliver 470,000 square feet of office space in Phase 1, with a further 150,000 square feet in Phase 2.

4.38. The Planning Office provided the table below (reproduced in EY's report)[114], which shows that excluding the consents already granted to the Esplanade Quarter development, other planned office developments in the private sector are due to deliver around 1 million sq. ft. of office accommodation. This results in an overall development pipeline of around 1.5 million sq.ft.

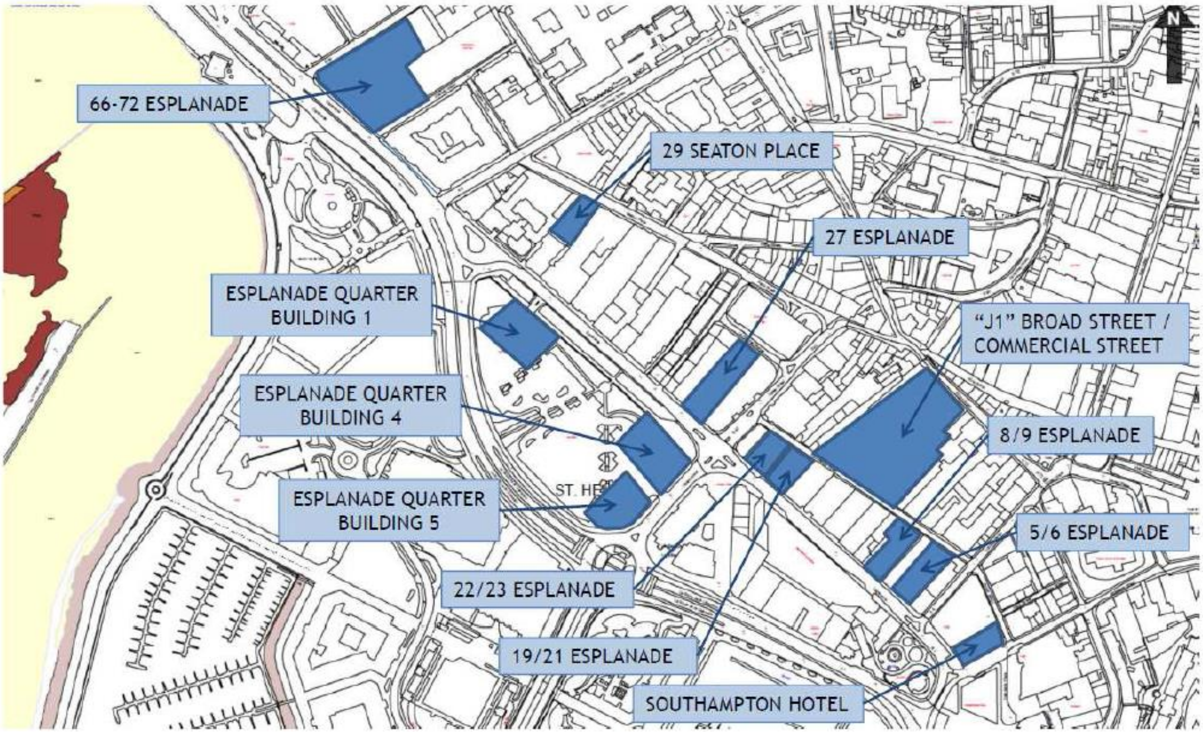
[111] Public Hearing, 27 April 2015
[112] Esplanade Masterplan, p38
[113] EY Report, p30
[114] EY Report, p28

Figure 16: Office Development pipeline - October 2015

Development pipeline

Site	Planning history	Application details	Applicant	Office floorspace (Est. gross internal)
Southampton Hotel (14-16 Weighbridge Square)	P/2011/0840 Approved March 2013 Under construction	Demolish existing buildings. Retain part façade of No 14. Construct new building comprising basement ground floor restaurant, four storey offices and fifth floor plant/storage.	Comprop Ltd	18,500 sq ft
5/6 Esplanade	P/20131/1144 Approved December 2013 Not commenced	Demolish existing building. Retail part façade of No 14. Construct new building comprising basement, ground floor restaurant, four storey offices, and fifth floor plant/storage.	6 Esplanade Holdings	69,600 sq ft
8/9 Esplanade	P/2010/1124 Approved Aug 2012 Not Commenced	Demolish existing buildings. Construct five storey office, with basement parking	John Terry Ltd	71,400 sq ft
19/21 Esplanade	P/2011/1201 Approved Oct 12 & P/2013/1154 Approved Nov 2013 Not commenced	Demolish existing buildings. Construct six storey office building with basement car park	Tital Properties	47,000 sq ft
22/23 Esplanade	P/2012/1344 Approved March 2013 Not commenced	Demolish existing buildings at 22-23 Esplanade & 38-40 Commercial Street, (retain and refurbish façade to 38 Commercial Street). Construct six storey office building to include basement parking.	Denchel Holdings	38,500 sq ft
27 Esplanade	P/2011/0647 Approved April 2014 Due to commence imminently	Refurbishment of historic façade to 27 Esplanade and first three bays. Re-modelling of 28 Esplanade. Demolition of remainder of buildings through to La Rue des Mielles. Construct new seven story office building. Construction of basement car park	Beverley Ltd	98,400 sq ft
66/72 Esplanade	P/2013/1185 Approved March 2014 Under construction	Demolish 66-72 Esplanade, 60 Kensington Place and part of 14 patriotic Street. Construct six storey office development, incorporating ground floor parking and retention of 14 Patriotic Street listed façade	Dandara Jersey Ltd	215,800 sq ft
29 Seaton Place	RP/2012/1015 Approved Oct 2012 Commenced (with part demolition)	Demolish existing warehouse and flats. Construct four storey office building with car parking.	IG Properties Ltd	24,600 sq ft
'J1' 19/21 Commercial Street & 31/41 Broad Street	P/2011/0817 Approved Dec 2011 Not commenced	Demolish existing buildings. Construct six storey building comprising of retail units and offices with basement parking. Remove 33 Broad Street. Restore facades of 35-37 Broad Street and 'Harbour Wall' structure.	LMN Jersey Investments Ltd	419,560 sq ft
Esplanade Quarter – Building 4	P/2012/1141 Approved Aug 2013 Commenced (with temporary car park)	Construct six storey office block with associated basement and landscaping. Temporary relocation of existing public car park	SOJDC	97,000 sq ft
Esplanade Quarter – Building 1	P/2013/0993 Approved Jan 2014 Not commenced	Construct six storey office block with associated basement and landscaping. Temporary relocation of existing public car park	SOJDC	119,300 sq ft
Esplanade Quarter – Building 5	P/2014/2192 Current application	Construct six storey office block with associated basement and landscaping. Temporary relocation of existing public car park	SOJDC	101,000 sq ft

Figure 17: Office Development pipeline - Esplanade Area Overview



115

4.39. A number of submissions to the Panel raised concerns around a potential oversupply of office space when factoring in the JIFC development.

> *CBRE:*
> *"With the current proposed pipeline, excluding Esplanade Square, totalling 580,000 sq.ft., this provides on average availability of 58,000 sq.ft. per annum which is clearly significantly higher than the previous 10 year overage.*
>
> *With the potential for the International Finance Centre being developed, this will, in our opinion, provide a significant oversupply of office accommodation and therefore effecting future rental growth, capital values and therefore have on overall effect on the economy."*[116]

4.40. The Panel was told that approximately 470,000 sq. ft. of office accommodation has been occupied in the last 10 years. This would mean that the private sector pipeline could meet similar demand over the next 10 year period.

> *CBRE:*
> *"Over the last 10 years, there has been approximately 470,000 sq.ft. of prime office accommodation which has been developed and taken up and therefore this reflects an annual take up of a gross nature of somewhere in the region of 47,000 sq.ft. per annum."*

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[115] Map provided by Planning Office in 2015
[116] [CBRE Written Submission, 27 February 2015]

Key Finding

Taking into account the JIFC and all other private sector developments, there is a development pipeline of around 1.5 million sq.ft. of office space. To put this into context, approximately 470,000 sq.ft. of office space has been developed and taken up over the last 10 years.

4.41. The available supply does not take account of the use of existing space for re-letting. It was suggested in some submissions that a number of companies requiring space in the medium term will in fact seek to re-negotiate exiting leases rather than take on expensive new premises.

4.42. The letting agent for the JIFC, BNP Paribas, told the Panel that the quality and size of the JIFC development makes it "almost unique".[117] Very few other planned developments are able to provide the same quality of Grade A office accommodation as the JIFC and very few sites are able to provide a premises of over 100,000 sq. ft. to cater for the requirements of some of the Island's larger employers[118]. It was also suggested that ultimately, market forces will determine which schemes proceed and the JIFC will be able to deliver office accommodation quicker than a number of the private sector developments.

> *Camerons:*
> *"The market will therefore decide which developers can meet their demands and requirements with the best site location, speed to site and commercial terms being the key drivers. SoJDC are well placed to compete locally."*[119]

Availability of Grade A office space

4.43. In evidence submitted to the Panel, Jersey Finance, SOJDC and BNP Paribas Real Estate (letting agents for the JIFC) stressed the need for Grade A office space in Jersey. According to their submissions, there is very limited Grade A office space available (approximately 15,000 square feet, or 1% of the total stock). Jersey Finance estimated that based on the level of new entrants to the Island in 2014, the existing Grade A stock available in Jersey would be fully utilised in two years.[120]

4.44. The Panel notes that this analysis does not take into account developments in progress which, aside from Building 4 of the JIFC, should deliver somewhere in the region of 267,000 sq ft total space, of which 125,000 sq ft is unlet Grade A office accommodation in the next couple of years. This is evidenced by figures provided to the Panel by Jersey Finance Limited in June 2016:[121]

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[117] Written submission, BNP Paribas Limited, 17 January 2015
[118] See written submission by BNP Paribas Limited, 17 January 2015
[119] Written submission by Camerons, 27 February 2015
[120] Jersey Finance written submission, 6 March 2015
[121] Since the submission in June 2016, construction of Building 5 of the JIFC has also commenced, which will deliver 70,000 sq ft of space, meaning the JIFC is currently delivering a total of 137,000 sq ft of office accommodation. 62,000 sq ft of this space is currently unlet.

- *Gaspé House at 66 - 72 Esplanade, as previously reported, is nearing completion and will provide a total of 165,000 sq ft, of which 90,000 sq ft has been pre-let by RBC, and a further 10,000 sq ft pre·let by Deloitte;*

- *Weighbridge House, as previously reported, is nearing completion with a total of 12,000 sq ft of office space across four floors, three of which have been pre-let according to BNP Paribas Real Estate;*

- *27/28 Esplanade is being developed by Dandara, with 70,000 sq ft spread over a seven storey office development, 30,000 sq ft of which having been pre-let to the JTC Group;*

- *29 - 31 Seaton Place, an infill site, will result in 20,000 sq ft of high specification office space across four floors when completed in summer 2017.*[122]

4.45. SOJDC also highlighted the advantages of the Esplanade car park site for building Grade A office accommodation and the constraints on other sites:

> *"The Esplanade car park provides the only blank canvas opportunity to deliver modern Grade A office accommodation in St Helier. The site is able to deliver regular shaped floor plates and excellent natural light on all four elevations as a result of the buildings being standalone; these features will provide occupiers with efficiency and flexibility."*[123]

4.46. This was echoed by the letting agent for SOJDC, BNP Paribas:

> *"Many of the sites are compromised by surrounding development which results in long linear floor plates with limited natural light and a requirement for atria which results in segmentation. There are also a number of instances where historic structures or features have to be retained due to their protected nature which can lead to significant design and use compromises being required.*
>
> *The proposed development at the Jersey International Finance Centre is almost unique in being able to provide offices with regular shaped floor plates, natural light on all four elevations and column free space which provides occupiers the greatest flexibility and efficiency of use."*[124]

Impact on rents

4.47. The Panel's advisors and other submissions highlighted the potential negative impact on commercial property rental values if an oversupply of office accommodation occurs.[125] In this scenario, there is the risk of SOJDC having to reduce rents for the JIFC in order to secure tenants. This would have an impact on the profitability of the JIFC and ultimately, the return to the States.

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[122] Jersey Finance Limited, updated submission, June 2016
[123] SOJDC written submission, 27 February 2015
[124] BNP Paribas, written submission, 17 January 2015
[125] EY report and CBRE written submission, 27 February 2015

5. **SOJDC Operating model**

Risk and SOJDC Structure

5.1. In a comments paper in 2008, the Council of Ministers stated that the Esplanade land would:

> *"…create a package on which any developer could build the whole scheme, with the developer being responsible for the road and all public works. This approach will ensure that it is the developer who is responsible for the work and who will have to manage all of the risks which would otherwise fall to the States. That approach represents a sensible and valid structure which should minimise risk, whilst allowing WEB on behalf of the States to receive significant fixed payments and share in the development profits."*[126]

5.2. At that time, it was expected that the Masterplan would be delivered in its entirety by Harcourt Developments Limited. Two years later when the agreement with Harcourt fell through, the attitude to risk had seemingly reversed to favour the States taking on all the risks of the project, through the direct development of the site by SOJDC.

5.3. As recounted in Chapter 1 of this report, the changes to the Masterplan in relation to the preferred developer (resulting in a greater risk profile for the development), and the mechanism of delivery through phasing have never been taken back to the States Assembly for approval.

5.4. The current operating model of direct development exposes SOJDC (and therefore the States) to all development risks associated with this project and any others it undertakes.

5.5. The external advisors (DTZ) commissioned to advise on the structure of SOJDC in 2010 noted that this structure is unusual in the UK and that, at best, an equal spread of risk between public sector and private developer would be more common.

5.6. The report also highlighted that there are specific circumstances in Jersey which make a case for SOJDC retaining greater risk.[127] The rationale put forward was that there is only one sizeable developer on the Island and the introduction of a States backed developer would introduce competition into the Island.

5.7. In operating as the private developer, SOJDC (and ultimately the States) bears all the risk of the success or failure of the JIFC scheme, which P73/2010 and SOJDC's Memorandum of Understanding were supposed to mitigate.

5.8. Whilst taking account of the case for SOJDC retaining greater risk put forward by the external advisors, the governing documents for SOJDC (approved with P.73/2010) are worded with the expectation that it will work with a private developer unless there are specific reasons not to:

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[126] Esplanade Quarter, St Helier Masterplan – Rescindment (P.97/2008) – Comments
[127] P.73/2010, Appendix 8, DTZ report, States of Jersey – A review of Proposals for The States of Jersey Development Company

"SOJDC will procure development schemes in conjunction with the private sector unless there are specific reasons for direct development."[128] [our emphasis]

5.9. This is explained in P.73/2010 as follows:

"There may however be specific circumstances where it would prove financially and strategically beneficial for the SoJDC to undertake a development directly in order to fully control what is delivered and to take full advantage of the profits generated thereon provided the risk is minimal."[129]

5.10. The primary argument put forward by SOJDC to support direct development in the case of the JIFC is that it will increase the level of profit and therefore the return to the taxpayer. In the Panel's opinion, even if the profit predictions were realistic, this alone is not sufficient justification and the risks are not minimal. The specific reasons for undertaking direct development need to be made clear.

Key Finding

The move to direct development has led to greater risk being borne by SOJDC, and ultimately the States. That is why the pre-let condition set by the States in P.73/2010 is more onerous in order to mitigate such risk.

Recommendation

SOJDC and the Minister for Treasury and Resources should outline clearly for each development project undertaken by SOJDC, the specific reasons why direct development is preferable.

5.11. In 2008, in response to concerns about partnering with a third party developer, the States agreed that any development agreement with a third party negotiated by the Waterfront Enterprise Board (now SOJDC) would have to go to the States Assembly for approval.[130] By changing the operating model to one of direct development, SOJDC has not needed to seek the approval of the Assembly before proceeding with work on the JIFC.

5.12. There have been a number of propositions since 2008 aimed at stopping or delaying SOJDC's work which have been rejected.[131] This does not in itself constitute evidence that States Members are satisfied with the way in which SOJDC is delivering the JIFC.

5.13. With regards to one of these propositions which was lodged in 2011, the proposal requiring SOJDC to implement the Esplanade Quarter in phases was rejected (despite

[128] P.73/2010, p15
[129] P.73/2010, p14
[130] P.111/2008, Esplanade Quarter St Helier: Development Agreement – Approval by the States
[131] See Appendix 1 for details of all relevant propositions

having the support of the Council of Ministers).[132] During the debate, some Members voiced concerns about piecemeal development of the JIFC if the proposition was approved. This was a factor in some members voting against the proposition. It has transpired that development has in any event proceeded in phases.

Competing with the Private Sector

5.14. Not only is it unusual for a public sector entity to assume the level of risk that SOJDC does, but it is also unusual for such an entity to compete directly with the private sector. A number of submissions received by the Panel highlight concerns that the States (through SOJDC) are competing with the private sector. The following, received from a local property developer, is one example:

> *"If, contrary to professional opinion, it is argued that ample demand will recur in the near future, we feel sure that property owners, developers and entrepreneurs will react swiftly to provide what the market needs. It is not the role of government to perform that function (especially when it is not needed) nor is it possible for government to attempt to do so in the same manner as a private company or individual."*[133]

A further submission from the same developer referred to the fact that both companies signed up for Building 4 of the JIFC had been considering his site:

> *"…this turn of events places us in the position of a local enterprise frustrated and defeated in competition with a company which we involuntarily own, which we unwillingly finance and which is negotiating from an unlevel playing field.*
>
> *By way of subjective observation, we cannot overstate how depressed and dispirited we felt when setting eyes on the first uninspiring rectangular block presently arising on the corner of the site. How such a massive and mundane design could have been approved remains a mystery."*[134]

5.15. The 2010 report by DTZ included as an appendix to P.73/2010 uses the example of the public sector intervening in situations of market failure where the private sector has not been prepared to engage. Such a situation could have been a justification for SOJDC to undertake development directly; but this is not the case. There are a number of private developers with approved plans for constructing office blocks on and around the Esplanade (see table in chapter 4). This is clearly not evidence of market failure.

Recommendation

Both the Regeneration Steering Group and the Treasury and Resources Department should keep the operating model underpinning SOJDC under regular review to ensure it represents the best value for money and best risk profile for the island. This should include review of the specific circumstances which lead to direct development being favoured.

[132] P.24/2011, Esplanade Quarter: Deferment of Works
[133] Written submission by John Terry Ltd, 5 March 2015
[134] Written submission by John Terry Ltd, June 2016

5.16. The Panel notes that the review of the Esplanade Masterplan announced by the Minister for Environment will include an examination of the mechanism of delivery. This will be important in order to understand whether the present model of direct development by SOJDC in competition with the private sector remains appropriate.

Ability of the private sector to deliver the JIFC

5.17. A number of submissions highlighted the fact that the private sector is able to deliver similar quality office accommodation in the vicinity of the Esplanade;

> *"Addressing the question asked of the ability of the private sector to deliver such a centre the answer is an absolute yes. The demand is no greater than in previous years so the development output to meet that demand will not be materially different to that of the last twenty years in Jersey, which the private sector has fulfilled.*
>
> *The Proposed Development puts all the space requirement (and as shown vastly more!) on the same site. One can argue that that attracts or discourages occupiers. The private sector can and will provide it on separate sites all however within the immediate area. "*[135]

and;

> *"The private sector, through the pre letting to RBC and Deloittes, have already shown their ability to deliver Grade A offices for international tenants and with construction already commenced on other buildings and over 600,000 sq ft of available supply (ignoring 470,000 sq ft at the Esplanade). The private sector has always provided office accommodation for the island and the States have only constructed buildings for their own occupation. The States do not have a proven track record in office construction…"*[136]

5.18. The submissions indicated that the private sector would not deliver the scheme set out in the Esplanade Masterplan because it would not be financially viable and would not deliver a return. Indeed, Dandara commented:

> *"If the question was asked, would the private sector deliver the Proposed Development as currently planned, the answer is an absolute no. The offices currently designed are too expensive to build and make the scheme unviable…"*[137]

5.19. Part of the reason for the termination of the agreement with Harcourt was that the developers could not provide the required bond for the scheme. This failure might have been used as justification by SOJDC for taking the project "in-house". As the project has now been split into smaller more manageable phases, this would arguably make it more viable for a private developer to take on.

[135] Written submission by Dandara, 26 February 2015
[136] Written submission by Le Masurier, 9 February 2015
[137] Written submission by Dandara, 26 February 2015

Funding the JIFC and SOJDC

5.20. In the context of the JIFC, the Minister for Treasury and Resources has made reference to the fact that no public money is being used to fund construction.

> *"… I'd like to clear up the issue about how funding for the International Finance Centre is being dealt with. No taxpayers' money is being used in its construction. I'd like to repeat that for our friends in the media, NO taxpayers' money is being used in the construction of the Finance Centre. SOJDC is a limited company and is borrowing from banks, like any other developer."*[138]

5.21. The building costs of the JIFC are funded by way of a loan from HSBC, which is secured against the JIFC land and the Waterfront Car Park.

5.22. The operating costs of SOJDC are effectively funded through public money – i.e. income arising from car parks and other public assets held by SOJDC. The total operating costs for SOJDC in 2015 amounted to £2.1m. As explored below, a number of these assets were originally due to be transferred back to the States.

5.23. The income from the Waterfront car park (totalling £950,000 in 2015) is retained by SOJDC. Out of this SOJDC maintains a number of public areas, including the Waterfront car park and Jardins de la Mer (estate management costs in 2015 were £314,904).[139] Car parking charges in relation to the Esplanade car park were previously collected and retained by Jersey Car Parking. Since 2012, they have been collected by Jersey Car Parking and paid to SOJDC in respect of a licence to operate the car park. A similar amount has been paid back to the States each year by way of a dividend from SOJDC under an arrangement outlined in R.7/2012[140].

5.24. In light of the above, there is clearly a risk to the public purse in the event of the failure of the JIFC.

5.25. The 2015 accounts of SOJDC show that the "public assets" owned by the company were valued at £14.9 million.[141] This figure has increased each year since the company was formed. The company generated an operating revenue of £2.3 million in 2015 and an operating profit of £0.9 million. The majority of the profit (£0.6m) was as a result of increases in the value of property owned by the company. The profit figure in the previous year was £2.7 million (including £2.2 million increase in value of property).

5.26. P.73/2010 required SOJDC to have an exit strategy for all of its assets. This distinguishes between assets held at the time P.73 was approved and assets acquired after it was approved. Many of the assets held at the time that P.73 was approved

[138] Statement by Minister for Treasury and Resources, 2 June 2015
[139] SOJDC Accounts 31 December 2015
[140] The recently published SOJDC Accounts for 2016 state that it has been agreed with the Minister for Treasury and Resources that no dividend will be paid in 2016 and all net receipts from the IFC development will be retained to fund public infrastructure costs.
[141] SOJDC Accounts 31 December 2015, page 29

were to be transferred to Jersey Property Holdings, as detailed in Appendix 5 of P.73/2010.[142]

5.27. The Panel will follow up on the expected timescales for transfer of these assets after the completion of this review to ensure that appropriate plans for assets held by SOJDC are in place to give effect to the requirements of P.73/2010.

Recommendation
An exit strategy for SOJDC assets, in line with the requirements of P.73/2010, should be published by the Minister for Treasury and Resources and should contain specific exit dates for each asset.

Recommendation
By the end of December 2017, the Minister for Treasury and Resources should publish a clear exit date for the assets which the States Assembly agreed as part of P.73/2010 should be transferred to Jersey Property Holdings.

5.28. Employee expenses of SOJDC in 2015 totalled £900,000 for an average of 8 employees. The Remuneration report in the 2015 accounts states that salary levels are set with reference to the market. Bonuses are paid to the Executive Directors, however the bonus structure is not published.

5.29. In light of the size of these figures, it is important that SOJDC is demonstrated to represent the most effective and best value model for delivering property regeneration on behalf of the States of Jersey. This needs to be kept under regular review by the Department of Treasury and Resources and, where appropriate, scrutinised by the States Assembly.

Recommendation
The Panel notes the planned review by the Comptroller and Auditor General in relation to Arm's-Length Organisations connected to the States. The Panel recommends that once this report is published, consideration is given as to whether a specific review of the effectiveness of the role played by SOJDC should be undertaken by the Public Accounts Committee or the Comptroller and Auditor General.

Recommendation
In the interests of transparency, the conditions for achieving bonuses for SOJDC Personnel should be published.

[142] Appendix 5 of P.73/2010 is included in appendix 4 to this report

Conclusion

This review was commenced shortly after permission to commence the first building of the JIFC was given by the Assistant Minister for Treasury and Resources in October 2014. In the following two and a half years, the Panel has tried to find the answers to some key questions in relation to the JIFC. These include:

1. Is the Esplanade Masterplan, in its entirety commercially viable and will the whole plan be delivered?

2. Is there sufficient market demand for the 6 planned buildings of the JIFC?

3. Were sufficient pre-lets in place before construction of Building 4 of the JIFC commenced, in order to satisfy the requirements set down by the States Assembly?

4. Have the risks inherent in the development of the JIFC been properly considered?

The Panel has found that it is highly unlikely that the Masterplan in its current form will be delivered in full. Given that delivery of parts of the Masterplan have already commenced, it is critical that the forthcoming review by the Minister for Environment delivers a revised plan which is realistic and achievable, incorporating the existing development in the Esplanade/Waterfront area and providing something that all Islanders can buy into.

The review should include careful consideration of the requirements for a Finance Centre on the scale currently envisaged. It is not clear that there is demand for the 6 buildings currently planned. This should also take account of planning consents already granted to private sector developers for offices in the Esplanade area.

The role envisaged for the States of Jersey Development Company in delivering the revised Masterplan should also be carefully thought through. At best, the conditions laid down by the States for construction to commence were stretched to enable development of the JIFC to commence.

These conditions should be clarified and the States Assembly should be asked to look again at the role it wishes SOJDC to play in development projects. Is it acceptable for the States to act as a developer (with all of the inherent costs involved) in competition with private sector developers and to assume all the risks of development without a guaranteed return? If the answer is yes, then SOJDC will have a renewed mandate to continue development of the Esplanade area. If the answer is no, then it is perhaps time for a re-think of how development projects can best be delivered by the States.

Appendix 1

Propositions relevant to Jersey International Finance Centre

Summary

Reference	Regarding	Status
P.60/2008	**Esplanade Quarter St Helier: Masterplan** Gave approval to the Esplanade Masterplan	Extant
P.97/2008	**Esplanade Quarter – Rescindment** Sought to rescind the decision to approve the Esplanade Masterplan due to concerns regarding the involvement of Harcourt as developers.	Rejected
P.111/2008	**Esplanade Quarter St Helier: Development Agreement – Approval by the States** Required that any agreement with a third party negotiated by WEB had to be taken to the States for approval	Extant (but relates to agreements with third party developers only)
P.77/2009	**Esplanade Quarter and Waterfront – Deferral** Sought to defer commencement of development by Harcourt due to economic situation in Jersey	Extant (but only relevant to development by Harcourt)
P.73/2010	**Property and Infrastructure Regeneration: The States of Jersey Development Company Limited** Approved setting up States of Jersey Development Company to replace Waterfront Enterprise Board. Widened remit of SOJDC beyond the Waterfront area.	Extant
P.24/2011	**Esplanade Quarter: Deferment of Works** Sought to require SOJDC to phase works and that sinking of the road would not be undertaken in an early phase. *N.B. Was supported by Council of Ministers on the basis that phasing was likely to happen anyway and sinking of road would be part of a later phase.*	Rejected
P.175/2011	**St Helier Waterfront Development** Sought to delay further development until the States had debated the future of the sites. Part (a) related to the Esplanade. Part (b) related to La Folie and Les Galots.	Rejected: Part (a) Extant: Part (b)
P.15/2014	**Esplanade Quarter Developments: Approval by the States** Any new developments on the Esplanade Quarter to be endorsed by the States before being progressed.	Rejected

Appendix 2

Recommendations of previous Scrutiny reports regarding States of Jersey Development Company or the Esplanade Quarter

Summary of relevant scrutiny reports

Reference	Title	Issued by	Date
S.R.2/2008	Review of the Proposed Waterfront Development: Esplanade Square, Les Jardins de la Mer and La Route de la Liberation	Corporate Services Scrutiny Panel (Sub Panel)	21/01/2008
R.122/2008	Waterfront Enterprise Board Limited, Review of Corporate Governance	C&AG	24/11/2008
S.R.9/2008	Review into the Proposed Establishment of the Jersey Enterprise Board	Corporate Services Scrutiny Panel (Sub Panel)	12/06/2008
S.R.1/2009	Waterfront Enterprise Board	Corporate Services Scrutiny Panel (Sub Panel)	18/03/2009
S.R.9/2009	Jersey Development Company	Corporate Services Scrutiny Panel (Sub Panel)	02/10/2009
S.R.10/2010	States of Jersey Development Company: Interim Report	Corporate Services Scrutiny Panel (Sub Panel)	11/10/2010
S.R.1/2011	States of Jersey Development Company	Corporate Services Scrutiny Panel (Sub Panel)	28/01/2011
-	Scrutiny Legacy Report	Corporate Services Scrutiny Panel	11/2014
S.R.7/2015	Jersey International Finance Centre – Financial Viability (Interim Report)	Corporate Services Scrutiny Panel	30/10/2015

Key recommendations

Report Ref & Title	Summary/ Key recommendations
S.R.2/2008 Review of the Proposed Waterfront Development: Esplanade Square, Les Jardins de la Mer and La Route de la Liberation 21/01/2008	None
R.122/2008 Waterfront Enterprise Board	**Corporate governance** • *Finding*

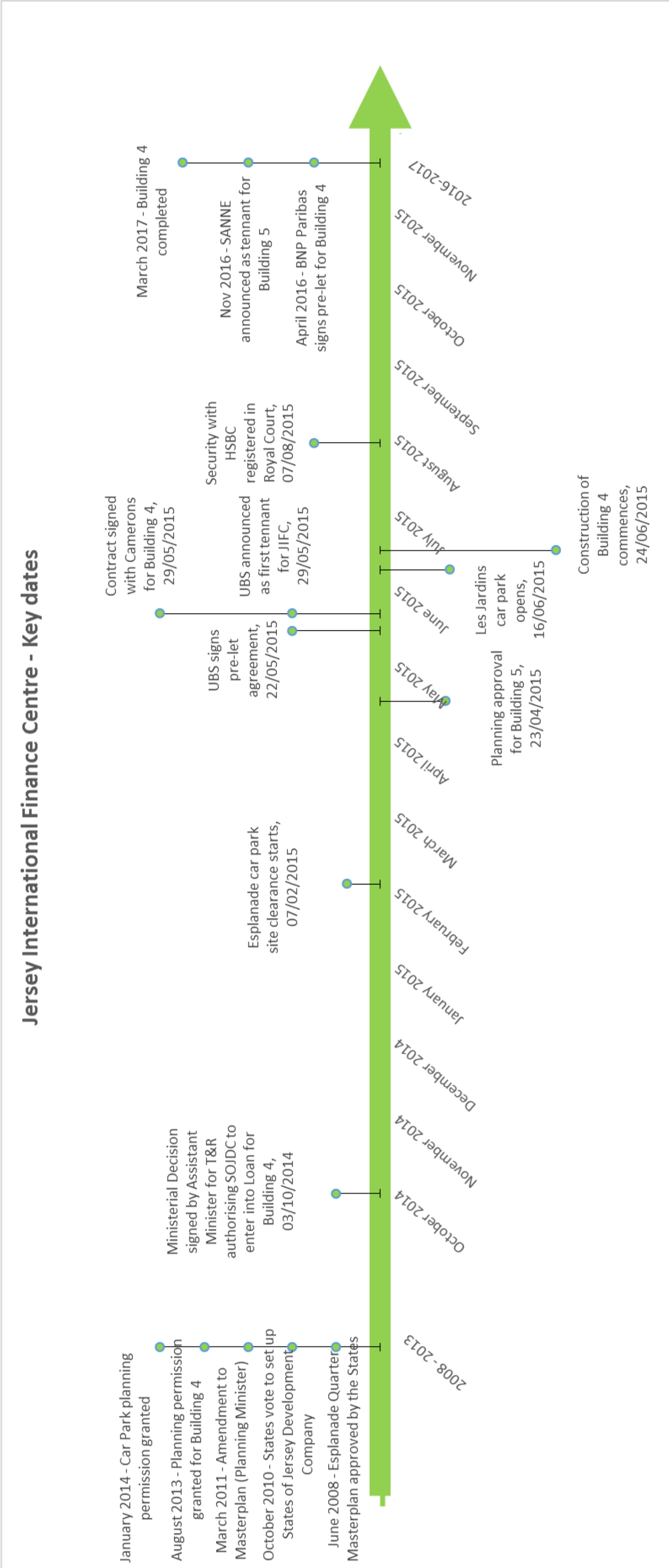
Limited, Review of Corporate Governance 24/11/2008	The effect is that WEB is now in compliance with normal corporate governance practice. • *Recommendation* I recommend that WEB should recruit a professional company secretary. **Accountability** • I recommend that WEB should be accountable to a single Minister. • As it is evident that the existing position of States Director has placed those who have held this position in an irresolvable conflict of interest and has not served well the interests of the States because it has not provided a reliable means of protecting the States' interest in WEB, I recommend that: (1) the position of States Director currently enshrined in WEB's Memorandum of Association should be discontinued; (2) States Members should not ordinarily be members of WEB's board unless they serve as representatives of the Sponsoring Minister (for example, it may be thought appropriate for an appropriate Assistant Minister to serve as a director). In this capacity, the Assistant Minister would be accountable to the relevant Minister. • It would be inappropriate for this change in existing practice to be made unless appropriate arrangements are made to ensure that there is proper accountability to the States. I recommend that these arrangements should at least include the following: (1) the Sponsoring Minister should be accountable to the States for oversight of WEB's activities. (2) the role of the Sponsoring Minister should be to maximise the long term value of the States' interest in WEB and to ensure that WEB operates in accordance with the agreed policies of the States. (3) where appropriate, the Sponsoring Minister's decisions in respect of WEB (for example approving proposed transactions) should be recorded in the form of Ministerial Decisions. The effect of this would be that the decisions would be in the public domain so that members of the States would be able to subject them to such scrutiny as they think appropriate. (3) the Sponsoring Minister should be responsible for laying WEB's annual report and accounts before the States formally when received.. The effect of this would be that members of the States would be formally notified of the results of WEB's

	activities and would thus be afforded another opportunity to subject them to such scrutiny as they think appropriate. • An analysis of the implications of these proposals for the protection of the States' interest in WEB is set out in Appendix Three [of the report]. • Accordingly, I recommend that WEB's Memorandum and Articles of Association should be reviewed and then revised thoroughly.
S.R.9/2008 Review into the Proposed Establishment of the Jersey Enterprise Board 12/06/2008	The Sub-Panel recommends that the sponsors of this proposition should: • Revisit the analysis of options contained in the December 2007 Report supporting the proposition and the conclusions reached therein as to the best vehicle seeking, in particular, evidence of other approaches to public/private partnerships. • As part of the analysis in (a) consider, in particular, the benefits of transfer of legal interests in property between Property Holdings and JEB as the Sub-Panel does not consider this case has been properly made or indeed considered. • Reconsider the roles of the various organisations proposed, testing, in particular, the rationale for and value for money of the Regeneration Task Force, the specific role and remit of which needs defining but which appears to overlap with both the Planning Department and JEB with the consequential risk of frustrating progress. • Identify specifically the benefits which arise from the formation of JEB rather than any other model and how the risks identified in 4.2.5 and 4.2.6 above can be mitigated. • Ensure that any proposals set a framework which provides sufficient flexibility for the States to respond to development opportunities in a way which is both fit for purpose and enables clear quantification of risks involved in each project. • Review the effectiveness of the Waterfront Enterprise Board to date in achieving its objectives.
S.R.1/2009 Waterfront Enterprise Board 18/03/2009	**KEY FINDINGS** • The proposal to remove States Directors from the Board of WEB can, in itself, be justified and is consistent with previous decisions of the States Assembly. (See 3.8) • Any new plans for WEB will need to be monitored carefully to ensure there is an appropriate balance between the maintenance of commercial confidentiality and a sufficiently high degree of transparency. (See 4.34) **RECOMMENDATIONS**

	• An Oversight Committee of WEB, consisting of States Members, should be established. (See 4.11) • Further clarification should be provided on the role to be played by the Ministerial Appointee. (See 4.18) • Ministerial Decisions relating to WEB should be subject to a fifteen day 'grace' period in order to allow sufficient transparency and scrutiny. (See 4.24) • The remit of the Comptroller and Auditor General in relation to WEB should be widened (See 4.27) • WEB's annual accounts should be formally presented to the States Assembly. (See 4.37)
S.R.9/2009 Jersey Development Company 02/10/2009	• Prior to the debate on P.79/2009, the Chief Minister should clarify to which body the Jersey Development Company would ultimately be accountable. (5.24) • Prior to the debate, the Chief Minister should ensure that the proposition is amended to show, without any room for doubt, that the Jersey Development Company would not be the same as the current Waterfront Enterprise Board. (5.41) • 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. (6.10) • 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. (6.16) • 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. (6.29) • 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. (6.38) • Prior to the debate on P.79/2009, the Chief Minister should clarify how resource and manpower implications for States Departments would be addressed. (7.10)
S.R.10/2010 States of Jersey Development Company: Interim Report 11/10/2010	*Interim report in relation P.73/2010. Report dealt with problems encountered in accessing confidential information (WEB directors employment contracts).*

S.R.1/2011 States of Jersey Development Company 28/01/2011	• The function of the Regeneration Steering Group is to provide a basis for decision making by the Minister for Treasury and Resources who would then issue guidance or directions to SoJDC in respect of specific schemes. The Articles of Association in P.73/2010 should address this by providing for directions which would be legally binding on the company and its Directors. The Directors' service contracts should include obligations to comply with such directions [section 9.4]. • A review of resources and procedures within SoJDC should be undertaken by an independent external body, including an external "red book" valuation of WEB property assets [section 8.3].
CSSP Legacy Report Nov 2014	**States of Jersey Development Company** (SoJDC): The Panel received briefings on the work of the SoJDC, including from the Managing Director, during its lifetime. This occurred most particularly when the Assembly was due to debate whether development of the Esplanade Quarter should be deferred until further information had been provided to the Assembly. No review was undertaken and the question ultimately became moot following RBC's decision to proceed with the rival development at the end of Kensington Place. Nevertheless, the Panel recommends consideration be given to undertaking a review in relation to SoJDC, in part to follow up the work undertaken by this Panel but also to follow up the various Scrutiny Reviews which have been undertaken since 2005.
S.R.7/2015 Jersey International Finance Centre – Financial Viability (Interim Report)	Included 16 Key Findings and 3 Recommendations **Recommendations:** • An updated viability assessment of B4 must be immediately undertaken by the Minister for Treasury and Resources, taking account of the effect upon profit of any rent free or other tenant incentives both agreed and proposed together with due allowance for all known and planned costs of delivery. • Such a viability assessment must be presented to both the Corporate Services Scrutiny Panel and the States Assembly. • Regardless of the outcome of the fully-disclosed viability assessment for B4, appropriate processes for the re-appraisal of both the full JIFC proposals and the wider Esplanade Quarter Masterplan, as recommended by EY, should be implemented. Such re-appraisal should also take into account development proposed by the private sector along the Esplanade immediately adjoining the JIFC site.

Appendix 3 Jersey International Finance Centre - Timeline



Appendix 4

Exit proposals for assets held by SOJDC as approved by the States Assembly in P.73/2010

SoJDC treatment of assets (from the second DTZ Review)

	Interest	Strategy	Comments
Investment Properties			
Waterfront car park	150 year lease	Transfer to JPH	States of Jersey policy to retain ownership of all public car parks. SoJDC should retain management until such time as Esplanade Quarter public car park is available for occupation (200 spaces required for decanting purposes).
Transportation Centre	150 year lease	Transfer to JPH	
Waterfront Hotel	Turnover rent	Transfer to JPH	Could be sold subsequently into market subject to advice on timing of sale to maximise value , and protecting States position on subsequent reversion to higher value use if hotel fails (covenant currently restricts to hotel use).
Weighbridge Square	150 year lease	Transfer to JPH	
JEC substation	150 year lease	Transfer to JPH	
Current Assets			
Harbour Reach	150 year lease	Retain in SoJDC	It may be expedient for SoJDC to retain this asset whilst it continues to occupy it, rather than transferring to JPH and leasing back.
Land Holdings			
Esplanade Quarter	150 year lease	Retain in SoJDC	All land holdings should be retained until developed out to allow SoJDC to act as an effective interface between the States and the market, or to carry out its own development.
Castle Quay Phase 2	Freehold	Retain in SoJDC	
Westwater	150 year lease	Retain in SoJDC	
Zephyrus	Freehold	Retain in SoJDC	

Appendix 5

Advisor's report on Terms of Reference

Corporate Services Scrutiny Panel

Jersey International Finance Centre Review – Terms of Reference

Report of Mr R.A. Law, FRICS

1) My appointment as a consultant to the Panel is, in the first instance, to assist them to produce the Terms of Reference for the Review. I note that Scrutiny is an evidence based process to hold the Executive to account.

2) I attended a Scrutiny Panel meeting on 16th December 2014 to consider the draft Terms of Reference. I had received a draft before the meeting together with comments and information to assist my consideration.

   It was apparent that there was a strong view amongst the Panel that development of the JIFC should not be commencing, and that the JIFC project as proposed was not compliant with the Esplanade Master Plan.

3) In the light of my comments at the meeting, it was agreed that I would further engage with the public sector and the private sector to access necessary information to help inform my work. I duly received further information from both sectors as well as from the Scrutiny Office. Taking account of the evidence, I now report my findings.

4) I have made an inspection of the Esplanade, the Esplanade Quarter, site of the JIFC and St Helier more broadly with an emphasis on commercial property.

5) I have taken into account the following within my task:

   i. The relevance of the conclusion reached by the Corporate Services Scrutiny Panel in March 2014 related to this development. After a private hearing with SOJDC, it agreed that further questions were not required as it was satisfied as to the viability of the project.
   ii. Prior to submission of this report, the Panel published Terms of Reference on 8th January 2015. These differed from those originally shown to me.
   iii. Information received on a confidential basis, as well as that available in the public domain.
   iv. The approach of the Panel to the Terms of Reference and the matter under Review.
   v. Current market conditions.

6) I have focused on:

   i. SOJDC and their instructions from the Regeneration Steering Group.
   ii. The role and responsibilities of SOJC and how they are currently carrying those out in relation to matters under Scrutiny.
   iii. I find that they have engaged the necessary consultants and resources to deliver 'Building 4' of Phase 1 (JIFC) of the proposed development.

iv. They are taking account of professional advice given, which includes marketing, planning, design, construction, funding, tenants (pre-lets), costings and values, with legal contacts to support delivery.
v. I am of the view that with the current market conditions, ‘Building 4’ can be delivered. This should not be unnecessarily put at risk.

7) Conclusions:

i. A public Scrutiny Review based on the published Terms of Reference will put at risk a significant opportunity to benefit the States of Jersey.
ii. I do not consider that a Review, with associated public hearings based on these Terms of Reference, is necessary or appropriate.
iii. I appreciate that the Panel is not obliged to take into account my views. However, if it is decided to go ahead with a Review, in the circumstances it should only do so with appropriate private provision.

Mr R.A. Law, FRICS

14th January 2015

Appendix 6

Panel Membership, Terms of Reference and Evidence Considered

Panel Membership:

Deputy John Le Fondré (Chairman)

Deputy Simon Brée (Vice Chairman)

Deputy Kevin Lewis

Connétable Christopher Taylor

*****Senator Sarah Ferguson*** *was appointed a member of the Panel on 11th October 2016 and recused herself from the evidence gathering part of the review*

Expert Advisors

The Panel appointed two advisors for the review. *Mr R. Law* advised on the terms of reference. *EY LLP* provided advice on the financial viability of Building 4 of the JIFC.

EY's report was appended to the Panel's Interim Report, *S.R.7/2015: Jersey International Finance Centre: Financial Viability.*

Mr Law's report is included in this report at Appendix 5.

Review Terms of Reference:

1. To consider whether the 2008 Masterplan for the Esplanade Quarter continues to represent the best socio-economic value to the States of Jersey on behalf of the Public of the Island.

2. To assess the commercial viability of the implementation of the 2008 Masterplan for the Esplanade Quarter, with particular reference as to whether the Minister for Treasury and Resources/SoJDC have appropriately undertaken:

I. An up to date assessment of the benefit to the Island of the proposed Jersey International Finance Centre

II. An up to date assessment of whether the external market has changed from earlier analysis regarding the provision of such centres

III. An up to date Assessment of the local demand v's supply

IV. An up to date Assessment of the ability or otherwise of the private sector to deliver such a centre

3. To establish the current position of the Minister for Treasury and Resources/SOJDC regarding the pre-letting of office space prior to construction of the initial buildings of the proposed Jersey International Finance Centre.

4. To examine whether that position is consistent with previously established pre- let conditions, and with comparable market/industry expectations.

5. To assess the Minister for Treasury and Resources' consideration of financial risk and liability management in relation to the proposed Jersey International Finance Centre (to include the consideration of any such risk in the context of the overall financial position of the States, and also in relation to the proposed capital program).

6. To consider whether there are any other points of note which arise from the examination of the Esplanade Quarter / SOJDC and / or the delivery structure presently envisaged, particularly in the context of previous undertakings, permissions, decisions or approved propositions.

7. To consider recommendations from any previous Scrutiny reports regarding SOJDC or the Esplanade Quarter and assess if they have been implemented, and if not, whether such implementation would still be desirable.

Public Hearings:

The Panel held the following public hearings with key stakeholders during the course of 2015.

- Minister for Planning and Environment
- Minister for Economic Development
- States of Jersey Development Company
- C Le Masurier Limited
- Minister for Treasury and Resources
- Chief Minister

Evidence Considered:

A large volume of evidence was received by the Panel as part of this review. Some of this was confidential. Public submissions can be viewed on www.scrutiny.gov.je