

Memorandum for Executive Council

SUBJECT **PROPOSED EXCISION OF Parcels TH 020205, TH 020204, TH202203 and TH202202 from Green Heartland Zone to Intermediate Zone following failure to provide compensation by SHG or alternative land as agreed by Land Owners**

Memorandum by Chairman of the Environmental and Natural Resources Committee

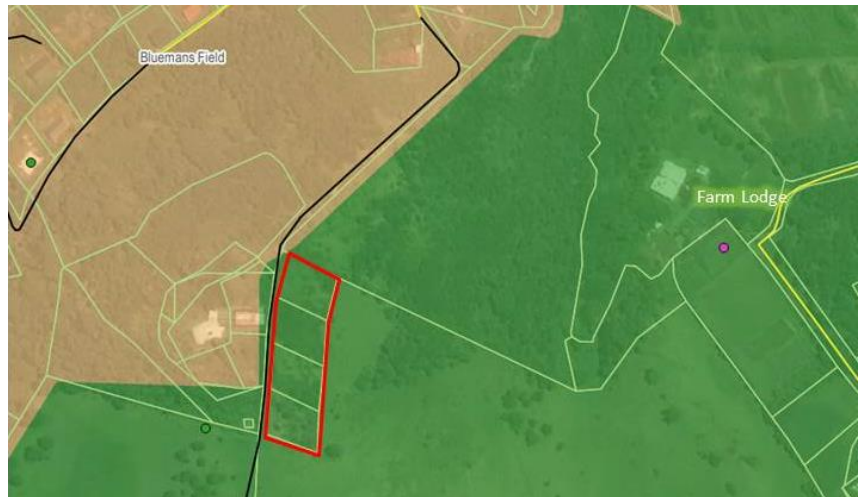
ADVICE SOUGHT **1. Executive Council is asked to consider and advise whether the proposed excision of the abovementioned four Land Parcels from Green Heartland Zone and rezone as land located within the Intermediate Zone with associated development privileges as provided by a Design Brief, should be approved.**

BACKGROUND & CONSIDERATIONS **2. Planning Overview**

a) During 2004, the existing Planning Regime was being reviewed, under the guidance of a private Planning Consultant (Mr Jack Peters) in collaboration with the Legal & Lands Department's Planning Division.

b) This was the first time that management of Land Use through Zonings was introduced for the Island with the land under discussion (now defined as Parcels TH 020205, TH 020204, TH202203 and TH202202), earmarked as Green Belt. (Refer to Diagram 1 below)

Diagram 1



- c) On 28 September 2004, the Land Planning and Development Control Agency (LPDCA) through the Planning Officer responded to a request by Mr Ken Henry to earmark a portion of his farm near Bluemans Field for purposes of Residential Development, instead of Green Belt. The Agency (now known as the LDCA Authority) required of him to instead submit a formal representation when the Draft Land Development Control Plan 2004 was to be advertised during November of that same year. **(Refer to Annex A)**
- d) On 11 January 2005, Mr Ken Henry, submitted his representation and requested that a portion of his land near Bluemans Field be included into Intermediate Zone instead of earmarking it as Green Heartland Zone - as was proposed in the Draft Plan. He provided significant motivation for this request. **(Refer to Annex B)**
- e) The LPDCA considered this request together with the appointed Planning Consultant (Mr Jack Peters) and as a result agreed as per correspondence dated 9 September 2005, to recommend to Governor-in-Council to adjust the proposed Green Heartland Zone boundary in order to accommodate part of the land as proposed by Mr Henry within the Intermediate Zone (defined by an area between the ex-ADA Myrtle Grove pasture land and the site of the Water Tank). **(Refer to Annex C)**
- f) This recommendation was approved by the then Governor-in-Council, and earmarked as Intermediate Zone.
- g) As a result the Land Owner (Mr Ken Henry) subdivided the land into four separate land parcels and sold them off to new Land Owners.
- h) Each parcel, measuring around a quarter of an acre, was sold at

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£10,000 during 2007. Needless to say, this would now, 10-years later, probably be selling at a significantly larger sum in the private market noting that it would require the same applicability as before (which of course it now has not).

Parcel Ref	Date Transferred	Size (acres)	Price (£)
TH02/0202	16/05/2008	0.29	10,000.00
TH02/0203	24/04/2008	0.30	10,000.00
TH02/0204	19/03/2008	0.31	10,000.00
TH02/0205	11/04/2011	0.30	Family Transfer valued at £10,000.00

- i) Crown Land is generally sold at a much lower rate than privately owned land, but it is worth noting that Crown Land within the Thompsons Hill is currently sold at between £30,000 to £35,000 per acre in comparison to other areas which are sold at around £20,000 to £25,000 per acre or less. This demonstrates that land within the Thompsons Hill Area is regarded significantly more valuable, due to its prime attributes. The St Pauls Area is regarded a prime location however land within these areas is extremely limited. The reasons being that it often times fall under Forestry Management, actively used as Pasture Land or in Private Land Ownership. It is furthermore often restricted by terrain (gradient) and serviceability issues.
- j) Crown Estates, confirmed that there are very few (if any) properties on Island that match the existing qualities of the four properties that could be regarded a “fair trade” and as such a 10-year search attempt failed.
- k) As with all **private land** on St Helena, there are no restrictions placed as to when land ought to be developed. Many properties lie idle (vacant) for a number of years before being developed. The main reason for this is that Saints often work off-shore and over the life-span of their career would acquire land and develop as and when they can afford to do so (often times in phases and over a number of years). As such, none of these properties had been developed during the period between 2007 and 2012.
- l) During 2012, the LDCP was under review again. During this time, the Chief Planning Officer proposed to the then Land Development Control Board (LDCB) to recommend the excision of these four land parcels from their current Intermediate Zoning and to incorporate the land within the Green Heartland Zone once again.

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- m) The motivation was primarily two-fold:
- To discourage development along ridgelines; and
 - To keep the views from Farm Lodge pristine (stating that it is a Listed Building).
- n) Following much deliberation and a site visit, this was eventually approved by Governor-in-Council as per the recommendation by the LDCB and in disregard of significant dissatisfaction by the Land Owners who invested greatly in these properties.
- o) It is evident, that there was significant discord over this matter with the decision not unanimously supported. As such, during 2012, Councillors did raise concern as to how the decision to have the land excised from Green Heartland to Intermediate Zone during 2007 was now being overturned– potentially expecting that re-zoning this land at this stage again (2012) could have substantial ramifications – which it effectively had.
- p) Note that, had this exercise (of re-zoning) taken place before the land was in fact demarcated AND sold off to private land owners (following the decision to zone as Intermediate Zone), the matter would have been much more manageable and were any of these properties developed to any extent whatsoever, the consequences would most probably have been significantly different.
- q) As such, when it was eventually excised from Intermediate Zone to Green Heartland Zone again, Council clearly felt compelled to establish some form of compensation else it could be seen as a form of land reclamation.
- r) The Minutes of the Executive Council meeting held on 20 March 2012 states that “...*the Crown Estates Manager enters into negotiations with the owners of land parcels affected in Blueman’s Field with the view of agreeing a land swap from Greenheart land to another area in the Intermediate Zone*”.
- s) Since 2012 (now over 5 years), significant attempts were made by Crown Estates to find land, which would be regarded on par with the said properties, given its exceptional attributes and quality - but to no avail. SHG is also not in a position to financially compensate these owners as these properties are now estimated to be worth significantly more than the £10,000 initially paid. There is also a potential claim to financial loss over “lost years”, whilst disputing this case as costs to develop increases annually.
- t) It is worth noting that most land in St Helena is either acquired at a reasonable and affordable rate from Government Crown Land and much land (with or without development) is inherited over

generations. However, it is only in occasional instances that land is in fact acquired from private land owners at a significant market value – and certainly during those years (2007) this was even less common.

- u) It is thus an especially unique and complicated case and the only known land matter which has been on-going for a quite some years, resulting in considerable frustration on both sides.

3. Motivation for Request to Rezone

The request to Governor-in-Council to reconsider inclusion of these four Parcels into Intermediate Zone at this point in time is a result of this being perceived as the most pressing land planning matter tabled to date under consideration by the ENRC Working Group, tasked with Review of the 2012 LDCP. Motivation for this request being:

- a) Throughout the period since 2007 and the various stages of LDCP Review (2007, 2012 and now 2018), these are the only four properties that have given rise to considerable dissatisfaction and unresolved expectations;
- b) This is the only known instance, where land was “acquired” based on the fact that it was excised from Green Heartland to Intermediate Zone with full expectation that it could be developed only to have this decision reversed. This, renders it significantly different from any other case on Island;
- c) There are other instances where land has been incorporated within the Green Heartland Zone with the primary difference that the land was not “acquired” (invested in and paid for), in recent years, on the premise that it can be developed;
- d) Governor-in-Council, in an attempt to render the decision more acceptable, encouraged a “land swap” – unconscious at the time that this is virtually an impossible task as very little (seemingly no) land is available which offer simultaneously the same exceptional attributes as well as being cost-effectively serviceable;
- e) Over the years, since 2012, significant attempts have been made by Crown Estates to identify land that will meet the unique quality of these four land parcels – taking cognisance of its pristine location, sea views, lush greenery, access to infrastructure, etc. – to no avail;
- f) SHG is also unable to compensate these land owners for financial losses – not only in terms of the current value of

the land but also considering escalating cost in development of the properties (from planning and building fees, to building costs in terms of labour, material), cost of installation of infrastructure, etc.

- g) As highlighted by the aggrieved land owners, the notion that development alongside ridges on St Helena should be discouraged is flawed as this is a typical and prominent characteristic of this Island's development. Potentially adverse impacts can be mitigated by appropriate Planning Conditions. The Island is characterised by steep valleys and prominent hill-sides. Roads as a rule follow the water-sheds with development taking place on either side. This is true for all of Levelwood, Thompsons Hill, Seaview and others;
- h) The claim that there should be no residential view onto or from Listed Buildings is also flawed as this is clearly not the case in most other instances on Island. Looking over the Valley from Red Hill towards Prospect House it is clear that the building is surrounded by a number of less traditional residential houses – looking towards the north, Sea View is characterised by development alongside the ridge areas. Looking over the Green Heartland Valley from Prospect House towards Red Hill, the views are dotted with housing development. The same picture can be sketched when looking down over Mount Pleasant onto the Sandy Bay Area, into the lush greenery and noting various residences dotted in vicinity of Wranghams House (also a Listed Building).. It is in many instances exactly the feature of scattered houses within the lush countryside that in fact renders it to seem uniquely rustic. To argue that no development must be noticed from Farm Lodge is somewhat biased.
- i) Potential obvious adverse impacts of permitting development on the four plots in question can be mitigated by means of a Design Brief. The following can be considered:
- Restrictions on the footprint / size of the buildings;
 - Restrictions on the height (especially the height of façades) of the buildings;
 - Restrictions in terms of contour lines (above and below) – as was implemented below High Knoll Fort;
 - Restrictions in terms of finishing and colour schemes of both walls and roof; as well as
 - Directives regarding natural shielding and vegetation – to shield cut-and fill-faces as well as soften the landscape around the buildings.

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- Restriction on the number of dwelling units that may be developed on each property (i.e. to discourage the development of a second dwelling house on a property for example).

**FINANCIAL
IMPLICATIONS**

4. There are no financial implications arising from the decision sought which does in fact guard against potential litigation and possible compensation payments.

**ECONOMIC
IMPLICATIONS**

5. The decision sought will re-classify land use; the existing land use is not deemed significantly valuable for farming purposes, and utilising this land for housing shall ensure that land is used more productively.

**CONSISTENCY
WITH
INVESTMENT
POLICY
PRINCIPLES**

6. This paper is consistent with Investment Policy Principle 3 i.e. *‘Support the locally based private sector to compete in an open economy but, where possible, avoid being overly protective’*.

**PUBLIC / SOCIAL
IMPACT**

7. This development will benefit four families and will not have any negative impacts on others.

**ENVIRONMENTAL
IMPACT**

8. The land was clearly earmarked for Residential purposes before and was originally forest land. As has already been stated, Planning Conditions would ensure that proposed development on the plots in question is appropriate and mitigate any potentially adverse impacts.

**PREVIOUS
CONSULTATION /
COMMITTEE
INPUT**

9. Following the original submission to Executive Council of this issue on the 22nd June 2018, it was determined that Public Consultation was required and therefore Gazette Notice 87 (Annex G) was raised to activate this process.

The proposal has been endorsed by:

- a) Environment and Natural Resources Committee (ENRC) at its meeting held on 10th May 2018.
- b) The Land Planning and Development Control Authority (LDCA) at its meeting held on 12th December 2018.

**PUBLIC
REACTION**

10. Questions are likely to be raised by land owners whose land is currently located in the Green Heartland where development is prohibited, as to why their land cannot be rezoned to allow development. However, as explained in paragraphs 2 and 3 above, the background to the land zoning of the four plots in question, justifies special treatment in order to resolve the outstanding issue without financial implications for SHG.

PUBLICITY

11. The application was advertised as follows:
 - a) St Helena Government Gazette No. 87 on 11 September 2018
 - b) Public Review commencement date 11 September 2018
 - c) Public Review closing date 06 November 2018
12. Following the advertising of the application in St Helena Government Gazette No. 87, the following correspondences were received:
 - a) A re-submission copy of the original objection letter submitted by Stephen Biggs and Maureen Jonas (**Refer to Annex D**)
 - b) A Representations letter of 19th September 2018 by Mr Craig Young (**Refer to Annex E**)
 - c) A re-submission copy of the original Representations letter submitted on the 04th September 2018 by Dennis and Henreietta Locker, signed by all the 4 property owners or their representatives (**Refer to Annex F**)

Mention should be made in the ExCo Report and associated broadcast. If approved, the background behind the decision should be fully explained to counter anticipated reaction from other land owners whose land is currently located in the green heartland.

SUPPORT TO STRATEGIC OBJECTIVES

13. Whilst not directly linked to the goals/objectives in the 10 year plan, it is within the spirit of the plan whereby we need to “make sure we are not only concentrating on sustainable economic development but also supporting inclusive social development”.

14. This paper does indirectly support the following goals in the SEDP:

- a) Improving Land Productivity
- b) Developing, Maintaining and Attracting a Skilled Workforce

LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS

15. This paper does indirectly support the following goals in the SEDP and 10 year plan by encouraging Saints to return to the island and Goal 7. Reducing leakage of income

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OPEN /CLOSED AGENDA ITEM Corporate Support Corporate Services

16. Open Agenda

11th February 2019

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