

## Open Agenda

Copy No:

No: 57/2020

### Memorandum for Executive Council

#### SUBJECT

**Development Application: Proposed Container Handling Facilities Incorporating Office Buildings, Warehousing, Secure Compounds and Car Parking, Lower Rupert's Valley**

Memorandum by the Chief Secretary

#### ADVICE SOUGHT

1. **Executive Council is asked to consider and advise whether Full Development Permission should be granted, with Conditions, for Proposed Container Handling Facilities Incorporating Office Buildings, Warehousing, Secure Compounds and Car Parking in Lower Rupert's Valley. The Land Development Control Authority (LDCA) deferred their decision on the development application and the reason for deferral was to seek amendments to the alignment of the security fences proposed around and within the development application site.**

#### BACKGROUND & CONSIDERATIONS

2. At the Land Development Control Authority meeting on 8 July 2020, following discussion on the proposed development seeking FULL Development Permission for the Proposed Container Handling Facilities Incorporating Office Buildings, Warehousing, Secure Compounds and Car Parking in Lower Rupert's Valley, the decision on the development application was deferred to seek amendments to the detail on the proposal. The Report to LDCA is attached as Annex A and an Addendum to the Report, setting out the revised conditions, is attached as Annex D. The recommendation of the Chief Planning Officer on the development application is set out in Section E of the Report and the Decision Letter in Annex B.
3. Following the decision of the LDCA, there have been discussion with the applicant to assess the request of the LDCA in line with the discussions at the meeting. Following the discussion with the applicant, the applicant has informed the Chief Planning Officer that they not be submitting any revised details and wish the development proposals to be considered as submitted. In view of this, a further report have been made to the LDCA for their meeting on 5<sup>th</sup> August 2020. This report is attached as Annex E to this Memorandum. The outcome of the discussions and decision of the LDCA on the proposed development is conveyed the Governor-in-Council and the Executive Council orally at the meeting.

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4. In accordance with the directions under Section 23[2(i)] of the Land Planning and Development Control (LPDC) Ordinance, 2013, the Chief Planning Officer is required to refer to the Governor-in-Council all applications for Development Permission “where it appears to the Authority that granting the application would be inconsistent with a Development Plan but that there are material planning considerations which suggest that permission should nevertheless be granted”.
5. In accordance with the directions issued by the Governor in Council to the Chief Planning Officer on 14 April 2014 under Section 23(1) of the Land Planning and Development Control (LPDC) Ordinance, 2013, the Chief Planning Officer is required to refer to the Governor-in-Council all applications for Development Permission which proposes the development of any land covered by water or land within 50 metres of land covered by water.
6. The Chief Planning Officer is also required to report on all applications for Development Permission which are capital programme projects in accordance with the direction issued by the Governor-in-Council to the Chief Planning Officer on 14 April 2014.
7. A copy of the directions is attached at Annex C for ease of reference.
8. **Section 17 (a)** of the LPDC Ordinance reads:

A grant of Development Permission may be of either of the following types:–

- (a) outline development permission, the effect of which is to give approval in principle to the proposed development which is the subject of an application, but not to permit (except to the extent, if any, allowed by conditions attached to the permission) commencement of development to take place; or
- (b) full development permission, the effect of which is to permit the development, subject to the terms and conditions of the grant, of full development permission.

### 9. RATIONALE BEHIND THE PROPOSAL

- a) The development application is for the northern part of Lower Rupert’s Valley locations that includes Rupert’s Wharf and part of Rupert’s Valley (central area), for the development and regeneration of the area that will deliver port facilities for the Island, see Diagram 1, location of the application site.

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**Diagram 1: Location Plan**



- b) The proposed development is to provide freight and container handling facilities to supplement the existing wharf operations at Lower Ruperts. The wharf is only used by the container ship MV Helena to deliver and pick-up containers. It is currently the only vessel of its kind visiting the Island and operates on a four to five-week cycle. Due to the lack of container handling facilities at Rupert's Bay, containers are unloaded at Ruperts, then barged around to Jamestown, where they are stacked and emptied.
- c) Goods are released following inspection, import and customs procedures. The proposal is to develop Rupert's Wharf as the main port facility for the Island that also meets the minimum international shipping security protocol and procedures (ISPS). The proposed development is to use the Lower Rupert's Valley as the Island's main port facility for shipment and freight handling that will also deliver comprehensive development and regeneration of the northern most part of the valley that already has a number of commercial, transport and recreational facilities and uses.
- d) Development in Ruperts and the critical infrastructure investments outlined in this business case support the goals in the St Helena Government's (SHG) 10 Year Plan (2017-2027)<sup>1</sup> including developing St Helena industry. Further, these activities align closely with the 2018 Sustainable Economic Development Plan<sup>2</sup> (SEDP) which identifies investment in infrastructure as a necessary component of 'development which is economically, environmentally and socially

<sup>1</sup> <http://www.sainthelena.gov.sh/wp-content/uploads/2012/08/10-Year-Plan-20-January-2017.pdf>

<sup>2</sup> <http://www.sainthelena.gov.sh/wp-content/uploads/2018/05/SEDP-Final-April-01052018.pdf>

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sustainable.’ The port at Rupert’s is identified as a priority infrastructure investment in St Helena’s 2030 Vision and Infrastructure Plan and the Strategic Plan for SHG’s Capital Programme.

- e) The SEDP sets a goal to improve infrastructure by ‘using tax revenue and other funding streams for investments to improve health, education, water, electricity, transport, risk management and other infrastructure’.
- f) The development and investment in the local economy is important to the economic prosperity of the Island; the development of the port facilities which meet international standards is considered an important economic objective for the Island and to optimise its location for international shipment rather than relying on a single freight route currently through the MV Helena between Cape Town, St Helena and Ascension. The development of the port facilities falls within the vision of the SEDP and 10-Year Plan and the ongoing programme for encouraging future investment in the infrastructure that will create employment opportunities and development of skills for the local people.

## 10. BACKGROUND TO THE DEVELOPMENT APPLICATION AND REPORTS

- a) Prior to the submission of the development application, there was discussion with the applicant in respect of the proposal seeking advice on the document required in support of the development application. The applicant also submitted an application for a Screening Opinion in respect of the proposed development. The Screening Opinion was prepared in consultation with the Chief Environment Officer and the conclusion drawn was that whilst there is adverse impact arising from the proposed development, it was not considered to be significant to trigger the need for a full Environmental Impact Assessment report. It was also noted that the EIA for the airport development included a baseline environmental assessment for the Ruperts area.

## 11. PROPOSED DEVELOPMENT

- a) The proposed development application is seeking permission to develop the Lower Ruperts Wharf for port operations for the freight and container handling facilities and operations. Due to the lack of container handling facilities and port operations at Rupert’s Bay, containers are unloaded at Ruperts, then barged around to Jamestown, where they are stacked and emptied.

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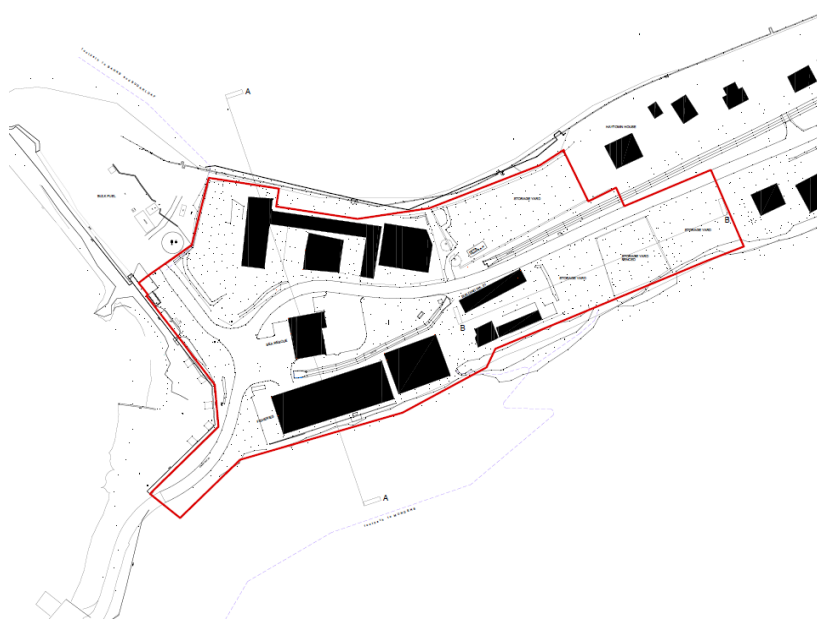
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Goods are released following, inspection, import and customs procedures.

- b) The proposed development is to relocate all port facilities from James Bay to develop Rupert's Wharf as the main port facility for the Island that also meets the minimum international shipping security protocol and procedures (ISPS). The proposed development is to use the Lower Rupert's Valley as the Island's main port facility for shipment and freight handling that will require comprehensive development and regeneration of the northern most part of the valley that already has a number of commercial, transport and recreational facilities and uses.
- c) **Site Description:** The application site is long and narrow extending from Haytown House in the south to the Sea Wall (Rupert's Lines) in the north and comprises a number of developments and uses, with a number of modern developments mixed with old historic buildings, corrugated sheds that provide storage and workshops, shipping containers for general storage and open storage areas that provides a very poor physical environment. The area as a whole, however also has a significant historical importance and heritage value, see Diagram 2, the application site.

### Diagram 2: Application Site and Existing Area Layout and Uses



- d) The whole site covers 2.7 hectares and is bounded on the east and west by the steep valleys, by the historic sea wall to the north, and to the end of plot RV0036 to the south. The site is bisected by the main road that runs centrally through the site.

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There is no existing physical boundary on the west side of the road, but the east side is bounded by historic stone walls. Haytown House (GIII listed, 1862) is outside of the development area boundary, Diagram 2.

- e) The Rupert's Valley area is steeped in history that is exhibited by the few surviving structures which are listed and need to be conserved, these include:
- i. **Rupert's Lines** : remaining section of fortified Sea wall that forms the northern boundary;
  - ii. **Chimney Stack** : outside of site boundary, it is of significant importance and has visual impact;
  - iii. **Building No.1** : single-storey stone building is a late addition to liberated slave camp (circa late C19) and survives alongside its walled garden, does not form part of accommodation, but needs to respect its setting;
  - iv. **Walled Garden** : area utilised for light industrial or storage use for a significant period, walls remain intact with some minor breaches and there are two significant trees (not endemic) The photographic evidence suggests that these trees are older than the walls;
  - v. **Haytown House** : Built in 1862, it is outside the development boundary and proposal will have some effect on this Grade III listed building and its setting;
  - vi. **Liberated African burials and other sites of archaeological interest** : proposed site covers original liberated African camp, but is some distance away from official burial sites ground that has been disturbed in recent years and avoid further disrupting to burials or artefacts;
  - vii. **Natural Heritage**: generally low value across the site, only small population of samphire (*Suaeda fruticosa*) in the area. The plant hosts number of protected invertebrates.
- f) **Existing uses**: The development application site and the adjoining areas include multiple uses; residential, social/recreational/leisure, combined with light through to heavy industrial uses, which includes petroleum installation and storage. There has been gradual industrialisation of the area since the late 19<sup>th</sup> century together with more recent builds. The main uses in and around the development site includes:
- i. **Light Industrial and Storage Warehouses**: these uses are mainly (builder's yards), open storage and warehouses. These are generally in poor physical condition. However, there are also a number of new buildings that includes the commercial fisheries building currently being reviewed. The site has been allocated for

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future port development, should it be required, however the site is currently not incorporated in this phase of the development.

- ii. **Heavy Industrial:** The Bulk Fuel Installation (BFI) is mainly located to the east and north-east of the application sites and is not technically outside the boundary, however this use very much surrounds the development area. Access to the BFI area is through the development site.
- iii. **Sea Rescue:** The Sea Rescue and Emergency Planning building is centrally located within the development site boundary. Access must be granted to the building at all times and approach to the sea must not be impeded.
- iv. **Recreational and leisure :** Rupert's Bay is one of the popular recreational and leisure use areas for the local community and these include the following:
  - v. The beach: popular location at weekends and school holidays with car parking and BBQ spaces. Rupert's Beach is the only readily accessible swimming beach on the Island. There are toilets and shower facilities available on the south side of the sea wall. Existing access to the beach is currently restricted during the 3-4 days per month when the MV Helena is docked. During the period of Airport construction operations, there were further restrictions imposed on the use of the beach area and this was accepted by the community. Whilst the beach is outside of the development boundary, the proposed development has an impact on the future use of the beach area with additional restrictions.
  - vi. The wharf and access road: popular location for fishing and for diver training, again it is restricted for 3-4 days per month.
  - vii. Public Footpaths: paths to Mundens to the west and Banks and Sugarloaf to the East are accessed from two separate places from within the development site, however these accessed locations in Ruperts are not intuitive or well signposted.
- viii. **Commercial use within Building No 1:** Grade III listed single storey stone building with significant heritage value. There have been a number of business uses located in the building over the years and there is scope for this building to form a separate, potentially publicly accessible use; development unrelated to the port facility.
- ix. **Residential:** The nearest residential dwelling to the site is Haytown House, which is immediately to the south of the application site on the east side of the road. However, there are a number of residential properties in the southern area beyond Haytown House. Haytown House is a detached, Grade III Listed building and is the former

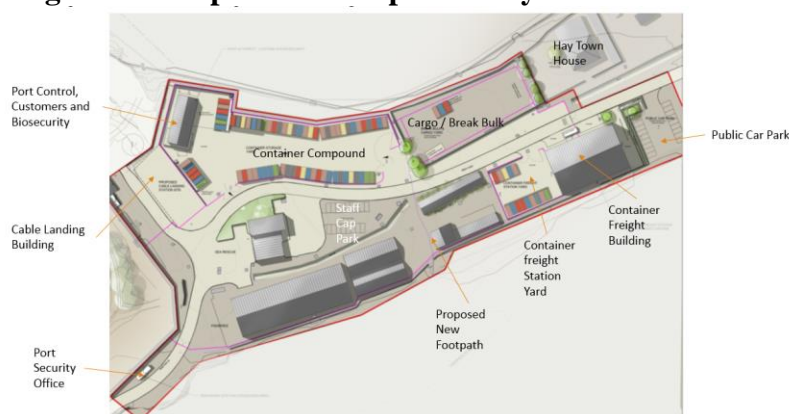
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Governor's house that formed the focal point of a late 19thC new town. There are several cottages further along the east side of the access road into Lower Ruperts. Residents are generally accustomed to the existing industrial context of the area and are mainly set away from the main access road with its own service road.

### 12. DEVELOPMENT DESCRIPTION

- a) The proposed development includes open areas (compounds) for the storage of containers for freight inward and freight outwards, cargo inspection, public and staff parking and the construction of two buildings and a redesign of the port security office building previously granted development permission, see Diagram 3; Proposed Development Layout.

**Diagram 4: Proposed Development Layout**



- b) The new buildings proposed will cover an area of 1252sqm (01.ha), however this equates to 635sqm less than existing (1887sqm) covered by building structures at present. The proposed use of the whole site will be more intensive with up to 14 working days of each month during unloading and destuffing. For the remaining days whilst there will be port related activity, this will be significantly less intensive than the existing uses and general access to area for recreation and leisure use will be unrestricted. The proposed development includes the following:
- i. **Container Compound:** stacking area for full and empty containers on brownfield sites previously used as storage and builders' yards, Diagram 4 in Annex D. It is anticipated that there may be a need for an additional container yard required for future proofing and ease of operation. There is another brownfield site located within the site boundary to achieve this at a later date.
  - ii. **Cargo/ Break Bulk area:** located within the walled garden, with the existing concrete base use for vehicle

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inspections and containers used as a temporary warehouse and covered storage facility, Diagram 5 in Annex D.

- iii. **Container Freight Station:** A large warehouse with offices. Separating public parcel collection, from merchant destuffing is essential for both health and safety and ISPS code compliance. This is a separate facility for the freight forward containers. Offices are for immigration control, customs and security; Diagram 6 in Annex D.
- iv. **Port Authority, Customs Warehouse and Biosecurity:** a combined building with good surveillance of the whole site, including the wharf. This is located within the Container stacking compound; Diagram 7 in Annex D.
- v. **Gate house:** Security gate house to issue access permits and monitor movements. All access to the lower Ruperts will be via this gate.
- vi. **Perimeter fencing:** ISPS compliant fencing of between 2.8 and 3m will encompass the site, *and* each individual compound, see Diagram 8 in Annex D.
- vii. **Stevedores mess facilities:** single storey, potentially portable unit.
- viii. **Underground Ducting :** underground ducting trench about 1.5 deep for electrical and telecommunication lines on the east side of the access road and run from a location close to the Cable Landing Station building to a location close by the access to the walled garden area. The lines will then be connected to the existing services that run overhead, see Diagram 9 in Annex D.
- ix. **Car Parking:** Provision of a public car parking area on the south of the Container Freight Building.
- x. **Secure Fencing:** 2.8m high security fence around all the port freight operation sites to ensure security.
- xi. **Public footpath:** Diversion of the public footpath across the area and improvement and signage to the footpath across the area.
- xii. **Landscaping:** Where opportunity exists to improve the physical and natural environment through retention and/or replacement of trees.

## ENVIRONMENTAL IMPACT ASSESSMENT

- c) In compliance with the Land Planning and Development Control Ordinance (Environmental Impact Assessment Regulation 2013), the applicant requested a Screening Opinion in respect of the development being proposed. The Screening Opinion prepared concluded that whilst the scale of the proposed development and the potential visual impact arising from the development will be considerable, however given the development involves construction of only two buildings in an

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area of land that has already been considerably disturbed from previous activities in the area and the other proposed use will be open storage, there will not be a significant environmental impact to trigger the need for a full EIA.

- d) It is inevitable that during the period of construction there will be a level of disturbance in the area through increased level of construction traffic, level of noise from machinery and potential dust. However, it is not considered to be significant in comparison with the existing activities in the area and all activities will be monitored by ensuring the operation will be in normal working hours as set out and managed through the Environmental Management Plan (EMP) or Construction Management Plan (CMP). Post construction, there will be some increase in activity in the area with the operation and intensity of the port, which may have a high level of activity, particularly associated with the movement of freight during the period when the ship is in port and the containers are unloaded and loaded and goods are collected by the merchants. The level of activity and potential increase in vehicular traffic into and out of Lower Rupert's Valley may have some impact on the residential neighbourhood immediately south of the development area, however as these residential properties are set back from the main access road, the level of adverse impact would be considered to be minimal.
- e) The construction of two buildings is on areas that have been disturbed through previous uses and construction and are unlikely to have any archaeological or ecological value. If significant land excavation is required for land assembly then a watching brief for archaeological evaluation may be required to ensure that any discovery or artefact uncovered are recorded with the assistance of the Museum of St Helena.
- f) The major adverse impact arising from the proposed development assessed in the Screening Opinion is that associated with the cultural, social, recreational and leisure use of the beach and wharf areas. With the port operation, the cultural, social, recreation and leisure activities will be restricted when these areas will not be accessible to the local community to enjoy. This will amount to around an additional 5 or 6 days, totalling up to 10 days per month. Currently the beach and wharf areas are already not available to the local community to enjoy for 3 or 4 days per month when the ship is in port.
- g) Since the initial Screening Opinion was given to the applicant, there has been an incident in the area with a fuel leak being discovered whilst excavation was being undertaken for the

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Fibre Optic Cable development project. The actual source of the leak, the duration of the leak and the extent of the contamination has not been identified, but the direction of the leakage suggest that it may be somewhere on the west side of the access road. The solution implemented was to isolate the existing fuel pipes and direct the fuel through an alternative route. With the capping of the fuel line at the Upper Rupert's Valley Fuel Depot, the fuel pipes are now no longer operational and the decommissioning of the fuel line prevents the leak from continuing and this matter is partially resolved, the issue of contamination remains and is a concern. The only issue that remains is the contamination of the area and in particular whether there is any soil contamination within the development application area. In view of the major incident, it is not considered necessary to change the recommendation of the Screening Opinion.

- h) Furthermore, as the objective of an EIA is to consider the impact of the proposal on the local environment and identify potential remediation works that would reduce the potential impact arising during construction and post construction, with the decommissioning of the fuel pipes any issue of health and safety is partially resolved. The only issue that now remains is the fuel contamination on part of the site that will be used for the construction of the building. The ground will need to be cleaned-up (decontamination of the soil) before construction begins, to ensure that there are no issues of fumes emanating from the ground into the building.

### **The view of the Chief Environment Officer**

- i) The Chief Environment Officer (CEO) is in agreement with the conclusions that an EIA is not required in respect of these proposed developments and that the trigger for the requirement of an EIA would be the potential for significant environmental impacts. The Screening Opinion Checklist shows that whilst there is impact on a number of environmental factors that have been identified and assessed, these are not considered to be significant to trigger a full EIA.

## 13. PLANNING POLICIES

- a) The relevant policies of the Land Development Control Plan (LDCP 2012 - 2022) that are applicable in the assessment of the proposed development are:
- i. Coastal Zone Primary Policy CZ1
  - ii. Water Supplies Policy W2
  - iii. Sewage, storm and Drainage: Policies SD1(b, c) and SD7
  - iv. Road and Transport Policies: RT1(c)(d)RT7

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- v. Social Infrastructure SI.11, SI.12
  - vi. Employment Premises EP.1, EP.3 and EP.4
  - vii. Built Heritage: Policies BH2 BH3 and BH4
- b) The LDCP policies identified for the assessment provide some direct and indirect support in principle for the proposed development and for this reason the assessment must be taken as a whole. There is, unfortunately, no specific policy which provides support in principle for the proposed development or the proposed development being opposed in principle and in meeting the policy objectives.
- c) **Draft Rupert's Valley Development Plan (June 2016 Consultation):** The proposed development is in general supported by the land use policies in the emerging Draft Rupert's Valley Development Plan (RVDP) (July 2016 Consultation Version). Following a number of consultations in the preparation of the emerging development plan, it remains in draft form and has not been progressed to adoption. However it has not been officially withdrawn and/or abandoned. In view of this some limited weight can be afforded to the land-use policies in this draft development plan in the assessment of the development proposal.
- d) The draft LRDP was formulated following the adoption of the current LDCP in 2012. The Governor-in-Council granted Development Permission (2013/92) at the Executive Council meeting held on 17 December 2013 for a permanent wharf and related infrastructure at Rupert's Valley, amending the Airport development permission and reference design.
- e) The draft plan states that this was a strategic decision to invest in the future of sea access and permanent wharf facilities at Rupert's to shift the freight handling and container storage away from its historic home in Jamestown to Rupert's Valley. The investment in the new road infrastructure linking Rupert's Valley with the airport site, construction of the replacement Bulk Fuel Installation and Airport Contractor's temporary occupation of land has further changed the character of the valley in a manner so that it has already become very commercial in its character and physical appearance.
- f) The draft plan also states that the way Rupert's Valley has been used and the anticipated pattern of development can no longer sustain designation under the former Coastal Zone Policy and an amended policy response is proposed not just to reflect this reality but also to set out clear standards to guide future development proposals, reserve land to safeguard future port and related operations and to make optimum use of new

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infrastructure investment.

- g) The principle policy for the assessment of this proposed development of a port container handling facilities in the Lower Rupert's Valley is the Coastal Zone Policy CZ1 which states:

*“There will be a presumption in favour of retaining the natural appearance and ecology of the Coastal Zone and the grant of development permission will therefore be regulated by the following implementation policies with the presumption that all development shall include provision for rainwater collection, storage and re-use, commercial development shall include provision for grey water treatment and re-use, and all development shall include for sustainable treatment of sewage without risk of pollution.”*

- h) The principle policy is seeking to protect the natural appearance and ecology of the coastal zone area from development and subsequent policies of the Coastal Zone seek to regulate development that are considered to be acceptable in this zone. Whilst there is no specific support for the proposed development of port facilities in this principle policy, however the implementation policies are to ensure that where development is acceptable in the Coastal Zone for tourism and leisure and an element of residential use, these should meet sustainable development objectives for water and sewage. The acceptable developments in the zone include the areas identified for Coastal Villages and developments to facilitate tourism and recreation in areas that are accessible. The Rupert's Valley area has been developed since the beginning of the first occupation of the Island due its accessibility and this area has been a focal point for access and development. The application should be considered as an opportunity for the development and regeneration of the previously developed area and to regulate uses. This proposed development needs to be considered outside the scope of this policy only because this principle policy makes no mention of or provides recognition to the industrial and commercial activities in Rupert's Valley and yet at the time the LDCP was being prepared and adopted in 2012, such uses may already have been substantially established.
- i) Policy CZ5 provides support for the development of essential infrastructure in the Coastal Zone. The development of the port facilities may be considered as an essential infrastructure for the Island as it is reliant upon the port facilities for the regular delivery of provision to meet the needs of the community.
- j) Similarly, policies in the Employment Section of the LDCP, polices EP.3 and EP.4 provide support for the development of commercial, industrial and storage development in Rupert's

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Valley and policy EP.4 in particular recognises the need for the Wharf at Rupert's Bay, however this is linked to the development of the Airport. For the delivery of the Airport, the wharf has been delivered at Rupert's Bay. In the interpretation of these two policies whilst in the formulation of the LDCP in 2012, it may not have considered the longer term future of the Wharf at Rupert's Bay post airport construction, however the draft Rupert's Valley Development Plan has been formulated to utilise the new port facilities in Rupert's Valley and land-use proposals set out are in line with the objectives of policy EP.3. The application site is in Land-Use Zone 1 and partially in Land-Use Zone 2.

- k) The proposed development area is not within a proposed conservation area, however there are a number of notable listed buildings and structures within and adjoining the area. The proposed demolition of a number of buildings and structures and construction of two buildings are considered to have no impact on the historic environment of the area and there will be no adverse impact against the Built Heritage policies BH2, BH3 and BH4 arising from this development in the historical sensitive area.
- l) In view of the principle policy CZ.1 set out above, the proposed development must be considered as a departure from this LDCP policy. However, a number of related policies provide considerable support for the commercial uses and the essential infrastructure for the future economic wellbeing of the Island.

### 14. REPRESENTATION

- a) A number of representations have been received in respect of this development application and these include; Saint Helena National Trust, Heritage Society and three members of the public, who raise objection to the proposed development. However, there is also support for the development from Enterprise St Helena. The detail summary of the representation is set out in the LDCA report in Annex A, however a number of salient issues raised are set below:
  - i. Application is required by law to be accompanied by an EIA Report, regardless of any Screening Opinion that says otherwise, for such reasons:
  - ii. applicant states that "Within the site there are significant heritage features; the site is the location of the liberated African camp...", and the former Liberated African Depot covers the whole area of Lower Ruperts, the boundaries of the Depot have not been clearly established and likely that significant heritage feature could be affected
  - iii. applicant has not referred to the fact that Rupert's Lines is

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- a Grade III Listed Monument and as such the wall and its setting is protected under Ordinance and LDCP Policy BH.6 and Ruperts Lines forms the boundary of the site but the setting extends to an undetermined position within the site and will affect the setting as the 3m razor wire will about it in two places
- iv. three proposed tall industrial sheds may affect the setting of the Liberated African Depot and the two listed buildings of the Old Hospital (called 'Building No1' in the application) and Hay Town House
  - v. proposed bright colours may have an adverse effect on the ambience of the area of former Liberated African Depot which the applicant says is of a significant heritage feature
  - vi. extensive placement of 3m razor wire fencing, three gate houses with gates across what is at present the public highway will affect the ambience of the area of former Liberated African Depot, which the applicant indicates has significant heritage value
  - vii. proposed gated controlled access to Ruperts Beach and the listed buildings of the Old Hospital and Rupert's Lines will severely curtail the way the people of St Helena have historically used the area for recreation, family life and fishing and free access to Rupert's Beach is part of the culture and heritage of St Helena people
  - viii. application will have severe effects upon the landscape of Rupert's and also on the inter-relationship between the people of the island and its history, culture and heritage
  - ix. historic symbol of former Liberated African Depot is of International Significance as stated by Dr Pearson on his recent visit and although the site is not currently listed, officially recognised, fully understood or legally protected, it must be the mark of civilized society to do so for future generations and this application will desecrate a memorial site before its value is properly understood
  - x. for the above reasons it is abundantly clear that there must be an Environmental Impact Assessment for this application and that Section 19(1) of the Ordinance applies, which states that, "*An application for development permission... which may have significant effects on the environment, must be accompanied by a report... assessing the environmental impacts of the proposed development.*"
  - xi. international port Rules – do these rules need to be applied to the letter to create a prison camp appearance and is there opportunity to be more flexible considering the circumstance of St Helena?
  - xii. the 'Emerging' Draft Ruperts Development Plan 2016 is not a plan that can be used to assess this application as indicated in the Planning, Design and Access Statement and as the Ordinance does not allow an un-adopted plan to have any significance; LDCP is the currently adopted

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- plan
- xiii. current Coastal Zones policies do not appear to allow B1 warehouse uses as suggested in the Planning, Design and Access Statement
  - xiv. frequent references to Ruperts being an accepted or designated industrial area is not born out in the LDCP and it must not be forgotten that it is a residential area
  - xv. point 11 in the Application Form say the applicant has consulted with neighbours or the local community, including: *“Extensive consultation with original Royal Haskoning designs, extensive consultation with regard to Planning Policy since 2015 for new Ruperts Valley Development plan, Consultation with Chamber of Commerce”* and there appears to be no record of any consultation with neighbours or the local community in recent years.
  - xvi. the applicant’s Chamber of Commerce consultation meeting it was agreed by the project leader that much of the ‘potential development’ area at Lower Ruperts, such as the old fuel farm, the new cable terminal, fishers building etc, was blocked off merely because ‘they’ were ‘told’ they couldn’t use it and this means that this application appears to have been produced without properly considering all the options
  - xvii. overall the Site Plan has within it a massive discrepancy as the proposed cable terminal appears to be wrongly positioned by some 40 feet and this will affect the proposed layout of the Container Park, building and entrance area. This should bring into question the competence of the entire application
  - xviii. there are indications in the Planning, Design and Access Statement that further application will be submitted for new warehouses. Their sites are not shown and if this being the case, the application presented here is not the complete plan and the authority should not be determining this application unless the complete proposal is before them
  - xix. for the view above a Social Impact Assessment and Social Impact Report should be required under section 21 (2) of the Ordinance
  - xx. applicant does not mention previous schemes or reasons for rejection, as at ‘Zone 6: Land South of Bulk Fuel Installation’ (see un-adopted 2016 Ruperts Valley Development Plan), for context the EIA must include, “An outline of any alternatives studied by the applicant and the reasons for choice of the proposed development...” - EIA Regulations 2 (1) (d). Adverse environmental effects need to be balanced with other schemes
  - xxi. ‘opportunities’ listed for this application are misleading (‘Constraints and Opportunities’ in the Planning, Design and Access Statement) and they could relate to any site



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- outside Jamestown and are not specific to this application and should not be used to outweigh the adverse environmental effects of this application; a) international shipping trade – possibly an opportunity but not a requirement; b) ceasing ‘barging’ to Jamestown – not an opportunity but a primary purpose; c) releasing Jamestown wharf for other business - not an opportunity but a primary purpose; d) Ruperts has ample space – not an opportunity, just a statement
- xxii. according to Page 9 of the current Procedural Manual for Environmental Impact Assessment, “A copy of the Screening Opinion... should be available for public inspection” and they have been available previously.
- b) Social considerations and need for Social Impact Assessment; it should not be forgotten that first and foremost, Rupert’s is a residential area and yet only one impact is listed in the EMP table for ‘residential’ and for those who currently reside and work in Rupert's Valley, the area has significance as a community destination in St. Helenian society.
- i. noise would of course be a concern for residents and there is no mention of dust clouds/disturbance owing to construction.
  - ii. need to see dust screens (or other appropriate mitigation measures) listed within the EMP table for residents.
  - iii. access and use of the site for up to 14 working days a month equates to almost three weeks per month that the site will be active, this is a significant level of activity and consequently a huge restriction to public recreational use of the site.
  - iv. from a safety perspective, improvements to Field Road and Side Path are needed before the increase in vehicular use and traffic related to the development, occurs.
  - v. there appears to be a footpath around the site to the beach, the text states only that there may be scope to create pedestrian access to the beach and wharf; this wording does not give confidence in the level of consideration to public access.
  - vi. the proposed footpath has limited accessibility for those with mobility problems

## Officers Response

- c) The major issues raised by the representations are those related to the need for a full Environmental Impact Assessment in view of significant impact arising from the proposed development on the natural and historic environment of the area. The representations also considered that in view of the potential impact on the local culture and community life and its social wellbeing, the proposed development should also have been subject to a Social Impact Assessment in order to

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consider impacts arising from the loss of cultural and recreational space and a with reduced access of the beach, sea and the coast line.

- d) The Screening Opinion undertaken by the Chief Planning Officer in consultation with the Chief Environment Officer concluded that for a number of factors there is some adverse impact arising from the development, whilst on others there is little or no adverse impact at all. The Screening Opinion had considered the impact on the current local environment of the area and the considerable development in the area over many years which has changed the physical appearance and character and that the general physical environment is considered to be poor; the proposal for regeneration could provide positive benefits.
- e) Historically the Rupert's Valley area is very important and this has been highlighted by the unearthing of burial sites during previous developments, in particularly the construction of the new Haul Road with the Airport Project. The proposed development is utilising the area of the Lower Rupert's Valley that is all solid ground and there is little or no ecology in this area. There may be potential for unearthing some archaeology, burial areas or isolated graves which have not been disturbed by previous ground work. The Screening Opinion concluded that whilst there is some impact arising from the proposed development on the ecology and archaeology of the area, however it is not considered to be significant enough to require a full EIA.
- f) With the development and current Wharf operation and port facilities in Ruperts, the area has restricted access for the community when the ship is in port and the beach area is not available for recreational and leisure use. During the proposed development of the full port facilities at Rupert's there will be an extended period when access to the beach and wharf will be further restricted for the local community. This is regrettable, however the development of port facilities is important for the future wellbeing of the Island which will bring with it wider economic and social benefits with improved employment and training opportunities for the local residents. This can be enhanced further with the port achieving international security requirement which ensures that there is an opportunity for other vessels to visit St Helena en route. The international requirement is based on the level of port security, hence the need for the level of security measures being proposed. Other smaller islands like St Helena with similar port facilities, including historic environment and setting, have the same level of security as being proposed in this development. The security

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is not based on remoteness or low level of crime, but on wider worldwide potential threat.

- g) The proposed development is sensitive to the area's history and its association with the Liberation African Project for the area. Sites identified for protection with burial are in the area further south of Haytown House and are therefore not affected by the proposed development. The Grade III listed building (Building No.1) whilst being within the application site is not affected by the development and there are no proposals to use it for port related use. Other cultural uses can be accommodated within the wider commercial area. If the LAAC project can utilise the building for cultural and tourism related use such as an interpretation centre then this can be accommodated. The proposed development will not impact the fortification wall as all proposed development is set well away from the Grade III listed structure.
- h) Similarly, the proposed development with improved port facilities will provide better access for the tourists arriving by ship to St Helena and will be able to enjoy the hospitality of the Island. The proposed realignment of the footpath for the Postbox Walk will not be disrupted but will provide a more legible access across the site.
- i) With regards to the transport from Rupert's Valley to Jamestown both for goods and tourists, this will need to be addressed as Field Road is not considered to be suitable to deal with the increased vehicular movement that will arise from the development. The applicant is aware that this needs to be addressed sooner rather than later. Whilst this needs to be addressed immediately, however it can be dealt with as part of the wider transport assessment of the Island.
- j) There is also support for the proposed development application from one of the stakeholders who consider that this project is in line with the longer term vision and the wider economic development strategy for the Island and generate much needed employment opportunities on the Island both in the short and medium terms.

### 15. OFFICER ASSESSMENT OF THE DEVELOPMENT

- a) The proposed development and the use of the area is in many ways no different from the current uses and activity in this part of Rupert's Valley in that it is generally commercial, storage and industrial with recreational and leisure use of the beach and coastline. The proposed use is more related to the intensification of the freight operation that will be more

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intensive in its use for certain times of the month. The development will contribute to the environmental improvement and regeneration of the area which has a very poor physical appearance due to low quality of development in the past and the physical regeneration and enhancement would be welcomed.

- b) The overall layout of the proposed development utilises the available space well with the main container compound and the associated office building on the north east side closer to the Wharf. The design of the port control operational building complements the design of the previously approved Cable Landing Station building. The use of the walled garden area as an open area retains openness of the area by keeping it for open storage for containers. On the west side of the road, the proposed building is set well away from the listed building to ensure it does not become dominant in the street scene. Both of proposed buildings are designed to provide details and feature in the elevations, using the traditional modern available materials for industrial buildings. There are currently similar buildings in the area in terms of scale and height.
- c) The security fences around the perimeter of the each compound is a requirement to meet the international standard for port security. There are currently similar security fences around some part of the Rupert's Valley area, including the lower valley area. Some around the shoreline are connected to the fortification wall.
- d) The assessment of the proposed development against the development plan policies has been set out in the policy sections of the report. As the proposed development is located in the Coastal Zone, assessment of the development against the principle policy of this area is important. As the main objective of first part of this policy is to retain the natural appearance and ecology of the Coastal Zone the issue here is what constitutes the natural appearance and ecology area of the application site and its immediate surroundings. The objective of the second part of this policy is that in granting any development permission, its implementation will be in line with the subsequent policies for the development to be sustainable in respect of the services. Parts of the Rupert's Valley area have changed considerably over the years, even before the current development plan was adopted and even following the adoption of the current development plan this area has continued to evolve.
- e) As there is no specific support for the development of port facilities in Rupert's Valley or a mention of and/or recognition

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of the industrial and commercial activities in this principle policy, the proposed development needs to be considered outside the scope of policy. With the development of the Wharf to facilitate the delivery of the Airport in line with Employment Premises policy EP.4, there does not appear to be any clear evidence of a policy change even following Governor-in-Council's direction in 2013 with the grant of development permission for the Airport to enable the construction of the Wharf at Rupert's Bay. The Coastal Zone policies are aimed at the developments for tourism and leisure only and the intensification of commercial and industrial uses cannot be considered within the scope of the leisure and tourism uses, even though at the time of formulating the development plan (LDCP) and being adopted in 2012, such uses may already have been established substantially. The application should be considered as an opportunity for the development and regeneration of the previously developed area and to regulate the established uses.

- f) The emerging Draft Rupert's Valley Development Plan, 2016 consultation document, includes proposals for the development of the lower Rupert's Valley area for port related facilities. It is considered that although this development plan was not progressed following consultation with the stakeholders and communities, some limited weight can be given to the policies in the assessment of the development application. The policies set out in the development plan support the proposed development as these are in line with the LDCP policies EP.3 and EP.4
- g) Prior to the submission of the development application, a Screening Opinion was prepared which considered potential impact of the development being proposed and to consider whether an Environmental Impact Assessment is required to accompany the application for development permission. The Screening Opinion considered a number of environmental factors as well as general economic and social factors and it concluded that whilst there is some adverse impact arising from the proposed development during and post construction, however the impact is not considered to be significant to require an EIA report. The number of factors that indicate adverse impact can be addressed in the Environmental Management Plan (EMP) or a Construction Management Plan (CMP). The applicant has submitted an EMP.

### 16. CONSIDERATION BY LAND DEVELOPMENT CONTROL AUTHORITY

- a) The Land Development Control Authority considered the development application at their meeting on 8 July 2020.

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Following considerable discussion on the issues presented to them in the report and hearing the representations, it deferred decision on the proposed development to seek amendments to the security fences proposed. LDCA members' view is that the extent of security fences proposed, restricting access to the beach area in unnecessary and could be reduced and can also be set away from the fortification wall (Rupert Lines). The LDCA Members were advised that if they were minded to grant permission, then there are appropriately worded conditions included that will seek details on the revision to the alignment of the security fences and accessibility management before the security fences are erected and the facilities become operational. This condition will require the applicant to submit more detailed plans showing the exact alignment of the security fences and this can include larger scale drawing for parts of the site where there may be issues. For the application for the "Discharge of the Condition", this will be an opportunity to discuss and negotiate the alignment and seek justification for the approach.

- b) In deferring decision on the development application, the LDCA stated that it would like to see full details of revised plan for the security fences which would be less restrictive of access to the beach area and the listed building B1 and the area around it before making a decision on the development proposal. It requested a further report on the proposed development following submission of amended plan at its future meeting.
- c) As set out above in the assessment of the proposal development, the purpose and extent of the security fences that will be erected is to meet the level of security required to comply with the international shipping security protocol and procedures (ISPS) this development is looking to achieve to enable the Island to be accessible to worldwide shipping. The purpose of including the conditions on granting development permission is to ensure whilst the proposed development is in principle acceptable, however some details of the proposed development need further consideration and it is not considered to merit refusal or delay in decision making. The details regarding the proposed development or its operations may already be included within the details and plans submitted, however it may be considered not to be sufficient or could benefit from further review of design and details to ensure it meets the purpose of the development or operation being proposed before they are constructed and/or implemented. Before such details of the development are constructed/implemented the details must be submitted to and approved by the Chief Planning Officer in writing on behalf of

## Open Agenda

the appropriate authorities.

- d) In this case the applicant would need to submit revised plans to meet with the requirement of the development permission or set out its justification if it is considered the details provided cannot be revised. The LDCA would have the opportunity to consider the details submitted for the “Discharge of the Condition”.
- e) In view of this, the Chief Planning Officer has advised that the concerns expressed by the LDCA at their meeting and the decision made to defer decision on the development application report is unnecessary and should the Governor-in-Council be minded to grant development permission then the conditions included would enable the appropriate authorities to consider the details when the application is made for the “Discharge of the Conditions”.
- f) In conclusion, whilst the LDCA at its meeting deferred decision on the development application to seek amended details and plans regarding the security fences in and around the site, **it is recommended that development application is approved subject to the conditions as set out in the Addendum to the LDCA report**, Annex D and Decision letter in Annex B. It is further recommended that the decision for the Discharge of Conditions related to “Details of the Security Fence” and “Access Management of the Port” should be made in consultation the LDCA and the Governor-in-Council to ensure that authorities are satisfied that all issues and concerns regarding alignment and details for the erection of the security fence have been adequately addressed.
- g) As the applicant has not submitted any revised proposal, this matter was reported to the LDCA for its meeting on 5<sup>th</sup> August for it to reconsider its earlier decision. Details of discussion on the consideration of the report and the decision made will be reported verbally to the meeting by the Chief Planning Officer.

### FINANCIAL IMPLICATIONS

- 17. Executive Council acts as the Planning Authority in this case.

### ECONOMIC IMPLICATIONS

- 18. The development of port facilities at Rupert’s Wharf will provide quality container and freight handling facilities for the Island and enable the future development of James Bay for tourist, recreation and leisure facilities.
- 19. In the analysis of the business case for the port facilities at Rupert’s Wharf, the monetised benefits were expected to be twice the total cost of construction. Anticipated benefits of this work to SHG and stakeholders include:

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- i. Full and safe cargo and container-handling operations at the Ruperts Wharf;
- ii. £500,000 avoided annual expense for barging cargo from Ruperts to Jamestown;
- iii. Income to local businesses from construction works to complete the cargo handling facility;
- iv. The wharf at Ruperts, as already constructed, is more resilient to the effects of climate change, including increased protection at times of large swells and wave heights compared to transferring cargo from ship to shore at James Bay; this reduces operational downtime compared to Jamestown Wharf;
- v. Improved health and safety for users of Jamestown Wharf and
- vi. Enabling environment for future economic development of Jamestown Wharf.

20. The development of port facilities that meets international port security requirements is necessary for St Helena to receive ships originating from other countries.

### **CONSISTENCY WITH INVESTMENT POLICY PRINCIPLES**

21. The development and delivery of the development is in compliance with the Investment Policy Principles. The implementation of the development will deliver and create training and employment opportunities and has potential for further economic growth on the Island with the tourists and visitors.

22. The following Investment Policy principles apply:-

1. Make St Helena a desirable and competitive destination to do business by removing barriers to investment
2. Support an economy which is accessible to all potential investors and promote investments across the economy
3. Support the locally based private sector to compete in an open economy but, where possible, avoid being overly protective
4. Promote fair, consistent and transparent decision making.

### **PUBLIC/SOCIAL IMPACT**

23. The investment arising from this development will create training and employment opportunities within the construction sector and with opportunities to promote the tourism and leisure industry on the Island, with future development of James Bay for tourism and improve economic activities in the future. The proposed development has the potential to make the Island an attractive destination for leisure that has been hindered and further opportunities for international shipping links.

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- ENVIRONMENTAL IMPACT**
24. There is likely to be some adverse environmental with fume emissions from heavy pans and machinery and noise and visual impact on this historically sensitive area. This impact is not considered to be significant when balanced with the economic and social benefits arising from this development. The development will also create a positive impact for the Island in terms of making James Bay and Wharf more leisure and recreational compatible with relocation of all port freight operation to Lower Rupert's. Although this can be argued that this is at the expense of reduced access to Ruperts beach and coastal area for recreation and leisure.
25. The Screening Opinion prepared for the proposed development concluded that whilst there will be some adverse impact on the local environment (natural, built, historic) in respect of a number factors assessed, it is considered not to be significant to require an Environmental Impact Assessment. The adverse impact arising can be mitigated against to ensure it is as minimal as possible.
- PREVIOUS CONSULTATION/ COMMITTEE INPUT**
26. The development application was advertised for a period of 14 days to seek comments from the communities and stakeholders on the development proposal.
27. Key Stakeholders have responded and their views have been considered by the LDCA.
28. There were representations received from St Helena National Trust, Heritage Society and three members of the public to consultation and the issues raised have been assessed and responded to in paras 9.1 and 11.2 of the report.
29. There has also been a representation received from Enterprise Saint Helena supporting the proposed development.
- PUBLIC REACTION**
30. This could possibly generate public and media interest once the port development works are completed and the port become fully operational.
- PUBLICITY**
31. ExCo's decision will be mentioned in media briefing following the meeting.
- SUPPORT TO STRATEGIC OBJECTIVES**
32. This development supports Strategic Objective 1.1 – 'Ensure effective investment in physical infrastructure'. The development of the new freight container handling facilities in Lower Rupert's Valley will provide much needed modern port facilities that will meet international post security requirements and open the Island to other sea freight routes.

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### LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS

33. Goals 7 and 10 of the SEDP is to improve public infrastructure, to provide an environment that promotes investment and provide investment opportunities for people living on St Helena to buy into, as an alternative to investing abroad. Ensure some of the returns on overseas investment is kept within St Helena.

SOB

### OPEN/CLOSED AGENDA ITEM

34. Recommended for the Open Agenda.

Corporate Support  
Corporate Services

23<sup>rd</sup> July 2020

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