

Minutes of the Governor in Council Meeting held on Tuesday 10 May 2022 at 9:30am in the Council Chamber

Present: His Excellency the Acting Governor (Mr G C R Gibson) – via Virtual Link
The Hon Chief Minister/Employment Skills & Education (Mrs J D Thomas)
The Hon Attorney General (Mr A T Cansick)
The Hon Minister Treasury Infrastructure & Sustainable Development (Mr M A Brooks)
The Hon Minister Safety, Security & Home Affairs (Mr J R Ellick)
The Hon Minister Health & Social Care (Mr M D Henry)
The Hon Minister Environment, Natural Resources & Planning (Ms C L Scipio)

In attendance: Secretary to Executive Council (Mrs N M Bargo)
The Chief Secretary (Mrs S O’Bey)
Head of Administration Support Service (Mrs C A Henry)
Financial Secretary (Mr D L Richards)
Acting Head of Governor’s Office (Mr J Attwood)

Overseas: His Excellency the Governor (Dr Philip Rushbrook)

OPEN SESSION

10.1 Welcome

The Acting Governor welcomed all present to the meeting of Governor in Council by a virtual audio link as he was unable to attend the meeting in person due to undertaking a statutory period of quarantine.

10.2 Development Application for Proposed Construction of Workshop, Office, Carpentry Shop and Storeroom, Upper Rupert's Valley (GiC Memo 07/2022) (Retrospective Application)

The purpose of the meeting was to revisit the development application for the proposed construction of a Workshop, Office, Carpentry Shop and Storeroom in upper Rupert’s Valley.

Given the meeting logistics for the Acting Governor, he advised that the Chief Minister would chair the substantive part of the meeting. For the Acting Governor’s information, attendees were asked to introduce themselves. It was noted that the Head of Administration Support Service was in attendance to capture the meeting Top lines.

10.3 Declarations of Conflict of Interest

There were no declarations of conflict of interest.

10.4 Development Application for Proposed Construction of a Workshop, Office, Carpentry Shop and Storeroom, Upper Rupert's Valley (GiC Memo 07/2022) (Retrospective Application)

The Acting Chief Planning Officer (Ag CPO), Mr Shane Williams, was in attendance for this item of business.

The Minister Environment Natural Resources and Planning (ENRP) introduced this Memoranda and explained that this development application was initially considered by Governor in Council on 9 December 2021 but deferred, pending additional information after concerns were raised regarding the health and safety aspects of the development being in close proximity of the proposed new bulk fuel storage facility.

Key points highlighted by the Minister were:

- The application had been referred to Governor in Council as it was a departure from the Land Development Control policies.
- The applicant entered into a Lease Agreement with the St Helena Government (SHG) on 7 October 2020 for the use of the land for industrial and commercial purposes.
- An application for development permission was originally submitted to Land Planning in July 2021 but was deemed incomplete and the applicant had already commenced construction work on site. This was brought to the attention of the then CPO.
- In follow-up to the concerns raised at the Governor in Council meeting on 9 December 2021, an assessment of the development area/premises was carried out by the International Fire Safety Inspector, Mr Alan Thomas, in January 2022. The findings and recommendations pertaining to the health and safety aspect of this development were presented at Annex B to the covering Memorandum.
- In February 2022, Ministers visited the development site, along with representatives from the Fire and Rescue Service and the Ag CPO in order that Ministers could see the extent of the works that had been carried out by the developer thus far, relative to the health and safety concerns raised in the Inspector's report. Following a discussion by the Ministerial Cabinet, the Minister ENRP met with the Ag CPO to revisit the Conditions previously recommended to LDCA by the former CPO. A set of revised Conditions were presented at Annex A to the Memorandum which took into consideration the health and safety concerns raised in the Inspector's report.
- It was noted that the LDCA did not raise any concerns in relation to the health and safety aspects raised by the Fire and Rescue Service during the stakeholder consultation period.
- The development application, although it did not include an area for storage, was of an industrial and commercial nature, thus Ministers were of the view that the use of the land was for the purpose specified in the Lease with SHG. Furthermore the area of upper Rupert's Valley could be described as a mix of industrial and commercial uses that have continued to evolve over the years.

The Ag CPO was invited to take Ministers through the Conditions, in particular four new conditions namely 3, 5, 7 and 14 and explained the reasoning behind each condition. No queries were raised by Ministers.

The Attorney General made reference to section 31(2) of the Land Planning and Development Control Ordinance, 2013 in relation to 1 of the revised Conditions. As the application was retrospective, the advice of the Attorney General was to determine the commencement date of

the 5 year period. As there was some uncertainty as to the actual date when construction works commenced on site and noting the advice of the Attorney General, Ministers felt that the 5 year period granted for the development to be completed should start from the date when the Lease agreement was signed (Minister ENRP confirmed was 7 October 2020), which could be justified should any queries be received as to how the start of the 5 year period was determined. With regards to the recommendations contained in the Inspector's report about a Fire Wall and alternative Single Access and Egress Route, Minister ENRP advised that such was discussed during a Ministerial Cabinet meeting. Ministers were of the view that the applicant should not be made responsible for the implementation of these fire risk measures; thus were not included in the revised Conditions. As the applicant had a Lease with SHG permitting the use the land for industrial and commercial use, **Ministers recommended that SHG give consideration to:**

- **Erecting a reinforced concrete fire wall, with no holes, between the development site and the fuel storage tanks should the new Bulk Fuel Installation facility become operational at any time.**
- **An additional access and egress route to the area being developed by AMD Engineering should the new Bulk Fuel Installation facility become operational at any time.**
- **Crown Estates monitor the development of the area to ensure that it is contained within the land parcels specified under the Lease. The CPO would have no involvement with the monitoring process.**
- **Revoke the temporary agreement between the Landlord and applicant for the existing gate on the Crown Estates access road as such was not included in the development application and restricts access to other users of Crown Estate land beyond the development site.**

The Minister took the opportunity to thank the Fire and Rescue Service for the advice provided around the health and safety aspects of the development application.

Following discussion and having taken into account the advice of the Attorney General with regard to the application being retrospective, Council advised and the Acting Governor agreed, that Full Development Permission should be granted retrospectively, with revised Conditions, (Annex A) as recommended for the proposed Construction of a Workshop, Office, Carpentry Shop and Storeroom in upper Rupert's Valley. Council requested that Condition 1 be extended to provide clarity that the 5 year period referred therein would commence from the date when the Lease Agreement between the St Helena Government and the applicant AMD Engineering, for the specific land parcel in upper Rupert's Valley was signed. This being in October 2020.

(Action: Secretary to Executive Council)

10.4.1 Publicity/Briefing to the Press

In keeping with previous Governor in Council consideration of development applications, it was agreed that Top Lines of the meeting should be produced. The Minister ENRP was happy to proceed with radio briefings ahead of the Top Lines being finalised.

Radio time would be arranged with both radio stations, preferably that afternoon, following the day's Executive Council meeting but not between the times specified by Minister ENRP.


(Action: Hon Minister ENRP / Head of Admin Support Service)


The Chief Minister commended Ministers for taking the time necessary to consider this application in order to conclude this development application. Going forward it is hoped that developers would adhere to planning conditions imposed by LDCA and there would be less instances of retrospective applications / applications coming through to Governor in Council overall. The Minister ENRP commented that it was not satisfactory when developers, both Private and Public Sector, did not adhere to conditions attached to development applications granted, which presented issues for the Planning and Building Control Team.

The Minister ENRP took the opportunity to thank the Ag CPO for the work conducted during the past months, which was echoed by the Acting Governor.

There being no further business, the Acting Governor closed the meeting at 10:20am.


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Secretary to Executive Council


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Governor


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Date