



Development and Planning Amendment Act 2021

Presented by:

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Ministry of Home Affairs

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Mr. Speaker, later today, I will table the Bill entitled: the “Development and Planning Amendment Act 2021” [the Amendment Act], which seeks to amend the Development and Planning Act 1974 to (1) increase the protections to the environment while (2) streamlining the planning process.

Mr. Speaker, I must reiterate the Government’s commitment to introduce sustainable planning legislation which will protect our delicate

environment while streamlining measures to stimulate our economy, particularly our construction industry.

Mr. Speaker, our statistics underscore that our construction industry is doing quite well and we understand the critical role of the Department of Planning in facilitating new investment and meeting the development needs of the island. As a result, we are committed to improving the efficiency of all the Department's procedures.

Mr. Speaker, figures for the first 6 months of this year show that the number of permits issued have increased by 7% versus 2019 and by 44% versus 2020. A similar increase in Inspections completed (47% versus 2020) is also apparent. However, the most exciting news is that Commencement Inspections, which give an indication of new projects starting, and therefore the prospect of increased and sustained work for the construction industry, have increased by 72%, well in excess of the increase in permits. This shows that projects which may have previously been on hold are being acted upon.

Mr. Speaker, there are a number of initial steps that have already been implemented in order to achieve these improvements such as:

- a) engaging with key stakeholders from the construction industry to understand first-hand the range of concerns. Through this dialogue, the Department of Planning has been able to discuss proposed changes and obtain valuable feedback;
- b) scheduling of quarterly planning clinics that allows the public to interact directly with Department of Planning Officers;
- c) introducing delegated powers that provides the Director to approve applications administratively;
- d) sending alerts to anyone who registers on the Planning website when new applications are gazetted; and
- e) implementing the EnerGov system that provides for electronic submissions, review of applications and submissions of objections, thus eliminating the need for paper submissions.

In addition, there are a range of other initiatives that are also being actively worked on. These include the Competent Persons Scheme; new procedures to allow minor revisions to be approved in the field during construction; revisions to the General Development Order to increase the scope of what is deemed as ‘permitted development’; and the introduction of new local development plans commencing with the soon to be announced draft North East Hamilton Plan 2021.

However, we have achieved these measures while ensuring that we protect our precious environmental assets. This was reflected in the Bermuda Plan 2018.

Mr. Speaker, these other initiatives aside, the amendment being tabled today focuses on three key areas:

1. Protected Conservation Areas
2. Special Development Orders
3. Emergency Development Orders

Mr. Speaker, the amendment will also introduce the concept of protected conservation areas. The aim of this amendment seeks to offer heightened protections with respect to this specially protected class, upon which it is believed development should not be considered. A list of areas falling within this protected class shall be referenced in the amended Act. Such areas, which is subject to landowner agreement, may include:

- nature reserves
- actively cultivated arable land
- significant portions of wooded land
- areas supporting valuable historic and/or cultural assets

Mr. Speaker, some have asked why this amendment is important. They have claimed that there is adequate protection in the zoning of the land. Whilst it is true that the development plan process involves establishing zoning for land, these zonings are subject to change either by the development plan process itself or via approvals for development granted on appeal to the Minister. This amendment will ensure that these areas,

once protected, can only be removed by the Legislature via the affirmative resolution procedure.

Mr. Speaker, through the stakeholder engagement with the development industry, concerns have been expressed over the process of issuing or amending Special Development Orders (SDOs). Therefore, this amendment seeks to revise the current process to support greater efficiency while maintaining rigorous standards.

Mr. Speaker, currently when SDOs are introduced or amended, the Minister must wait until the House sits to table an SDO. This requirement can cause significant delay which typically equates to economic ramifications that can undermine the viability of a development. An example that highlights this challenge is the introduction of the 2018 amendment to the Tuckers Point SDO. The passing of the amendment by the Legislature determined whether interested buyers were successful in purchasing the lots of land. Given the scheduling of the House at the time, the tabling of amendments were delayed by three months, thereby resulting in a significant risk of losing potential buyers.

Mr. Speaker, we have not sacrificed the due diligence process to ensure that development proposals are appropriately assessed in terms of social, environmental and economic impact.

In fact, **Mr. Speaker,** for the avoidance of any doubt, we have now legislated it. In keeping with the UK Convention on the Environment, adequate assessment and scrutiny must be performed before the SDO can be deemed acceptable and gazetted. Therefore the various checks and balances are incorporated into the Act before the SDO is approved and gazetted. These checks and balances will include the requirement for development proposals to be accompanied by an Environment Impact Statement (EIS) which must be published for public review and comment. These requirements will be prepared in the form of procedures to clearly outline the steps that must be followed in order for a development proposal to be supported for an SDO.

Mr. Speaker, the amendment further provides for the Minister to activate, on declaration of a national emergency, procedures to allow the Director to expedite the processing of a planning application and approve the

application administratively to address a crisis situation, provided that any such decisions, while fast-tracked, must not contravene any legislative or policy directives such as building codes.

Mr. Speaker, the proposed amendments to the Act form a key element of the streamlining measures initiative originally announced in May 2019 to bring greater efficiency to the Department of Planning's processes and service delivery to the public and ultimately to provide a conducive regulatory framework to support new investment while protecting our environmental assets.

Thank you, **Mr. Speaker**