

# EXECUTIVE COUNCIL

PUBLIC

## CONFIDENTIAL

**Title of Report:** Kiel Canal Road Industrial Land  
**Paper No:** 164/14  
**Date:** 27<sup>th</sup> August 2014  
**Report of:** Head of Environmental Planning / Head of Policy

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### 1.0 Purpose

- 1.1 As part of the ongoing work of the Planning & Building and Lands Committees, and the emerging development plan, a need has been identified to identify and proactively release industrial land to support the start-up and growth of local businesses. It is proposed that work be carried out to proactively support the development of land to the South of the FIDF hall for light industrial and warehousing/storage development.

### 2.0 Recommendations

- 2.1 **R1:** It is recommend that Executive Council approve in principle the development of the area of Kiel Canal Road (as shown on the map in appendix 1) to provide a supply of land for the following uses:
- light industrial;
  - warehousing and storage;
  - for the commercial washing and cleaning of clothes or fabrics;
  - as a restaurant or cafe;
  - for the sale of hot food for consumption off the premises;
  - for the sale or display for sale of motor vehicles;
  - for a taxi business or business for the hire of motor vehicles;
  - as a builder's yard where storage of material is outside a building; and
  - for the storage of containers.
- 2.2 **R2:** It is recommended that Executive Council endorse the submission of an outline planning application for the development set out in appendix 1 (without prejudice as to how such an application might be determined) to establish the planning principle of the use of the land for the uses set out in recommendation 1.

*Responsible Officer: Director of Public Works*  
*Due Date: October 2014*

- 2.3 **R3:** It is recommended that Executive Council approve the area of Kiel Canal Road (as shown on the map in appendix 1) as a designated commercial area for the uses set out in recommendation 1 (thus giving Lands Committee delegated powers to deal with applications within the site).

*Responsible Officer: Head of Legal Services*

*Due Date: October 2014*

- 2.4 **R4:** It is recommend that Executive Council note that this paper includes no recommendations about sale or lease terms or values etc. as it is envisaged that the wider policy position on disposal or lease of industrial land would apply to the Kiel Canal Road site (based on currently policy this would entitle applicants to a right to freehold purchase via conversion of a 5-year lease, or two year building licence followed by 99 year lease).
- 2.5 **R5:** It is recommend that Executive Council approve the establishment of a safeguarding zone of 400m (for buildings) and 270m (for roads) around the Ammunition Bunker, and that this is reflected with immediate effect in planning policy and planning application decisions (in accordance with Structure Plan policy S1: Sustainable Development).

*Responsible Officer: Head of Environmental Planning*

*Due Date: October 2014*

### **3.0 Additional Budgetary Implications**

- 3.1 None

### **4.0 Background**

#### Proposal

- 4.1 As part of the ongoing work of the Planning & Building and Lands Committees, and the emerging development plan, a need has been identified to identify and proactively release industrial land to support the start-up and growth of local businesses (see appendix 2).
- 4.2 Due to the statutory processes involved, the development plan it is envisaged that the Development Plan will be completed and adopted in late winter 2015. Executive Council recently approved the continuation of an interim land disposal policy, with the intention that a full review (and new policy) would be carried out once the development plan was finalised.
- 4.3 In light of the timescales above and the need to facilitate ongoing investment by the private sector in industrial development, consideration of an interim approach is proposed. Specifically, it is proposed that work be carried out to proactively support the development of land to the South of the FIDF hall for light industrial and

warehousing/storage development, in accordance with the proposal from PWD set out in appendix 1.

- 4.4 The recommendations set out in section 2 have been discussed and endorsed by the Planning & Building and Lands Committees.

#### Planning Application

- 4.5 In the determination of planning applications, the starting point is the Structure Plan and Town Plan as adopted in 2004 (and the latter as amended in 2009). These show the area as ‘white land’ (i.e. not allocated as anything) and the Lorry Park and the proposed plot 1 are Commercial Areas. Therefore an outline planning application is required to establish the use of the land for the proposed purposes. Such an application would not directly depart from any proposed land use (as the majority of the site has no prescribed use) and would be capable of being in accordance with the wider objectives of the Town Plan, in particular objective C to, “meet the demand for a full range of sites and premises for business, commerce and industry”.
- 4.6 In the determination of the application consideration would need to be given as to whether the proposal was ‘premature’ in advance of the development plan review. This concept does not appear to be explained in detail within the legislation, but could be taken to be where the grant of planning permission makes a strategic choice which should more properly be made through a development plan. Prematurity is only one material consideration and should be balanced against other material considerations, include the wider objectives of the plan, the availability of developable land and the progress with any development plan review.
- 4.7 Executive Council approved the review of the Development Plan in 2013, thus acknowledging it is to some extent out of date. The timescale set out at that point has not been met, although a revised timescale has been set out and some informal consultation carried (see section 5). Normally the prematurity argument would carry more weight once a development plan revision enters the statutory stages, which is not the case here. Furthermore, the initial consultation results, which are capable of being material considerations in their own right, suggest a need for additional land to be made available now.
- 4.8 The initial advice is that the application would not be premature, as the release of this land is not considered to undermine the making of strategic decisions through the development plan process, the development plan review has not entered the statutory stages and there appears to be a need for additional land to be made available in the interim. This advice will of course be tested via the submission of an outline application.

#### Lands Committee and Delegated Powers

- 4.9 The following is an extract from the Lands Committee terms of reference.

### **Commercial Development Sites**

*The Committee allocates commercial building plots within designated commercial areas (Gordon Lines, Bill Roberts Way, VPC Road). Before a plot is allocated the applicant must first obtain outline planning permission for its development and agree a development plan with the Lands Committee.*

*A plot can then be released in one of two ways:-*

*First, a plot can be released on a 2 year building licence with specimen lease annexed, requiring the applicant to complete the development within 2 years or risk losing the plot. The building licence is then followed by a full commercial 99 year lease.*

*Second, since 2011 (see ExCo papers 273/10 and 01/11) a plot can be released on a 5 year lease, incorporating an option to purchase, with a specimen crown grant annexed. If the applicant completes the development within 5 years, the lease is followed by a crown grant of the freehold.*

*There is a standard rate for commercial land, which since July 2006 is increased each year in line with the RPI. The purchase price is 10 times the annual rent. Where the sale is on a building licence, an annual building licence fee equivalent to the annual rent is payable. Where the sale is on a 5 year lease, the rents are deducted from the purchase price.*

*In June 2005 Executive Council decided that any potential commercial building plots which are identified on FIG land outside existing development areas must be advertised for sale by tender to the highest bidder.*

*Commercial building plots identified outside existing development areas can be advertised for sale by tender by the Committee, without further recourse to Executive Council, unless in any case the Committee seeks Executive Council approval to sell to a particular applicant without a tender process or to vary the approved terms (first) and (second) above.*

- 4.10 In accordance with the above, approval is sought for the land shown in appendix 1 to be a designated commercial area for the purposes of Lands Committee.
- 4.11 This paper includes no recommendations about sale or lease terms or values etc. as it is envisaged that the wider policy position on disposal or lease of industrial land would apply to the Kiel Canal Road site.

## **5. Proposed Uses**

- 5.1 The Town Plan as consulted on identified the land to the South of the FIDF for, “short-medium term development for light industrial”. Further work has been carried out on definitions of different categories of development. In subsequent discussions at Lands Committee proposals for open-air storage or plant and use of builders yards have been identified as potential uses that could be sited on the plot.

5.2 Schedule 1 of the General Development order provides various definitions of classes of development, including those below.

- Light Industrial is defined as, “Use for the carrying on of an industrial process which could be carried out in a residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit”.
- Warehousing and storage is defined as, “Use for wholesale warehousing, or the storage or distribution of goods, or as a repository for any purpose other than in connection with the winning and working of minerals”.

5.3 The order goes on to state that, “no class specified in Schedule 1 includes uses-

- (a) for the commercial washing and cleaning of clothes or fabrics;
- (b) as a restaurant or cafe;
- (c) for the sale of hot food for consumption off the premises;
- (d) for the sale of fuel for motor vehicles;
- (e) for the sale or display for sale of motor vehicles;
- (f) for a taxi business or business for the hire of motor vehicles;
- (g) as a builder's yard where storage of material is outside a building;
- (h) as a scrapyard, or a yard for the storage or destruction of containers and temporary buildings, or the breaking of motor vehicles;
- (i) as a depot, warehouse or repository for petroleum products or explosive materials;
- (j) for the deposit of refuse or waste materials of any kind”.

5.4 The current iteration of the Town Plan does not distinguish between the above classes, instead identifying commercial land (for shops, offices and customer services), industrial land (Gordon Lines - for larger scale industrial and warehousing activity) and business parks (Hillside – for office and other business uses and Lookout for light industrial, retail and starter units).

5.5 For the avoidance of doubt, it is therefore proposed that the land off Kiel Canal Road to the South of the FIDF is developed for uses including the following (defined as set out in the GDO):

- light industrial;
- warehousing and storage;
- for the commercial washing and cleaning of clothes or fabrics;
- as a restaurant or cafe;
- for the sale of hot food for consumption off the premises;
- for the sale or display for sale of motor vehicles;
- for a taxi business or business for the hire of motor vehicles;
- as a builder's yard where storage of material is outside a building; and
- for the storage of containers.

## **6. Ammunition Bunker Safeguarding Zone**

- 6.1 A paper was considered by the June Planning & Building Committee and Lands Committee which summarised the Development Plan initial consultation.
- 6.2 One of the recommendations was to, “endorse the development of Kiel Canal Road for light industrial to provide an interim land supply is endorsed (as set out in appendix 6), including the submission of an outline planning application and request to Executive Council for delegated powers for Lands Committee to sell land (without prejudice to how such an application might be determined)”. The proposal is attached (unchanged) as appendix 1 of this report.
- 6.3 Just before the meetings, the Chief Fire Officer provided a copy of a communication from the MOD which identified a 690m safeguarding zone around the FIDF ammunition bunker, within which no ‘manned buildings’ may be built ‘without affecting the license criteria’. In light of this, both committees endorsed the recommendation subject to further work to clarify this issue (and amend the proposal accordingly if necessary). In light of this, research has been undertaken which reveals the following.
- 6.4 When the planning permission was granted for this in January 2001 the then acting FIG Acting Design Engineer received advice from the MOD (Sgt S Glover – Ammunition sub-depot MPA) that the store would be used for small arms ammunition, pyrotechnics, plastic explosives and L2 HE Grenades, and that based on this the stand-off distances would be 400m from occupied buildings and 270 to the nearest road. The location of the bunker has been based on this, as 400 m to the north of the bunker is the Common Boundary.
- 6.5 Discussions with FIDF indicate an understanding that this 400m safeguarding zone is the zone which is in force (and it should be noted that the road to Eliza Cove is only just outside the 270m limit and there are two users of land to the South of the FIDF which are outside the 400m zone but potentially inside the 690m zone).
- 6.6 More recent advice was provided from the Sgt DM Whiting (Ammunition Sub Depot, Logistic Support Squadron, Joint Force Logistic Unit) in October 2005, this included a copy of the Authorised Safeguarding Map (Ser No SG/FI/007UR) for the FIDF Ammunition Store. This shows an Inhabited Building Distance (IBD) of 690m and a Vulnerable Building Distance of 1380m. This later advise clarified that the safeguarding plays a vital role in the issue of an Explosive Limit Licence and that infringement of these rules may mean that the IE(A) may be unwilling to issue an Explosive License for the store.
- 6.7 Based on these distances, the proposed industrial development would be within the 690m IBD.

### *Latest Advice*

- 6.8 Sgt Whiting is currently based at MPA (have recently returned) and the matter has been discussed with him verbally and the situation clarified. Following this he has provided the following written advice.

- The documents and details scanned in to the original email are no longer extant. The distances given for the Inhabited Building Distance (IBD) and Vulnerable Building Distance (VBD) were based on the ammunition holdings at that time, which were under MOD Control, as was the FIDF store. This is no longer the case and those documents will contain out of date information / guidance, therefore they should not be used as a basis for any decisions regarding the safety of the FIDF Store.
- The FIDF Storage is no longer licensed by Inspector of Explosives Army (IE(A)) or by the MOD, in addition to this, neither the buildings or ammunition holdings are subject to the same management controls implemented by the Health and Safety Executive (HSE) and imposed by the MOD, an important factor in the risk management of licensed ammunition storage. Without these controls in place, some of the criteria which govern the safety distances could be affected. For this reason, I would be unable to provide assurance that the safety distances I would use on an IE(A) licensed site are suitable for the FIDF Store.
- If you still wish to gain advice on this matter, a formal request for assistance should be sent from the FIG to the Command Secretariat as I am unable to help without HQ BFSAI approval. If they are in agreement that the MOD can provide assistance, I will be formally tasked.

#### Usage of the Bunker

- 6.9 It is understood from informal discussions that the store is currently used only for small arms ammunition and pyrotechnics, although has been used in some of the previous mine-clearance rounds for storage of explosives (although it is understood in the last round these were stored at MPA and brought to Stanley Common as and when needed).
- 6.10 The Chief Fire Officer has also commented that regard should be had to the possibility that the MOD may, “need to move greater quantities of munitions from MPA to FIDF in times of heightened tensions”. This is an important point, although it should also be noted that the need for a wider safeguarding zone to be in place during such exceptional circumstances could be reflected in leases and short-term evacuation of surrounding land rather than a permanent sterilisation of potential development land.

#### Proposed Way Forward

- 6.11 In light of the above there appears to be a need for FIG to formally adopt what it considers to be an appropriate safeguarding zone around the ammunition bunker, rather than relying on such a zone being imposed by the MOD. It is suggested that in considering this matter there are four main issues which need to be considered:
- public safety;
  - flexibility for future operational requirements of the bunker;
  - short-term demand for development land; and
  - overall sustainable pattern of the future growth of Stanley.

- 6.13 In practical terms, the most pressing short-term issue is whether the zone which is agreed is more than 400m - as if the zone is 400m or less it will be limited to land within the Common and so cannot currently be used. However, it is noted that work is in the early stages to review the Common Ordinance and so the matter does need to be fully resolved to inform that work. Furthermore, if the distance for roads is more than 270m then the access road to Eliza cove landfill will need to be moved (or potentially, the site closed and a new site created elsewhere). It should also be noted that the opening up of Kiel Canal Road was intended as a 'quick win' to respond to concerns raised through the Development Plan Consultation. If this is no longer deliverable (or no longer deliverable in the short term), then consideration should be given to opening up alternative land.
- 6.14 Comments on this paper have been received from Major Biggs (FIDF) who has indicated that the preference would be that the 400m no build zone is retained as just that, a zone with no buildings, and that the additional clearance for road building is also maintained. The comments included:
- a no buildings (rather than no "manned" buildings) zone should be maintained around the bunker;
  - the setting of the FIDF Headquarters should be appropriate so that the setting of this important building is not undermined (the site is a gateway to Stanley for any senior military officials visiting by helicopter); and
  - that whilst there is no pressing reason to licence the bunker at this time, it is essential that future developments in the area do not jeopardize the possibility that at some point in the future the FIDF/FIG could demonstrate best practice by licensing the bunker under the MOD Licensing Authority.
- 6.15 It is therefore proposed that a safeguarding zone of 400m (for all buildings whether manned or not) and 270m (for roads) is maintained. Policy S1: Sustainable Development of the structure plan indicates that planning permission will not be granted where, "Health and Safety at the site or surroundings is not compromised". Therefore, this will allow the safeguarding zone to be applied in the determination of planning applications. Consideration will then need to be given to how this is reflected in the emerging Development Plan review.
- 6.16 The comments from the FIDF in relation to setting will need to be addressed through the outline planning application and identification of design/layout/operational principles. In accordance with the requirements for neighbour notifications, the FIDF can be consulted on nearby planning applications if that would be helpful.

## **7.0 Financial Implications**

- 7.1 This proposal is intended to result in the leasing of land by FIG that is not currently leased. The maximum income from this will be the area of land leased multiplied by the lease rate. However there are three factors which complicate this:
- it is very unlikely that the whole site will be leased immediately (indeed it would be hoped that the site would provide a supply of light industrial land for several years, although this will of course need to be monitored);



- the Lands Committee have recently considered a number of proposals for piecemeal and ad-hoc developments in various areas, which could be better located in the proposed area (thus the result may not be a net increase in the overall amount of land leased by FIG, but a making sure that land is provided in a co-ordinated manner, makes more efficient use of infrastructure and has regard to wider spatial considerations); and
- to lease out the whole site, some investment in infrastructure may be required (thus not all of any gross increase in rent would not represent a net increase in funds)

7.2 In relation to the third point, there are some funds in the 2014/15 PWD capital budget for industrial infrastructure, however it is not envisaged that opening up the site will require any significant draw down on this in the short term, as it is envisaged that the first few plots could be accessed from the existing road.

7.3 Therefore, overall, it is not envisaged that this proposal will generate any significant increase in the revenues previously projected for 2014/15 in Land Rent.

## **8.0 Human Resources Implications**

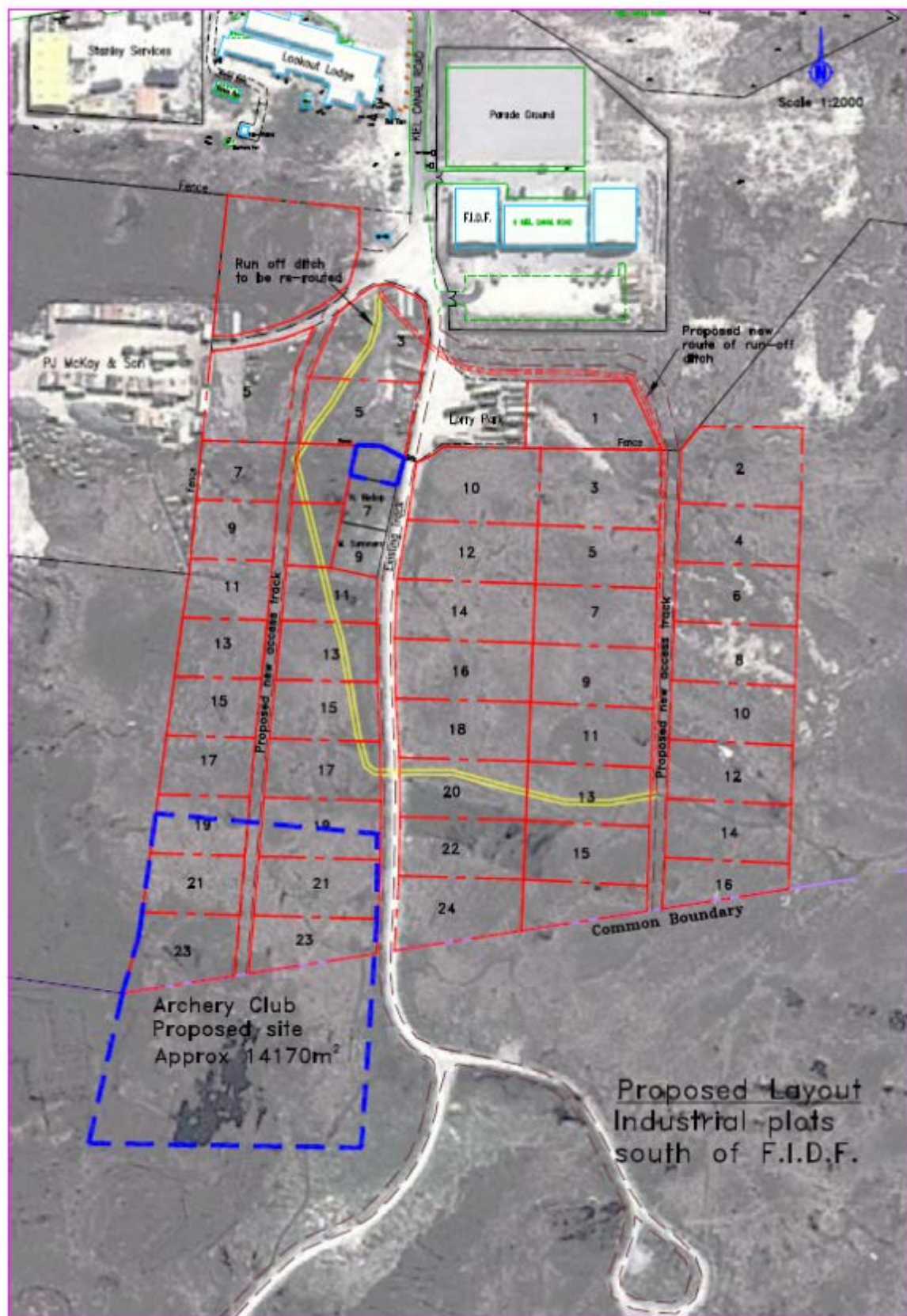
8.1 None

## **9.0 Legal Implications**

9.1 The main legal issues associated with this matter relate to the working of Lands Committee (as set out in section 4) and the submission of an outline planning application (as set out in section 4).

## **Appendix 1: Proposal - Public Works Department (30/05/14)**

- A1.1 The can be progressively expanded eastwards as required and the access roads will obviously only be laid when needed and would require funding, as would any services.
- A1.2 The layout is indicative, as has been the case with Gordon Lines, as it is not possible to second guess what individual applicants will want.
- A1.3 As a first stage the strips fronting the existing access track would ideally be used and if very large plots are requested which would take the full depth back to say the western boundary or where the eastern access track is shown, they should be pointed towards the southern end, so that it simply results in less length of access track being needed later to open up the remaining back areas, rather than making it difficult or impossible to do so.
- A1.4 The overlap between the archery club application area and the commercial/industrial area is left deliberately, so as to show how they interact and that the overlap can be simple dealt with by reducing the industrial area.
- A1.5 There is one practical issue with the archery club area, which is that although the drainage from Lookout Lodge/FIDF is shown as being moved so as to discharge east of the existing access track, there will be increased rates of surface water runoff as the area west of the existing track is developed and this will almost certainly make the archery club area wetter as the land falls to the south.
- A1.6 The lorry park is not being used as originally intended, and has to a large degree become a dumping/long term parking ground rather than somewhere to park haulage trucks/trailers overnight or short term between hauls which was the original intention. Site 1 to the east of this could be an extension at some stage if needed, or be used for a separate development, but it might be a good idea to reserve that initially at least until all of the other easily accessed plots are used up.
- A1.7 There are currently no services, water, power, telephones or drainage serving the area. It would be relatively straightforward to extend a water main from by the FIDF site. Power will require a new feed taking into the area, substation(s) and distribution.
- A1.8 As the site develops, the existing access track will need upgrading also and sufficient width will have to be left between the halves of the site to allow for this and also mains services to be laid when needed.
- A1.9 The site north of the access track into PJ McKay and Sons land could probably take foul discharge into the package treatment unit to the east of this - subject to the limitations of capacity. If there was need for and a commitment to providing foul sewers, this would require a new, appropriately sized package treatment unit to be installed and obviously main sewer(s) laid, but assuming warehousing and low staffing levels are likely to be the norm, it is suggested that each developer should make their own provision, at least initially.



## **Appendix 2: Development Plan Consultation**

- A2.1 Executive Council approved initial public consultation on the development plan during March and April 2014. A report summarising the process, results and next steps was considered by Planning & Building Committee and Lands Committee in June 2014. However, a number of the issues raised are relevant not just for the development plan, but for other strategies and initiatives, including Lands Policies. This appendix highlights some of the key comments relevant for the lease and sale of FIG owned employment land (i.e. industrial/office/warehousing uses).
- A2.2 The consultation ran from the 11<sup>th</sup> April to the 30<sup>th</sup> May 2014. In total 99 responses (as at 2<sup>nd</sup> June 2014) have been received, in addition to various discussions. The approach to the consultation is set out in the report to Planning & Building and Lands Committees referred to above.
- A2.3 The consultation set out a vision and several objectives, which emphasised the need to deliver economic, social and environmental objectives. The Vision opens with the phrase, “By 2030 the Falklands will have a reputation as a favourable place to do business, where the environment is respected and enhanced and where there is realistic provision of infrastructure”. The first objective was, “To facilitate sustainable economic growth over a range of sectors, and to ensure that our communities have the skills and opportunities to contribute to, and benefit from, this growth”.
- A2.4 There was General Support (63%) for the vision, but concerns over whether it is deliverable and realistic (based on issues such as perceived lack of ‘will’ from FIG and finite resources) and strong support for objectives (88%). Concern that currently the Falklands is a difficult place to do business.
- A2.5 In relation to the town plan, the area between the South of the FIDF Hall and North of the Common Boundary either side of Kiel Canal Road was shown as, “Short-Medium Term Development for Light Industrial”. There were some comments that existing industrial areas looks untidy and should be better controlled, other comments that this is the nature of industrial areas and should be accepted. Some comments seemed to suggest that developing Kiel Canal for Light Industrial could tidy up some of the piecemeal/ad hoc uses in the area. In general terms, there were several comments such as a need for a, “properly released and resourced light industrial land for small and start up business i.e. the new lookout estate”.
- A2.6 As part of the consultation there was a discussion with the Chamber of Commerce, at which it was suggested that the area on the south side of the bypass is suitable for industrial, offices, supermarkets type developments. It’s not suitable for housing on the exposed south side and makes more sense to have housing on the north where existing housing is.
- A2.7 During the course of the consultation, one-to-one discussions were held with key developers, builders and land owners. The key issues raised included the points set out below.

- FIG seems to let land go begrudgingly and without sufficient structure for decision making.
- The overall approach to Land Release seeks to retain an unnecessarily high level of control
- Land release needs to be done in an uncomplicated way. Decisions can be very slow, but if businesses try to respond to this by planning ahead they are accused of land banking (similarly the subsequent process for issuing licenses etc. could be streamlined)
- Shipment of materials is a challenge but unavoidable. However, many builders are now getting in their own stock as the main suppliers often run out and don't have much reserves. Therefore need to identify sites to be used for storage (and also for space for indoor work to keep staff busy when weather's bad otherwise have to send them home).