



BERMUDA

WEST END DEVELOPMENT CORPORATION AMENDMENT ACT 2024

2024 : 22

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SCHEDULE 3 CONSEQUENTIAL AMENDMENTS

WHEREAS it is expedient to provide for the transfer of the assets, liabilities and functions of the Bermuda Land Development Company Limited to the West End Development Corporation, to amend the West End Development Corporation Act 1982 in consequence of the transfer, including by renaming the Corporation as the Bermuda Land Management Corporation, to repeal the Base Lands Development Act 1996, and to make consequential, transitional and related provision;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Preliminary

Citation

1 This Act may be cited as the West End Development Corporation Amendment Act 2024.

Interpretation

2 In this Act—

“BLDC” means the Bermuda Land Development Company Limited, which was incorporated as a local company limited by shares in accordance with section 3 of the repealed Act;

“the principal Act” means the West End Development Corporation Act 1982;

“the repealed Act” means the Base Lands Development Act 1996.

Transfer of assets, liabilities and functions of BLDC

Transfer of assets, liabilities and functions of BLDC

3 (1) All of the assets, liabilities and functions of the BLDC are transferred to the West End Development Corporation.

(2) Subsection (1) is subject to the provisions of the Fourth Schedule to the principal Act, to be inserted as set out in Schedule 1 to this Act (Fourth Schedule: Transfer of BLDC's Functions - Transitional Provisions and Savings).

Bermuda Land Management Corporation

4 (1) In consequence of the transfer, the West End Development Corporation is renamed the Bermuda Land Management Corporation, and the principal Act is amended as follows.

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(2) In the title, section 1 and the heading to Part II, delete “West End Development Corporation” in each place and substitute “Bermuda Land Management Corporation”.

(3) In section 2, delete the definition of “the Corporation” and substitute—

“ “the Corporation” means the Bermuda Land Management Corporation;”.

(4) Delete section 3(1) and substitute—

“(1) The body that was established by this Act as the West End Development Corporation is continued in being as the Bermuda Land Management Corporation, and it shall perform the functions assigned to it by this Act.”

General Manager

5 (1) The post of General Manager of the West End Development Corporation is renamed the Chief Executive Officer of the Bermuda Land Management Corporation.

(2) In consequence, in sections 9 and 21B of the principal Act, delete “General Manager” in each place and substitute “Chief Executive Officer”.

Vesting of land and powers of the Corporation

Vesting of land formerly scheduled under the repealed Act

6 (1) In section 19 of the principal Act (vesting of land in the Corporation), in subsection (5) at the end of the definition of “designated land”, insert “and the land described in paragraph 2 of the Third Schedule”.

(2) At the end of section 19 insert—

“(6) The land described in paragraph 2 of the Third Schedule (formerly comprising the scheduled land in the Base Lands Development Act 1996) is deemed to have been designated by the Minister as designated land; and the relevant date in relation to that land is the date on which the West End Development Corporation Amendment Act 2024 came into operation.”

(3) The Third Schedule to the principal Act is repealed and replaced as set out in Schedule 2 to this Act (Third Schedule: The Scheduled Area).

Powers of the Corporation: land

7 (1) Section 20 of the principal Act (general powers in relation to property) is amended as follows.

(2) Delete subsections (1A), (2) and (3), and substitute—

“(1A) Without prejudice to the generality of subsection (1), the Corporation may make a disposition of any land in the scheduled area for a term not

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exceeding 262 years, or for terms renewable at the option of the grantee not exceeding in the aggregate 262 years.

(2) The Corporation shall not make a sale or other disposition of any land in the scheduled area, or any interest in land in the scheduled area for a term exceeding 21 years or for terms renewable at the option of the transferee or grantee exceeding in the aggregate 21 years, unless the Senate and the House of Assembly have first by resolution approved the sale or disposition.”

(3) After subsection (4) insert—

“(5) Section 35B(2)(b) of the Development and Planning Act 1974 (planning permission for subdivision not required where the land or any use of or right therein is being acquired or disposed of by the Government) applies as it applies to the Government to any relevant subdivision by the Corporation that would otherwise require planning permission under section 35B(1) of that Act.”

Powers of the Corporation: electronic communication services

8 In the First Schedule to the principal Act (powers of the Corporation), at the end insert—

“9. To provide electronic communication services in accordance with an integrated communications operating licence, granted under the Electronic Communications Act 2011, to customers that are tenants occupying one or more of the properties in the scheduled area described in paragraph 2 of the Third Schedule for their use in connection with such property, or to other duly authorized communications providers serving or seeking to serve such customers.”

Final provisions

Related amendments to the Companies Act 1981

9 (1) In section 120 of the Companies Act 1981 (acquisition of land by local companies), after subsection (5A) insert—

“(5B) A local company that has a physical presence in Bermuda may, with the previous sanction in each case of the Minister but not otherwise, take by way of lease or letting agreement for a term not exceeding 262 years, land in the scheduled area described in the Third Schedule to the Bermuda Land Management Corporation Act 1982.”

(2) In section 120(6) of that Act (meaning of physical presence in Bermuda), delete “subsections (5) and (5A)” and substitute “subsections (5) to (5B)”,.

(3) In section 129(1) of that Act (restriction on acquisition of property - exempted companies), after paragraph (ab) insert—

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“(ac) acquire or hold land in the scheduled area described in the Third Schedule to the Bermuda Land Management Corporation Act 1982 unless—

(i) the company has a physical presence in Bermuda and the Minister has in each case given his prior sanction to the acquisition or holding of the land; and

(ii) the land is acquired or held by way of lease or tenancy agreement for a term not exceeding 262 years;”.

(4) In section 129(1AA) of that Act (meaning of physical presence in Bermuda), delete “subsections (1)(aa)(i) and (1)(ab)” and substitute “subsection (1),”.

Repeal of Base Lands Development Act 1996

10 The Base Lands Development Act 1996 is repealed, subject to the transitional provisions and savings in the Fourth Schedule to the principal Act (inserted by section 3).

Minor and consequential amendments

11 (1) In section 29 of the principal Act (Attorney-General’s fiat)—

(a) delete the heading and substitute “DPP’s fiat”;

(b) delete “the Attorney General” and substitute “the Director of Public Prosecutions”.

(2) Schedule 3, which contains consequential amendments, has effect.

Commencement

12 This Act comes into operation on such day as the Minister responsible for the West End Development Corporation may appoint by notice published in the Gazette.

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SCHEDULE 1

(section 3)

“FOURTH SCHEDULE: TRANSFER OF BLDC’S FUNCTIONS - TRANSITIONAL PROVISIONS AND SAVINGS

Interpretation

1 In this Schedule—

“the amending Act” means the West End Development Corporation Amendment Act 2024;

“BLDC” means the Bermuda Land Development Company Limited, which was incorporated as a local company limited by shares in accordance with section 3 of the repealed Act;

“commencement day” means the day on which the amending Act comes into operation;

“the repealed Act” means the Base Lands Development Act 1996.

Transfer of BLDC’s rights, assets, property, liabilities, obligations and functions to the Corporation

2 (1) All rights, assets and property vested in or in any manner held on behalf of or for the purposes of BLDC immediately before the commencement day shall be vested in the Corporation.

(2) All liabilities and obligations subsisting against BLDC immediately before the commencement day shall thereafter continue to subsist against the Corporation.

(3) All rights, powers and duties, whether arising under any enactment or otherwise, which immediately before the commencement day were vested in BLDC shall be transferred to, vested in, imposed on, or be enforceable by or against the Corporation.

Contracts

3 Every contract in effect between BLDC and any other party immediately before the commencement day shall continue to subsist between the Corporation and such other party.

Legal proceedings

4 On and after the commencement day, all actions, suits or legal proceedings by or against BLDC shall be carried out on or prosecuted by or against the Corporation, and no such suit, action or legal proceedings shall abate or be affected by the coming into operation of the amending Act.

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Annual estimates

5 The annual estimates approved for the purposes of BLDC in respect of the financial year in which the commencement day falls shall be included in the annual estimates of the Corporation for the remainder of the financial year, but those estimates may be varied by the Corporation in such manner as the Minister and the Minister of Finance may approve.

Annual report

6 Notwithstanding the repeal of section 16 of the repealed Act, BLDC's duty to prepare and send to the Minister financial statements in respect of BLDC for financial years preceding the commencement day and a report on its operations during those years is transferred to the Corporation; and the Minister shall cause a copy of those financial statements and reports to be laid before each House of the Legislature.

Indemnification of directors of BLDC

7 Notwithstanding the repeal of section 14 of the repealed Act, the Government shall indemnify a former director or officer of BLDC, and his legal representatives, in relation to matters occurring before the commencement day in accordance with that section as it applied immediately before the commencement day.

Minister may make additional provision by regulations

8 The Minister may, by regulations subject to the negative resolution procedure, make such further amendments, transitional provisions and savings as the Minister considers necessary in consequence of the coming into operation of the amending Act."

SCHEDULE 2

(section 6)

**“THIRD SCHEDULE:
THE SCHEDULED AREA**

1 All that land, having an area of approximately 121.188 hectares (299.461 acres), shown in red on Map 1 (Drawing No 5510046783, May 2024), comprising Watford Island, Boaz Island, Ireland Island South and Ireland Island North, together with those small islets forming the Crawl off Ireland Island South, the North and South Basins and the breakwaters thereto, and the area to the east of Ireland Island South, but excluding any highway as defined in section 2(1) of the Public Lands Act 1984.

2 The following areas—

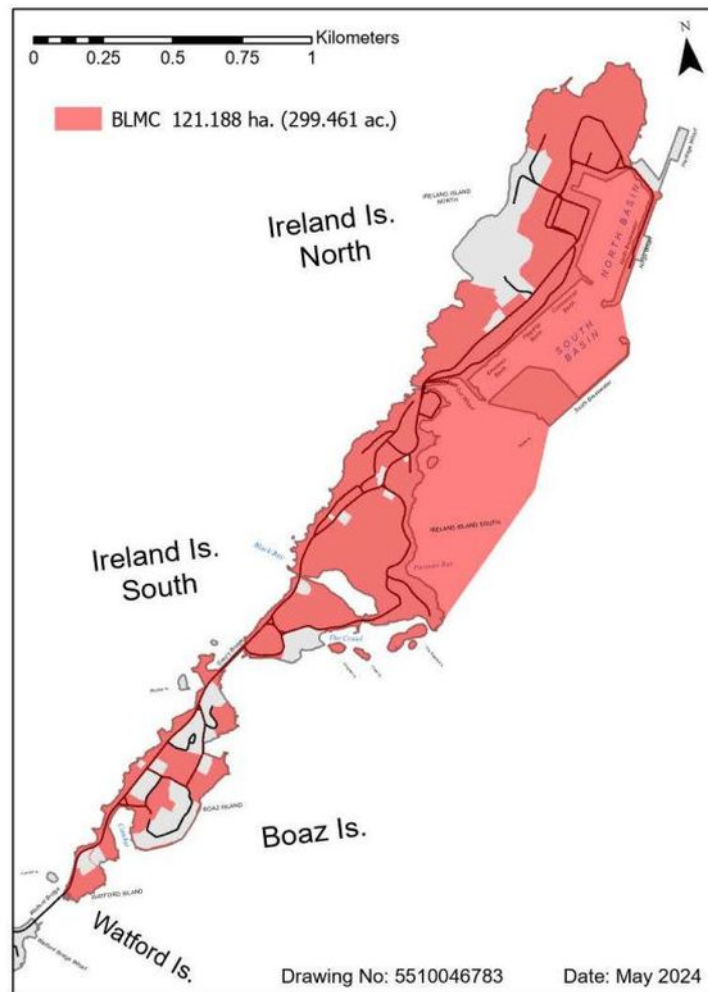
- (a) all that land, having an area of approximately 125.140 hectares (309.228 acres), shown in red on Map 2 (Drawing 5510046779a, June 2023), in St David’s Island, St George’s Parish;
- (b) all that land, having an area of approximately 10.062 hectares (24.863 acres), shown in red on Map 3 (Drawing 5510046779b, June 2023), at Tudor Hill, Southampton Parish;
- (c) all that land, having an area of approximately 7.829 hectares (19.345 acres), shown in red on Map 4 (Drawing 5510046779c, June 2023), at Daniel’s Head, Sandys Parish.

3 The boundaries of the areas of the land comprising the scheduled area are more accurately shown on the definitive boundary plan number 5840/008/03 (sheets 1 to 7), which is available for inspection during office hours at the office of the Senior Land Surveyor with the Department of Public Lands and Buildings.

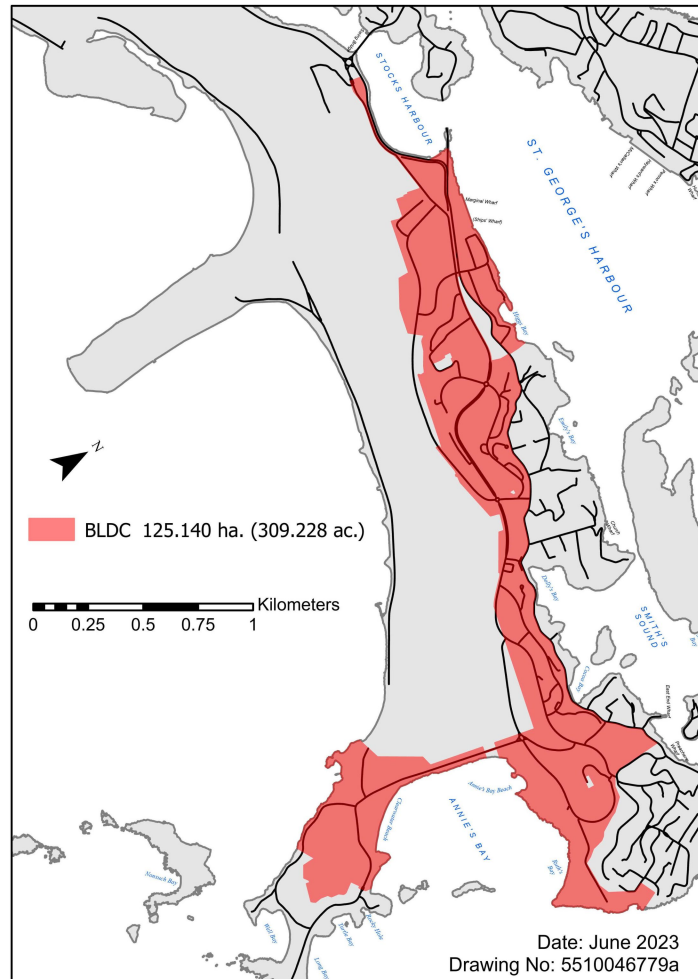
4 The Minister may by order amend the descriptions of the land comprising the scheduled area in the preceding paragraphs, and the maps in this Schedule, in consequence of any disposition of land approved by the Senate and House of Assembly under section 20 if the disposition results in land being removed from the scheduled area.

5 An order under paragraph 4 is not subject to section 6 of the Statutory Instruments Act 1977 (Parliamentary scrutiny of statutory instruments by the affirmative or negative resolution procedure).

MAP 1

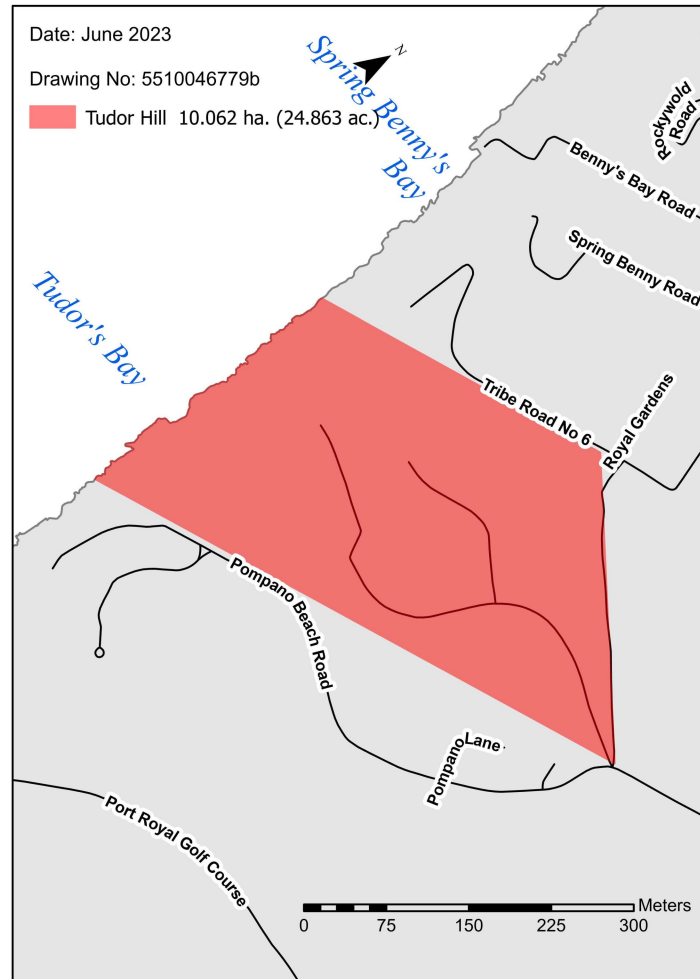


MAP 2

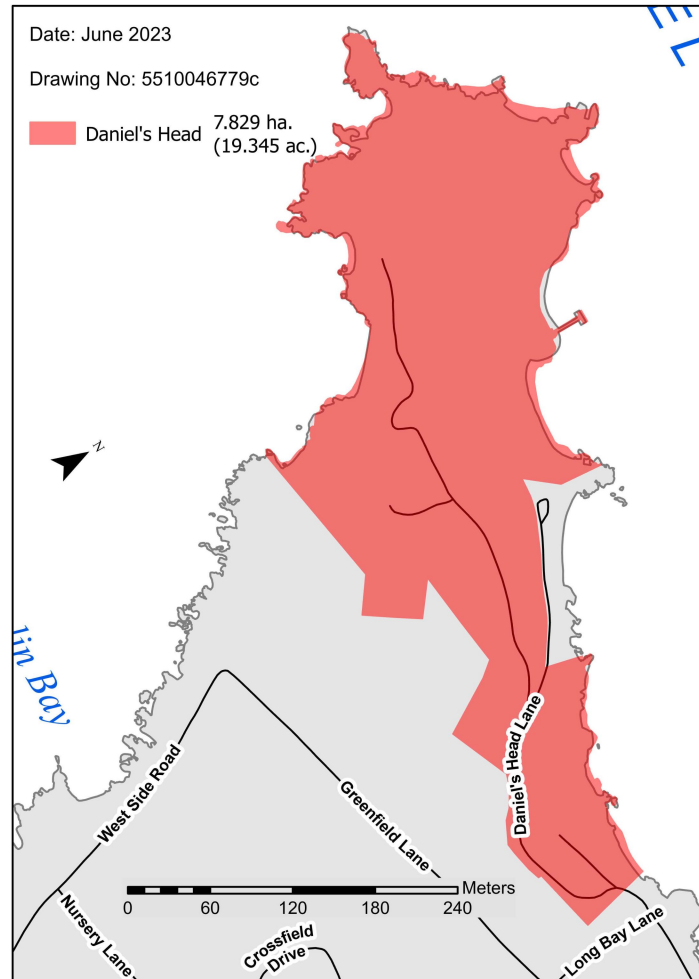


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MAP 3



MAP 4



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SCHEDULE 3

(section 11)

CONSEQUENTIAL AMENDMENTS

- 1 In regulation 5A of the Cargo Regulations 1969 (special licensing provisions)—
 - (a) delete “West End Development Corporation” in each place in paragraphs (1), (2) and (5), and substitute “Bermuda Land Management Corporation”;
 - (b) delete “West End Development Corporation Act 1982” in paragraph (2), and substitute “Bermuda Land Management Corporation Act 1982”.
- 2 (1) In the Electronic Communications Act 2011, in section 73 (transition to ICOLs and associated spectrum licences and permits) after subsection (7) insert—

“(7A) On the coming into operation of the West End Development Corporation Amendment Act 2024, the modified licence described in subsection (7) shall be transferred to the Bermuda Land Management Corporation, and subsection (7) shall apply with the following modifications—

 - (a) in paragraph (a), for “scheduled properties in the Base Lands Development Act 1996”, substitute “properties in the scheduled area described in paragraph 2 of the Third Schedule to the Bermuda Land Management Corporation Act 1982”; and
 - (b) in paragraphs (a) and (b), for the references to “BLDC” substitute “the Bermuda Land Management Corporation”.
- (2) In section 82 of that Act (interpretation), delete “Base Lands Development Act 1996” in both places and substitute “Bermuda Land Management Corporation Act 1982”.
- 3 In the Schedule to the Electronic Communications (Integrated Communications Operating Licence) Regulations 2013 (basic terms and conditions of ICOL), in paragraph 3.1—
 - (a) in the heading “ALTERNATE PROVISION FOR BLDC”, delete “BLDC” and substitute “THE BERMUDA LAND MANAGEMENT CORPORATION”; and
 - (b) in paragraph (a), delete “the properties identified by the Schedule to the Base Lands Development Act 1996 and are leased or let by the Government of Bermuda to the Licensee”, and substitute “the properties in the scheduled area described in paragraph 2 of the Third Schedule to the Bermuda Land Management Corporation Act 1982”.
- 4 In the Fire Safety (Prescribed Forms) Regulations 2017, in Form 2 (fire risk survey assessment), under the heading “Water supplies” delete “BLDC” and substitute “Bermuda Land Management Corporation”.

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5 In Schedule B to the Land Title Registration Rules 2018 (standard forms of restriction), delete the heading to Form O and substitute—

“Conveyances by the Bermuda Land Management Corporation”.

6 In section 2 of the Marine and Ports Services Act 2021 (interpretation), in the definition of “Dockyard docks”, delete “the West End Development Corporation within the West End Development Corporation Act 1982” and substitute “the Bermuda Land Management Corporation within the Bermuda Land Management Corporation Act 1982”.

7 In section 2 of the Maritime Security Act 1997 (interpretation), in paragraph (a) of the definition of “harbour area”, delete “West End Development Corporation” and substitute “Bermuda Land Management Corporation”.

8 In the Motor Car Act 1951—

(a) in section 2 (interpretation, construction and saving), in paragraph (b) of the definition of “traffic officer”, delete “in the Third Schedule to the West End Development Corporation Act 1982” and substitute “in paragraph 1 of the Third Schedule to the Bermuda Land Management Corporation Act 1982”;

(b) in section 10 (restrictions on horse-power, weight and dimensions), in subsection (2)(ba), delete “the West End Development Corporation (established by the West End Development Corporation Act 1982)” and substitute “the Bermuda Land Management Corporation”.

9 In paragraph 2 of the Public Service Superannuation Act 1981 (Application) Order 1985 (application of Act to certain other employees), delete paragraph (c) and substitute—

“(c) the Bermuda Land Management Corporation (formerly the West End Development Corporation), with effect from the first day of November 1982;”.

10 In section 2 of the Revenue Act 1898 (interpretation), in the definition of “port authority”, delete “West End Development Corporation” and substitute “Bermuda Land Management Corporation”.

11 In paragraph 2 of the Revenue (Appointment of Customs Area) (Dockyard) Notice 2016 (interpretation), in paragraph (a) of the definition of “harbour area”, delete “West End Development Corporation” and substitute “Bermuda Land Management Corporation”.

12 In section 1A of the Traffic Offences Procedure Act 1974 (interpretation of Part II), in paragraph (b) of the definition of “traffic officer”, delete “in the Third Schedule to the West End Development Corporation Act 1982” and substitute “in paragraph 1 of the Third Schedule to the Bermuda Land Management Corporation Act 1982”.

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[Assent Date: 30 July 2024]

[Operative Date: 01 September 2024]