

# EXECUTIVE COUNCIL

## PUBLIC

COPY NO:

**MINUTES OF THE MEETING OF EXECUTIVE COUNCIL  
(No: 05/24) HELD TUESDAY 26 MARCH 2024**

**PRESENT:**

Her Excellency The Governor  
(Alison Blake CMG)

The Honourable Chief Executive  
(Andy Keeling)

The Honourable Financial Secretary  
(Pat Clunie)

The Honourable Jack Ford  
The Honourable Leona Roberts  
The Honourable Mark Pollard

**APOLOGIES:**

The Honourable Roger Spink

**CLERK:** Claire Law

**PRESENT IN ACCORDANCE WITH SECTION 61(1) OF THE CONSTITUTION:**

Commander British Forces, South Atlantic Islands  
(Brigadier Daniel Duff)

Attorney General  
(Simon Young)

REF: EXCO 6/1

1 **Minutes from previous meetings January and February 2024**

HE The Governor noted there were no minutes from previous meeting to agree, still being reviewed. Suggested to expedite an action sheet with actions to follow, will address later with Deputy Clerk / Clerk of the Legislative Assembly.

The Chief Executive advised this was discussed at CMT yesterday, there is a need to execute decisions of ExCo, suggested a summary report of items to list what was agreed – recommendations approved or not as that is more important than the full minutes. The Chief Executive would speak with the Clerk of the Legislative Assembly on her return.

MLA Pollard shared frustration with not seeing the minutes until finally agreed, requested the draft minutes be shared with all once written, can review and make notes. The Chief Executive / MLAs Roberts and Pollard thought this was agreed previously, noted does not currently happen.

**ACTION: Deputy Clerk / CoLA**

REF: EXCO 8/3

2 **Forward Plan**

The purpose of this report was to enable Executive Council to note the reports scheduled for Executive Council consideration on the Forward Plan.

The Chief Executive advised the Forward Plan is reviewed in advance of Executive Council with CMT for the next two months only, thanks given to the Attorney General for his notes from yesterday of the following movements within the plan for April and May:

**April:**

**Deprivation of Liberty Standards**

The Chief Executive advised this report needs to be added to the Forward Plan for April.

**Joint General Mortgage Scheme**

The Chief Executive advised still waiting for a response from Standard Chartered Bank. This report will be deferred.

**Tax Penalties Consultation**

The Chief Executive advised more work is required internally, this report to be rescheduled.

#### ITQ Fees Project Plan

The Chief Executive advised more liaison required with Industry, will move to May, possibly June.

#### Ilex Allocation Policy 2025

The Chief Executive advised this was discussed at Fisheries Committee, this report to be rescheduled to May.

#### Tax Policy

The Chief Executive advised this is not proceeding due to estimated cost.

#### Housing Strategy –Tenancy Agreement

The Chief Executive advised this would be deferred until May, depending on review and legal advice.

#### Replacement Animal Crates

The Chief Executive advised this will be deferred, currently reviewing outcome of the tender process. MLA Pollard noted concern re animal welfare issues for existing crates.

#### Financial Assistance – Annual Review of Allowances

The Chief Executive advised this would be deferred to May, depending on feedback from Social Services.

#### Workforce Accommodation Contract

The Chief Executive advised this report needs to be added to the Forward Plan for April, following outcome of negotiations with the provider.

#### **May:**

##### Domestic Abuse

The Chief Executive advised this report is now complete, so will be brought to the April meeting.

##### Fisheries Accord Action Plan

The Chief Executive advised this is due for next year, is a 2 year review following initial operation and consideration of the information. Will be deferred.

##### Electronic Patient Records System – Gateway Approval

The Chief Executive advised the likely tender award will not be successful, so gateway approval not required. A report will come back re issues and future options.

#### Taxation of Pensions

The Chief Executive advised this will be rescheduled for July.

#### Stanley Growers Limited – Future options (initial report)

The Chief Executive advised this is a new item, would be either May or June 2024, noted there is a Workshop in April and depends on the outcomes.

MLA Roberts noted it was helpful for a clear review of the way forward. The Chief Executive noted this review usually happens before Executive Council.

MLA Roberts queried the Amendments for Commons Ordinance, has been to Planning and requested a Public information piece to explain the decision. HE The Governor asked was there any Public consultation, MLA Roberts thought this should have come to Environment Committee as tipping of spoil onto the common is better than current practice of tipping in a nature reserve but could still be contentious.

MLA Roberts asked re the National Security Strategy – is listed on the Forward Plan in both June and October, as a 3 Year review. HE The Governor advised June report is unlikely to happen. The Chief Executive advised he will check with DESIS.

MLA Roberts queried a report listed for July on the Forward Plan – MPOWER and FCTC Tobacco and Vaping Controls for the Falkland Islands, is this proposal for disposable vapes or broader? MLA Roberts did express an interest as a Smoker. The Attorney General advised this was discussed at CMT, is included within the draft legislative programme to be discussed with Members next week. MLA Roberts is concerned as if around disposable vapes then expect to receive support, want to focus work. The Attorney General advised the Health Department is interested in a convention of tobacco control, it could be an action plan for smoking but may not propose any legislative changes.

MLA Pollard advised re the Spoil tip, the planning decisions were published on 28 February 2024, under the Falkland Island Gun Club West change of land use from Stanley Common Land construction of new spoil tip, will this go to Committee or delegated authority? The

Attorney General advised that Planning had asked re a matter, if it was an application by Falkland Islands Government do we automatically refer to Planning Committee? The Attorney General said the advice given was to follow the criteria -if any objections received or if perceived as a significant matter then should refer to Planning and Building Committee. The Attorney General clarified Planning did not specify what matter it related to, the development would not necessarily come to Executive Council, however the regulations under the Commons Ordinance would need to be amended –this is the paper on the Forward Plan which would be brought to Executive Council. MLA Pollard advised he thinks it should come to Committee and has been asking for this for a long time.

MLA Ford advised re large amount of Maritime legislation on the Forward Plan, would like to explore establishing a Maritime Committee as opposed to the Maritime Steering Committee as it is currently, to enable adequate public scrutiny. The Attorney General confirmed there is provision in the Ordinance to do so, agreed to prepare a quick note to be taken to Maritime Steering Committee to action this. The Chief Executive noted there is a need to review the amount of Maritime Legislation in the Forward Plan, as some items are included which previously said FIG would not want to adopt certain conventions as they come with obligations which we would not be able to fulfil. The Chief Executive advised this was discussed at CMT yesterday. The Attorney General advised he had received an update from Rhiannon Didlick-Smith, some matters arose from Triple III Audit which may need to progress and other matters to be reviewed first, priorities to be agreed.

**REF: INT 36/43**

**3 Media Trust Accounts - 51-24 FS / Chair MT**

The purpose of this report was to enable Executive Council to consider the financial statements and annual report for the year to 30 June 2023, so these can be tabled at the next sitting of Legislative Assembly.

HE The Governor queried if this should be considered as a Starred item, only to be taken as read and approved without discussion.

The Financial Secretary advised in order to comply with the Media Trust Ordinance and Finance and Audit Ordinance, the Media Trust accounts should be approved and tabled at next sitting of Legislative Assembly. The Financial Secretary advised there are no areas of concern or matters outstanding, there were no adjusted misstatements identified.

HE The Governor queried the resignation of Dan Fowler. The Attorney General confirmed that appointment had expired along with the appointment for Nigel Leach and had sought to regularise both. The

Attorney General confirmed the appointment of Deborah James as Chair, they are looking to renew the appointments of both Nigel Leach as Board Member and for Dan Fowler to continue as a Trustee.

MLA Ford queried the cost of the audit regarding good value for money, noting it had increased over the last few years and considering the organisation receives a significant subvention. The Attorney General advised the Auditors are imposed on the Media Trust, which is part of the agreed contract with Mazars as Auditors for the Falkland Islands Government to include statutory public bodies and can review the external audit provisions. The Financial Secretary advised this cost would be considered low if in the UK for an audit as a standalone company.

Executive Council:

- (a) Noted the financial statements and annual report for the year and in accordance with section 57 of the Finance and Audit Ordinance seeks the Chief Executive to table the report and financial statements to the next sitting of the Legislative Assembly.

**ACTION: FS/Chair MT  
PUBLIC**

REF: INC 10/5

4 **Taxes and Duties (Special Exemptions) (Amendment) Bill 2024 – 50-24 FS/HoT**

The purpose of this report was to enable Executive Council to consider the Taxes and Duties (Special Exemptions) (Amendment) Bill 2023 for publication and to be laid before the next Legislative Assembly.

The Financial Secretary advised this paper was first presented to Executive Council 26 September 2023, which was withdrawn re issues of transfer of power and potential risks. The then Financial Secretary revised the paper to set out proposals to ensure the transparency and due safeguards can be met, following consultation with FCDO consultation the Attorney General wrote to HE The Governor on 20 December 2023 to clarify there is no real shift in power, it was an administration task. The Standing Finance Committee under Section 9A of the Taxes and Duties Ordinance make the recommendation to accept the application.

It was noted the proposed amendment is to streamline the administration process, currently HE The Governor produces an Order for that to be enacted and published in the Gazette. The proposal is for the authority delegated to the Commissioner of Taxation, there is no Policy change, it is how the decision of Standing Finance Committee is enacted and only affects Defence Contractors, any other exemptions put forward will still require approval of HE The Governor.

The Attorney General advised regarding the Defence Contractor exemptions, it is a fairly binary choice – you either meet the requirements or not. HE The Governor was concerned re transparency by not publishing in the Gazette but by publishing on the Tax Office website and information made available addresses those concerns.

MLA Pollard raised the previous action of Executive Council, did not have minutes available and not aware if still an existing action, asked what the risk was to Falkland Islands Government for Pensions / lack of Pensions for people at MPA, is that an action for MOD or Falkland Islands Government, are we looking to quantify the risk and are we rectifying that? The Financial Secretary confirmed the Tax Office are doing work to quantify that, to see what the potential liability is and looking at the wider context including those who fallen below the RPC Thresholds.

MLA Roberts asked if there was a target date for completion of the work, the Financial Secretary confirmed it is high on the list of work to be done.

HE The Governor asked, we are getting onto Tax Review Expressions of Interest in terms of reference, we are not directing but will the Tax Review look at exemptions and their impact? The Financial Secretary confirmed would look at scoping for the whole system.

MLA Pollard queried regarding Pensions of employees at MPC, is the Tax Office working in conjunction with MOD? The Commander British Forces noted he would ask Command Sec if there are any specific questions. The Attorney General raised that there are a number of civilian workers at MPC who have worked for a number of years, because they are exempt from the Tax requirements they are not paying Pension Contributions, potentially on retirement into the local community would not be entitled to any pension provision and potentially require financial assistance which they may / may not be entitled to. MLA Pollard asked if any alternative pension arrangements could be put into place.

MLA Roberts noted it is worrying for the Falkland Islands Government and for the individuals. Executive Council approved:

- (a) The Taxes and Duties (Special Exemptions)(Amendment) Bill 2023 to be published and laid before the Legislative Assembly for consideration.
- (b) That the Commissioner of Taxation grants the exemption under section 9A of the Ordinance on the advice of the Standing Finance Committee.

(c) Authorised the Attorney General to correct typographical errors and non-substantive drafting errors in the Bill prior to publication.

**ACTION: FS/HoT  
PUBLIC WITH REDACTIONS**

REF: INC 10/5

5 **Tax Review Expression of Interest - 53-24 FS/HoT**

The purpose of this report was to enable Executive Council to approve the Expression of Interest document and agree this can be advertised.

The Financial Secretary advised this request is seeking approval for an Expression of Interest for a full Tax Review, to understand the likely cost, timescale and resources. Members agreed within the 2023/24 budget to undertake this review, the scope is to be confirmed, expected to include tax bands, tax rates, sales tax, income support and other areas. The Expression of Interest will focus the scope of the Tax Review, last done 20 years ago whereby a number of recommendations were enacted into legislation. The Financial Secretary confirmed this would not cover Oil –which will be a separate project.

The Financial Secretary confirmed the Tax Office currently do not have the skill set or resource available to undertake the review, this needs to be outsourced. In 2023/2024 £3m was included within the budget submission, amount was using other data from Tax work done historically, at Budget Select the money was pulled. This Expression of Interest will go to market, to give a clearer indication of costs and the realistic scope of what can be undertaken in a review. Recommendation is for Executive Council to approve the Expression of Interest to go out, to determine what comes back and then decide if a Tax review either full or partial review is to be undertaken –will have better clarity re cost, time and resources required.

MLA Pollard questioned the timing, if the indicative figures for the tax review are so high (for one year of a four year programme), it is unaffordable and should the scope be reduced before going out to tender? MLA Pollard commented on reflection this is the right way round, to make a better informed decision whether to narrow the scope. MLA Pollard supported the recommendations.

MLA Roberts supported the recommendations, had queried the initial estimate which was startling, would be helpful to have a clearer understanding.

MLA Ford supported making informed decisions.

HE The Governor queried the draft EOI and suggested the following amendments:

- Referred to Section 2.0 EOI Requirements “Falkland Islands Government Tax Regime” it is not clear this does not include Oil –agreed to amend wording to “Falkland Islands Government Tax Regime not including Oil or Hydrocarbons.”
- HE The Governor queried the second bullet: “Development of policies”, should that be to advise? - agreed to amend wording to “Advice on development of policies”.
- HE the Governor queried key deliverables under Section 2.0 EOI Requirements, second bullet which include drafting user friendly legislation– what is deliverable of them? The Attorney General advised it is multi-disciplinary participation in the project, often Tax drafting undertaken by specialised drafters, this would be the case here if a large review of the Ordinance is required. HE the Governor suggested may need to tweak to reflect the use of specialist drafters.

HE the Governor concluded the consensus was to agree the Recommendations, with a request to remove apostrophe from MLAs to MLAs within the EOI.

Executive Council:

- (a) Approved the Expression of Interest document, allowing Falkland Islands Government Taxation Office (FIGTO) to understand the resource implications of a tax review and whether there are any potential interested parties.
- (b) Agreed the Expression of Interest for a tax review can be advertised.

**ACTION: FS/Hot  
PUBLIC**

**REF: AIR 1/4**

**6 FIGAS Rolling Fleet Replacement - 07-24 DDCS**

The purpose of this report was to enable Executive Council to approve the FIGAS Rolling Fleet Replacement Programme together with additional capital expenditure, for a dispensation for FIGAS to continue to procure aircraft from Britten Norman Limited and to give authority for Officers to sign a Letter of Intent with Britten Norman Limited.

The Chief Executive advised the current FIGAS fleet, bar the most recent addition Mike Charlie, is aging and in the region of 33 years old. The fleet is extremely well maintained and will be supplemented by a further plane - Tango Sierra in Q4 2024 (though likely to slip into Q1 2025). This paper seeks approval to:

- a) Agree the Fleet Replacement programme – whilst this sits on the Capital Programme, there has never been Executive Council approval for its inclusion.
- b) Agree additional capital expenditure as identified whilst analysing this paper – there is a calculation error in Section 2, which should read “an additional £1,844,500” not £1,822,500. This was picked up by MLA Ford in his read through. The reality is the programme will now slip by a number of years, costs will need to be reviewed again closer to the time of ordering.
- c) Give dispensation to continue to procure direct from Britten Norman. The Chief Executive referred to Section 4, from 4.1.7 referring to study conducted by FIGAS regarding alternatives and why Britten Norman remains our preferred supplier, mainly as their plane suits our specific requirements. Members will have seen the positive out turn of their recent financial difficulties.
- d) Give authority to sign a Letter of Intent with Britten Norman which is entirely non-committal on our behalf and has been reviewed extensively by Government Legal Services.

The Chief Executive advised the paper is a ‘tidy up’, formally bringing the Fleet Replacement programme into the Capital Programme and formally seeking dispensation to continue working directly with Britten Norman into the future, noted this will be superseded by the Budget programme and the programme will be moved to the right.

HE The Governor queried the phasing of the costs and when the Aircraft comes on stream, noted is dependent on the programme once agreed. The Chief Executive confirmed payments are made throughout the construction period, not payment on delivery. MLA Pollard noted there are reservation of slots.

The Attorney General advised there is always a risk with any Letter of Intent, the Government would be treated as a Commercial organisation and that presumption is we have created legal obligations. The Attorney General is not concerned, confirmed the wording is clear and there is no binding obligation and we can terminate the letter of intent if we wish to do so.

Noted Britten Norman financial position is improved and our letter of Intent could be part of securing investor confidence. HE The Governor raised the first significant risk is financial integrity, what are we doing to mitigate this current and residual risk. The Financial Secretary advised of a pre-pack administration whereby they protect from Creditors, re-organise capital finance and come out in a different position following protection given to them, noted with new Investors on board the position is improved. The Financial Secretary confirmed

original budget was £7.5m in a 10 year plan, Budget Select have reduced to £5m in a 10 year plan.

MLA Roberts is content to approve the recommendations, her concerns re level of commitment have been addressed by the Attorney General. MLA Roberts is concerned re the recent aircraft and time taken for procurement which was a risk, although noted this was during COVID period and understandable.

MLA Roberts requested corrections in the paper at 3.1 and 4.3 regarding age of aircraft as the whole fleet is not over 33 years, important to recognise the purchase of the newest aircraft.

MLA Pollard supported the recommendations, noted the importance of continuity in that FIGAS know how to fly and fix the Britten Norman aircraft. MLA Pollard stated the reasons for the programme slipping - partly budget pressure and partly realistic expectations as plane delivery does take longer.

MLA Ford disagreed, noted although agreed at Budget Select he would request the programme be looked at and expand the timeline, if we purchase newer aircraft sooner they will arrive sooner, even if making progress slower than originally intended.

The Financial Secretary advised of care not to look at isolating capital projects, with regard to Budget Select position can discuss next year once Port Project and Surplus figures are known and re-look at phasing. The Chief Executive advised Budget Select Committee and Executive Council have not yet made decisions re next year's Budget, that will come back to Executive Council for approval.

HE The Governor advised she thought the report was very good, it also mentions other critical items such as fire tenders / hangers and runways, are they separate projects? The Chief Executive and MLA Pollard advised the hangar is the biggest project and it is being addressed.

MLA Ford asked regarding recommendation (b) approval of capital expenditure. The Attorney General confirmed it would come back as a budget report of the capital programme and will be adjusted as per Members approval.

MLA Ford asked if we delayed any future replacement would this impact on maintenance costs, the Chief Executive confirmed this is contained within the report which details the maintenance regimes required dependent on the different points of age for the aircraft.

Executive Council approved the recommendations, subject to Budget Select Committee changes:

- (a) Option 2, the FIGAS Rolling Fleet Replacement Programme;

“Agreement in principal has been reached and the rolling fleet replacement programme already features on the 10-year capital plan. Moreover, replacing aging aircraft with new-build makes commercial sense thereby allowing continuation of a vital communications service. Inspections and servicing will be less time consuming, corrosion control will be easier due to modern paints, the use of improved corrosion inhibitors and better construction techniques. Aircraft aesthetics will be significantly improved providing customers with increased confidence.”

- (b) The additional capital expenditure necessary to complete the FIGAS Rolling Fleet Replacement Programme
- (c) Dispensation to FIGAS to continue to procure aircraft from Britten Norman Limited without utilising public procurement routes
- (d) Authority to Officers to sign a Letter of Intent with Britten Norman Limited.

**ACTION: DDCS  
PUBLIC WITH REDACTIONS**

REF: GSO 3/24

7 **St. Helena Airlink – FIG Underwriting Request - 48-24 DDCS**

The purpose of this report was to enable Executive Council to approve entering into the Ascension Island Government (AIG) Preferred Customer Agreement (PCA) for the charter flight operated by SA Airlink between Ascension and St Helena, to agree a share of seats for a period of 12 months including a further review.

The Chief Executive advised this report comes to Executive Council as in 2023 the MOD announced an allocation of seats, per month, on the Airbridge for flights to the Ascension Islands, for the people of St Helena to use for onward travel to get home. These seats are for flights from both the United Kingdom and the Falkland Islands for travel to Ascension and onward travel to St Helena. The MOD set the allocation of seats at 15. The Chief Executive advised at the time although raised by FIG, no mechanism was secured to enable the onward travel from Ascension to St Helena, whilst people have been able to use that flight when seats are available, the majority of seats are taken by companies who already have a contract (PCA) in place – they have an allocation of seats on the second leg to St Helena. If not a part of PCA then no guarantee of seats. The Falkland Islands Government and Members wished to see if the Falkland Islands Government could join the PCA, this report sets out the implications and financial implications, noted if we join the PCA we are guaranteeing the income for those seats – if

seats not taken up the Falkland Islands Government would pay for empty seats. There is a cash back option if empty seats are taken up.

The Chief Executive advised the MOD are likely to change the allocation of 15 seats to Ascension on the Airbridge, this raised concern as do not want to match an allocation which will not exist. There is a timeline for Falkland Islands Government to join the PCA is limited, by end of next month. The Chief Executive needs clarity from the MOD re intentions for those seats before seek to join the PCA.

The Chief Executive advised the recommendation is to track the seats which are allocated on the Airbridge, noted only 2 months into those arrangements and concern is this allocation is not currently being used by the community –potentially have been using some of the 31 allocation for Falkland Islands Government to stop off at Ascension. The Chief Executive raised concern as cannot wait for more data before making a decision re the PCA.

HE The Governor asked about facilities in Ascension to support people if needed to wait longer than a few hours between flights. The Chief Executive confirmed there is limited accommodation, 6 spaces are available as well as family and friends options, not had any issues so far. Noted the 15 seats are staggered over a couple of flights, not all on the same flight.

The Chief Executive suggested the ceiling is 15, need to agree to track what the MOD provide on the Airbridge, need certainty around that so can join the PCA in April. HE The Governor asked would an allocation of less than 15 seats be acceptable.

The Attorney General suggested amending the recommendation after A to “Authorise the Chief Executive to finalise the terms of the preferred customer agreement with Ascension Island Government for the Charter flight and take a share of up to 15 seats a month for a period of 12 months”. HE The Governor supported this change to the wording.

MLA Roberts advised of the importance of getting a facility for members of St Helena community to get home, noted the amount of work undertaken and the frustration that just as entering into a PCA the allocation has changed, is concerned re the time available. MLA Roberts supported the recommendation as amended.

MLA Pollard said it must be unusual for a Country to be managing flights between a second and third country, stated it is important for the Falkland Islands, Ascension and St Helena communities. MLA Pollard feels we have had to battle to support this and being used as insurance to get this done, doubted if others would have progressed this.

MLA Pollard asked re 4.9, which is non-committal, could the Commander British Forces give a level of clarity for MOD workers. The

Attorney General referred to the draft PCA, page 19 Schedule B – which lists some of the companies who have taken up an allocation. The Attorney General referred to the assumption that some of those companies such as NAAFI, Mitie and Sodexo, that will relate to their workers here as well as in other places.

The Commander British Forces confirmed it does affect MOD people and are determined this should work, recognised how important it is for the St Helena community here. The Commander British Forces is aware of the impact of lack of accommodation preventing people from using flights, with regard to Contractors, but this is for Ascension Island Government to provide, as not responsibility for MOD.

The Commander British Forces advised any adjustment has not been decided and needs to be worked out with MOD, is working to push hard to address flight allocations and associated matters, confirmed intent remains to make this work.

The Chief Executive stated in relation to whether MPC Contractors are included in the allocation of 15, as it stands at the moment, thought they were not included as MPC have their own allocation. The Attorney General advised would expect Contractors here have own obligations to get workers here to / from St Helena.

MLA Ford asked if Appendices A and B should be redacted, this was confirmed by the Attorney General.

MLA Ford asked re Section 4.3, would not want it to be seen as giving preferential treatment to just specific parts of the community. HE The Governor advised the original agreement was to get members of the St Helena community home. The Attorney General stated there are few places where the Falkland Islands have a direct link, noted people could use the link through Ascension / St Helena to get back to South Africa. It was agreed the intention was for people to get home.

MLA Ford asked if there would be a review after 12 months, this was confirmed as the PCA have a contract for 12 months.

Executive Council: approved the recommendation including the amended wording from the Attorney General:

- (a) Authorised the Chief Executive to finalise the terms of the Preferred Customer Agreement (PCA) with Ascension Island Government (AIG) for the charter flight operated by SA Airlink between Ascension and St Helena and take a share of up to 15 seats a month for a period of 12 months with a review for a further period during the course of the engagement.

**ACTION: DDCS  
PUBLIC WITH REDACTIONS**

**8 Sand Bay Phase 3 and Mare Harbour Phase 2 Joint Renewable Energy Project - 55-24 DPW**

The purpose of this report was to enable Executive Council to approve the Sand Bay Phase 3 and Mare Harbour Phase 2 Joint Renewable Energy Project, to allocate the full capital funding acknowledging that the UK Ministry of Defence (MOD) will reimburse Falkland Islands Government for the full costs of the Mare Harbour Phase 2 element of this joint project. To also grant dispensation from Financial Instructions for single-source procurement with Asea Brown Boveri (ABB) for the Battery Energy Storage System (BESS) and Innoven for the Power Management System for Sand Bay Phase and for associated contracts and tender documents for enabling and power management works.

MLA Roberts declared an Interest regarding a family relationship, there is no financial interest and will not impact on any decision making. The Attorney General advised no direct financial issue for MLA Roberts, there would be a financial interest of close family member (brother) and recognised openness and declaration from MLA Roberts.

The Chief Executive advised this is the third report in the last four months brought to Executive Council regarding this project, now in a joint phase with MOD. It seeks to bring forward the Mare Harbour decision made in January 2024 and Sand Bay decision made in November 2023, both decisions were in principle. It also commits the Falkland Islands Government and MOD to the payment of deposits for Enercon elements, noted the MOD Enercon project is bigger than the Falkland Islands Government Sand Bay which also has a battery powered management solution. For Mare Harbour it was agreed a joint project to install turbines so the MOD will provide their own solutions for power management and battery storage.

The Chief Executive advised between November 2023 and now the Falkland Islands Government and MOD have been working to obtain a better definition of the project including costs. This includes for an investment and business case from both financial and environmental points of view. Noted have sought to build in sufficient funding and contingency to deal with any unknown costs. Also not included in the report- the MOD are looking to utilise the FIRS vessel for some of the shipping, the Commander British Forces confirmed the MOD are unable to assist with shipping, this was noted by all.

The Chief Executive confirmed the original report in November estimated shipping costs of £1m, across the joint project this has now increased to £5m due to global shipping issues, the costs are included within the paper. The Commander British Forces stated cannot directly compare the shipping costs as the £1m was a discrete aspect and the £5m now includes other costs not originally included. The Chief Executive noted the 5% management fee is an addition.

## REDACTED

The Chief Executive advised now in a joint project space, are looking to agree a draft letter of agreement with MOD –currently in draft which is attached as an Appendix, as to how the repayments to Falkland Islands Government will happen. Noted Falklands Islands Government are entering into a contract with Enercon, not the MOD, the Chief Executive has written assurances from MOD they will reimburse for their project elements.

The Chief Executive advised on environmental gains from increasing renewable output for both Stanley and MPC, estimates are based on modelling that this will increase the renewable contribution for Stanley to over 50%, noted this is conservative, for MPC this will be over 60%. Currently for Stanley at 30% and MPC at 8% for renewable output from the turbine. For Falklands Islands – both Stanley and MPS this is a transformational change, the Commander British Forces advised if power management is done correctly the power station efficiency improves.

The Chief Executive noted that at Executive Council in November 2023, comment was made re inadequacy of the information provided to support a single supplier for both the battery storage solution and the power management system. This report now provides the additional information and the case for why using a single supplier is vitally important to the project.

The Chief Executive referred to the following:

- Annex 01 - Payment Schedule and Quotation for Mare Harbour from Enercon.
- Annex 02 – Price adjustment mechanism from Enercon, (already referred to).
- Annex 03 – Quotation from ABB – changed from estimate of **REDACTED** within this report.
- Annex 04 – Presentation from ABB delivered to MLAs November 2023.

The Chief Executive advised that at November it was asked for the following, now included as:

- Annex 05 High level project plan.
- Annex 06 Project Governance arrangements.

For Appendix 05 the powerpoint slide is part of a bigger plan prepared by the Project Manager, useful for Executive Council to use rather than a detailed Gant chart.

Also included with the report:

- Annex 07 Letter of agreement with the MOD.

The Chief Executive noted the delivery timescales are ambitious, some slippage has been built in as part of the project and calibration and testing of the equipment. Some adjustments to the road from Mare Harbour are required due to length of the vehicle for safe transportation – noted some costs for required works re the road will be borne as part of the Project and some by Roads project PWD as they were anticipated already.

The Chief Executive referred to previous question by HE The Governor in November, which was answered by the previous Financial Secretary – is this affordable across the range of projects and revenues for Falkland Islands Government over medium term period? The Chief Executive advised this project is the latest forecast based on informal decision based on the Budget Select process so far this year.

### **REDACTED**

MLA Roberts noted the briefings received and explanations which are engineering led, also the potential for payback. MLA Roberts requested more information on the environmental benefits within the paper, the Chief Executive advised he did not have that information. MLA Roberts commented that this is positive for energy security and along with the new Power Station is significant for Stanley and the Falkland Islands.

MLA Pollard keen to see this project come forward to support environmental pledges made as an Assembly. MLA Pollard referred to Appendix 06 Project Governance arrangements and questioned who is assisting the Project Manager with the procurement and logistics. The Chief Executive confirmed that support for procurement would be via the Falklands Islands Government, for logistics that would be from ABB/ Enercon and also the Falkland Islands Government Design office. Noted that we are paying for project management resources from within both ABB and Enercon.

The Chief Executive confirmed the Project Manager would be employed on a contract services basis by Falkland Islands Government.

MLA Ford asked how many turbines have been purchased -the Chief Executive confirmed 7 turbines in total will be arriving: x4 for Mare Harbour and x3 for Sand Bay.

MLA Ford queried the savings, are these dependent on electricity prices? The Chief Executive advised the savings accrue to this project and is up to Members as to how to use those savings.

MLA Ford asked re the life of the battery element, as not included within the report, the Chief Executive confirmed this depends on the power management system, the advice given was if managed well the expected life would be up to 20 years. MLA Ford requested that as part

of the budget process for future years the phased replacement of batteries can be included. MLA Pollard stated his request over the past 6 years for an Asset Management Plan - for the condition of assets as well as the National Infrastructure Plan – predictions of what is required. The Chief Executive advised that the focus was on the new Power Station, attention of the turbines end of life and plans to take these forward was not prioritised despite the efforts of the Power Station Manager.

MLA Roberts noted frustrations regarding delay in an Asset Register and the importance of infrastructure, MLA Pollard supported these concerns.

MLA Ford referred to 17.5 Significant Risks, issues of not having a crane and future maintenance concerns for the turbines. The Chief Executive is aware of the risks and the requirement for a suitable crane, potentially other commercial uses for a crane of a large size within the Islands. Noted it could be cheaper to buy then to hire.

It was agreed that the Chief Executive work jointly with MOD to look at options regarding maintenance requirements and cranes.

MLA Ford asked re the ambitious timeline and conflict with resources. HE The Governor noted the Director of Public Works is on the project board, road works will need to be in place by December. The Chief Executive recognised the competing demands for labour –in both the public and private sectors. The Attorney General advised we have a contract with Enercon and any delays will impact on cost. The Chief Executive agreed with the Attorney General as we need to manage the commitments within our contracts – this is done via the Capital Programme Board.

MLA Ford asked re potential private sector investment, the Chief Executive advised this was regarding direct investment into the project, which has not transpired but the spend to save case as proposed is strong.

MLA Ford asked re Phase 4. The Chief Executive advised Phase 3 required an energy management system, for Phase 4 the Power Station Manager suggested the use of old technology coming back into the renewable stream would enable us to have different type of energy storage. Agreed it was too early to be determined at this stage.

MLA Ford commented on the positive project, is pleased to see it being brought forward to improve our resilience and energy security.

Executive Council approved recommendations a, c, d, e, and f with an adjustment to recommendation b to add also signing a letter of intent with MOD, it was agreed to delete recommendations g, h and i as not required:

- (a) The Sand Bay Phase 3 and Mare Harbour Phase 2 Joint Renewable Energy Project in full as set out in this report, utilising an engineering led approach as approved in principle in ExCO 168/23 and 21/24.
- (b) Allocated the full capital funding for Sand Bay Phase 3 and Mare Harbour Phase 2 Renewables Joint Project, acknowledging that the UK Ministry of Defence (MOD) will reimburse FIG for the full costs of the Mare Harbour Phase 2 element of this joint project. A letter of intent to be signed with MOD.
- (c) Dispensation from Financial Instructions to allow the single-source procurement with Asea Brown Boveri (ABB) for the Battery Energy Storage System (BESS) and Innoven for the Power Management System for Sand Bay Phase 3, in addition to that already granted for Enercon in ExCo 168/23 and 21/24.
- (d) Authorised the Chief Executive to conclude a contract with ABB in relation to the purchase and installation of the BESS for Sand Bay Phase 3. According the quote and payment schedule attached in annex 2.
- (e) Authorised the issuing of tender documents for the Sand Bay Wind Farm Phase 3 and Mare Harbour Phase 2 wind turbine enabling works, including access roads. And for Sand Bay Phase 3 enabling works for the high voltage link and data upgrade, BESS building and all the associated enabling works with completing this joint project.
- (f) Authorised the Chief Executive to conclude all other contracts for enabling and power management works in relation to the execution of this joint project.
- ~~(g) Agree the revised full project budget including contingencies.~~
- ~~(h) Agree the high level project plan at Annex 5.~~
- ~~(i) Agree the project governance arrangements at Annex 6~~

**ACTION: DPW**  
**PUBLIC WITH REDACTIONS**

REF: EDU 25/25

9 **FE Students Funding Request - 30-24 DoE**

The purpose of this report was to enable Executive Council to consider a change to the Further Education Policy.

The Chief Executive advised there is a need to approve a change to the Further and Higher Education Funding Policy travel section, to enable

travel to agricultural courses in New Zealand and Australia. The Chief Executive advised that he and the Director of Education have spoken re specific agricultural courses in the UK which are not as relevant to farming in the Falkland Islands, would be beneficial to look further afield. There are some students who have accepted training offers in New Zealand and Australia. The Chief Executive recommends this minor change to the policy which directly supports our rural economy and is good for the individuals as well as longer term benefits to the Falkland Islands.

The Attorney General clarified the Director of Education would not want to see individuals held back because of a minor issue within the wider Policy which will be reviewed at a later date. The Members were supportive of this policy change and thought it a sensible compromise.

Executive Council approved the recommendations:

**REDACTED**

**ACTION: DoE  
NOT PUBLIC**

**REF: STF 31**

**10 Appointment of Fisheries Observers under a Service Provider Contract - 37-24 DNR**

The purpose of this report was to enable Executive Council to consider amendments to the Ordinance regarding appointment of Fisheries Observers, including those recruited under a service provider contract.

The Attorney General advised the delivery of Fisheries Observers is currently via a contract, the Ordinance does not clearly allow for that option as they are not employed directly by Falkland Islands Government, there is a need for a minor change to the Ordinance. This change was discussed at Fisheries Committee recently and no comments were received, those in the Industry are content.

MLA Roberts supported Option 1.

MLA Pollard was content with the assurance that Industry did not object and supported the recommendation.

MLA Ford queried if there any potential for challenges for non-Falkland Islands Government Observers who officially are not technically Observers under the Ordinance. The Attorney General confirmed this was not the case, noted there are currently Observers on Boats at the present time. The Industry accepts Observers are an essential part of monitoring the Fishing Industry, the information is used to drive policy and encourage compliance and improvement. Noted there are hard outcomes but the factual evidence does not change.

Executive Council approved the recommendations:

- a) Authorised amendments to the Fisheries (Conservation and Management) Ordinance, 2005 (Fisheries Ordinance) to allow the Director of Natural Resources to be given powers to appoint suitably qualified and experienced people as Fisheries Observers, even those recruited under a service provider contract;
- b) The addition to the Legislative Drafting Programme for 2023-2024 amendments to the Fisheries Ordinance to give effect to the policy decision;
- c) The draft Fisheries (Conservation and Management) (Amendment) Bill 2024;
- d) That the draft Fisheries (Conservation and Management) (Amendment) Bill 2024 be submitted to the Legislative Assembly; and
- e) Authorised the Attorney General to correct typographical errors and non-substantive drafting errors found in the Bill prior to publication

**ACTION: DNR  
PUBLIC WITH REDACTIONS**

REF: LEG 10/5

11 **Criminal Law Review – Amendments and Revisions - 34-24 AG**

The purpose of this report was to enable Executive Council to consider the draft legislations for Criminal Laws Amendment Bill 2024 and the Road Traffic (Mobile Devices) Regulations 2024.

The Attorney General advised this is a lengthy report, is important to keep Criminal Law up to date. Our Criminal Law is based on England and Wales, the Attorney General referred to a February 2023 report taken to Executive Council asking to approval for detailed work on this review, this report now reflects the topics which have been reviewed.

The Attorney General highlighted the importance of keeping legislative changes up to date as cannot introduce changes with retrospective effect, noted if changes are not passed into law then cannot take action to prosecute.

The Attorney General advised that prior to 2017, when Criminal Law was consolidated, the 2014 Law brought into force, some assumptions were made in several cases considered as miscarriage of justice as the Court felt were not offences of the Law. There were issues with International obligations regarding extradition.

The review now updates provisions including: hate crimes, sexual offences, female genital mutilation, police codes of practice, sentencing systems, develop a penalty notice system, reviewed UK enactments and looked at taxi driving – a long standing issue (recommendation 12). Noted that hate crimes are potentially controversial, based on UK Law Commission Report, don't have to be constrained by some of the concerns in England and Wales – for Transgender Identity have looked at the provisions in Scotland.

MLA Roberts confirmed Members had received a lengthy briefing session with the Attorney General and Crown Counsel Prosecution, including further information. MLA Roberts commented on the inclusion of many positive aspects within the Bill and was pleased to see an increase of recognition of positions of Trust, specifically the reform on hate crimes / offences and protected characteristics as we are being progressive by including disabilities and transgender.

MLA Roberts was concerned why sex and gender was not considered more broadly, is content with lengthy discussions had and material provided, thinks the proposals are a good way forward. MLA Roberts recognised the huge piece of work and it is very progressive.

MLA Roberts queried the ExCo Paper at 7.2 -under human rights and equalities implications it says there are none, there needs to be recognition as this does deal with a lot of equalities and human rights issues. The Attorney General advised tried to avoid duplications as it was part of the body of the report. MLA Roberts requested a sentence within the ExCo report to reflect that.

MLA Roberts queried publicity for this Bill to recognise the changes. The Attorney General advised local media are very interested in the issues and he would speak with the Crown Counsel Prosecution regarding publicity with the media.

HE The Governor noted the Falklands continues to position itself as one of the most socially progressive of all the Overseas Territories, would like to capture via engagement at C24 or through the Foreign Office or the Secretary of State. HE The Governor asked to be involved, requested the Attorney General speak with Government House, Gilbert House Political Support Officer and Members as it is worth celebrating.

The Attorney General stated the work between 2014 and 2017 ensured we were up to date and noted the importance to continue this by means of the recent criminal justice review which is supported by Members.

MLA Roberts confirmed her support for the recommendations.

MLA Pollard agrees the work is incredibly progressive and approves the recommendation. MLA Pollard noted the demographics regarding hate

crimes, is content that after full discussion and where we have arrived is entirely appropriate. MLA Pollard queried re taxi drivers, the person with the sexual offence who drives the taxi is the one liable for prosecution and not the employer, the Attorney General confirmed that.

MLA Ford echoed the comments he found the briefing very useful.

MLA Roberts referred to a question from Pre-ExCo, within the Executive Summary 3 (j) “reviewing the Road Vehicles (Construction and Use) (Amendment) (No.2) Regulations 2022 (England and Wales)” – queries was this just regarding the use of mobile devices and not for construction. The Attorney General confirmed there is legislation in place for testing if required, this particular issue sits within the “construction and use” provisions.

Executive Council:

- (a) Approved each of the detailed policy recommendations set out in the paper;
- (b) Approved the following draft legislation annexed to this paper:
  - (i) Criminal Laws Amendment Bill 2024;
  - (ii) Road Traffic (Mobile Devices) Regulations 2024;
- (c) Agreed the recommendation in relation to public consultation in section 6 of this paper (that there will be no specific public consultation);
- (d) Agreed the Criminal Laws Amendment Bill 2024 be remitted to the Legislative Assembly and published in the Gazette for the First Reading; and the Road Traffic (Mobile Devices) Regulations 2024 are made and published in the Gazette;
- (e) Authorised the Attorney General to correct any typographical errors and make non-substantive drafting changes in the legislation prior to it being made.

**ACTION: AG  
PUBLIC**

REF: LND 17/14      12      **Application for a Licence to Purchase Existing Property in Stanley - 47-24 AG**

The purpose of this report was to enable Executive Council to consider an application for a licence to hold land.

**REDACTED**

**ACTION: AG  
NOT PUBLIC**

REF: LND 17/14      13      **Application to lease / purchase Crown Land and Associated Application for Licence to Hold Land - 49-24 AG**

The purpose of this report was to enable Executive Council to consider an application for lease/purchase of Crown land.

**REDACTED.**

**ACTION: AG  
NOT PUBLIC**

REF: LND 17/14      14      **Application for a Licence to Hold Land - 52-24 AG**

The purpose of this report was to enable Executive Council to consider an application for a licence to hold land.

**REDACTED**

**ACTION: AG  
NOT PUBLIC**

REF: TEL 1/1      15      **Communications Project – Letter of Intent (Peraton) - 56-24 AG**

The purpose of the report was to enable Executive Council to consider the Southern View project proposed by Peraton and finalise a letter of intent.

**REDACTED**

**ACTION: AG  
NOT PUBLIC**

REF: FIS 44/1      16      **Procurement exercise to secure the provision of a fisheries research vessel service - 58/24 DNR**

The purpose of the report was to enable Executive Council to consider the tender for a fisheries research vessel service.

The Chief Executive advised this is to access the research vessel platform to enable the sustainable management of our fisheries, in order can carry out stock assessments which are vitally important. This report is seeking approval to tender for the next service, it has been more expensive to provide than previous budgeted, so there is a request for an increase in resources based on estimated costs. We have

an obligation to set catch entitlement on annual basis –this work is fundamental.

**REDACTED**

**ACTION: DNR  
NOT PUBLIC**

17

**ANY OTHER BUSINESS**

**REF: FCO 31/4**

17.1 **British Ambassador update**

**REDACTED**

**REF: EXCO 3/1**

17.2 **Date of Next Meeting**

Tuesday 23 April 2024, 10.00am