



BERMUDA

ST. GEORGE'S CLUB ACT 2020

2020 : 50

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WHEREAS the Developer, Hotelco Bermuda SGC Ltd., intends to refurbish, operate and manage the hotel and timesharing scheme on Government land in the Parish of St. George's;

AND WHEREAS the Government of Bermuda seeks to enter into an agreement with the Developer in respect thereof;

AND WHEREAS it is expedient, in a special Act of the Legislature, to provide for the leasing of the land to the Developer and related matters;

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Be it enacted by The Queen'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:

Citation

1 This Act may be cited as the St. George's Club Act 2020.

Interpretation

2 (1) In this Act, unless the context otherwise requires—

“Club” means the timesharing scheme operating at the Property pursuant to the Timesharing (Licensing and Control) Act 1981;

“contract” means a contract entered into under the Timesharing (Licensing and Control) Act 1981 entitling the purchaser (as defined in section 2 of that Act) to occupy and use the facilities of the Club;

“Developer” means Hotelco Bermuda SGC Ltd., a local company incorporated under the laws of Bermuda on 5 February 2020;

“Facilities” means the restaurant, tennis courts, fitness centre, spa, staff housing and all other infrastructure and recreational facilities on the Property;

“Hotel” means the hotel, Club and Facilities on the Property;

“the lease” means the lease entered into by the Minister and the Developer under section 3;

“Minister” means the Minister responsible for public lands;

“Property” means those lots of land in the Parish of St. George's having a total area of approximately 5.0196 hectares shown outlined in red as the “Main Area” and the “Restaurant Area” in the Property plan in Schedule 1 (Drawing No. 5510/046/603 dated June 2020), the boundaries of which are more accurately shown on the definitive boundary plans listed in Schedule 3, which plans shall be available for inspection during office hours at the office of the Senior Land Surveyor with the Department of Public Lands and Buildings;

“reverse osmosis plant area” means the lot of land having an area of approximately 0.0934 hectares, shown in green as the “BDA Gov. RO Plant Exclusion” in Schedule 1 (Drawing No. 5510/046/603 dated June 2020);

“timesharing interval” has the meaning given in section 2 of the Timesharing (Licensing and Control) Act 1981;

“timeshare owner” means the owner of a timesharing interval of the Club;

“timesharing scheme” has the meaning given in section 2 of the Timesharing (Licensing and Control) Act 1981;

“Works” means the refurbishment works intending to be undertaken by or on behalf of the Developer to the buildings and structures on the Property.

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(2) For the avoidance of doubt, the reverse osmosis plant area is not included in the Property.

Minister may convey and lease Property to Developer

3 (1) Notwithstanding section 8 of the Public Lands Act 1984, section 120 of the Companies Act 1981, or any other Act, the Minister may, for such consideration as the Government may determine—

- (a) subject to subsection (2), lease the Property to the Developer for a term not exceeding 262 years;
- (b) grant to the Developer such other easements over Government land as the Minister may think necessary or convenient—
 - (i) so that access may be had by persons, animals or vehicles to the Property; and
 - (ii) for the provision of utilities and infrastructure to the Property;
- (c) in order to facilitate the Works, by agreement with the Developer and with the prior approval of Cabinet, vary any term (other than the term of years) of the lease granted pursuant to paragraph (a); and
- (d) in the event of early termination (as a result of default by the Developer or its successor in title) of the lease granted pursuant to paragraph (a), grant a lease of a part of the Property to any person who under a sublease (“the former sublease”), immediately before such termination, was the sublessee of that part of the Property—
 - (i) for a term of years equivalent to the then unexpired term granted by the former sublease;
 - (ii) on similar terms to the former sublease but, if the premium in respect of the former sublease has been duly paid, without payment of a premium or fine.

(2) There shall be reserved to the Government such parts of, and rights and interests over, the Property as the Minister thinks necessary or expedient for the development and maintenance of the infrastructure shown in the infrastructure plan in Schedule 2 (Drawing No. 5510/046/603a dated June 2020), which plan shall be available for inspection during office hours at the office of the Senior Land Surveyor with the Department of Public Lands and Buildings.

(3) The lease shall be subject to the following rights of access—

- (a) the public shall have, free of charge, access to any beach and foreshore on the Property (save for any hotel facilities or amenities the use of which may be reserved for hotel guests and timeshare owners only) provided that the Developer or any operator of the Hotel may, with the agreement of the Minister (acting reasonably), and subject to giving reasonable prior notice to the public, limit access at specified times and to specified areas of the beach and foreshore for the purposes of special events or for the

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maintenance or improvement of or repairs to any part of the beach or foreshore or any structures or equipment thereon; and

(b) public utility providers shall have reasonable access to the Property in order to maintain installations and equipment on the Property.

(4) The lease shall be subject to the rights of the timeshare owners to occupy and use the Club in accordance with their contract or contracts.

(5) The Developer shall observe and perform the obligations of the developing owner (as defined in section 2 of the Timesharing (Licensing and Control) Act 1981) contained in the contract or contracts with each of the timeshare owners, and the Developer shall be entitled to enforce the obligations of the timeshare owners contained in such contract or contracts.

(6) Subsections (3)(b), (3)(c), (4) and (5) of section 4AA of the Companies Act 1981 (which allow the Minister responsible for administering the Companies Act 1981 to modify or revoke consent relating to corporate land holding) shall not apply in relation to any land holding by the Developer, or any successor in title of the Developer, under and in accordance with this Act.

(7) In subsection (6), "successor in title" means a company (including a local LLC as defined in section 2 of the Limited Liability Company Act 2016) that—

(a) has acquired an interest in a lease of land which is a part of the Property; and

(b) has been granted consent under section 4A of the Companies Act 1981 to acquire or hold that land.

(8) In relation to the acquisition or holding of any "hotel residence" or "tourist accommodation" (as those expressions are defined in section 72(1) of the Bermuda Immigration and Protection Act 1956) that are part of the Property, each of the following provisions of law—

(a) section 120(5) of the Companies Act 1981;

(b) section 129(1)(aa) of the Companies Act 1981;

(c) section 20(5) of the Limited Liability Company Act 2016,

shall apply with the modification that, in each case, "131 years" shall be read as "262 years".

Hotel licence

4 Without prejudice to the obligations on the part of the Developer hereunder, with effect from the date of grant of the lease, the Hotel shall be subject to the licensing requirements of the Hotels (Licensing and Control) Act 1969, and the licensing requirements of the Timesharing (Licensing and Control) Act 1981 shall not apply.

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Protection of World Heritage Site (Historic Town of St. George and Related Fortifications)

5 The development of the Property shall be compatible with the UNESCO World Heritage Site status of the Historic Town of St. George and Related Fortifications.

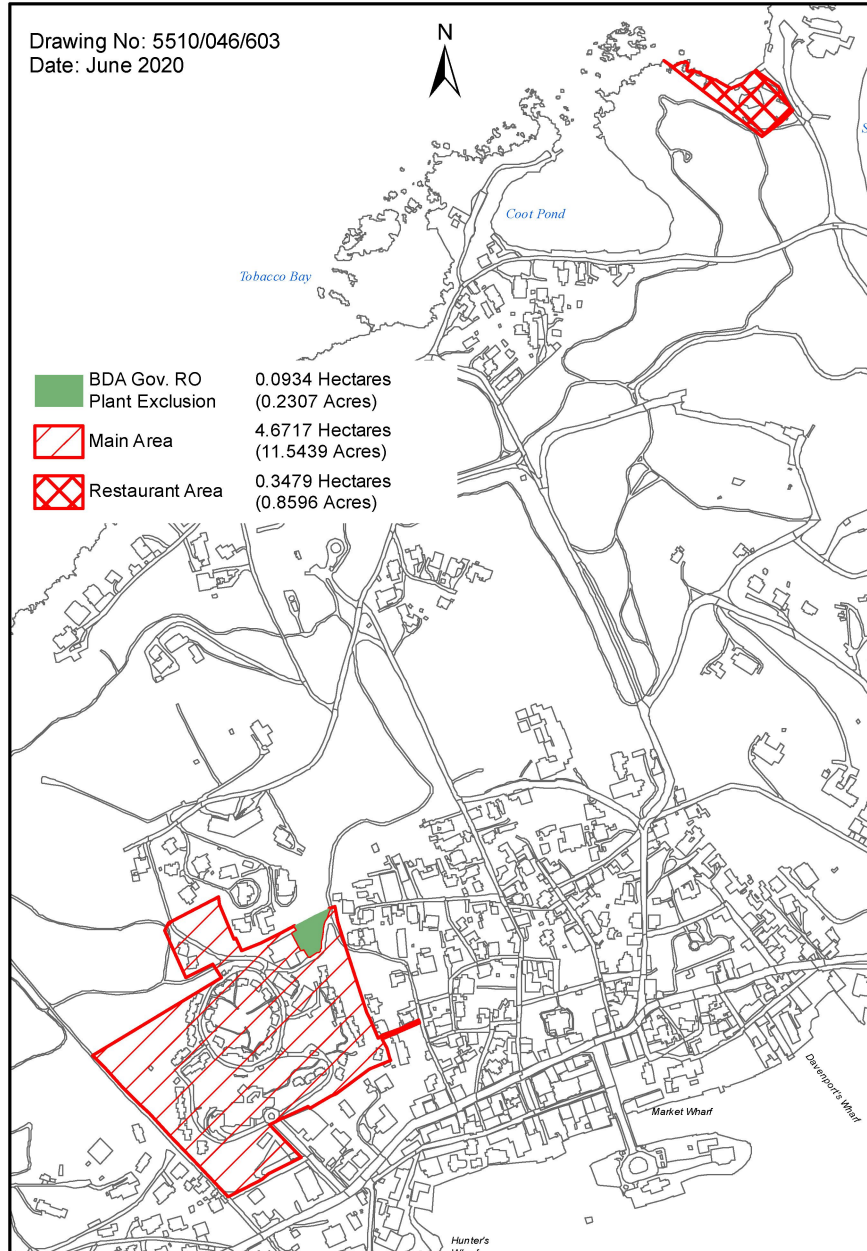
Commencement

6 This Act shall come into operation on such day as the Minister may by Notice in the Gazette appoint.

SCHEDULE 1

(section 2(1))

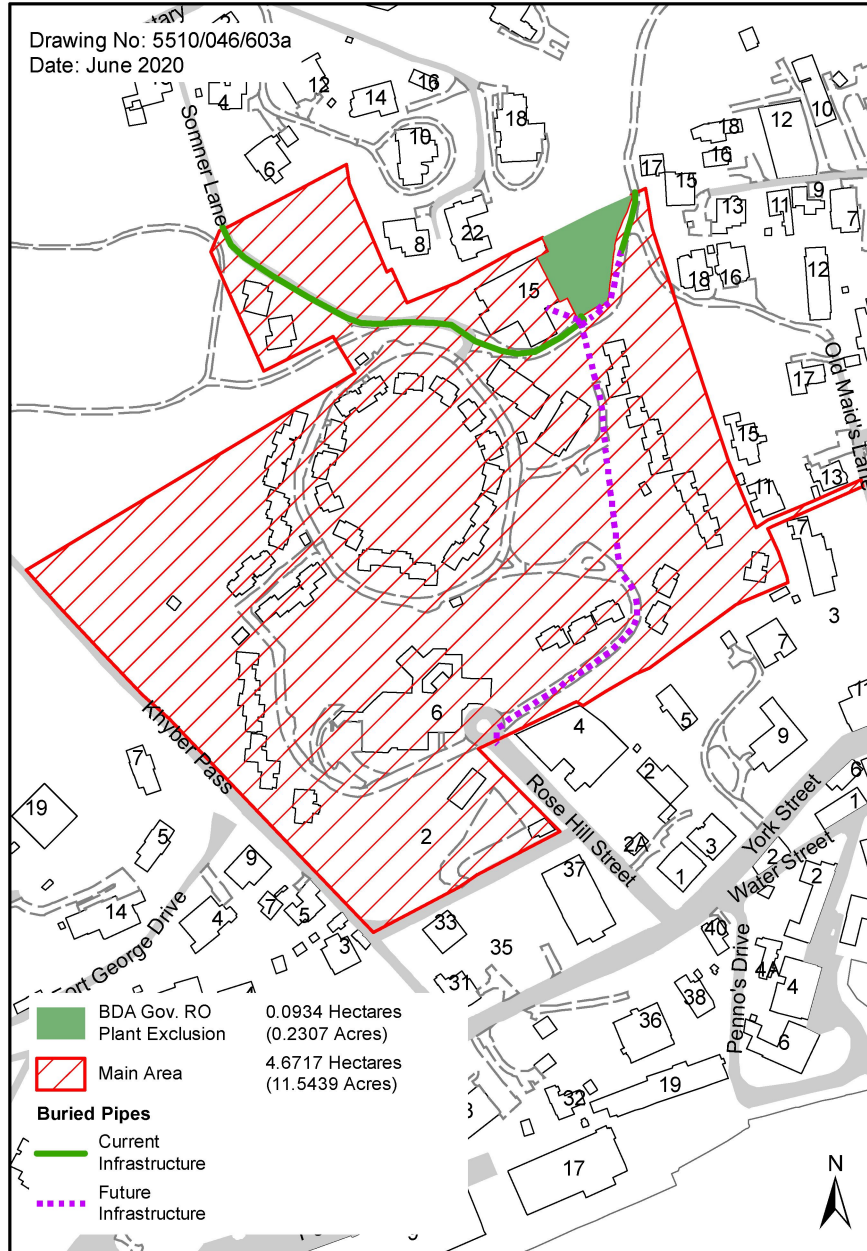
PROPERTY PLAN



SCHEDULE 2

(section 3(2))

INFRASTRUCTURE PLAN



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SCHEDULE 3

(section 2(1))

DEFINITIVE BOUNDARY PLANS OF THE PROPERTY

No. 5642/007/05 rev. B amended 16/07/2020	Main Area
No. 5642/007/06 rev. A amended 24/12/2019	Restaurant Area

[Assent Date: 11 December 2020]

[Operative Date: 15 January 2021]