

National Conservation Council

General Meeting

(GAB 2024, 21 July 2021, 2pm)



Minutes (Draft)

1. Call to Order
 - a. Attendees, Apologies, Quorum
 - i. A quorum being present the Chair welcomed everyone at 2:04pm.
 - ii. Attendees are listed in Appendix 1.
 - iii. Apologies were noted, including member Jessica Harvey who was travelling but submitted her comments for the reference of her fellow Council members (Appendix 2).
 - iv. No interests were declared.
 - v. The Chair noted that each member's register of interests was now due with the Standards in Public Life Commission.
 - vi. The chair noted that this was Council's first General Meeting of the year, due to logistical limitations beyond Council's control. And that members should speak loudly so that persons observing the meeting from the audience could hear.
2. Confirmation of Minutes of 19 August 2020 (WP-01)
 - a. Minutes were previously circulated for comment by members.
 - b. It was noted that item 4c on page 3, Climate Change Committee, should reflect that there was a brief report by the Committee Chair of her activity on the Strategic Economic Advisory Council's Tourism and Hospitality Committee and the R3 Recovery Committee to ensure Council recommendations on sustainability and climate change are incorporated into those committees.
 - c. A motion to accept the minutes, with the above amendment, was moved by Patricia Bradley, seconded by Lisa Hurlston-McKenzie and passed unanimously.
3. Updates From Previous Meetings
 - a. The Council noted that the Marine Parks Enhancement has been completed ([National Conservation \(Marine Parks\) Regulations, 2021](#)). A new brochure has been issued and a new App is available off of the Apple and Android App stores reflecting the enhanced marine parks.
 - b. Council noted that the previously approved changes to the gamebird seasons has been completed - [National Conservation \(General\) \(Amendment\) Regulations, 2021](#).
4. Ratification of Decisions
 - a. Council noted that it had had to review and decide a number of items by correspondence since its last general meeting, pending ratification of those decisions at the next convenient General Meeting. DoE provided a short recap to each item for Council's consideration for ratification.

- b. In common to many of the items it was noted that EIAs just assist decision making. Not recommending an EIA does not mean the proposal is not significant, just that an EIA is not needed.
- c. Hotel Indigo (WP-02a)
 - i. Council noted the information available, especially the DoE screening opinion.
 - ii. Council considered ratifying its decision that no EIA was required for this proposed project.
 - iii. The motion was moved by Gina Ebanks-Petrie and seconded by Lisa Hurlston-McKenzie. It passed with 6 votes for and one abstention (Gina Ebanks-Petrie); the Chair did not vote.
- d. Cayman Sands (Two/Three-Storey Two Bedroom House) (WP-02b)
 - i. Council noted the information available, especially the DoE memo to Planning, issued under the Director of the Department of Environment's delegated authority.
 - ii. Council noted the proposal and problems with the proposed development and that as there was no EIA opinion to decide on no ratification was needed. Council therefore noted the Director's delegated decision.
 - iii. Council noted that direction had been issued to not approve the proposal. The CPA did not approve the proposal, though not on the basis of this direction.
- e. Cayman Sands (Proposed seawall modification, demolition of existing cabana and construction of replacement cabana) (WP-02c)
 - i. Cayman Property Investments Ltd, parcel 5B 162.
 - ii. Council noted the information available, especially the DoE memo to Planning, issued under DoE's delegated authority. Council further recalled its considerations at its preparatory working group session of 23 June 2021. Council reviewed and discussed the merits of the application.
 - iii. Council also noted the advice received from the Attorney General's Chambers on 1 July 2021 in respect of the Director of the Department of Environment's delegated powers under s41 of the NCA. That advice stated that "In the instant matter, the consultation of the Director with the Council is inconsistent with the powers/functions having been delegated to the Director. Instead, the Director may report regularly (monthly) to the Council on the exercise of such delegated powers/functions. A delegate exercises a power on his or her own behalf (as opposed to on the delegator's behalf). Thus, the Director exercises the powers/functions on her behalf (as the decision-maker), once she has been delegated such powers/functions by the Council. A power should only be delegated to someone whom the delegator believes is competent to make the relevant decision. The instrument of delegation may also be amended or revoked at any time by the delegator. The periodic reporting by the Director on the exercise of her delegated powers/functions will enable the Council to review the instrument of delegation regularly, as required in best practice."
 - iv. In line with this advice Council decided not to ratify its 23 June 2021 decision to authorise the DoE Director's directions under section 41 in regards to this matter. Instead, Council chose to note the information available, especially the DoE memo to Planning, as the memo was duly issued under the Director's delegated authority and no ratification of that decision was necessary.
- f. Del Mare Breakwater (WP-02d)
 - i. Council noted the information available, especially the DoE screening opinion. Council further noted the special considerations of this project as a potential trial site, including

- coastal engineering undertaken, previous works at the site, and the nature of the coastline reducing the precedent of the work proposed.
- ii. Council considered ratifying its decision that no EIA was required for this proposed project.
 - iii. The motion was moved by Patricia Bradley, seconded by Stuart mailer and passed with 6 votes in favour, none against and one abstention (Gina Ebanks-Petrie); the Chair did not vote.
- g. Dart Canal Village PAD (WP-02e)
- i. Council noted the information available, especially the DoE screening opinion.
 - ii. Council considered ratifying its decision that an EIA was required for this proposed project.
 - iii. The motion was moved by Stuart Mailer, seconded by Patricia Bradley, and passed with 6 votes in favour, none against and one abstention (Gina Ebanks-Petrie); the Chair did not vote.
- h. Aster PAD (WP-02f)
- i. Council noted the information available, especially the DoE screening opinion.
 - ii. It was noted that the CPA decision regarding this proposal had been made. The uptake by the CPA of any of the recommended plans and assessments was unknown. The Department of Environment was not aware of the needs assessment being conducted, had no information regarding the other recommended assessments, and no mangrove mitigation or compensation had been communicated to the DoE.
 - iii. Council considered ratifying its decision that an EIA was not required for this proposed project.
 - iv. The motion was moved by Adrian Estwick, seconded by Lisa Hurlston-McKenzie, and passed with 6 votes in favour, none against and one abstention (Gina Ebanks-Petrie); the Chair did not vote.
- i. Trio Hotel (WP-02g)
- i. Council noted the information available, especially the DoE screening opinion.
 - ii. It was noted that the CPA decision regarding this proposal had been made. The uptake by the CPA of any of the recommended plans and assessments was unknown.
 - iii. Council considered ratifying its decision that an EIA was not required for this proposed project.
 - iv. The motion was moved by Stuart Mailer, seconded by Patricia Bradley, and passed with 6 votes in favour, none against and one abstention (Gina Ebanks-Petrie); the Chair did not vote.
- j. Swift's Breakwater (WP-02h)
- i. Council noted the information available, especially the DoE screening opinion, and that approval was not recommended.
 - ii. There is a backlog of coastal works applications currently being processed by the Ministry and which DoE are reviewing on delegated authority of the Council as a matter of course.
 - iii. Council considered ratifying its decision that an EIA was not required for this proposed project.
 - iv. The motion was moved by Annick Jackman, seconded by Stuart Mailer, and passed with 6 votes in favour, none against and one abstention (Gina Ebanks-Petrie); the Chair did not vote.
- k. Health City Camana Bay (WP-02i)

- i. Council noted the information available, especially the DoE screening opinion. It was particularly noted that additional project information was recommended to be obtained prior to the determination on the project being made by the originating authority, but that no additional information was needed to decide on the need for an EIA.
 - ii. Council considered ratifying its decision that an EIA was not required for this proposed project.
 - iii. The motion was moved by Lisa Hurlston, seconded by Stuart Mailer, and passed with 6 votes in favour, none against and one abstention (Gina Ebanks-Petrie); the Chair did not vote.
 - l. s41 Delegation (WP-03)
 - i. Council noted the considerations in the preliminary section of the motion, and that legal advice had been received regarding the delegation.
 - ii. Council considered the draft motion to delegate, as published in the Agenda.
 - iii. The motion was moved by McFarlane Conolly, seconded by Lisa Hurlston-McKenzie, and passed with 6 votes in favour, none against and one abstention (Gina Ebanks-Petrie, as the delegation was to her in her capacity as Director of the Department of Environment); the Chair did not vote.
 - m. Turtle Beach CCTV (WP-04)
 - i. Council noted the considerations in the preliminary section of the motion. Council further noted the nature of the beach as critical turtle nesting habitat, subject to poaching, somewhat remote, and requiring intensive enforcement presence for the protection of the nesting turtles.
 - ii. Council considered the motion to direct Environmental Protection Funds to the project, as published in the Agenda.
 - iii. The motion was moved by Timothy Austin, seconded by Patricia Bradley, and passed with 6 votes in favour, none against and one abstention (Gina Ebanks-Petrie); the Chair did not vote.
5. New Matters
- a. Annual Report 2020 (WP-05)
 - i. Council noted and considered the provisional report previously submitted to the Minister of Environment in keeping with the requirements of the National Conservation Act, 2013.
 - ii. DoE reported that the Council's 2018 and 2019 annual reports have now been tabled and the Premier expressed his thanks to DoE and the Council for the hard work and commitment they showed in those years (Appendix 3).
 - iii. Council noted the recent poaching interdiction by DoE in the Frank Sound marine reserve of a significant number of conch, and other marine life and including the use of a spear gun.
 - iv. Council noted that no species conservation plan work had been included in the report and queried the status of the *Aegiphilia caymanensis* conservation plan in regards to its inclusion in the Report. DoE noted it was still outstanding for Council decision this year and that the interim *Aegiphilia caymanensis* directive was not on the Council website as it only affects the landowners who were directly negotiated with.
 - v. DoE noted that Cabinet has requested the Sybil's Crownbeard plan go to a Brac public information meeting before being considered by Cabinet.

- vi. Council requested the Report be updated to reflect *Aegiphila caymanensis* (and other species conservation plan) work. Council members will continue to review the Report further for other items to be added, removed or improved.
6. Next Meeting
- a. Council considered and approved the following general meetings for 2021:
 - i. 6 October, Govt. Administration Building Rm 2024, 2pm
 - ii. 24 November, Govt. Administration Building Rm 2024, 2pm
7. Any Other Business
- a. No other business was raised.
8. Adjournment
- a. There being no other business the meeting was adjourned at 3:12pm

9. Appendix 1: Attendance

Council Member	21 July 2021	Representation
McFarlane Conolly	Present	Chairperson; East End
Jessica Harvey	Apologies	George Town; Marine & Terrestrial Affairs
Lisa Hurlston-McKenzie	Present	West Bay; Sustainable Development & Climate Change
Edward Chisholm	Absent	North Side
Pierre M. Foster	Absent	Bodden Town
Harrison A. Bothwell	Absent	Sister Islands
Annick Jackman	Present	National Trust for the Cayman Islands (Executive Director)
Patricia Bradley	Present	Avifauna & Biodiversity
Stuart Mailer	Present	Sustainable Development
Adrian Estwick	Present	Director of Agriculture
Haroon Pandohie	Apologies	Director of Planning
Marco Whittaker	Apologies	Planning Officer, representing the Director of Planning
Gina Ebanks-Petrie	Present	Director of Environment
Timothy Austin	Present	DoE Deputy, Research
John Bothwell	Present	Secretary

10. Appendix 2: Submission by Jessica Harvey, Member, National Conservation Council

From: Jessica Harvey
Sent: Wednesday, July 21, 2021 12:49
To: Bothwell, John <John.Bothwell@gov.ky>
Subject: [EXTERNAL] RE: NCC general comments

Dear Council Members,

My sincere apologies for not being able to attend in person or via zoom due to being in transit between airports.

As the George Town Representative Council Member, I would like to make my vote known on the following decisions and ratifications due to take place in today's General Meeting even though it will not be counted as an official vote due to my absence:

- a. Hotel Indigo – supports the Council's decision that though an EIA is not needed for this proposal, that the CPA include the conditions as outlined by the Department of Environment in order to prevent disruption to turtles protected under the NCL and also that a needs assessment for a development of this type to be carried out and analysed before granting approval.

- b. Cayman Sands (February 2021) – supports the Council’s decision to respectfully direct refusal of this application for the reasons outlined in the document.
- c. Cayman Sands (June 2021) - supports the Council’s decision to respectfully direct refusal of this application for the reasons outlined in the document.
- d. Del Mare Breakwater – support that an EIA is not needed for this proposal.
- e. Dart Canal Village PAD – support that an EIA is needed in order to move forward with the development proposal.
- f. Aster PAD – support that an EIA was not needed for this proposal.
- g. Trio Hotel – support that an EIA was not needed for this proposal and that the variety of other impacts and implications of the proposed development should be assessed in the planning application review as outlined in the document presented at today’s meeting.
- h. Swift’s Breakwater – supports the Council’s decision that an EIA is not required for this proposal.
- i. Health City Camana Bay - support the Council’s decision that an EIA is not required for this proposal with the information presented. May I suggest sections 2b) and c) be clarified before making a formal decision to help the public understand what the intent of those sections are?
- j. s41 Delegation – Support the resolution as outlined from A-H .
- k. WP-04 Turtle Beach CCTV – Fully support to decision to transfer of up to \$7,000 from the EPF funds allocated to Turtle Friendly Lighting retrofits to funding the security camera at Sand Hole Road to prevent turtle poaching.

Good luck with today’s meeting and hope it goes smoothly.

Kind regards,
Jess

Jessica C. Harvey

Project Manager (Cayman) | Guy Harvey Ocean Foundation

Website: www.ghof.org

Youtube: <https://www.youtube.com/c/guyharvey>

11. Appendix 3: Thanks of Premier to Council upon tabling 2018 & 2019 Annual Reports

From: Ahearn, Jennifer

Sent: Thursday, July 15, 2021 6:16 PM

To: Ebanks-Petrie, Gina; Bothwell, John

Cc: Jacob, Troy; Bodden, Andrea

Subject: FYI - NCC Annual Reports 2018 and 2019 were tabled today

Good evening Gina and John

Hope you're both well.

Just a quick email to let you know that the Premier tabled the NCC's Annual Reports for 2018 and 2019 in Parliament today, so they are now "officially" public documents.

Despite the fact that these were reports from the previous administration, when he tabled the reports the Premier spoke to them in some detail as he thought it was important to highlight some of the great work that has been done. When he tabled them he also expressed his thanks to the team at DoE and the members of the NCC for all of the hard work and commitment – I'd be grateful if you could pass his thanks on to your team and the NCC members.

Have a great evening!

Jennifer

Jennifer M. Ahearn, AICP

Chief Officer

Ministry of Sustainability & Climate Resiliency

Cayman Islands Government