National Conservation Council

Minutes of the General Meeting held at the Main (ground floor) Conference Room, Government Administration Building, Elgin Avenue, George Town, Grand Cayman
24 November 2015, 2pm.

MINUTES

1. Call to Order

   Notice having been duly given the meeting was called to order at 2:08pm. A quorum was present (see Attendance Appendix, below) and no interests were declared.

2. Confirmation of Minutes

   There being no amendments raised approval of the minutes of the meeting held on 23 September 2015 was moved by Christine Rose-Smyth, seconded by Fred Burton and passed unanimously.

3. Matters Arising from the Minutes.

   a. Publication of Section 16 nomination form. The secretary advised that the publication in the Gazette was expected to appear within the next two weeks. It was also already available on the website.

   b. Annual Report. The Chair confirmed that the Annual Report had been delivered to the Ministry on 30 September and was in process of being forwarded to Cabinet for laying in the Legislative Assembly. The Annual Report would be available on the DoE website.

   c. Council Remuneration. The continued delay in obtaining the Cabinet approval of non-governmental members allowances provided for by paragraph 9 of Schedule2 of the Conservation Law was noted. It was reported that the Ministry was preparing the required caucus and Cabinet papers on the basis of the customary per meeting rate of CI$100 per member and CI$200 for the Chair.

   d. Legal Advisor. It was noted that Ms Boorasingh-Simpson, who had been assigned to the Council by the Attorney General's Chambers, had left that department and a replacement would be required. The Council thanked Ms Boorasingh-Simpson for the assistance she had provided.

   e. Marine Protected Areas. It was reported that the public consultation district meetings conducted by DoE on behalf of the Council had been completed with meetings in Cayman Brac and Little Cayman on the 5th and 6th November. The meetings had been well attended by the public. Council members Wallace Platts, Davy Ebanks and McFarlane Conolly attended the meetings Cayman Brac, West Bay and North Side respectively; the Chair attended all the meetings as did the Minister, with one exception. It was noted that the closing date for representations was 4th December, following which all feedback received would be analysed. DoE noted that it had met with members of the Angling Club and encouraged any other groups or individuals to contact them before close of the consultations.

f. Cruise Berthing Facility (WP01)

The Chair introduced the background of the paper (Appendix A) which proposed to ratify the issue of commentaries in relation to the proposed Cruise Berthing Facility and invited the recommendations be proposed as motions for debate. The motions were proposed by Patricia Bradley and seconded by Davy Ebanks.

It was noted that for the avoidance of any conflict with their duties as civil servants, the government members had not participated in the drafting of the statements nor the approval to distribute them to the media on 18 November. The government department members of the Council each indicated that they would not be voting on the motions. The Department of Planning representative requested that it be noted that that Department had not taken any part in the preparation of the commentaries and did not support their publication. The Department of Environment members also noted their abstention from approval of the issue of the commentaries. Davy Ebanks requested that the minutes reflect that the governmental members had been recused from the drafting and approval of the commentaries.

It was resolved:

(i) That the Cruise Berthing Facility Commentary - Observations and Comments on the Scientific basis and Results of a second Benthic Habitat Characterisation Survey conducted by CSA Ocean Sciences Inc. dated ~~26 August~~ 2 October[1] 2015 be ratified and confirmed.

(ii) That the Cruise Berthing Facility Commentary - Credibility and Conflict of Interest in the Cruise Berthing Environmental Assessment Process. Part 1 – Adherence to IFC Performance Standards, dated 18 November 2015 be ratified and confirmed.

(iii) That the Cruise Berthing Facility Commentary - Credibility and Conflict of Interest in the Cruise Berthing Environmental Assessment Process. Part 2 – Good Governance of Government driven Infrastructure Projects dated 18 November 2015 be ratified and confirmed.

Further discussion of the editorial which appeared in the Cayman Compass on 24 November ensued. Mr Ebanks considered the editorial to be a personal affront having given 14 years on the Marine Conservation Board and more than a year on the Council for love of country. It was noted that it was a valid function of the Council to participate in the scrutiny of the project and that a public information outreach effort was needed. Fred Burton deprecated the factual errors contained in the editorial, that the Annual Report addressed those inaccuracies, and that the accusation that Council, by pointing out international standards for best practices, could be endangering constitutional separation of powers or engendering inter-Cabinet conflict, was an unfounded allegation.

[1] Amendment in course of preparation of minutes of typographical error in the date of the document as presented in WP01.

On motion duly made by Patricia Bradley and seconded by Christina Pineda it was resolved that a letter be sent to the Compass editorial board correcting the several factual errors in its editorial.

On motion duly made by Lisa Hurlston-McKenzie and seconded by Christine Rose-Smyth it was resolved that a public outreach campaign "Know Your Law" be commenced to create greater awareness of the content of the legislation.

On motion duly made by Christina Pineda and seconded by Davy Ebanks it was resolved that a press release be prepared notifying the media of the availability of the Annual Report.

4. Committees
   a. Invasive Species Committee. It was reported that the Committee had met on 16 October, had considered the latest survey results obtained by DoE and had delegated to DoE the drafting of a Test Cull Action Plan for review and anticipated implementation in the first quarter of 2016.
   b. Section 35 Imports Committee. It was reported that the draft memorandum of understanding among the NCC and the reviewing agencies would be the focus of meeting to be held on 26 November.
   c. Climate Change Committee (WP02)

Climate Change Memorandum

The Chair introduced the background of the paper (Appendix B) Climate Change Policy Development Memorandum which proposed to guide development of the Council's policy towards energy and climate change and invited the recommendations be proposed as motions for debate. Lisa Hurlston-McKenzie requested that the background record that the paper had been prepared not only by the Climate Change Committee but also with input from other members of Council. The motions were proposed by Gina Ebanks-Petrie and seconded by Fred Burton.

On behalf of the Committee Lisa Hurlston-McKenzie explained that the memorandum included post-Kyoto proposals in the hope that the Paris meeting will result in an agreement to cover all countries. Therefore the memorandum challenges the country to take seriously our obligations. The Calls to Action to government to review, amend and update the National Energy Policy and Climate Change Policy were simple first steps and a Climate Change Addendum to the Environment Charter between the Cayman Islands and the UK was being recommended as the best way forward given that it is an existing bilateral instrument. The fourth option for action was not being proposed for immediate adoption as it proposed the most public participation and should be considered a proposal for development initially.

The Committee was thanked for their hard work on the memorandum. Wallace Platts expressed the expectation that the outcome of the Paris meeting would affect the Cayman Islands and that Cayman had the opportunity to be a leader in the region.

It was resolved:

(i) That the background paper, National Conservation Council Policy Development Memorandum, be received by the Council as guidance for development of the Council's policy towards energy and climate change and for actions to be recommended by the

Council to the Government of the Cayman Islands towards national goals for energy and climate change and towards meeting commitments under the Second Commitment Period (2013-2020) of the Kyoto Protocol.

(i) That the proposed recommendations to the Council for the advancement of the country's energy and climate change policies formulated as Approaches/Calls to Action 1 and 2 be adopted as Council policy immediately.

(ii) That the recommendation for negotiation of a Climate Addendum to the 2001 Environment Charter between the Cayman Islands and UK Governments set out in Approach 3 be adopted as Council policy immediately and that a letter be addressed forthwith to the relevant Ministers proposing such addendum negotiation be raised at the upcoming Joint Ministerial Council Meeting in London.

5. New Matters
    a. Project Future (EY Report Recommendations) – Draft letter re Sale of Non-Operational Land (WP/03)

The Chair introduced the background of the paper (Appendix C) and invited the recommendation be proposed as a motion for debate. The motions was proposed by Lisa Hurlston-McKenzie and seconded by Patricia Bradley.

Davy Ebanks emphasised that the purpose of the request was to ensure that none of the parcels were environmentally sensitive land.

It was resolved: that the draft letter – Project Future: Implementation of the E&Y recommendation to sell surplus Crown property be approved for delivery to the Hon. Premier, Deputy Governor and Minister of Financial Services, Commerce and the Environment.

    b. Presentations Delivered to Council
        i. Conservation Agreements – The Nature Conservancy
        ii. Shark, snapper and grouper Research
        iii. Shark Sanctuary Recognition – Pew Foundation
        iv. Turtle Socioeconomic Survey

DoE reported on the presentations made in the period June to November 18. The Nature Conservancy had hosted a series of workshops for DoE, Council and other stakeholders on the form and functions of conservation agreements that could be utilized under Part 3 of the Conservation Law. The other three presentations were similarly offered to stakeholders and/or given publicity in the media.

The Council thanked the various presenters for their work and time in meeting with the Council.

6. Any Other Business

LPG transhipments. Davy Ebanks enquired as to the potential environmental hazards arising from LPG transfers occurring just outside the 12 mile territorial limit west of George Town. The Port

Authority and PLAHI were identified as parties with possible responsibilities due to the facilities for the transfers being home ported in George Town. It was opined that the fact that the activity is occurring in international waters would not be a focus if an incident did occur.

7. Adjournment

There being no other business, the meeting was adjourned at 15:53.

8. Attendance Appendix

Council Member	24 Nov 2015	Representation
Christine Rose-Smyth	present	Chairperson; Bodden Town, Plants, Terrestrial & Marine Biodiversity
Davy Ebanks	present	West Bay and Marine Conservation
Lisa Hurlston-McKenzie	present	George Town and Sustainable Development & Climate Change
McFarlane Conolly	present	East End and Sustainable Development
		North Side
Wallace Platts	present	Sister Islands and Terrestrial Biodiversity
Christina Pineda	present	National Trust for the Cayman Islands
Patricia Bradley	present	Avifauna & Biodiversity
Fred Burton	present	Terrestrial Biodiversity
Adrian Estwick	absent	Director of Agriculture
Haroon Pandohie	apologies	Director of Planning
Colleen Stoetzel	present	Planning Officer, representing the Director of Planning
Gina Ebanks-Petrie	present	Director of Environment
Timothy Austin	present	DoE Deputy, Research
John Bothwell	present	Secretary

Chair: Christine Rose-Smyth		Date: 13 April 2016
Secretary: John Bothwell		Date: 13 April 2016

Appendix A – WP01
Appendix B – WP02
Appendix C – WP03

THE NATIONAL CONSERVATION COUNCIL

Promoting and securing biological diversity and the sustainable use of natural resources in the Cayman Islands

2 October 2015

PROPOSED CRUISE BERTHING FACILITY

Observations and comments on the scientific basis and results of a second Benthic Habitat Characterisation Survey conducted by CSA Ocean Sciences Inc.

CONCLUSIONS

Despite, unfortunately, utilising different methodologies, this second survey (BHCS) nonetheless confirms the original Environmental Impact Assessment (EIA) results in terms of the area of massive, high-biodiversity reef to be impacted. It also acknowledges that the success of coral relocation on the scale necessary for the reefs in GTH would be a very complex and costly task with limited chance of success, but offers no cost estimates.

Cost information obtained by the Council from the Florida Keys National Marine Sanctuary indicates that relocating 134,000 corals would cost well in excess of US$40 million.

Coral relocation will not achieve "no net loss" of coral in the direct impact zone and will not mitigate indirect impacts outside of the project footprint. No suitable recipient site, if relocation were to be attempted, has been identified and Council remains skeptical that one can be found. Coral translocation is, in fact, not mitigation for the in situ coral but a compensatory measure that should not be considered until mitigation in the form of avoidance or minimisation of the impact in situ has been completely ruled out. Until it can be satisfactorily shown that there is no option, other than a Cruise Berthing Facility in the form and location proposed, then mitigation has not properly been considered.

OBSERVATIONS AND ANALYSIS

- The survey confirms the extent of the higher diversity spur and groove coral reefs within the dredge footprint to be 2.8 ha. The survey estimates, but does not explain, coral cover on the lower diversity hard grounds / patch reefs to be lower than that estimated by the EIA.

- Actual ground-truthing of the EIA survey sites was not conducted and the methodology was significantly less able to accurately assess live coral. The significant differences in estimated biotic cover might be accounted for by the different levels of granularity in the sampling methods used. In the EIA area point counts of 2000 data points per EIA site were sampled, versus line intercept counts of 400 data points per BHCS site. It has been shown that more points are needed to characterise reefs with lower cover and more homogenously distributed colonies. 50 random points per m^2, as used by the EIA (versus 10 linear points per m^2 used in the second survey) are the minimum required to expect a reasonably, statistically, accurate assessment.[1]

  As the survey did not actually ground-truth the same sites as the EIA there may also be random differences between the sites surveyed. It is not possible to assess whether the 10% higher non-biotic result found by the survey on the spur and groove reefs was a result of the orientation of the transects or a real difference in the sites sampled.

- Assuming that only hard and soft coral greater that 10 cm diameter and 25 cm tall are relocated the survey estimates a total of 133,800 organisms to be moved. This compares closely in scale with the 148,000 relocated in the 2009-10 Falmouth port project, which took eight months and 93 persons to complete, but failed. By 2013 the recipient reefs could not be distinguished from the control reefs that had not received any donor coral.[2,3,4]

- Two of the examples cited in the survey give results of reattachment of small numbers of coral at the immediate sites of groundings of small motor vessels (50-60ft) – one coral head and seven fragments in the first case and 400 fragments in the other.[5,6] The third example reports 1,000 cached fragments.[7]

  BHCS size date implies that the majority of corals are small and easily moved. However, the spur and groove formations are massive, biologically-cemented structures and contain large boulder corals (Orbicella species complex), which, if the reefs are truly to be recreated elsewhere, must be moved as whole blocks.

- The contractor submitted credentials for expertise in small scale coral translocations in Florida; however no additional cost information was provided to supplement or inform the estimates provided by the EIS (US$5-35 million based on a range of per square meter costs from the literature).

  The Florida Keys National Marine Sanctuary has provided the Council with the following information on cost of the 2001 M/V Connected restoration (noted above) which involved 20 manufactured cylindrical concrete "crowns" of diameter 0.9 - 1.2 meters diameter, cemented into the reef with rebar reinforcement to which 400 fragments of coral were re-attached: Restoration costs (conducted by a contractor): US$120,000; FKNMS response, assessment and monitoring costs: US$72,632.

  The initial, broad conclusion that can be drawn is that if stabilization of 400 coral fragments at the original damage site cost $120,000, translocating 134,000 corals would cost in excess of $40 million. Other, non-exhaustive, considerations that would affect this calculation upwards would be (a) moving the coral to a remote translocation site, (b) the much larger size of the GTH spur and groove formations would increase the size and cost of manufacturing appropriate concrete anchoring substrates; (c) inflation since 2001; (d) cost of doing business in Cayman, e.g. labour availability/immigration costs for temporary permits, accommodation, boat fuel costs, etc.

- The M/V Connected restoration shows the high relative cost of assessment and monitoring. At Falmouth the monitoring to 2013 alone was calculated to have cost US$12 million.[8]

- Regardless of any execution of a successful coral translocation, as the EIA pointed out, the environmental impact remains at significant –D and the reefs not directly impacted will be subject to lethal and sub-lethal sedimentation and turbidity during the dredging and construction phases.

- Council also notes that the survey did not adhere to the Terms of Reference which required analysis of aerial photography but did not call for side scan sonar characterization of subsurface geology. Nor were the Terms of Reference prepared or reviewed by the EIA Steering Group in accordance with original Cabinet guidance.

This commentary is not intended to endorse any other proposed or alternative cruise berthing facility in GTH or elsewhere.

[1] Pante, E. and P. Dustan (2012) Getting to the Point: Accuracy of Point Count in Monitoring Ecosystem Change. Journal of Marine Biology. http://dx.doi.org/10.1155/2012/802875.

[2] Kenny, I., A. Kramer, P.W. Kelly & T. Burbury (2012) Coral Relocation: A mitigation tool for dredging works in Jamaica. Proceedings of the 12th International Coral Reef Symposium, Cairns, Australia, 9-13 July 2012, 20A Restoration of coral reefs.

[3] JET, Jamaica Environmental Trust (2011) Environmental Regulatory Failure. The National Environmental and Planning Agency (NEPA) and the Cruise Ship Pier at Falmouth, Trelawny, Jamaica. Report.

[4] C.L. Environmental Co. Ltd. (2013) Environmental Status of the Falmouth Cruise Ship Terminal, Trelawny, Jamaica. Final Report to the Port Authority of Jamaica.

[5] Franklin, E.C., J.H. Hudson, and J. Anderson. 2005. M/V *WAVE WALKER*. Coral reef restoration baseline monitoring report – 2004 Florida Keys National Marine Sanctuary, Monroe County, Florida. Marine Sanctuaries Conservation Series NMSP-0608. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Sanctuary Program, Silver Spring, MD. 15 pp.

[6] Schittone, J., E.C. Franklin, J.H. Hudson, and J. Anderson. 2006. M/V CONNECTED Coral Reef Restoration Monitoring Report, Monitoring Events 2004-2005. Florida Keys National Marine Sanctuary Monroe County, Florida. Marine Sanctuaries Conservation Series NMSP-06-10. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Sanctuary Program, Silver Spring, MD. 25 pp.

[7] National Coral Reef Institute. 2004. Hollywood Ocean Outfall Stony Coral Transplantation Monitoring Final Monitoring Event. Draft Report. Nova Southeastern Oceanographic Center, Dania Beach, Florida. 14 pp.

[8] Korbee D., A.P.J. Mol, J.P.M. van Tatenhove (2015) Ecological considerations in constructing marine infrastructure: the Falmouth cruise terminal development, Jamaica. Marine Policy (2015) 56: 23–32.

National Conservation Council

Agenda for the General Meeting to be held at the Main (ground floor) Conference Room, Government Administration Building, Elgin Avenue, George Town, Grand Cayman
24 November 2015, 2pm.

1. Call to Order
   a. Attendees, Apologies, Quorum
   b. Declaration of Interests

2. Confirmation of Minutes of 23 September 2015

3. Matters Arising from the Minutes
   a. Publication of section 16 nomination form
   b. Annual Report
   c. Council Remuneration
   d. Legal Advisor
   e. Marine Protected Areas
   f. Cruise Berthing Facility (WP01)

4. Committees
   a. Invasive Species Committee
   b. Section 35 Imports Committee
   c. Climate Change Committee (WP02)

5. New Matters
   a. Project Future, Sale of Environmentally Sensitive Government Land (WP03)
   b. Presentations Delivered to Council
      i. Conservation Agreements – The Nature Conservancy
      ii. Shark, snapper and grouper Research – MCI (DoE Research Partner)
      iii. Shark Sanctuary Recognition – Pew Foundation
      iv. Turtle Socioeconomic Survey – University Exeter

6. Any Other Business

7. Next Meeting
   a. Wednesday 24th February, 2016, 2pm, Government Administration Building, Grand Cayman

8. Adjournment

9. Attendance Appendix

Council Member	24 November 2015	Representation
Christine Rose-Smyth		Chairperson; Bodden Town, Plants, Terrestrial & Marine Biodiversity
Davy Ebanks		West Bay and Marine Conservation
Lisa Hurlston-McKenzie		George Town and Sustainable Development & Climate Change
McFarlane Conolly		East End and Sustainable Development
		North Side
Wallace Platts		Sister Islands and Terrestrial Biodiversity
Christina Pineda		National Trust for the Cayman Islands
Patricia Bradley		Avifauna & Biodiversity
Fred Burton		Terrestrial Biodiversity
Adrian Estwick		Director of Agriculture
Haroon Pandohie		Director of Planning
Colleen Stoetzel		Planning Officer representing the Director of Planning
Gina Ebanks-Petrie		Director of Environment
Timothy Austin		DoE Deputy, Research
John Bothwell		Secretary

National Conservation Council

Minutes of the General Meeting held at the Main (ground floor) Conference Room, Government Administration Building, Elgin Avenue, George Town, Grand Cayman
23 September 2015, 2pm.

1. Call to Order
   a. Notice having duly been given, the meeting was called to order at 2:17pm. The Secretary took the minutes.
   b. A quorum was present (see Attendance Appendix, below) and no interests were declared.
   c. Apologies were noted for Wallace Platts (travelling). Patricia Bradley (travelling) participated via Skype. Colleen Stoetzel was welcomed as the representative of the Director of Planning.

2. Confirmation of Minutes of 26 May 2015
   There being no amendments raised approval of the minutes was moved by Christine Rose-Smyth, seconded by Davy Ebanks and passed unanimously.

3. Matters Arising from the Minutes
   a. Marine Protected Areas
      i. It was noted that the nomination to enhance the Marine Parks was accepted at the May 26th meeting. That meeting had also authorised the Department of Environment to initiate and conduct the public consultations on the proposal on behalf of the Council.
      ii. The public consultations had been announced via a press briefing (26 August) on and on Radio Cayman's Talk Today (9 September) attended by the Minister for Environment, Director for Environment and Chair. Information has been disseminated on the DoE website and through other media coverage.
      iii. The meetings in West Bay, George Town and East End had been held on 15th, 16th and 21st respectively. The meeting in Bodden Town was scheduled for the evening of the 23rd and North Side for the 24th. Dates for the Sister Islands meetings were still to be determined.
   b. Publication of section 16 nomination form
      i. The Chair noted that completion of publication of the section 16 nomination form was outstanding. The Secretary was directed to arrange for it to be Gazetted.

4. Committees

   a. Invasive Species Committee – report by Fred Burton, Chair
      i. The committee had been focusing on green iguanas.
      ii. Funding had been allocated and plans would soon be developed for green iguana control measures.
         1. On the Sister Islands – Biosecurity & Eradication
         2. Grand Cayman – Test Cull

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iii. On Grand Cayman the goal was to quantify feasibility, cost, and effectiveness of culling. This information will inform plans for future, larger (Island-wide) culling activities. The test will include wild iguana surveys, public education and outreach, contracted cullers, logging activity and effect. The Committee expected to learn a lot about the challenges of conducting ongoing control activities while gathering data to get to the end solution for green iguanas in the Cayman Islands.

b. Climate Change Committee and extension of ratification of second comment period of the Kyoto Protocol to the Cayman Islands

The Chair introduced the motion. It was noted that:

i. the Council may appoint committees of its members to assist it in the performance of its powers and duties, with such powers and duties as the Council may specify (National Conservation Law (2013) section 4);
ii. a purpose of the Conservation Law is to give effect to the United Nations Framework Convention on Climate Change to which Cayman is a party, and the Council's functions under section 3(9) include promoting (g) wider understanding and awareness of the significance of the ecological systems of the Islands, the benefits of conserving natural resources and of the provisions of this Law and the Conventions; (j) the adoption of guidelines by government entities for the integration of conservation issues into their decision making processes and for the achievement of the sustainable use of natural resources; (k) promoting district, national and regional initiatives, in order to further the objectives of the Conventions; in addition climate change adaptation and mitigation is integral to the wider objectives of the Law;
iii. Council members, Lisa Hurlston-McKenzie, Wallace Platts and Tim Austin have commenced the preparation of a paper to inform and update the Council on the status of Cayman's climate change and energy initiatives and with a view to the development of Council policy;
iv. having been made aware of an imminent meeting of Caucus to consider a paper prepared to assist with Cabinet's decision whether to request the U.K. Government to extend the ratification of second commitment period of the Kyoto Protocol to the Cayman Islands at the same time that it ratifies for itself, which is expected to occur before the U.N Climate Change Conference taking place in Paris later this year Council, by email, drafted a letter dated 17 August to Caucus (the Letter) to urge it to recommend the proposal to Cabinet.

v. The Chair proposed the motion:
    1. That the formation of a Climate Change Committee having the objective of informing and updating the Council on the status of Cayman's climate change and energy initiatives and with a view to the development of Council policy in that area, be ratified and confirmed;
    2. That the membership of the Committee be Lisa Hurlston-McKenzie, Wallace Platts and Tim Austin and the Committee shall provide a written report to the Council on its activities at each general meeting of the Council;
    3. That the Letter dated 17 August 2015 addressed to Caucus be ratified and confirmed.
vi. The motion was seconded by McFarlane Conolly. The motion was then open for discussion by the Council.

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vii. Lisa Hurlston-McKenzie spoke to the committee and the letter.
   1. There is a need for Government to upgrade the National Energy Policy.
   2. There is a need for Government to update and adopt the (draft) National Climate Change Policy.
   3. The Committee wishes to see a detailed roadmap to meet national obligations to the wider Protocol (Kyoto Protocol to the United Nations Framework Convention on Climate Change) with increased, structured and coordinated stakeholder involvement.

viii. Cabinet have adopted the letter and are making the recommendations to the United Kingdom to extend ratification of the second comment period of the Kyoto Protocol to the Cayman Islands.

ix. Lisa Hurlston-McKenzie agreed to serve as Chair of the Committee.

x. It was resolved that the terms of the motion be approved and confirmed and that Lisa Hurlston-McKenzie be appointed as the Chair of the Committee.

c. Section 35 Imports Committee

The Chair introduced the motion. It was noted that:

i. The Council may appoint advisory committees of Council and non-Council members to assist it in the performance of its powers and duties, with such powers and duties as the Council may specify (National Conservation Law (2013) section 4);

ii. As a result of the implementation of amendments to the Plants (Importation and Export) Law (1997R) and the complementary section 35 of the Law it has become necessary to develop interim guidance or a memorandum of understanding among the Council, DoE and DoA for consultation on alien plant import licensing while more comprehensive directives are developed;

iii. An ad hoc committee composed of the Council Chair, Fred Burton, and representation from the Departments of Environment and Agriculture had held preliminary meetings on the issues raised by the new statutory provisions, including a meeting with representatives of the Cayman Islands Nursery Growers Association (CINGA);

iv. CINGA had been invited to nominate a representative join the committee to provide industry input and feedback;

v. The committee proposed to carry out the following (the Objectives):
   1. formulate a written interim policy for consultation by DoA with DoE pending production of a Alien Plants Import Policy Directive;
   2. work with DoE to expedite the development of the criteria for determining whether proposed introductions of alien or genetically altered plant species might cause harm to any of the natural resources of the Islands and procedures for regulating and controlling such introductions to enable the directives required under section 35 to be created, such draft directives to be referred to the full Council for adoption and issuance in accordance with section 3(12) and (13);
   3. seek legal advice on the interpretation of section 35 generally;
   4. consider such similar actions as may be required in relation to alien animal importation and introduction.

vi. The Chair proposed the motion:

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1. That the formation of the Alien Plant Species Committee be ratified and confirmed;
2. That the membership of the Committee be the Chair, Fred Burton, and a representative from each of the Departments of Environment and Agriculture and a representative of the Cayman Islands Plant Importers Association; the Chair shall chair the Committee;
3. That the Committee proceed with the Objectives and shall provide a written report to the Council on its activities at each general meeting of the Council.

vii. The motion was seconded by Gina Ebanks-Petrie.
viii. In discussion it was further noted that:
1. DoE had been commenting on DoA imports for a sometime, prior to the National Conservation Law section 35 and Plants Law amendments coming in to force.
2. The committee's current focus is on plants as it is a large import industry.
3. It was expected that memorandum of understanding would embody a continuation of 'business as usual' until the directives could be prepared
4. Mr. Giles Smith of DART Nursery has been nominated by CINGA as their representative on the advisory committee.
ix. It was resolved that the terms of the motion be approved and confirmed.

5. New Matters
a. Ratification of Cruise Berthing Facility Environmental Statement Commentary
The Chair introduced the motion. It was noted that:
i. The Council's powers and duties, relating Environmental Impact Assessments (EIAs) are not yet in effect. However the framework which forms the basis of the draft regulations for EIAs was used to conduct the George Town Cruise Berthing Facility EIA, with the only significant difference being that the functions of the Council were carried out by an Environmental Advisory Board (EAB) which was empanelled for that EIA in September 2014. The Council therefore determined that it would withhold comment on the CBF EIA process has until it had reached the stage at which the Council will, under Part 7 of the Law, provide its views on an Environmental Statement (ES). The Council has closely followed the EIA process, the issue of the draft ES, the public consultation and the subsequent issue of the EAB Review (dated 11 August 2015);
ii. Having considered the Strategic Outline Case, the Outline Business Case, the Terms of Reference, the draft ES and the EAB Review, and reviewed relevant additional documents, and considering time to be of the essence, the Council prepared a commentary endorsing the EAB Report dated 26 August 2015, which was issued on 28 August 2015. The commentary was reviewed and edited by email correspondence among all the members of Council and at a meeting held on 25 August.
iii. The motion was proposed by Davy Ebanks, seconded by Patricia Bradley:
1. That the Cruise Berthing Facility ES Commentary dated 26 August 2015 be ratified and confirmed.
iv. In discussion it was further noted that the Commentary had been published on the DoE website for the Council and subsequently covered by the media.
v. It was resolved that the terms of the motion be approved and confirmed.

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b. Annual Report

The Chair noted that:

i. Section 5 (1) of the Law requires that the Council shall, no later than three months after the end of the financial year, prepare and submit to the Minister a report of its activities during the preceding year; and the Minister is required to submit the Annual Report to Cabinet for approval and ultimately laying on the table of the Legislative Assembly (5(2));
ii. The Chair has submitted a draft annual report for consideration and, if thought fit, approval for submission to the Minister. The Chair noted that:
    1. Square bracketed sections would be updated or completed, including but not limited to, Invasive species meeting details and additional biographies.
    2. The Report would not exist without the hard work of the Council members over the year.
    3. The Ministry had advised that draft EIA regulations were expected to be received from Legal Drafting in November.
iii. Christine Rose-Smyth proposed the motion:
    1. That the draft Annual Report be accepted as the Annual Report of the Council for the period since the appointment of the Council on September 12, 2014 to June 30, 2015;
iv. The motion was seconded by Fred Burton and then opened for discussion.
    1. Chapter 2.7: It could be noted that the Chair of the Committee was changed after the reporting period.
    2. Chapter 2.8: the name of the CINGA group needed to be corrected.
    3. Chapter 2: a report for the the Climate Change Committee's work between April and June 2015 should be included.
    4. Chapter 4, Goals and Objectives. Christina Pineda offered to lead on developing and maintaining a Council social media presence, e.g., a Facebook page. Public Education and Outreach should be added as a specific objective, noting that some actions will necessarily include an education & outreach component.
    5. Council applauded the Chair for her work in producing the Annual Report.
v. It was resolved that, subject to the amendments discussed and final editing the as the draft Annual Report be approved as the Annual Report of the Council for the period since the appointment of the Council on September 12, 2014 to June 30, 2015;
vi. It was further resolved that the amended version be re-circulated to members by email prior to the final version being delivered to the Minister.

c. Council Remuneration

The Chair noted that:

i. $100 per member per meeting and $200 per meeting for the Chair had been budgeted in submissions made on behalf of the Council by DoE and that the funds had apparently been appropriated however according to the requirements of the Law the emoluments had also to be approved by formal Cabinet decision. Although the Secretary had first been advised that the Ministry was preparing the Cabinet Paper it was now understood that the Ministry expected DoE to prepare the paper.

d. Legal Advisor

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i. It was noted that the Council's previously assigned Legal Advisor has left Government. The Secretary was instructed to contact the Attorney General's Chambers regarding the assignment of a replacement.

6. Any Other Business
   a. Member representing North Side. Cabinet has not yet appointed a new representative to the Council from North Side following the resignation of Mr Tomlinson in January.
   b. Cruise Berthing Facility Environmental Impact Assessment. It was noted that the additional Benthic Habitat Characterisation Survey conducted in July, had finally been made publically available by the Ministry of Tourism and reposted in the local press earlier on the day of the meeting, 23rd of September 2015.
      i. Council members had not had an opportunity to review it fully or at all. DoE was requested to share the copy of the Benthic Survey they received with Council members.
      ii. Davy Ebanks wondered whether the EAB, DoE or any official Government technical entity would be commenting on and interpreting the Survey report for the public. Concern was raised specifically over the accuracy of the survey, as well as a desire for confirmation of the professional suitability of the consultants. DoE was able to confirm that the company was technically proficient to carry out the Survey reported.
      iii. DoE reported they were instructed not to comment further on the Port project.
      iv. In response to queries, DoE confirmed that it had not identified a host site for any coral relocation and had not looked for such a site. The Department had not been tasked with, nor volunteered itself for, identifying potential suitable sites. Fred Burton expressed concern that there was no suitable recipient site for an entire reef ecosystem as anywhere either had corals now or corals naturally don't live there. Council members felt that this was an important point that was not being publically considered.
      v. The National Trust representative noted that their online poll on opinions on the proposed port project had been hijacked with approximately 5 million 'Yes to the Project' votes coming from a single IP address.
      vi. It was resolved that members would consider and discuss the additional Benthic Habitat Characterisation Survey via email and feedback comments to the Chair by Monday 28 September for the purposes of developing and issuing a commentary as appropriate.
         1. The motion was proposed by Davy Ebanks, seconded by McFarlane Conolly.

7. Next Meeting
   a. 24 November 2015, 2pm, Government Administration Building, Grand Cayman

8. Adjournment
   a. The meeting was adjourned at 3:32pm.

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9. Attendance Appendix

Council Member	23 Sept 2015	Representation
Christine Rose-Smyth	Present	Chairperson; Bodden Town, Plants, Terrestrial & Marine Biodiversity
Davy Ebanks	Present	West Bay and Marine Conservation
Lisa Hurlston-McKenzie	Present	George Town and Sustainable Development & Climate Change
McFarlane Conolly	Present	East End and Sustainable Development
		North Side
Wallace Platts	Apology	Sister Islands and Terrestrial Biodiversity
Christina Pineda	Present	National Trust for the Cayman Islands
Patricia Bradley	Present via Skype	Avifauna & Biodiversity
Fred Burton	Present	Terrestrial Biodiversity
Adrian Estwick	Absent	Director of Agriculture
Colleen Stoetzel	Present	Planning Officer representing the Director of Planning
Gina Ebanks-Petrie	Present	Director of Environment
Timothy Austin	Present	DoE Deputy, Research
John Bothwell	Present	Secretary

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National Conservation Council

Working Paper/01

Re: Ratification of Cruise Berthing Facility Commentaries

BACKGROUND

(i) The Council is charged with: promoting the biological diversity and the conservation and sustainable use of natural resources in the Islands, the wider understanding and awareness of the significance of the ecological systems of the Islands and the benefits of conserving natural resources, and the adoption of guidelines for the integration of conservation issues into decision making processes."{section 3(9)(j)}.

(ii) Having issued an endorsement, dated 28 August 2015, of the Environmental Assessment Board's Report on the Environmental Statement, dated 11 August 2015, the National Conservation Council continues to monitor the progress of analysis of the plans for the proposed cruise berthing facility.

(iii) An additional Benthic Habitat Characterisation Survey conducted in July, had been made publicly available by the Ministry of Tourism and reposted in the local press earlier on the day of the Council's meeting of 23rd of September 2015. The Council resolved at that meeting to consider and discuss the Survey via email and to feedback comments to the Chair by Monday 28 September for the purposes of developing and issuing a commentary on the scientific basis and results of that second survey. The commentary was issued on 2 October.

(iv) A draft of a Preliminary Scoping of Possible Mitigation Measures document was released by the Ministry of Tourism on 1 October. On 28 October, the Premier and Deputy Premier, in announcing Cabinet approval to continue with the planning of the proposed CBF, committed to decreasing the environmental impacts, if the project is to proceed.

(v) The Council has reviewed the draft of a Preliminary Scoping of Possible Mitigation Measures in light of the international performance standards adopted by the Terms of Reference. The Council has also reviewed good governance mechanisms which would underpin execution of the environmental mitigation and the project generally. Two related commentaries were issued on 19 November, having been approved by Council on 18 November.

(vi) This working paper and recommendations have been prepared by the Chair with input of the members of the Council.

RECOMMENDATIONS

(i) That the Cruise Berthing Facility Commentary - Observations and Comments on the Scientific basis and Results of a second Benthic Habitat Characterisation Survey conducted by CSA Ocean Sciences Inc. dated 26 August 2015 be ratified and confirmed.

(ii) That the Cruise Berthing Facility Commentary - Credibility and Conflict of Interest in the Cruise Berthing Environmental Assessment Process. Part 1 – Adherence to IFC Performance Standards, dated 18 November 2015 be ratified and confirmed.

(iii) That the Cruise Berthing Facility Commentary - Credibility and Conflict of Interest in the Cruise Berthing Environmental Assessment Process. Part 2 – Good Governance of Government driven Infrastructure Projects be dated 18 November 2015 be ratified and confirmed.

THE NATIONAL CONSERVATION COUNCIL

Promoting and securing biological diversity and the sustainable use of natural resources in the Cayman Islands

26 August 2015

PROPOSED CRUISE BERTHING FACILITY

Commentary following issue of Environmental Assessment Board Review of the consultation draft Environmental Statement and completion of public consultation.

The National Conservation Council commends the Government for obtaining an independent Environmental Impact Assessment (EIA) for the proposed Cruise Berthing Facility (CBF).

Having studied the draft Environmental Statement (ES), the results of the public consultation and the recently completed report by the Environmental Assessment Board (EAB), the National Conservation Council is deeply concerned that the economic costs associated with unavoidable environmental damage may exceed the long-term economic benefits that can be reasonably expected from the proposed port development. The Council is further concerned that the damage may forever downgrade the integrity of our attractive and historic harbour.

Endorsement of EAB Review

The Council endorses the conclusions of the EAB Review dated 11 August 2015. We note that the project's long-term economic benefit estimates are inevitably somewhat speculative and difficult to predict with certainty. On the other hand the significant environmental and economic costs are clearer and generally quantifiable. We concur with the EAB's advice that all mitigation measures that the Cayman Islands' Government would intend to implement should be identified, fully costed and reflected in any future full cost-benefit analysis, including the associated National Roads Authority road improvements, along with all the projected revenue losses to tourism-related and other businesses that will result from loss of water clarity and reef health in the George Town Harbour and adjacent areas (GTH).

We note that the proposed mitigation measures are all of limited effectiveness, and significant environmental damage from the proposed project will be irreversible. We emphasize that short and long-term environmental degradation in this area will cause both direct and indirect economic damage that should not be ignored or underestimated.

The Council therefore urges Cabinet to exercise extreme caution in this matter. An objective and realistic cost-benefit analysis can only be possible with a full accounting of all the economic costs resulting from the expected environmental damage, and the costs of the associated mitigation efforts.

As we all do, the Council recognizes that for cruise tourism to continue to be a successful part of our overall tourism product, a substantial investment is also needed in George Town itself. The priority should be to strike a fair and reasonable balance between improving the unique experience of the Cayman cruise customer and sustaining the ecosystem services that create that unique experience. A solution that preserves the reefs and water quality and provides an improved dockside experience, by which we mean, moves cruise customers rapidly through disembarkation and security procedures and disperses them unimpeded into George Town, is the only acceptable solution.

The Council also wishes to make the following more detailed, non-exhaustive, comments:

Limited time scale of EIA / omission of cruise customer surveys

The Council notes that the EIA was undertaken on a limited time scale, not encompassing an entire year of all-season data, with a number of the studies occurring mainly during the summer months or low season for cruise tourism. Further, by way of example, the air quality study examined a "typical busy day" and not a worst case scenario.

The Council notes that the needs and perceptions of our cruise customers versus those of the cruise ship owners have not been clearly distinguished or assessed in either the Outline Business Case or the EIA and the Council considers this a serious deficiency in the data which would need to be addressed in order to complete the Business Case which is being fed into the decision-making process as a whole.

Mitigation Measures

Although the ES suggests that a variety of mitigation measures are available many of them have no costs attached to them and several will have little or no benefit. Without a clear policy decision on what mitigation measures will be taken and realistic cost estimates made available it is not possible to complete a cost/benefit analysis of this project.

Dredging, Water Quality

Inspection of the Rapid Impact Assessment Methodology - RIAM Tables show that not all the risks identified are considered mitigable and that in certain cases the proposed mitigation reduces only the magnitude of the impact without any alteration to the permanence, reversibility or cumulative nature of the risk, e.g. Table 11.3 Waves, Sediment Transport, Hydrodynamics and Dredge Plumes, such that the impacts of dredging, and reclamation discharges remain at Significant Negative Impact –D level and dredge material disposal decreases only from Significant Negative Impact –D to Moderate Negative Impact –C, provided that the disposal is carried out by piping the material not closer that 1km to shore or if disposing by hopper, not closer that 3km from shore.

Coral Relocation

There is doubt as to the long-term success of any coral relocation measures. The costs associated with such relocation are substantial and the relocation may not be an effective compensation to affected economic interests, both the local water sports industry and the cruise lines that collect substantial commissions from such tours, or the loss of sites in GTH, if a suitable nearby alternative site cannot be found.

The coral relocation undertaken at Falmouth, Jamaica has been heralded as a successful regional example (Kenny et al, 2012). However published reports of the conduct and monitoring of the relocation (JET, 2011) and survival of the relocated corals since the end of that monitoring (C.L. Environmental, 2013) cast serious doubt on its benefit or value for money. This relocation project, claimed to be one of the largest ever undertaken (138,000 hard corals and 10,000 soft corals and sponges) took eight months and involved 93 persons. The monitoring alone was calculated to have cost US$12 million (Korbee et al, 2015). Very few large coral heads were moved and survival rates were low (JET, 2011). It is clear that this relocation exercise cannot inform any proposed relocation of entire sections of spur and groove formation in Cayman waters. To reiterate the ES conclusion, the Council agrees that coral relocation will not achieve "no net loss" of coral and would not mitigate indirect impacts outside of the project footprint. In addition, cost of the relocation is estimated at between US$10million to US$73milllion. Further, the Council is not aware of any suitable recipient site, if relocation were to be attempted.

Governance and the Falmouth Experience

Lastly, and while not strictly an environmental issue, the Council commends the analysis carried out by Korbee et al (2015) to Cabinet. That analysis of the Falmouth CBF highlights the decreasing ability to influence the other actors encountered by the Port Authority of Jamaica (PAJ). This resulted from the transfer of the initiative for the project to the financial partners, design going to Royal Caribbean Cruise Line (RCCL) and construction to a Danish firm as a condition of the Danish export credit financing made available to the PAJ. Such decrease in control arose when no tenders could be found to complete the initial design for a single finger pier at the Port Authority's allocated budget of US$125M. However, the PAJ eventually became responsible for the repayment of a loan of more than twice that amount in addition to having to transfer ownership of part of the terminal to RCCL in return for its contribution of US$93.8M.

Although Korbee et al (2015) praise the positive outside influence of the international financial actor in requiring that the project be carried out to the ecological standards for all its marine infrastructure projects worldwide the implementation of the Falmouth environmental management plan and the coral relocation by the dredging company was not judged a success due to the way in which the project itself and lines of communications were structured. In addition, as has been widely publicised, the town of Falmouth and its people have not realised the benefits, neither socially nor economically, promised at the outset.

About the National Conservation Council

The National Conservation Council is established by and to facilitate the goals of the National Conservation Law 2013 (the Law), the first of which is to promote and secure biological diversity and the sustainable use of natural resources in the Cayman Islands. The Council was appointed in September 2014 at the same time as Parts 1 and 2 of the Law were made effective. Parts 3, 4 and 6 of the Law came into effect on 22 April 2015 but the Council's powers and duties, relating Environmental Impact Assessments are not yet in effect. However the framework which forms the basis of the draft regulations for EIAs was used to conduct the Cruise Berthing Facility EIA, with the only significant difference being that the functions of the Council have been carried out by the Environmental Advisory Board which was empanelled for this EIA in September 2014. The EIA process has now reached the stage at which the Council will, under Part 7 of the Law, provide its views on the Environmental Statement.

This commentary is not intended to endorse any other proposed or alternative cruise berthing facility in GTH or elsewhere.

References

C.L. Environmental Co. Ltd. (2013) Environmental Status of the Falmouth Cruise Ship Terminal, Trelawny, Jamaica. Final Report to the Port Authority of Jamaica.

JET, Jamaica Environmental Trust (2011) Environmental Regulatory Failure. The National Environmental and Planning Agency (NEPA) and the Cruise Ship Pier at Falmouth, Trelawny, Jamaica. Report.

Kenny, I., A. Kramer, P.W. Kelly & T. Burbury (2012) Coral Relocation: A mitigation tool for dredging works in Jamaica. Proceedings of the 12th International Coral Reef Symposium, Cairns, Australia, 9-13 July 2012, 20A Restoration of coral reefs.

Korbee D., A.P.J. Mol, J.P.M. van Tatenhove (2015) Ecological considerations in constructing marine infrastructure: the Falmouth cruise terminal development, Jamaica. Marine Policy (2015) 56: 23–32.

THE NATIONAL CONSERVATION COUNCIL

Promoting and securing biological diversity and the sustainable use of natural resources in the Cayman Islands

18 November 2015

Credibility and Conflict of Interest in the Cruise Berthing Environmental Assessment Process. Part 1 - Adherence to IFC Performance Standards

Acquiring and maintaining credibility with the public is an important factor in environmental and economic assessments of large and complex infrastructure projects. The public expects unbiased and objectively supportable evidence to be produced. On the other hand, proponents often view the process as simply another obstacle in the path to support and approval of their plan. For example, the results of the original environmental assessment of the marine ecology of George Town Harbour produced by for Baird in June 2015 was challenged by a Benthic Habitat Characterisation Survey performed by another consultant outside the original Terms of Reference which expressly states that it "consists of ecological and geophysical surveys in support of the proposed dredging" for the Cruise Berthing Facility (CBF).

At a press briefing held on 28 October to announce Cabinet approval for moving forward with the proposed port, both the Premier and the Deputy Premier committed to a further analysis of the port design with the intention of decreasing the environmental impacts, principally by moving the piers to deeper water.

When considering alternative layouts the EIA consultant will first need to verify whether or not any part of the Environmental Assessment completed for the original proposal must be re-assessed. It is the National Conservation Council's opinion that adherence to good environmental governance policies must be maintained. This includes continued regard for the International Finance Corporation (IFC) Biodiversity, Conservation and Sustainable Management of Living Natural Resources Performance Standards adopted by the terms of reference for this Environmental Impact Assessment.

Performance Standard 6 is applicable where risks to biodiversity and ecosystems services are identified. The EIA has identified the impact risk to the George Town Harbour Marine Park ecosystem to be at the highest magnitude criterion of major: - *adverse to a degree that its conservation status is not sustainable.*

The IFC Standards require that the issues raised by the following questions be thoroughly considered:

- Has avoidance been properly analysed / ruled out?
- Is the mitigation hierarchy being followed?
- Is an ecosystems approach being used to ensure mitigation within the footprint and in the adjacent impacted areas is effective?
- Can the proposed coral translocation be expected to result in no-net loss and the creation of an ecologically equivalent ecosystem and associated biodiversity values?

The *incomplete* draft of a Preliminary Scoping of Possible Mitigation Measures document, released by the Ministry of Tourism on October 1, admits that Department of Environment was not consulted in its preparation. It also omits the supporting analysis but offers three levels of mitigation for coral ecosystem destruction by relocation of corals. Three forms of relocation are offered. (A) moving from 15% to 45% of the total individual hard corals greater than 10cm estimated to be present in the Balboa Reef dredge footprint. (B) the creation of 6,000 m^2 to 18,000 m^2 of, presumably concrete and rebar, artificial boulders on which to cement them. (C) significantly, only 1,600 m^2 to 4,800 m^2 live rock, that is, intact spur and groove formations, representing only 3 to 9% of the total are proposed to be moved. This is much less than one third of the artificial reef proposed. No mitigation of other living organisms, for example, sea fans and sponges, is offered.

George Town Harbour is natural habitat. It also contains species recognised as endangered by IUCN Red List criteria and / or requiring special protection under Schedule 1 of the National Conservation Law, is sited within a legally protected Marine Park and was identified to have high biodiversity by the EIA. These additional factors push its biodiversity value towards the definition of critical habitat which can invoke more stringent rules than these now discussed.

Standard 6, clauses 14 and 15 are at the heart of the matter:

14. The proponent will not significantly convert or degrade natural habitats, unless all of the following are demonstrated:

- No other viable alternatives within the region exist for development of the project on modified habitat;
- Consultation has established the views of stakeholders, including Affected Communities, with respect to the extent of conversion and degradation; and
- Any conversion or degradation is mitigated according to the mitigation hierarchy.

15. In areas of natural habitat, mitigation measures will be designed to achieve no net loss of biodiversity where feasible. Appropriate actions include:

- Avoiding impacts on biodiversity through the identification and protection of set-asides;
- Restoring habitats during operations and/or after operations; and
- Implementing biodiversity offsets.

The Standards instruct that as a matter of priority impacts on biodiversity and ecosystem services must be avoided. When avoidance of impacts is not possible, measures to minimize impacts and restore biodiversity and ecosystem services should be implemented. The mitigation hierarchy, from most to least desirable is – avoid, minimise, compensate by offset.

Design of alternatives is a form of avoidance. Alternatives may include variations in the layout of the project facilities, alternative engineering and construction practices, the selection of different sites, and selection of alternative suppliers identified to have appropriate environmental/social risk management systems.

An “ecosystem approach”, is defined by the Convention on Biological Diversity (to which the Cayman Islands is a party) as “*a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an **equitable** way*”. An ecosystem approach aids in preventing analysis of impacts in isolation from one another and prescribing mitigation measures in the same manner.

The Standard is clear that compensation by biodiversity offsets may be considered only after appropriate avoidance, minimization, and restoration measures have been applied. A biodiversity offset should be designed and implemented to achieve measurable conservation outcomes that can reasonably be expected to result in no net loss and preferably a net gain of biodiversity. The design of a biodiversity offset must adhere to the “like-for-like or better” principle and must be carried out in alignment with best available information and current practices. The outcomes must be over and above existing conservation interventions.

So, considered critically, does the proposed Cruise Berthing Facility and the Preliminary Scoping of Possible Mitigation Measures pass muster against the IFC Performance Standards and the four questions posed? In the NCC’s view they clearly do not. It is therefore most welcome that the project is being re-assessed in order to find a solution that best adheres to the standards. The Council looks forward to the full engagement of the CBF Steering Group and Environmental Assessment Board to define and subsequently review which elements of the EIA require updating. For example, modelling sediment plumes generated by a revised dredge footprint and identifying methods for protecting the adjacent reefs from work carried out in deeper water will likely be required. In addition, the geotechnical investigation still remains to be conducted.

This commentary is not intended to endorse any other proposed or alternative cruise berthing facility in GTH or elsewhere. For the avoidance of any conflict with their duty as civil servants, Government members of the Council did not participate in the drafting of this statement.

THE NATIONAL CONSERVATION COUNCIL

Promoting and securing biological diversity and the sustainable use of natural resources in the Cayman Islands

18 November 2015

Credibility and Conflict of Interest in the Cruise Berthing Environmental Assessment Process. Part 2 - Good Governance of Government Driven Infrastructure Projects

Acquiring and maintaining credibility with the public is an important factor in environmental and economic assessments of large and complex infrastructure projects.

In Part 1 the National Conservation Council considered continued adherence to the the International Finance Corporation (IFC) Biodiversity, Conservation and Sustainable Management of Living Natural Resources Performance Standards as one means for preserving credibility in the environmental assessment of the proposed Cruise Berthing Facility. The rules of good governance for government driven infrastructure projects are equally relevant to this project.

In recent weeks the Ministry of Tourism appears to have assumed the role of the Project Steering Group and Environmental Assessment Board (EAB), in addition to their role as the proponent of the project and has become the medium for the release of environmental documents into the public domain. The Preliminary Scoping of Possible Mitigation Measures document, was released by the Ministry of Tourism on October 1.

The NCC believes that adherence to international environmental performance standards and good governance go hand in hand. At the recent announcements of Cabinet approval of moving forward with the proposed port, both the Premier and the Deputy Premier committed to a further analysis of the port design with the intention of decreasing the environmental impacts, principally by moving the piers to deeper water. It is therefore vitally important that the EAB continues its role in relation to updates of the Environmental Impact Assessment.

Conflict of Interest Policy - Contractors

The NCC takes the International Federation of Consulting Engineers (FIDIC) conflict of interest policy as an example of a good governance policy that is directly appropriate to this complex infrastructure project both for assessment and execution. In what follows “client” is interpreted as the CI Government.

FIDIC’s policy on conflict of interest requires that consultants provide professional, objective and impartial advice, and at all times hold the client’s interests paramount, without any consideration for future work and strictly avoiding conflicts with other assignments or their own corporate interests.

Consultants shall not be selected for any assignment that would a) be in conflict with their prior or current obligations to other clients, or b) may place them in a position of not being able to carry out the assignment in the best interest of the client.

Specifically, FIDIC policy requires that consultants shall not be engaged throughout the procurement and execution phases of the project, unless the potential conflict has been identified and resolved or managed effectively, under any of the following circumstances:

a. Conflict between consulting activities and procurement of goods, works or services. This means that a firm engaged to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or services resulting from or directly related to the firm’s earlier consulting services. The converse also applies.

b. Conflict among consulting assignments. Consultants, including their personnel and sub-consultants, or any of their affiliates shall not be engaged for any assignment that, by its nature, may be in conflict with another assignment of the consultants.

As an example, consultants engaged to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project. Similarly, consultants hired to prepare terms of reference for an assignment shall not be engaged for the assignment in question.

c. Relationship with the client's staff. Consultants, including their personnel and sub-consultants, that have a business or family relationship with a member of the client's staff or of the project implementing agency's staff may not be awarded a contract.

Management of the conflict means "resolved in a manner acceptable to the client". In the circumstances where a public body is the client, a duty of transparency and disclosure to the public is clear.

The application of this policy to the CBF means that the contractors who have worked on, or will work on, the terms of reference, the environmental impact assessment, engineering and related evaluations should not be accepted as tenderers in the procurement phase, if the project proceeds to that stage, unless any conflicts that arise are resolved in favour of the public interest and in a fully transparent manner. Indeed, the contractors would be expected to disqualify themselves for the protection of their own reputations, if such a solution could not be reached.

Conflict of Interest Policy – Public Sector

Ensuring integrity of government decisions focuses on whether public officials' private interests in the matter could improperly influence performance of official duties and obligations. The obvious aspects of this rule have been aired in other fora.

Not only should no man be a judge in his own cause, but with a proposal such as that with which the Cayman Islands are now faced, where the Government is cast not only in the role of evaluator but also as a joint proponent in a proposed public private partnership, the question of impaired objectivity must be raised. The commitment to proper procedure in the evaluation of the CBF proposal began with the appointment of a Steering Group and an Environmental Assessment Board (made up of the Department of Environment, National Roads Authority, Department of Tourism, Department of Planning, National Museum, and Port Authority).

It is the NCC's view that if the role of the Ministry of Tourism is to act as the Government proponent, then, in order to counter the reasonable apprehension of bias created by a party acting as both investigator and adjudicator, it is important that the Ministry should not, and be seen not to, interfere with or pre-empt the evaluation function of the Environmental Assessment Board.

This commentary is not intended to endorse any other proposed or alternative cruise berthing facility in GTH or elsewhere. For the avoidance of any conflict with their duty as civil servants, Government members of the Council did not participate in the drafting of this statement.

National Conservation Council

Working Paper/02

Re: Climate Change Memorandum

BACKGROUND

(i) The Council formed a Climate Change Committee to inform the Council's role in carrying out the purpose of the Conservation Law to give effect to the United Nations Framework Convention on Climate Change (UNFCCC, to which the Cayman Islands is a party through the United Kingdom), and to inform and update the Council on the status of Cayman's climate change and energy initiatives with a view to the development of Council policy in this important area.

(ii) The Committee has prepared a background paper - National Conservation Council [Policy Development Memorandum] which includes proposals for policies to be adopted by the Council and actions to be recommended by the Council to the Government of the Cayman Islands towards national goals for energy and climate change and towards meeting commitments under the Second Commitment Period (2013-2020) of the Kyoto Protocol.

(iii) The Committee has prepared a recommendation, for consideration by Council, to be proposed to the Cayman Islands Government in relation to Cayman's representation at the upcoming Joint Ministerial Council Meeting at which the UNFCCC will be an agenda item.

(iv) This working paper and recommendations have been prepared by the Council Climate Change Committee.

RECOMMENDATIONS

(i) That the background paper, National Conservation Council [Policy Development Memorandum], be received by the Council as guidance for development of the Council's policy towards energy and climate change and for actions to be recommended by the Council to the Government of the Cayman Islands towards national goals for energy and climate change and towards meeting commitments under the Second Commitment Period (2013-2020) of the Kyoto Protocol.

(i) That the proposed recommendations to the Council for the advancement of the country's energy and climate change policies formulated as Approaches/Calls to Action 1 and 2 be adopted as Council policy immediately.

(ii) That the recommendation for negotiation of a Climate Addendum to the 2001 Environmental Charter between the Cayman Islands and UK Governments set out in Approach 3 be adopted as Council policy immediately and that a letter be addressed forthwith to the relevant Ministers proposing such addendum negotiation be raised at the upcoming Joint Ministerial Council Meeting in London.

KYOTO PROTOCOL SECOND COMMITMENT PERIOD AND THE 2015 PARIS AGREEMENT

ABSTRACT

Memorandum to the National Conservation Council from the Climate Change Committee for Council policy development and action to be recommended to the Cayman Islands Government toward meeting its commitments under the Second Commitment Period (2013-2020) of the Kyoto Protocol - the international emissions reduction treaty - and the new global agreement being negotiated at the Paris climate talks in December 2015.

Lisa-Ann Hurlston-McKenzie
Wallace Platts
Timothy Austin

November 2015

ACRONYMS USED IN THIS DOCUMENT

BVI	British Virgin Islands
CASE	Cayman Society of Architects, Surveyors & Engineers
CBD	Convention on Biological Diversity
CCA	Cayman Contractors Association
CCC	Committee on Climate Change (United Kingdom)
CCCCC	Caribbean Community Climate Change Centre (CARICOM organization in Belize)
CCP	Climate Change Policy (Cayman Islands)
CIG	Cayman Islands Government
CIREBA	Cayman Islands Real Estate Brokers Association
CITA	Cayman Islands Tourism Association
CO_2	Carbon Dioxide gas
COP	Conference of the Parties (United Nations Framework Convention on Climate Change)
CP1 and CP2	First Commitment Period and Second Commitment Period (Kyoto Protocol)
CORE	Customer Owned Renewable Energy (Caribbean Utilities Co. Grid-Tied Program)
CREA	Cayman Renewable Energy Association
DECC	Department of Energy and Climate Change (United Kingdom Government)
DEFRA	Department for Environment, Food and Rural Affairs (United Kingdom Government)
DFID	Department for International Development (United Kingdom Government)
DOE	Department of Environment (Cayman Islands Government)
ECACC	Enhancing Capacity for Adaptation to Climate Change (DFID-funded project for UK Caribbean Overseas Territories)
EDF	European Development Fund
EIA	Environmental Impact Assessment
ESD	Effort Sharing Decision (European Union)
EU	European Union
FCO	Foreign and Commonwealth Office (United Kingdom)
GDP	Gross Domestic Product
GHG	Greenhouse Gases
INDC	Intended Nationally Determined Contributions (UNFCCC)
IRENA	International Renewable Energy Agency
JMC	Joint Ministerial Council (Meeting of the UK and Overseas Territories Governments)
KP	Kyoto Protocol
LULUCF	Land use, land-use change and forestry (Kyoto Protocol)
LUP	Land Use Policies (Cayman Islands National Energy Policy)
MEA	Multilateral Environmental Agreement (e.g. UNFCCC)
$MtCO_2$	Metric tonnes Carbon Dioxide
NCC	National Conservation Council (Cayman Islands)
NCL	National Conservation Law (Cayman Islands)
NEP	National Energy Policy (Cayman Islands)
NGO	Non-Governmental Organization
NREL	National Renewable Energy Laboratory (United States)
OCTA	Overseas Countries and Territories Association
OT(s)	Overseas Territory(ies)
ppm	Parts per million (measure of concentration of a gas)
SIDS	Small Islands Developing States
SITA	Sister Islands Tourism Association (Cayman Islands)
UKG	United Kingdom Government
UNFCCC	United Nations Framework Convention on Climate Change
QELRCs	Quantified Emission Limitation and Reduction Commitments

BACKGROUND

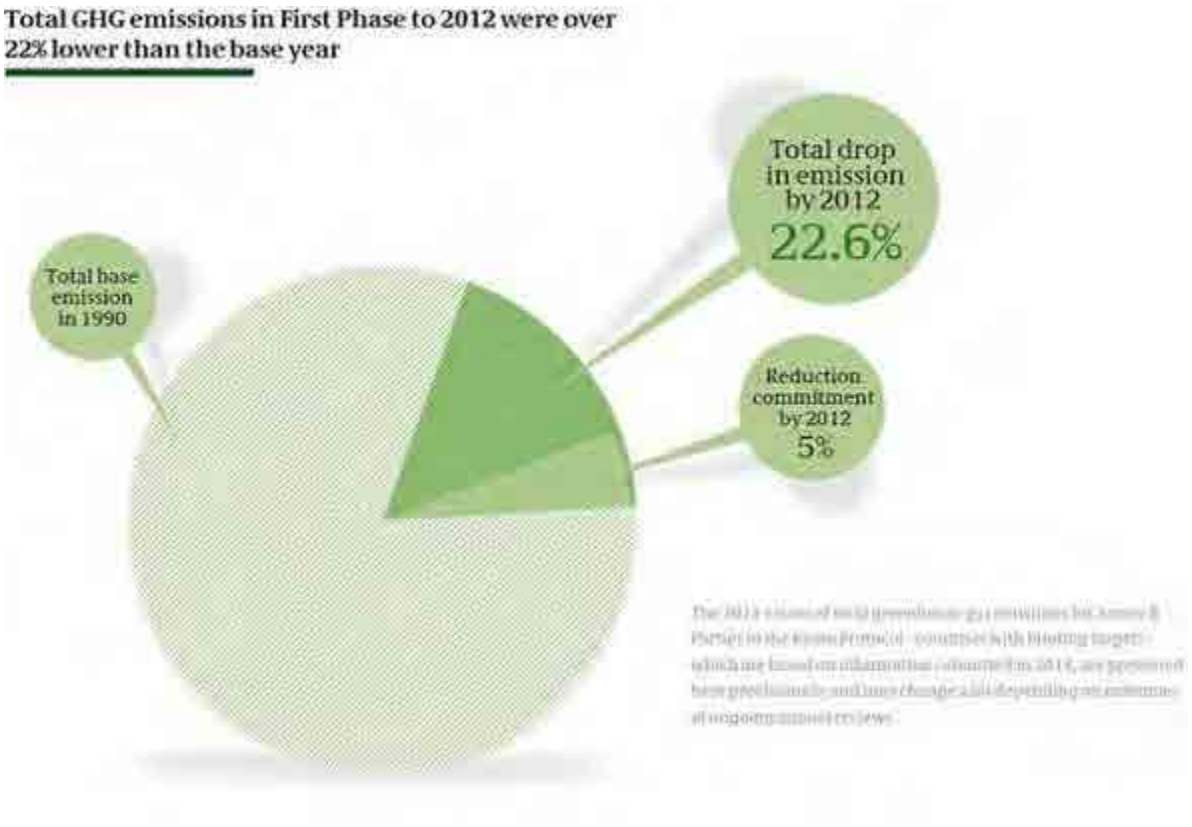
Since March 2007 the Cayman Islands has been party to the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol through the United Kingdom's instrument of ratification. Due to the UK's Annex 1 status under the Convention and Annex B status under the Protocol, ***Overseas Territories that have had these treaties extended to them are also classed as Annex 1 and Annex B Parties respectively*.**

In achieving its Quantified Emission Limitation and Reduction Commitments (QELRCs) under Article 3 of the Protocol, each Annex 1 (developed) Party commits to, among other obligations under Article 2, the following in order to promote sustainable development:

- Implement policies and measures in accordance with national circumstances, such as: enhancement of energy efficiency in relevant sectors of the national economy; protection and enhancement of sinks and reservoirs of greenhouse gases (GHG); promotion of sustainable forest management practices, afforestation and reforestation; increased use of renewable forms of energy, carbon dioxide sequestration technologies, and innovative environmentally sound technologies; phasing out of market imperfections, fiscal incentives, tax and duty exemptions and subsidies in all GHG emitting sectors that run counter to the objective of the Convention
- Cooperate with other Parties to enhance individual and combined effectiveness of their policies and measures
- Limit and reduce emissions from aviation and marine bunker fuels
- Formulate, implement and regularly update national programmes containing measures to facilitate adequate adaptation to climate change, including adaptation technologies and methods for improving spatial planning to improve adaptation to climate change

Under the first commitment period (CP1) of the Protocol from 2008 to 2012, Parties committed to reducing GHG emissions by 5% below 1990 levels and could fulfil their commitments jointly. The UK's national target is legally binding under EU law, known as the burden sharing agreement, with the Member States collectively responsible for an 8% reduction below 1990 levels. This target was redistributed among Member States with the UK's QELRC set at 12.5% below 1990 levels[i]. ***Under CP1 the Cayman Islands was not required to limit or reduce its GHG emissions as part of the UK's overall obligation.*** By 2012 UK emissions were 22% lower than base year emissions, well exceeding its national target[ii]. As seen in the figure below, this equates to the overall decline in total GHG emissions from Annex B countries within the first phase commitment period.

Since the 1880s the global climate has warmed on average 0.85°C. At the Conference of the Parties (COP16) in Cancun in 2010 heads of States agreed to limit global average temperature rise to below 2°C compared with pre-industrial times by 2100. In order to meet this political target, climate scientists stress that ***global GHG emissions must peak by 2020 at the latest and reduce by at least 50% compared to 1990 levels by 2050***. Much uncertainty surrounds a 2°C limit to actually prevent dangerous human-caused climate change, with some experts claiming climatological and ecological tipping points will be reached well before then. For the Cayman Islands and other small islands with regional extremes not well reflected in global policy-making we may already be committed to losing a huge proportion of our land mass from temperature and CO_2 rise that has previously taken place.



Source: King, Ed (2015) Kyoto Protocol: 10 years of the world's first climate treaty, RTCC - Responding to Climate Change, February 16, 2015 http://www.rtcc.org/2015/02/16/kyoto-protocol-10-years-of-the-worlds-first-climate-change-treaty/

In 2012 at the COP18 in Doha, Qatar, Parties committed to reducing GHG emissions by at least 18% below 1990 levels in the eight-year period from ***2013 to 2020, known as the Second Commitment Period (CP2) of the Kyoto Protocol.*** The European Union and its Member States communicated an independent ***quantified economy-wide emission reduction target of a 20% emission reduction by 2020 compared with 1990 levels***. Under the effort-sharing decision (ESD), ***the United Kingdom has a reduction target of 16% by 2020 compared with 2005 levels*** for emissions covered by the ESD[iii]. The UK expects to meet its 2020 target through a declining target for emissions for each year with domestic measures and does not plan to use units from market-based mechanisms or LULUCF (land use, land-use change and forestry) activities[iv].

The key climate and energy policy framework in the UK is the Climate Change Act of 2008. The act provides a long-term framework to reduce GHG emissions in five year carbon budget cycles. It provides the legally binding framework for institutions and policies and measures that aim at reducing GHG emissions in the United Kingdom by 80% by 2050 compared to the 1990 level. The carbon plan (2011) sets out proposals for achieving the emission reductions committed to in the first four carbon budgets (2008–2027). The independent Committee on Climate Change (CCC) established by the act advises the Government on the planning of the carbon budgets and on the policies to meet them, using an evidence-based approach. CCC also monitors and evaluates progress in meeting the carbon budgets and in reducing emissions to achieve the 2050 target, and makes recommendations to the Government on the way forward in its annual progress report to Parliament. The UK Government Department of Energy and Climate Change (DECC) also publishes a response to the CCC progress report, outlining how it intends to implement the recommendations[v].

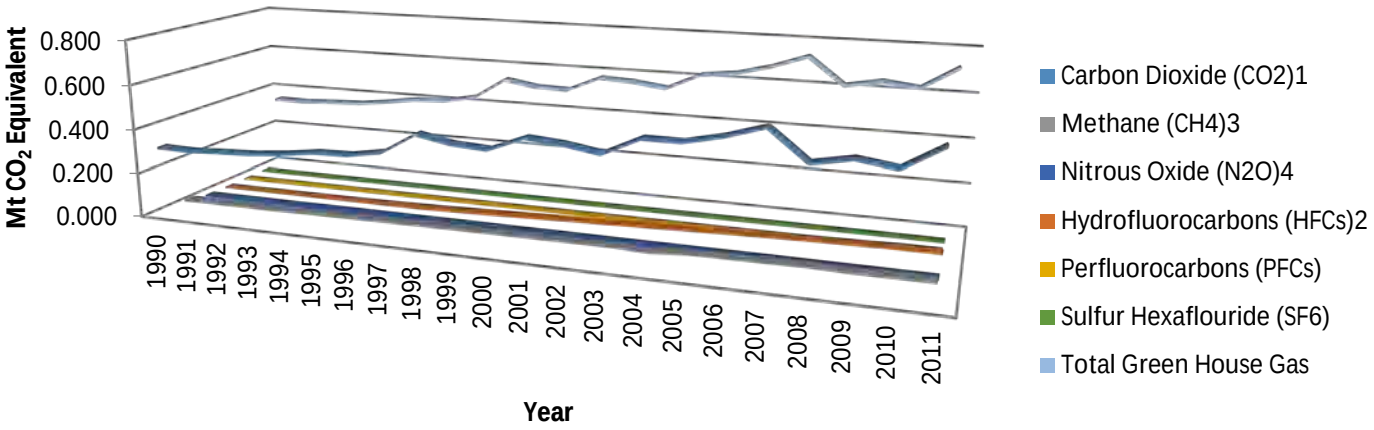
The Cayman Islands has no such framework governing the implementation of climate treaty obligations. The Department of Environment (DOE) advises the Ministry of Environment on mitigation and adaptation policies and measures, inputs to the international negotiation process, and shoulders the reporting requirements to the DECC.

As of this November, 54 countries have ratified the second Kyoto period agreement. The UK Government also intends to ratify CP2 ahead of the COP21 in Paris in December 2015 and initiated consultation with the Overseas Territories regarding extension of its ratification to them. Following the DOE's recommendation to the Ministry of Environment that the Cayman Islands request the extension of the UK's ratification to the Territory, the National Conservation Council wrote to Caucus expressing a similar view. Subsequently Cabinet deliberated the terms of ratification and communicated a favourable response of extension to the UK Government.

The Cayman Islands will be required to continue to provide information on its GHG emissions for inclusion in the UK's annual National Inventory Report, which is prepared by the DECC, ***as well as provide information on the development and implementation of measures to mitigate emissions and adapt to climate change***. The DOE currently collects relevant data from several sectors within the country and provides this information to the DECC. Adoption of the draft Climate Change Policy produced by the National Climate Change Committee would meet the second obligation.

Under CP2 the UK does not intend to impose a legally binding emissions limitation or reduction target on the Cayman Islands. Even without such a mandate, the Cayman Islands needs take its obligations under the Convention and Protocol more seriously than in the past by setting an economy-wide GHG emissions reduction target where possible or at minimum ambitious sector-specific CO_2 reduction targets. Whilst collectively the Caribbean region accounts for only 0.2% of the world's total CO_2 emissions, the Cayman Islands as a geographically tiny territory with a relatively small population has amassed an alarming carbon footprint over the last two decades.

In 2010 the Cayman Islands ranked 34th among 218 nations worldwide with annual emissions of 10.6 metric tonnes carbon dioxide ($MtCO_2$) per capita, above the Caribbean average of 9.9 $MtCO_2$ per capita per year[vi]. By 2011 the Cayman Islands jumped to 24th globally, with Trinidad and Tobago and Aruba in second and fifth place respectively as the only other Caribbean islands among the top 25 countries[vii]. The Territory's total GHG emissions in 2013 were 0.94 $MtCO_2$-equivalent, up 30% from 2011 levels shown below[viii].



Source: Webb, N. and E. Salisbury (2013) Cayman Islands GHG Inventory 1990-2011, National Atmospheric Emissions Inventory 1990-2011, 2013 Submission, Aether

Note 1: The top three producers of Carbon dioxide in the Cayman Islands are 1. Power Generation 2. Cars and 3. Buses

Note 2: The top three Producers of Hydrofluorocarbon in the Cayman Islands are 1.Commerical Refrigeration, 2. Stationary Air conditioning and 3. Refrigerated Transport

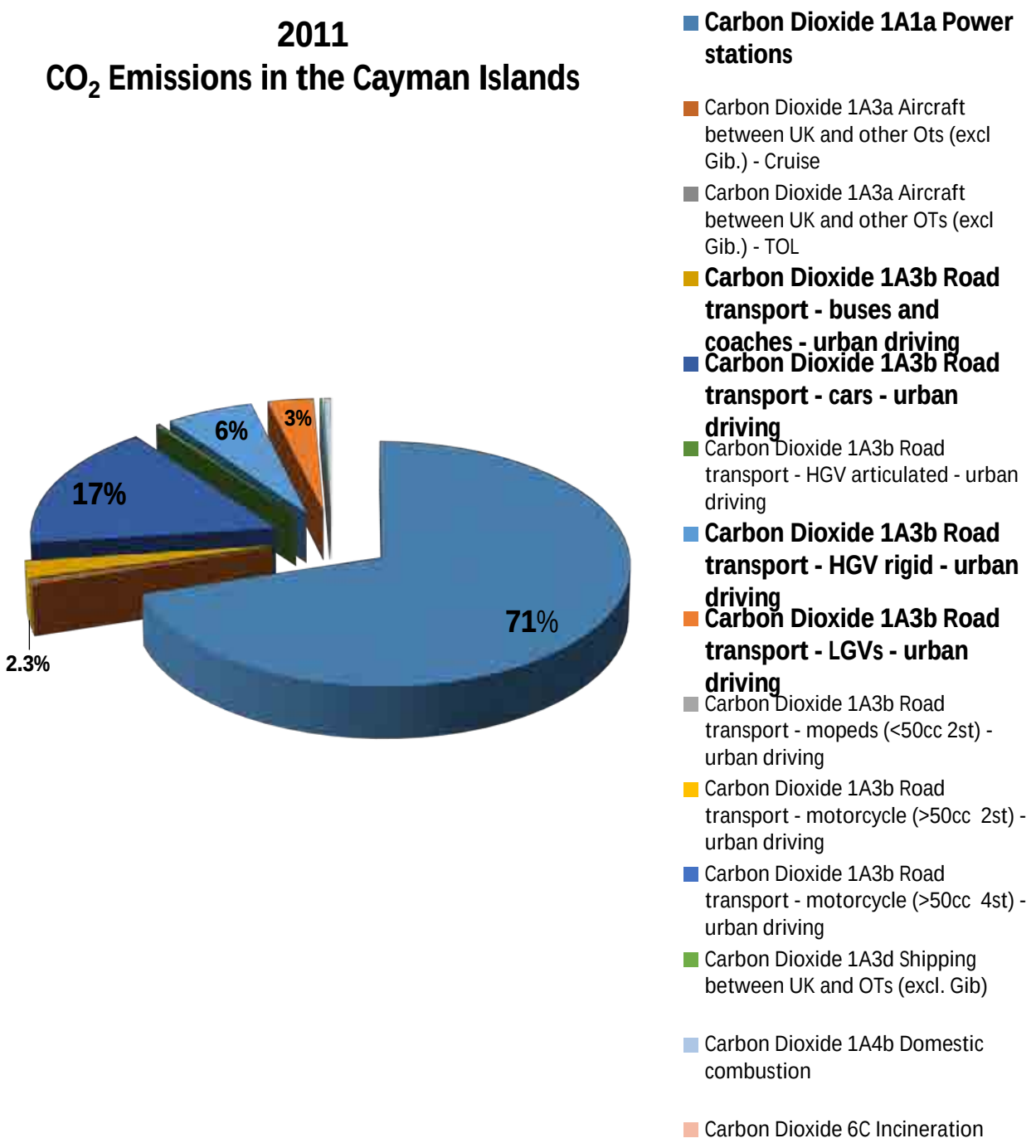
Note 3: The top three Producers of Methane in the Cayman Islands are 1. Landfill 2. Cattle livestock and 3. Agriculture Livestock waste

Note 4: The top three producers of Nitrous oxide in the Cayman Islands are 1. Sewage Sludge Decomposition 2. Agriculture livestock -manure and 3. Urban Driving

As seen in the figure below, *2011 CO_2 Emissions in the Cayman Islands*, the two highest CO_2 emitting sectors are electrical generation from power stations and road transport, namely urban driving cars. Power generation accounted for 71% while urban driving cars made up 17% of total CO_2 emissions in 2011. Heavy goods vehicles, light goods vehicles, and buses and coaches accounted for the remaining bulk of CO_2 emissions at 6%, 3%, and 2.3% respectively.

In 2014 the Cayman Islands ranked 13th highest in the world for electricity consumption per capita (at 10,052 kWh per person) ahead of Australia, Singapore, Russia Germany and Saudi Arabia[ix].

Unlike the current Kyoto framework which sets out fixed emissions limits for developed country Parties only, a 2015 Paris Agreement is expected to cover all Parties. Countries will agree to act together on post-2020 climate actions set out in their Intended Nationally Determined Contributions (INDCs). The EU aims to push international ambition toward a reduction in global emissions by at least 60% below 2010 levels by 2050. The EU's contribution to the new international agreement will be a binding, economy-wide, domestic greenhouse gas emissions reduction target of at least 40% by 2030. As other countries will be holding the UK and EU member states accountable for meeting their individual targets, the Cayman Islands should be prepared to do its fair share to fulfil the collective responsibility to the below 2℃ goal.



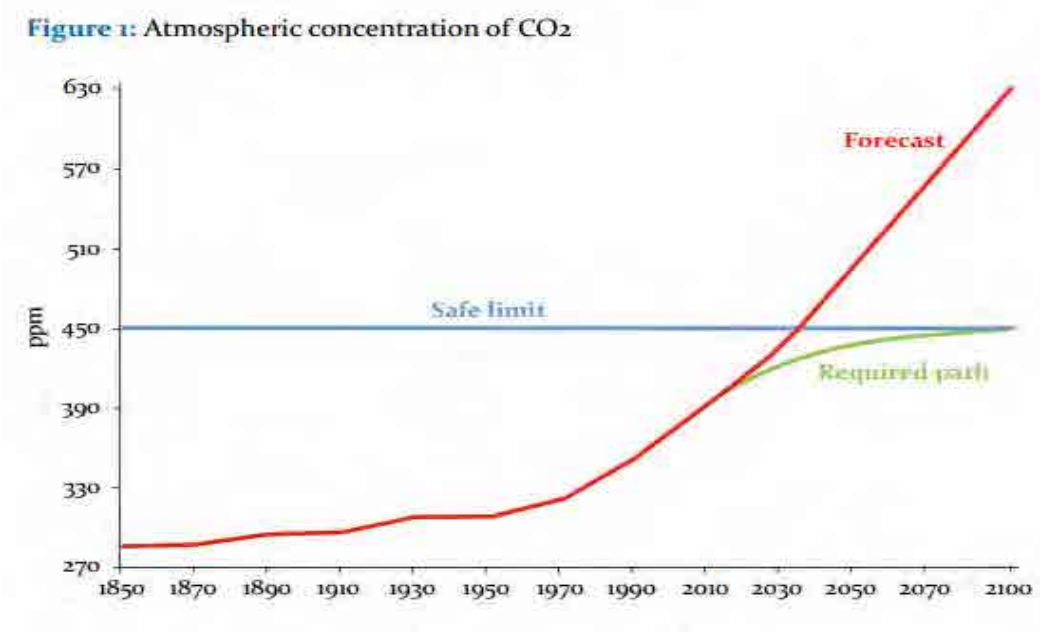
Source: Webb, N. and E. Salisbury (2013) Cayman Islands GHG Inventory 1990-2011, National Atmospheric Emissions Inventory 1990-2011, 2013 Submission, Aether

ACTION BY OTHER OTs and SIDS

The UK's original ratification of the Kyoto Protocol in 2002 was subsequently extended to and at the request of the Overseas Territories (OTs) of Bermuda, Cayman Islands, Falkland Islands, and Gibraltar as well as the Crown Dependencies of Guernsey, Jersey and the Isle of Man. DECC sought initial views from the Overseas Territories on their interest in participating in the second commitment period, and has again sought to formally confirm the position of the OTs on this in parallel with eventual UK ratification of this treaty extension[x]. It is assumed the other OTs signed on to CP1 will similarly request to join CP2.

Despite attempts to galvanize greater UK assistance to the OTs under a 2010 OTs Climate Change Declaration which was derailed by non-Caribbean OTs, Territories individually continue mitigation and adaptation efforts. UK Caribbean OTs have drafted climate change adaptation strategies under the Enhancing Capacity for Adaptation to Climate Change (ECACC) Project 2007-2011. Progress made in several OTs to reduce reliance on fossil fuels include wind farm construction on the Falkland Islands, a solar farm on St Helena and Grand Cayman, and commitments made by the Turks and Caicos Islands and British Virgin Islands to the Carbon War Room Ten Island Challenge[xi], which aims to transition small island economies to 100% renewable energy by accelerating commercial investment.

To avoid irreparable damage to the planet, world governments' agreement to limit the Earth's temperature rise to 2℃ above pre-industrial levels demands an absolute limit of 450 ppm on the total accumulated CO_2 concentration that can be produced. On present trends, that limit will be breached by 2035 according to the figure below[xii].



Source: Kirby, A (2015) Do we need a New Apollo Mission to save the Earth? Globe-Net, June 3, 2015 http://globe-net.com/do-we-need-a-new-apollo-mission-to-save-the-earth/

AOSIS (Alliance of Small Island States) strongly advocates for the international community to raise climate ambition from the 2°C goal to 1.5°C considered critical for the survivability of SIDS. Annex 1 of the Barbados Declaration on Achieving Sustainable Energy for All in Small Island Development States (SIDS), created May 2012 by AOSIS, includes voluntary commitments on r enewable energy, energy

efficiency and carbon reduction made by member countries in the context of sustainable development, many of which are much more ambitious than the current targets in these areas set by the Cayman Islands. Although Non-Annex 1 countries, the Bahamas, Barbados, Grenada, Guyana and Trinidad and Tobago, have formally accepted CP2 and included fixed commitments in their National Communications submitted to the UNFCCC. Others such as the Federated States of Micronesia, Marshall Islands, Republic of Nauru, and the Solomon Islands, accepted the CP2 and Doha agreement, however with declarations that

"in light of the best available scientific information and assessment on climate change and its impacts, it considers the emissions reduction obligations in Article 3 of the Kyoto Protocol and the aforesaid Doha Amendment to be inadequate to prevent a global temperature increase of 1.5 degrees Celsius above pre-industrial levels and, as a consequence, will have severe implications for our national interests." [xiii]

The Cayman Islands is neither an AOSIS member nor an observer of Small Islands Voice, another group very active internationally in the climate change space, given our non-sovereign status. Both groups participate regularly in SIDS conferences annually which now have climate change as a standing agenda item or its main focus.

The CCCCC (Caribbean Community Climate Change Centre - a CARICOM organisation) is the entity through which technical expertise was provided to the UK Caribbean OTs to develop their National Climate Change Policies. It serves as a repository and clearinghouse for regional climate change information and data, including Caribbean-focused climate modelling, and advises CARICOM governments on climate change-related policy integration. Following the Liliendaal Declaration on Climate Change and Development agreed by CARICOM Heads of Government in 2009, the CCCCC coordinates the region's response to climate change in accordance with the 2009 Regional Framework for Achieving Development Resilient to Climate Change, which provides a roadmap for member states and regional organisations, and its Implementation Plan 2011-2021.

SIDS have a strong voice at annual COPs and continue to garner support from other Parties to the UNFCCC. While international climate negotiations are not always in their favour, small states on a whole are committed to and intent on leading the process. This is evidenced by Caribbean SIDS that have submitted their Climate Action Plans or INDCs ahead of 2015 Paris Agreement such as Antigua and Barbuda, the Bahamas, Guyana, St. Lucia, and St. Vincent and the Grenadines[xiv].

ANALYSIS OF APPROACHES

The foregoing information was provided to make the National Conservation Council (NCC) aware of the regional and international involvement of and political will by our SIDS counterparts that can be referenced to motivate our Government to action. The following section sets out four approaches to local climate action for the NCC's consideration and subsequent communication to Government. Council may wish to adopt all recommendations for a multi-faceted approach or select only one or two initially as a more tempered tactic. They comprise graduating levels of

- action required - Cabinet only commitment versus joint stakeholder response (including NCC)
- detail - general to specific, e.g. implement an entire policy versus execute select policy recommendations within a certain time frame
- NCC effort – one-time review of policy versus active campaigning and stakeholder engagement
- desired effect – action by Cayman Islands and UK Governments versus country-wide movement

1. Call to Action – Implement a National Energy Policy

The NCC supports Cabinet's intention to implement a revised version of the National Energy Policy passed in the Legislative Assembly in 2013.

Specific Actions

- Recognizing the National Energy Policy (NEP) 2013 is two years behind schedule on its implementation, has interim five-year objectives, and a 2030 horizon with no near-term targets, the Policy should be updated to take into consideration our Second Commitment Period obligations under the Kyoto Protocol prior to implementation.
- Update the NEP 2013 with policies and measures that achieve a more ambitious emissions reduction target and implement accordingly. The current NEP includes energy sector CO_2 emissions reduction of only 19%, equivalent to 3.5 $MtCO_2$ abated, by 2030.
- Ensure the National Energy Policy is in line with the Climate Change Policy.
- The current NEP's net benefit (the difference between fuel savings and increased capital costs) is estimated to be CI$168.1 million over 2010-2030[xv]. These funds should be strategically channelled into further mitigation action or adaptation projects in under-funded private or community sectors.
- The Implementation Strategy and Plan, which includes interim objectives at five-year intervals, provisions for monitoring actual progress against the objectives set, and processes to revisit policies and objectives, should include specific actions for improvements within the public sector such that the Cayman Islands Government (CIG) is seen to be leading by example.

Rationale

The current NEP is a policy inherited from the previous administration which the present Government is in the process of updating. The DOE has been asked to sit on the policy review committee. The Council should be seen to be in support of this initiative, especially measures that address the two most significant contributors to GHG emissions and air pollution in the Cayman Islands – stationary emissions from power plants and transportation, namely automobiles. Furthermore, the NEP is among the Priority Actions for climate change adaptation and mitigation in the 2014-2015 Environmental Roadmap under the Joint Ministerial Council framework agreed between the Cayman Islands and UK Governments[xvi]. A policy review process will allow for re-examination of somewhat rigid thinking which surrounded the original crafting of the National Energy Policy. The DOE as a member of both the NCC and policy review committee has agreed to represent views of the Council to the NEP review committee.

Like other countries, the Cayman Islands has to certain extents assessed progress, benefits, costs and barriers, good practice policies, key opportunities to scale up and options for catalysing action in areas with high mitigation potential such as renewable energy deployment and energy efficiency improvements; opportunities in land use; and urban environments. However carbon capture, use and storage has not been explored in the NEP. The current policy package achieves 21% energy savings and with 13.5% of electricity generated from renewable sources, results in a 19% GHG emissions reduction in the energy sector. These levels of achievement suggest weak objectives and measures which are currently set out in the following policy areas:

- **Electricity Policies (EP)**

  1. Maintain and improve utility regulation for renewable energy
  2. Improve permitting and planning for renewable energy
  3. Promote the investigation of utility scale renewable energy potential
  4. Support consumer owned renewable generation

5. Maintain and improve utility regulation for energy efficiency
6. Ensure increased energy efficiency of new facilities and major renovations
7. Support energy efficiency retrofits of existing facilities
8. Consider undergrounding utility lines to enhance energy security
9. Maintain and promote efficiency and conservation for water and wastewater.

- **Transportation Policies (TP)**

1. Encourage the purchase of more fuel efficient vehicles
2. Consider a prudent encouragement of alternative fuel transportation
3. Encourage cycling as an alternative mode of transportation
4. Encourage walking as an alternative mode of transportation
5. Increase traffic efficiency
6. Improve parking efficiency
7. Improve public transportation.

- **Fuel Products Policies (FPP)**

1. Ensure sustainable handling, storage, and off-island disposal of waste oil
2. Ensure a secure, reliable, and competitive supply of petroleum products
3. Indefinitely postpone any assessment of the viability of nuclear energy for power generation
4. Ensure quality of aviation jet fuel and kerosene
5. Carefully consider the viability of Heavy Fuel Oil.

- **Land Use Policies (LUP)**

1. Encourage zoning diversity and mixed use development
2. Increase the efficiency of commercial and industrial zoning and land use
3. Increase the efficiency of residential zoning and land use
4. Increase the efficiency of hotel and resorts zoning and land use
5. Increase the efficiency of agriculture zoning and land use
6. Increase the efficiency of public service zoning and land use
7. Support the incorporation of sustainable energy measures in landscaping
8. Promote densification of new developments and proximity to major transit corridors
9. Improve connectivity between housing developments
10. Increase local and global environmental sustainability in land use.

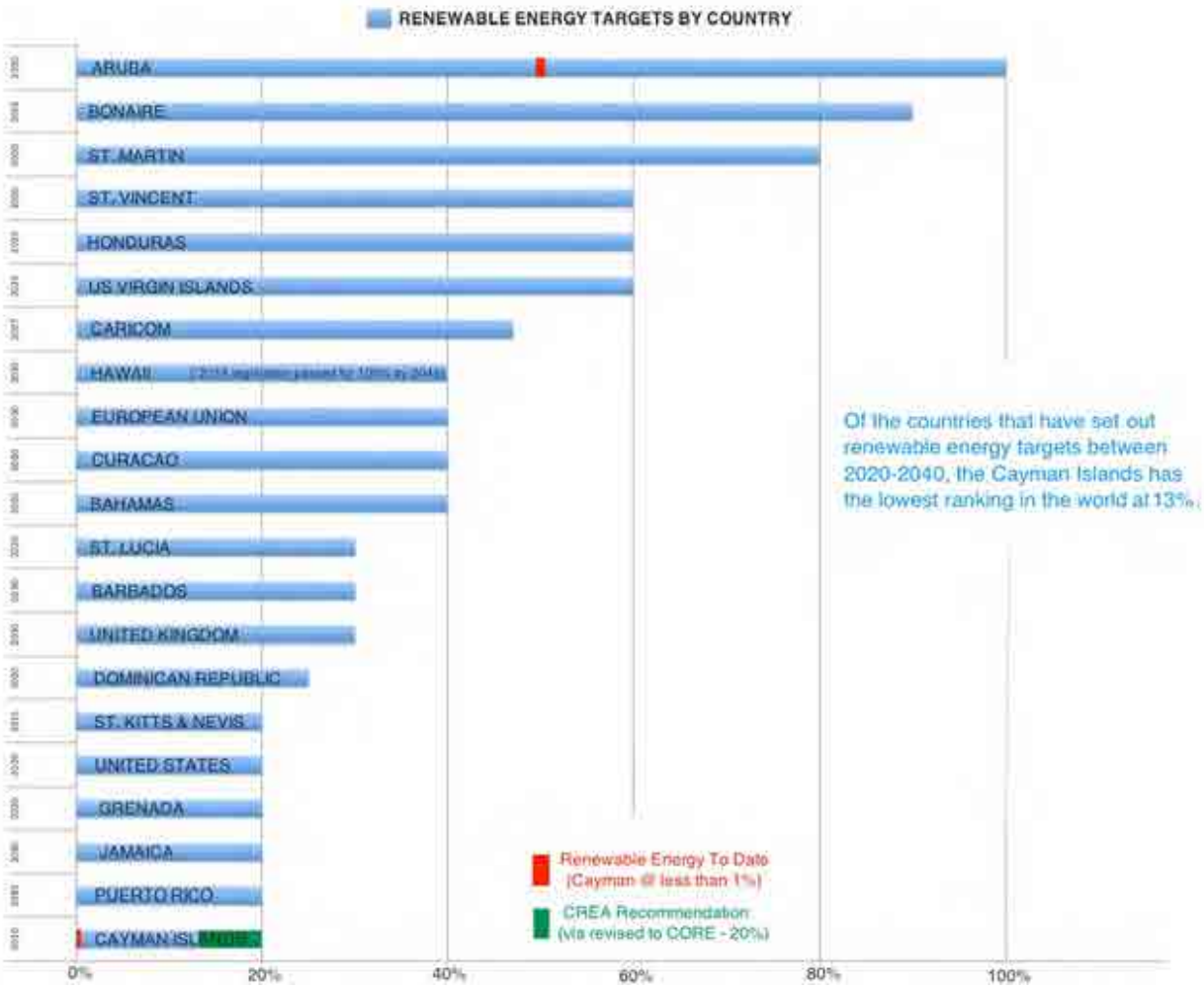
- **Public Awareness and Education Policies (PAEP)**

1. Increase public awareness for informed choices on sustainable energy
2. Improve public education and professional qualifications for sustainable energy.

During the current policy revision Government should be urged to adopt a more ambitious CO_2 emission reduction target for the energy sector, and or consider an overall national GHG emissions target with 2020 horizons, bringing it in line with the call for international action by this date necessary to limit global warming below 2°C compared with the pre-industrial temperature. Council should develop a policy position on what is an acceptable GHG emissions reduction target for the Cayman Islands and communicate to Government accordingly.

The Climate Change Committee contends that a meagre 13.5% adoption of renewable energy by 2030, argued by the Cayman Renewable Energy Association as among the lowest national target in the world, is viewed as the Cayman Islands not doing its fair share to significantly reduce its ever-increasing footprint nor effectively contributing to a global solution. Presently renewable sources account for only 1% of electricity generation in the Cayman Islands. Realization of ocean thermal energy conversion and utility scale proposals, such as the 5 MW solar farm recently approved in Bodden Town, and recent expansion of the CORE program for Grand Cayman customers, could see this target met well before 2030.

Global demand for oil is forecast to increase in the medium term, driving the average oil price to US$119.50 per barrel in 2020[xvii]. We saw prices as high as US$147 per barrel in 2008 and could likely see those prices again. To counter this the Electricity Regulatory Authority and Caribbean Utilities Company diversify the risk of fuel price volatility by hedging and incorporating the costs incurred in connection with such hedging into monthly fuel cost charges which are passed through to consumers pursuant to the utility's transmission and distribution licence. To more sustainably manage the impact of the oil price, supply shocks, and improve long-term energy security, the Cayman Islands and other Overseas Territories will need to look to diversify the energy mix by increasing the use of renewable energy sources and energy efficiency measures. A reduction in fossil fuel consumption will also lead to a reduction in GHG emissions – thereby supporting wider climate change objectives .



Source: 1 Cayman Renewable Energy Association, 2015

ALIGNMENT WITH NCL/NCC MANDATE

The NCC can assist with effecting the Land Use Policies (LUP) and other NEP measures aligned with its mandate under the National Conservation Law (NCL), particularly as they relate to mechanisms to achieve greater habitat preservation for the public good (LUP #6), designation of environmentally sensitive areas (LUP #10), and safeguarding forest types that serve as carbon sinks and reservoirs (LUP #10). The Council should work alongside any future NEP implementation steering committee and executing agencies to accomplish these and other objectives resulting from the policy revision.

Decarbonizing electricity generation and transportation modes is arguably not within NCC's direct mandate, however the Council can support NEP efforts in these areas through environmental impact assessment provisions and timely review of projects for the management and expansion of renewable energy, new road/cycle/pedestrian corridors, etc. The NCC can work with the Electricity Regulatory Authority, the DOE and other entities to establish environmental standards associated with the issuance of licenses to include mandatory emissions quantification for projects, plans and future policies.

2. Call to Action – Implement a Climate Change Policy

The NCC recommends that Cabinet update and adopt the Climate Change Policy drafted in 2011 and start implementation by first quarter 2016.

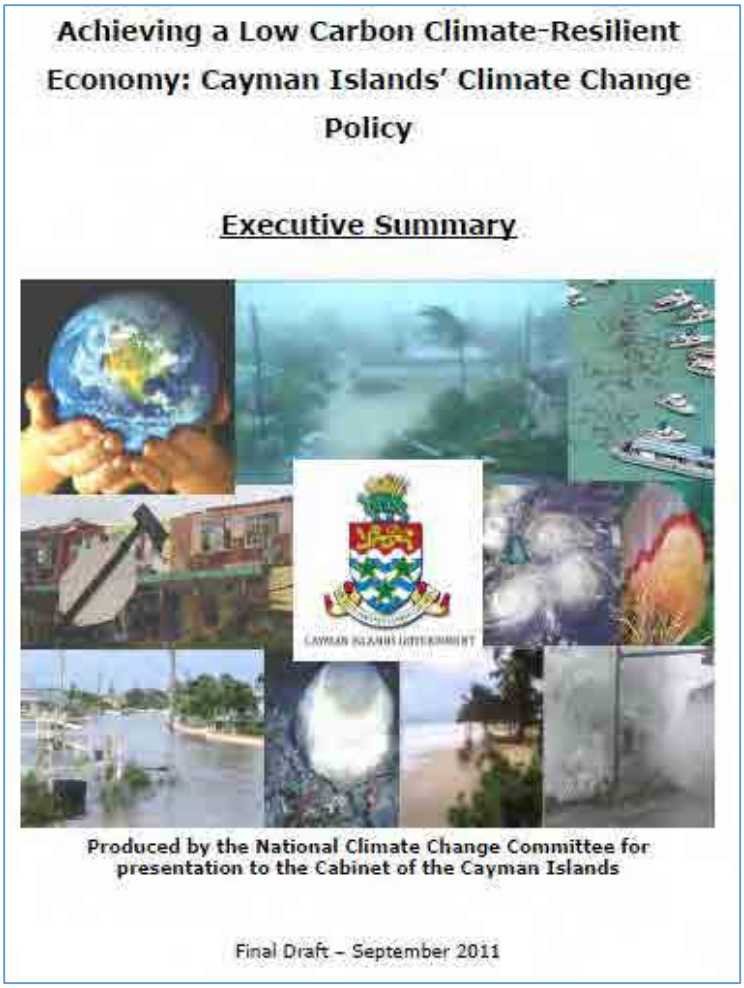
SPECIFIC ACTIONS

- Recognizing the draft Climate Change Policy (CCP) 2011 was never adopted or enacted, update, approve and implement the Policy which serves to meet our obligations under the Second Commitment Period of the Kyoto Protocol.
- Set appropriate Quantified Emission Limitation and Reduction Commitments (QELRCs) within the Climate Change Policy that achieves meaningful and measurable decreases in gases and relevant sectors and is compatible with or exceeds those in the National Energy Policy.
- Ensure the Climate Change Policy and National Energy Policy implementation efforts are closely coordinated to avoid duplication and achieve cost-effective results (e.g. allocation of resources to implement energy efficiency measures which may be executed under the NEP.
- Establish an implementation and oversight committee, whether the National Climate Change Council per the draft Policy recommendation or another named implementation body, with clear mandate and Terms of Reference, and reporting protocol (to Cabinet through the Premier's Office).
- To assist with prioritizing the timing of implementation, a cost-benefit analysis of the strategies and intervention measures should be undertaken. This will provide an understanding of where value for money lies (especially with limited resources) and what is most urgently needed and when to effectively respond to anticipated climate risks.
- Using a similar legal instrument as the BVI Climate Change Trust Fund Act 2015, establish the Climate Change Trust Fund to be utilized solely for the purpose of financing interventions outlined in the CCP. Ensure the Climate Change Trust Fund and the Environmental Protection Fee Fund are not both used for similar objectives, e.g. land acquisition for habitat preservation, conservation of vulnerable coastal and marine resources, etc.

RATIONALE

Among its many functions, the National Conservation Law is meant to give effect to related provisions of the UNFCCC. The Council is mandated under this law to promote national plans for the sustainable management, conservation and enhancement of sinks and reservoirs of greenhouse gases. The benefit

of supporting the CCP is that it assumes an ecosystem-based approach to climate change adaptation and mitigation, has been widely consulted on by the public and private sectors, and contains many recommendations from previous national planning exercises (e.g. Central Planning Authority's 2003 Development Plan Review) that are still relevant today. It complements the goals and objectives of the National Energy Policy. Like the NEP, the CCP is among the Priority Actions for climate change adaptation and mitigation in the 2014-2015 Environmental Roadmap under the Joint Ministerial Council framework. Despite extensive public outreach surrounding the consultation process, many citizens are simply not aware of the CCP's existence. An NCC's call to action for this policy's update and subsequent implementation will afford an opportunity for further public interest and engagement.



The Climate Change Policy's priorities as well as timeframes have to be revisited as some actions have come to fruition since its drafting such as the passage of the National Conservation Law. The Ministry of Environment has directed the DOE to proceed with reviewing and updating the CCP therefore the NCC should now examine the policy and recommend revisions. The current draft contains legislative and policy responses; research, monitoring and education actions; and environmental best management practices, for the following priority intervention areas to be implemented within the first five years of adoption of the CCP:

1. **Marine and Coastal Resources**
2. **Terrestrial Resources**
3. **Energy Security**
4. **Water Resources and Hydrology**
5. **Food Security**
6. **Critical Infrastructure**
7. **Tourism Sector**
8. **Insurance and Financial Services**

It should be noted that the Climate Change Policy started out as an Adaptation Strategy to enhance the coping capacity and resilience of ecological, social and economic systems to deal with the adverse effects of continued climate change. Limited mitigation policies were subsequently introduced as an outcome of various consultations. Emphasizing the mitigation co-benefits of adaptation (avoided and reduced monetized damages) is an emerging practice of other nations worldwide. How this can inform a country's INDC is the approach of heavily-forested countries like El Salvador in its Mitigation-Based Adaptation (MBA)

strategy[xix] where the focus of mitigation efforts is determined by adaptation needs. Similarly adaptation-based mitigation is considered a 'no-regrets' option given its integrated approach to climate change action where landscape management, in particular forest restoration and sustainable agriculture including no-burning practices, thwart climate change and deal more effectively with natural disasters.

Given its adaptation focus, an obvious shortcoming of the current policy is the lack of emission reduction targets tied to timelines. The policy review should facilitate creation of realistic targets based on development scenarios that include measured population and economic growth outcomes.

We need to move swiftly on implementing a final CCP for various economic reasons. Firstly, the Intergovernmental Panel on Climate Change has identified the Overseas Territories as amongst the "most vulnerable" and "virtually certain to experience the most severe impacts" of climate change[xx]. Estimated annual losses for the Cayman Islands from future climate impacts could amount to 7% of local GDP annually (USD$309 million) by 2030 under a high emissions scenario and could rise to 53.4% by 2100. Up to 89% of the expected loss can be avoided by implementing a suite of cost-effective adaptation measures[xxi], many of which are contained in draft CCP recommendations.

Secondly, having a Government-approved Climate Change Policy is vital to gaining access to international funding for climate change mitigation and adaptation. The Cayman Islands is currently at a disadvantage as a potential recipient given its non-sovereign status; and its GDP per capita compared to least developed countries in Africa and Asia where the bulk of international donations is traditionally channelled (for poverty alleviation or sustainable development clearly exacerbated by climate change). However, no enacted climate change policy that sets out where monies would be allocated were these Islands to receive them is equally debilitating. The British Virgin Islands (BVI) has had recent success in accessing EU funding for physical adaptation pilot projects since completing their Climate Change Policy under the same ECACC Project as the Cayman Islands. However the BVI Policy has been Cabinet approved and now accompanied by the Climate Change Trust Fund Act 2015 which provides the framework for receipt and disbursement of international funding.

Alignment with NCL/NCC Mandate

The CCP's ecosystem-based adaptation approach which capitalizes on the benefits of ecosystem services and the contribution of biodiversity to carbon stocks is closely aligned with many of the NCL's objectives. Parallels include protection of various habitat types, enhancement of natural buffers and use of EIAs for projects likely to have an adverse impact on the environment or be exacerbated by climate change. If actioned sensitively there are political and environmental win-wins for both the CCP and NCL. Ongoing efforts to establish terrestrial protected areas and expand the marine parks have implications for both the NCL and CCP, and are likely to revitalize plans to create Barkers National Park and other nature-based public goods.

Repackaging the CCP in light of the passage of the NCL affords opportunities to revisit the priority areas and specific recommendations while guiding the formulation of the NCC's strategic work plan to perhaps include virgin forest protection targets, remediation of scarred lands, and a re-wilding policy for quarries, failed farms and developments, and fire and hurricane-damaged sites. The NCC can be guided by the Aichi Biodiversity Targets, under the Convention on Biological Diversity (CBD) to which the Cayman Islands is a Party. The National Trust and DOE have been actively working to meet these targets (e.g. 17% of total land mass protected by 2020) without having the crucial instruments to achieve them (hence by 2014 only 5.53% of land mass was "protected" under Trust or Government ownership[xxii]). The NCL now contains these essential instruments. The Overseas Territories are home to many species and environments found nowhere else in the world – including an estimated 90% of the biodiversity found within the UK and the Territories combined . UK funding for biodiversity protection tied to climate change interventions is very likely to continue. Recognizing that the CBD and UNFCCC have common threads and jointly planning implementation where possible is both wise and efficient, a call for better policy alignment between the CCP, UNFCCC/KP and CBD could be made to the Cayman Islands Government.

3. Bilateral Agreement with the UK – Climate Charter and Roadmap

The NCC recommends that the Cayman Islands Government negotiate a C limate Addendum to the Environment Charter with the UK Government to increase assistance with and accountability for climate change action within the Territory at the 2015 Overseas Territories Joint Ministerial Council (JMC) Meeting.

SPECIFIC ACTIONS

- Cabinet should engage the UK on a "Climate Addendum" to the Environment Charter which was originally signed between the CIG and UKG in 2001. The Addendum would outline the dual responsibilities of each Government to action climate change adaptation and mitigation within the Territory. It would be specific to the Cayman Islands and signed by the Premier and Ministers of Environment and Energy on behalf of the CIG. It should include signatures from the Foreign and Commonwealth Office or Governor, and UK Ministers responsible for Climate Change, Energy and the Environment. The Addendum should include but not be limited to:
    - A mutually agreed GHG limitation and reduction target for the Cayman Islands;
    - Measures to facilitate adequate adaptation, including technical assistance and funding;
    - How cooperation will be achieved and expectations managed; and
    - A regular review and update period
- With appropriate technical assistance craft a Climate Change Roadmap, as an internal Cayman Islands document that gives effect to the Cayman Islands Government's commitments under the Climate Addendum. It would detail CIG responsibilities and the technical support and expertise to be requested of the UK to assist with its implementation:
    - Capacity building needs of the CIG:
        - Assistance with development and population growth scenarios vis-à-vis projected energy needs and greenhouse gas emissions (Development scenarios are also part of the draft Cayman Islands National Sustainable Development Framework, a Priority Action under the JMC Environmental Roadmap)
        - Support from the UKG (specifically DECC, FCO) on the direct engagement of the Cayman Islands with international partners (e.g. International Renewable Energy Agency (IRENA) mentioned in JMC Environmental Roadmap Item 9), and new collaborations with National Renewable Energy Laboratory (NREL) to commission technical and policy support to introduce renewable energy sources:
            - Assist with producing strategies for achieving a Green Economy
            - Advise on enabling production and removing barriers (technological, policy, legislative) to renewable energy adoption and scaling up
            - Join the Carbon War Room/Rocky Mountain Institute's *Ten Island Challenge* (supported by the Clinton Climate Initiative)
        - Assist with costing of Climate Change Policy recommendations for timely implementation
        - Assist with the assessment of the BVI Climate Change Trust Fund Act 2015 and draft similar legislation for the Cayman Islands if deemed locally appropriate
        - Assistance with more robust standards for MEA implementation:
            - CIG contribution to the UK National Communications deposited with the UNFCCC Secretariat to demonstrate compliance with Convention and Protocol
            - Improvements to national systems and methodologies for preparation of GHG emissions inventory, including reporting of LULUCF activities (providing estimates of the changes in carbon stocks and anthropogenic

GHG emissions by sources and removals by sinks from direct human-induced land use, land-use change and forestry activities)

- Funding needs of CIG or its in-country partners:
  - Where the Cayman Islands is not eligible for international funding through UNFCCC mechanisms or otherwise due to its constitutional relationship with the UK, UKG will ensure the Territory receives appropriate UK assistance, including access to the UKG's International Climate Fund[xxiv] for not just the Official Development Assistance-eligible OTs but also non-aided Territories like the Cayman Islands.
  - Assist with increased use of EU funding schemes for OTs and European Development Fund regional allocation for Caribbean OTs and Overseas Countries and Territories Association (OCTA) projects to specifically achieve Roadmap-related goals, including
    - Biodiversity and Ecosystem Services (BEST)
    - OCTA Territorial Strategies for Innovation
    - ERASMUS Plus education mobility programme
    - HORIZON 2020, the EU Framework Programme for Research and Innovation (sustainable development, climate action, energy)
    - Other selected EU horizontal funds including the Development and Cooperation Instrument[xxv].
- Cayman Islands' eligibility to participate in the Joint Implementation project-based mechanism under the Kyoto Protocol second commitment period to finance mitigation projects and accelerate the adoption of renewable energy within the Territory.

- UK DEFRA leads on biodiversity and climate change adaptation issues in the OTs, DFID continues to engage with the Territories on wider climate, environment and natural resource issues, and DECC seeks to increase work with OTs on informing the UK international climate change negotiating positions and energy-related issues including renewable energy technologies[xxvi]. Notwithstanding DFID and DECC support received to date for much needed workshops on capacity-building, technical advice and renewable energy financing , UKG should build expertise within the DECC to provide greater assistance to the OTs than their apparent mandate of sharing information on the UK negotiating position and renewable technology deployment through the UK's 2020 Renewable Energy Roadmap .
- Through DECC, demand that the UK negotiate a global agreement in Paris to limit global emissions to 1.5°C above pre-industrial levels, and lead the charge by getting the EU to commit an *unconditional* offer of 30% emission reduction by 2020 relative to 1990 levels in order to close the emissions gap. UKG commits to link the OTs more closely to *its* shared ambitions for low carbon[xxix], however the emissions reduction ambitions are currently divergent.

RATIONALE

The Eastern Caribbean Court of Appeal and Bermuda Appeals Court ruled the Environment Charters establish clear international legally binding treaties. The Climate Addendum therefore is a valid mechanism of bilateral commitments under an amended Environment Charter.

Amending the Environment Charter to include a Climate Addendum ensures a higher level of accountability on climate action by both the CIG and UKG than has previously existed under the first commitment period of the Protocol. The proposed Addendum would be a treaty-type instrument with commitments negotiated and progress reported regularly, giving greater effect to joint cooperation and dialogue on changing circumstances and needs. This approach has the ability to halt the tide of lackadaisical treatment of the OTs by the UKG when it comes to serious action on energy and climate change. The French Departments and Dutch Antilles Territories appear to be further ahead than the British OTs, especially in relation to

renewable energy projects and integrating renewables in the energy mix, likely owing to more effective constitutional arrangements.

As neither the NEP nor CCP have binding local legislation to enact them, they have virtually sat by the wayside for two and four years respectively awaiting CIG adoption and implementation. Adapting the JMC Environmental Roadmap concept to track the CIG's progress on specific energy and climate change commitments tied to the Addendum offers another check and balance. The Climate Change Roadmap should be specific enough to assign responsibility to Departments, Ministries and other key implementing entities within the Government and its authorities. This is critical as CIG responsibilities for energy and climate change are held by separate Ministries at present.

ALIGNMENT WITH NCL/NCC MANDATE

The NCC has the function of promoting national plans for the sustainable management, conservation and enhancement, as appropriate, of sinks and reservoirs of greenhouse gases under Section 3(9)(m) of the National Conservation Law. The Climate Addendum and more specifically the Roadmap would help guide and prioritize the work of the Council with timeframes for execution of specific actions and reinforce its mandate with respect to climate change.

4. Multi-Partnership Action – Civil Society Movement

The NCC recommends that Government enter into a Climate Pact with multi-stakeholders who would jointly pledge various commitments to assist with implementation of agreed action.

SPECIFIC ACTIONS

- Craft an instrument (akin to the Chamber of Commerce Environmental Pledge) that has specific action points which places an onus on the entire country, not just the CIG, to tackle our per capita CO_2e footprint.
- Agents for change should be identified among members of civic society, NGOs, community based organizations, schools, churches, associations, the energy and transportation sectors to assist in the drafting of their commitments and sign it. This would foster ownership of the process and signal ready engagement in a collaborative action in which we all have a part to play. In doing so it is hoped that accountability is spread across the public and private sectors and entrenched into the decision-making of home and business owners. The Pact would be signed by the Premier and the Ministers of Environment and Energy on behalf of CIG. It may be that each organization would want their own pact among their members and not necessarily signed with Government.
- Suggested types of commitments could include:
    - Cayman Renewable Energy Association (CREA) and Cayman Association of Architects & Engineers (CASE) — work with the Planning Dept, Building Control Unit, and CUC to reduce the red-tape and high cost to homeowners of installing solar systems with and without grid connection. Look at developing three or four standard designs for each type of installation and a pre-approval system to streamline the process.
    - ERA – work with CUC and Cayman Brac Power & Light to increase the adoption of renewable energy and amount utilities are required to purchase
    - National Trust – work with the NCC to establish large tracts of forest and wetland as conservation areas to serve as important carbon sinks and reservoirs
    - Car dealerships – work with Government entities to set reasonable emissions standards for cars and trucks imported and incentivize importation of wider spectrum of electric vehicles

- Developers – work with Government departments and NCC to determine the best means of using Land for Public Purposes as permanent easements for carbon sequestration
  - Provisions and incentives for cycle- and pedestrian-friendly communities
- CITA and SITA – work with Departments of Tourism & Environment to jump-start the revamped environmental certification program with strong emphasis on climate action at tourism properties, attractions and among tour operators
- Chamber of Commerce – encourage the amendment of the Environmental Pledge for Individuals and Households to include:
  - I will make my next car purchase an electric one
  - I will add solar to my home to generate 30% of my energy use
- Sustainable Cayman, Corporate Green Team Network
  - Reduce, reuse, recycle and recover – more emphasis needed on all four
- Other groups to engage include:
  - Cayman Finance, Insurance and Bankers Associations, Cayman Bar Association, CIREBA, CASE, Cayman Contractors Association

RATIONALE

The biggest challenge remains a framework that holds successive Governments accountable to the people once stakeholder-derived documents are passed in the Legislative Assembly. Measures can be tied to outputs in Ministry budgets, which was the approach used for the National Strategic Plan Vision 2008. However, informed, motivated civic groups and think tanks are left out of the implementation. The Tourism Management Plan 2003 attempted to rectify this with implementation driven by subcommittees headed by the private sector giving them equal accountability for failed policies.

Most people will not read executive summaries much less entire policies and furthermore cannot readily understand how they play a critical role in effecting recommendations. This approach keeps goals simple and actions to achieve such goals manageable and measurable. Therefore the NCC should aim to support specific action items that we know will be readily adopted by multiple stakeholders and have measurable impacts particularly on the largest emitting sectors.

ALIGNMENT WITH NCL/NCC MANDATE

Implementing greener policies will reap a plethora of long-term benefits for the biological diversity of these Islands and provide a cleaner healthier built environment for its inhabitants. A clear sense of direction that can restore the natural balance of emissions while facilitating a more energy-efficient lifestyle and decarbonized economy is necessary. A body is needed to steer this course which may or may not be the NCC.

This approach goes beyond ongoing commitments to see the NCL prevail. It presents an opportunity for a collaborative, futurist role for the NCC to cultivate acceptance amongst CIG entities and non-government stakeholder groups, many of whom beg for a leader on the topic of climate change to emerge. The Council could consider a soft campaign on social media to keep the messaging simple, short, digestible and constant up to and after the Paris talks this December. Or it could take on the role of watch dog to ensure all groups are complying with their various commitments or pacts.

CONCLUSION

The NCL provides a clear mandate for the NCC to address climate change, placing the climate treaties on equal standing with other conventions on biodiversity, internationally important wetlands and migratory species. The Climate Change Committee has provided background on the current status of Government action on climate change mitigation and adaptation, including extension of the UK's ratification of the Kyoto Protocol's second commitment period. This presents an opportune moment for the NCC to signal its support of Government's stance on our international obligations and its readiness to work with the DOE and other groups to help formulate and achieve national goals. The DOE is now officially committed to undertaking reviews of the energy and climate policies through which NCC input into these processes can be fed.

In so doing the Council should support revisions of both the National Energy and Climate Change Policies as outline in approaches 1 and 2 of this document, ensuring measures that effectively lower the nation's per capita GHG footprints are firmly entrenched in both instruments. The NCC should strongly urge Government to move targets forward to 2020 in line with CP2 timeframe and revisit targets for 2030 along more ambitious lines. The NEP's 13.5% renewable energy goal by 2030 is currently the lowest in the world. Its current policies collectively achieve a 19% reduction in CO_2 from the energy sector only. More ambition in renewable energy adoption and economy-wide targets would mean greater overall greenhouse gas emission reductions.

Re-examining CCP measures through mitigation lenses would provide an opportunity to similarly quantify expected emissions avoided as well as sequestered. However, the Committee firmly believes that projecting CO_2 per capita emissions by 2020 or 2030 in either policy must include population (growth) estimates tied to economic development scenarios in order to accurately determine future emissions and the ability of these Islands to meet its obligations under the second Kyoto period or a Paris Agreement. Climate and energy policies typically benefit from an overarching sustainable development strategies in other jurisdictions.

Given time is of the essence, the NCC is urged to immediately adopt the third approach: recommend that the Cayman Islands initiate discussions with the UK Government on a Climate Addendum to the Environment Charter at the upcoming Joint Ministerial Council meeting in December 2015. The Charter is an existing legally binding bilateral treaty between the Governments in which roles and responsibilities on climate-specific action could be negotiated and drafted. It would serve as one mechanism for each party to hold the other accountable to achieving both national goals and international climate treaty obligations.

Under approach 4 the Committee has outlined a means for multi-stakeholders at all levels to participate in a climate movement in which participants can both partner with and preside as the watchdog over Government through a Climate Pact. The NCC may need more time to deliberate the merits of this proposal as it relates to the Council's own pledge and level of involvement.

Through approaches 1 through 3 the NCC can be proactive on the issue of climate change and assist Government in achieving national goals and objectives. Identifying synergistic "quick wins" of both the energy and climate policies with NCC's vision and priorities, perhaps as Roadmap action steps, as well as target-setting are among the Council's current capabilities. In monitoring progress an annual review of CP2 commitments set out in these instruments and approaches could be undertaken and published in the NCC's annual report. This would include greater awareness of the Cayman Islands GHG Emissions Inventory and raise the profile of groups or sectors making a measurable impact on reducing the country's GHG footprints. The role of local Government policies and UK Government assistance in these endeavours should be similarly assessed and officially recognized.

Council may wish to consider if protections under the instruments outlined will be sufficient responses to the real and unavoidable consequences of climate variability and changes to date and anticipated impacts. We have seen policies without binding legislation go by the wayside in the past. Section 18 of the Bill of Rights obligates the Government to implement legislation and other measures to protect the environment and secure ecologically sustainable development. As in other jurisdictions, legislation therefore may be required to ensure, for example, more rapid deployment of clean technology, increased building energy efficiency regulations, that utilities buy certain amounts of renewable energy, energy efficiency standards for vehicles, appliances and other equipment, and Government Pension Funds divest investments in any fossil fuel companies. The trend of passing framework legislation on climate change, including extensive policy-making in the energy sector, continues among both developed and developing countries. Nearly 50 countries have emission reduction targets up to 2020 set in laws and policies[xxx].

The Climate Change Committee recommends that Council

- Review and discuss this document;
- Agree on a direction pertaining to one or all four approaches presented;
- Draft a resolution capturing the role of the NCC in moving the selected recommendations forward; and
- Define any future duties expected of the Climate Change Committee in discharging the decisions of the Council.

Environment Charter

CAYMAN ISLANDS

Guiding Principles

For the UK government, for the government of the Cayman Islands and for the people of the Cayman Islands.

1. To recognise that all people need a healthy environment for their well-being and livelihoods and that all can help to conserve and sustain it.
2. To use our natural resources wisely, being fair to present and future generations.
3. To identify environmental opportunities, costs and risks in all policies and strategies.
4. To seek expert advice and consult openly with interested parties on decisions affecting the environment.
5. To aim for solutions which benefit both the environment and development.
6. To contribute towards the protection and improvement of the global environment.
7. To safeguard and restore native species, habitats and landscape features, and control or eradicate invasive species.
8. To encourage activities and technologies that benefit the environment.
9. To control pollution, with the polluter paying for prevention or remedies.
10. To study and celebrate our environmental heritage as a treasure to share with our children.

W. McKeeva Bush
CAYMAN ISLANDS
26 September 2001

Valerie Amos
UNITED KINGDOM
26 September 2001

Commitments

The government of the UK will:

1 Help build capacity to support and implement integrated environmental management which is consistent with the Cayman Islands' own plans for sustainable development.

2 Assist the Cayman Islands in reviewing and updating environmental legislation.

3 Facilitate the extension of the UK's ratification of Multilateral Environmental Agreements of benefit to the Cayman Islands and which the Cayman Islands has the capacity to implement.

4 Keep the Cayman Islands informed regarding new developments in relevant Multilateral Environmental Agreements and invite the Cayman Islands to participate where appropriate in the UK's delegation to international environmental negotiations and conferences.

5 Help the Cayman Islands to ensure it has the legislation, institutional capacity and mechanisms it needs to meet international obligations.

6 Promote better cooperation and the sharing of experience and expertise between the Cayman Islands, other Overseas Territories and small island states and communities which face similar environmental problems.

7 Use UK, regional and local expertise to give advice and improve knowledge of technical and scientific issues. This includes regular consultation with interested non-governmental organisations and networks.

8 Use the existing Environment Fund for the Overseas Territories, and promote access to other sources of public funding, for projects of lasting benefit to the Cayman Islands' environment.

9 Help the Cayman Islands identify further funding partners for environmental projects, such as donors, the private sector or non-governmental organisations.

10 Recognise the diversity of the challenges facing Overseas Territories in very different socio-economic and geographical situations.

11 Abide by the principles set out in the Rio Declaration on Environment and Development (See Annex 2) and work towards meeting International Development Targets on the environment (See Annex 3).

The government of the Cayman Islands will:

1 Bring together government departments, representatives of local industry and commerce, environment and heritage organisations, the Governor's office, individual environmental champions and other community representatives in a forum to formulate a detailed strategy for action. (See Annex 1).

2 Ensure the protection and restoration of key habitats, species and landscape features through legislation and appropriate management structures and mechanisms, including a protected areas policy, and attempt the control and eradication of invasive species.

3 Ensure that environmental considerations are integrated within social and economic planning processes; promote sustainable patterns of production and consumption within the territory.

4 Ensure that environmental impact assessments are undertaken before approving major projects and while developing our growth management strategy.

5 Commit to open and consultative decision-making on developments and plans which may affect the environment; ensure that environmental impact assessments include consultation with stakeholders.

6 Implement effectively obligations under the Multilateral Environmental Agreements already extended to the Cayman Islands and work towards the extension of other relevant agreements.

7 Review the range, quality and availability of baseline data for natural resources and biodiversity.

8 Ensure that legislation and policies reflect the principle that the polluter should pay for prevention or remedies; establish effective monitoring and enforcement mechanisms.

9 Encourage teaching within schools to promote the value of our local environment (natural and built) and to explain its role within the regional and global environment.

10 Promote publications that spread awareness of the special features of the environment in the Cayman Islands; promote within the Cayman Islands the guiding principles set out above.

11 Abide by the principles set out in the Rio Declaration on Environment and Development (See Annex 2) and work towards meeting International Development Targets on the environment (See Annex 3).

We need to educate ourselves on how we waste, and dispose of our waste. Can we do things differently and better? The Chamber of Commerce believes that every business and resident can do one thing which could significantly help our environment and our beautiful Islands. We challenge every resident and corporate citizen to make a commitment to take demonstrative actions to stop these abusive practices. We, as a united powerful group, can play our role to protect our natural resources for future generations. We can also encourage our leaders to fulfill the commitments of the Cayman Islands Charter signed in 2001.

Just one action form the Environmental Pledge list can make a significant difference to our conservation of resources and the ultimate preservation of our environment.

Actions speak louder than words. If you care about preserving and protecting Cayman's limited natural resources for future generations then you can get involved by identifying and adopting one or more of the actions listed that you will introduce into your life over the next 12 months. If you are aware of an action or practice that is not listed but can help save our environment and natural resources please let us know. We plan to produce an environmental report card to measure the success of our collective actions and the impact we have made on saving and preserving our environment. All persons who sign the pledge will be acknowledged.

The Cayman Islands Chamber of Commerce
ENVIRONMENTAL PLEDGE

Businesses and Organisations

Choose one or more of these pledge items

- ☐ We will adopt a GREEN GLOBE company standard to facilitate improved environmental and social outcomes for travel and tourism. Key performance areas include greenhouse gas emissions, energy efficiency, conservation and management, management of freshwater resources , ecosystems conservation and management and planning, air quality protection and noise control, waste water management and waste reduction management, reuse and recycling.
- ☐ We will introduce an office paper recycling programme.
- ☐ We will aim for paperless business practices where possible.
- ☐ We will seek suppliers who provide environmentally friendly products.
- ☐ We will introduce a printer cartridge recycling programme.
- ☐ We will introduce Earth Day Clean-Up activities.
- ☐ We will introduce energy saving products.
- ☐ We will support government and non-government organisations which are engaged in environmental conservation efforts in the Cayman Islands.
- ☐ We will energy saving lighting/efficient appliances.
- ☐ We will organise a clean-up team for the Chamber's Earth Day Roadside Clean-Up.
- ☐ We will plant native vegetation on our property.
- ☐ We will donate unwanted but usable items to charitable organisations rather than throwing them away.
- ☐ We will install programmable thermostats and set them at 78 degrees or higher.
- ☐ We will purchase environmentally friendly pesticides and herbicides.
- ☐ We will introduce a recycling programme.
- ☐ We will introduce an anti-littering programme.
- ☐ We will introduce energy monitoring systems (water, electricity and propane gas consumption).
- ☐ We will introduce the use of solar power.
- ☐ We will offer our customers environmentally products.

_____ (company name) is committed to being environmentally responsible and will incorporate economically sound environmentally practices such as the ones indicated above.

Signature _____ Date _____

Name _____ E-mail _____

Let's all work together for a cleaner Cayman Islands

The Cayman Islands Chamber of Commerce

ENVIRONMENTAL PLEDGE

Individuals and Households

Choose one or more of these pledge items

- ☐ I will return my hangers to the dry cleaner for reuse.
- ☐ I will use both sides of writing paper before discarding.
- ☐ I will use cloth bags to carry my groceries instead of plastic bags/reuse my plastic bags.
- ☐ I will support recycling programmes in the community.
- ☐ I will car pool whenever possible.
- ☐ I will adopt energy efficient practices and conservation policies.
- ☐ I will set my air conditioning unit no lower than 78 degrees.
- ☐ I will plant native trees and vegetation on my property.
- ☐ I will participate in a community clean-up campaign.
- ☐ I will support Government and Non-governmental organisations which are engaged in environmental conservation efforts in the Cayman Islands.
- ☐ I will carry my lunch in a reusable container and reuse my Ziploc bags.
- ☐ I will inform my guests that it is illegal to touch the coral reef.
- ☐ I will minimise my use of plastic and Styrofoam products.
- ☐ I will turn the water off while brushing my teeth.
- ☐ I will turn the lights off when not in use.
- ☐ I will donate unwanted but usable items to charitable organisations rather than throwing them away.
- ☐ I will pick up litter as I see it my neighbourhood.

Please list any other actions that you plan to adopt below:

_____

I _____ and committed to being environmentally responsible and will incorporate economically sound environmentally practices such as the ones indicated above.

Signature _____ Date _____

Name _____ E-mail _____

Thank you for taking measurable action to protect our environment and to conserve our natural resources. Return your pledge to the Chamber office or mail it to: P.O. Box 1000, Grand Cayman KY1-1102. For additional Pledge forms please contact us on 949-8090 or download one from our website: www.caymanchamber.ky

WE CARE, WE ARE GREEN

The Cayman Islands Chamber of Commerce

ENVIRONMENTAL PLEDGE

Sign up to the Chamber's Environmental Pledge today

As leaders in the financial industry and a prime tourist destination, we have an obligation to do our part to preserve the environment. A healthy, pro-active environmentally aware society reaps the benefits for all - clean air and water, healthy lifestyles, happy residents - these all add up to less medical and social costs to us and our nation's budget. In turn we reap the benefits of increased tourism and we attract persons who also care about our environment to live and work among us.

Reckless behaviour and neglectful daily practices are contributing to the destruction and depletion of our coral reefs, marine life, mangrove swamps, ground water supplies, natural habitats and air quality. If we do not change our ways, the long term consequences to our way of life, our health and are economy could be devastating.

Past attempts to introduce recycling, ant-littering and conservation programmes excited many residents, but these efforts have struggled to receive widespread support from the public and the attention of policy makers. Many countries have introduced robust policies and have implemented extensive public education campaigns and recycling programmes to motivate their citizens to change the manner in which they interact with the environment.

WE CARE, WE ARE GREEN

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[25] November 2015
By email

Hon. Premier Alden McLaughlin
Minister of Home Affairs

Hon. Wayne Panton
Minister of Financial Services, Commerce and Environment

Dear Ministers,

Joint Ministerial Council Meeting 2015

The National Conservation Council is aware that you are preparing to attend the upcoming Joint Ministerial Council meeting in London, and understand that the United Nations Framework Convention on Climate Change (UNFCCC) is among the agenda items.

The Council was encouraged to learn that Government has decided to formalize the extension of the UK's ratification of the Kyoto Protocol's Second Commitment Period to the Cayman Islands. You may be interested to know that the Council's Climate Change Committee has recently drafted a background paper for members on the UNFCCC and Kyoto Protocol which also outlines recommendations for how the Council may advise Government on policies and measures to meet its obligations under these treaties. Among the primary recommendations are support for and commitment to appropriate participation in the current process to update and implement the National Energy Policy. The Department of Environment - a member of the Council - has been officially invited to sit on the policy Review Committee and has undertaken to represent the Council's views in the review process. Similarly, the National Conservation Council stands ready to support and provide input to the review of the draft Climate Change Policy which the Ministry of Environment has agreed to undertake and present to Cabinet for adoption.

The third and perhaps more apropos recommendation given impending attendance at the JMC meeting is for the Cayman Islands Government to negotiate a Climate Addendum to the existing 2001 Environment Charter at said meeting. In so doing Government, in partnership with the UK Government, will be demonstrating that the Cayman Islands is ready to embrace its Kyoto Protocol obligations as part of collective efforts to meet a UK greenhouse gas emissions reduction target. Both Governments would be reinforcing their roles and responsibilities as to how they specifically relate to ensuring that these Islands are proportionately contributing to solutions to limiting global warming to less than a 2 degrees Celsius rise by 2100 as well as adequately preparing for the unavoidable and adverse effects we anticipate further climate change will bring.

In leading this initiative, we may encourage other Overseas Territories to follow suit. The Cayman Islands has a strong record of assisting its fellow Caribbean OTs with implementing these climate treaties in their home territories having organized and hosted the only Kyoto Protocol implementation workshop to date back in 2009.

DRAFT

Should the proposal for a Climate Addendum meet with approval from both the Cayman Islands' and UK governments, the Council has considered and would be pleased to provide suggested language drawing on our paper and objectives of the national energy and climate change policies among other documents.

Yours faithfully,

_____

M. Christine Rose-Smyth
Chair, National Conservation Council

cc: John Bothwell - Secretary

DRAFT

National Conservation Council
Working Paper/03

Re: Project Future – Sale of Surplus Crown Land

BACKGROUND

(i) The Council is charged with: promoting the biological diversity and the conservation and sustainable use of natural resources in the Islands and specifically with recommending and maintaining protected areas … and conserving maintaining and restoring their natural resources in accordance with Part 3 of the Law. {section 3(9)(d)}.

(ii) The Premier's announcement on 2 November 2015 accompanying the release of the Overview of the Project Future Programme –Creating a Sustainable Future for the Cayman Islands stated that the non-operational Crown land had been assessed by Cabinet and parcels selected for sale subject to a business case being drafted. The amount in terms of acres or numbers of parcels was not specified.

(iii) Under the Conservation Law only Crown land may be designated as a protected area for conservation purposes. For this reason it is of immediate and urgent concern to the Council that all Crown land under consideration for sale be assessed, in accordance with the terms of the Law, for relevance for conservation purposes.

(iv) This working paper and recommendation have been prepared by the Chair with input of the members of the Council.

RECOMMENDATION

(i) That the draft letter – Project Future: Implementation of the E&Y recommendation to sell surplus Crown property be approved for delivery to the Hon. Premier, Deputy Governor and Minister of Financial Services, Commerce and the Environment.

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[24] November 2015

Hon. Alden McLaughlin
Premier, Cayman Islands

Hon. Franz Manderson
Deputy Governor
Cayman Islands Government

Hon. Wayne Panton
Minister of Financial Services, Commerce & Environment
Cayman Islands

Dear Sirs,

Re: PROJECT FUTURE: Implementation of EY Recommendation to Sell Surplus Crown Property

I write in relation to the priority recommendation contained in the Ernst and Young (E&Y) Report (pages 46 through 50, September 2014) to sell surplus Crown land and it's proposed implementation outlined in the Project Future Overview document released on 2 November 2015. As you will recall from our letters of 10 October and 4 November 2014 the National Conservation Council had requested that this priority recommendation not be advanced any further until the Council had had the opportunity to assess and evaluate the suitability of such undeveloped Crown land for designation as Protected Areas under the National Conservation Law 2013 (the Law).

The Council had requested the reassurance of an undertaking of the Government's willingness not to proceed with the recommendation until a full conservation review of the relevant lands has taken place, and that should Government be minded to proceed with the sale of undeveloped Crown land as recommended by the E&Y Report, the Council would be notified at the earliest opportunity.

The announcement of 2 November stated that the non-operational land had been assessed by Cabinet and parcels selected for sale subject to a business case being drafted and, in at least one case, sold already. The amount in terms of acres of numbers of parcels was not specified.

At a meeting held on [24] November 2015 the Council considered the announcement and the terms of the status report at page 7 of the Overview. The Council resolved to address this letter to you as the

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matter raises grave concern and a threat to accomplishing one of the primary goals of the Law, and by extension one of the policies of this Government.

The Council is pleased that environmental constraints have been included in the assessment of which land to offer for sale. As the Cabinet is aware, under the Conservation Law only Crown land may be designated as protected areas for conservation purposes. For this reason it is of immediate and urgent concern to the Council that all Crown land under consideration for sale be assessed, in accordance with the terms of the Law, for relevance for conservation purposes (although it is not anticipated that all of the land will, in fact, meet the specific purposes and objectives required by the Law). In doing so, the Council and the Cabinet will not only be working together towards reaching the stated goals of the National Conservation Law, but will also show how Government is taking a proactive approach to support the Law.

The specific purposes, objectives and criteria applicable for a protected area are set out in section 8.

1. The land must be demonstrated to support one or more of the following objectives and purposes (four of the most important of the objectives are highlighted):

(a) to conserve, maintain and restore habitats and their associated ecological systems critical to the survival and recovery of species which are endangered, threatened, endemic or migratory species or of special concern for any other reason;

(b) to conserve, maintain and restore examples of representative or unique ecological systems and their physical environment of adequate size to ensure their long-term viability and to maintain biological and genetic diversity;

(c) to conserve, maintain and restore the productivity of ecological systems and natural resources that provide economic or social benefits or are important for the protection and maintenance of life-support systems, including air and water and other ecological processes;

(d) to facilitate the regeneration of wildlife in areas of special concern;

(e) to conserve, maintain and restore areas of special biological, scientific, recreational, archaeological, ecological, cultural, educational or aesthetic value, including areas of special concern and areas whose ecological or biological processes are beneficial to the functioning of the ecosystems of the Wider Caribbean; and

(f) to encourage ecologically sound and appropriate use, understanding and enjoyment of the area.

2. In addition the selection of a protected area shall be based on a consideration of the following criteria-

(a) naturalness; (b) biological diversity; (c) ecological importance; (d) biogeographic importance; (e) scientific importance; (f) international, regional or national significance; (g) the practical feasibility of protection and management; and (h) potential for nature tourism.

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The Council therefore requests as a matter of urgency that the list of parcels proposed to be disposed of be provided at once to enable this assessment to be carried out. The Council has resolved that the initial assessment of the parcels for conservation protection value be delegated to the Department of Environment's Technical Review Committee following which the Council will provide a report ranking the parcels in importance for conservation protection and indicating the applicable objectives, purposes and criteria involved in their selection. The Council and the DoE undertake to provide the report within 10 days of receipt of the list of parcel identities in order to feed into the Business Case that is currently under development.

The Council looks forward to taking this valuable step with the Cabinet, towards safeguarding the establishment of terrestrial environmental protected areas in our Islands.

Yours sincerely,

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M. Christine Rose-Smyth
Chairman, National Conservation Council

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