

National Conservation Council Manual of Policies and Procedures 19 August 2020

Contents

PREFACE	2
BACKGROUND.....	2
ADMINISTRATION	2
5.1. MEMBERSHIP	2
5.2. QUORUM AND ATTENDANCE	3
5.4. PUBLIC ATTENDANCE AT COUNCIL MEETINGS	4
5.5. AGENDA AND BOARD PAPERS	5
5.7. COUNCIL DECISIONS	6
5.8. COUNCIL DECISIONS VIA CORRESPONDENCE	6
5.9. VOTING.....	6
5.10. PROCEDURE FOR VOTING ON MOTIONS	7
5.11. DISCLOSURE OF INTERESTS.....	7
5.12. COUNCIL AND COMMITTEE MINUTES	8
5.13. ESTABLISHMENT OF COMMITTEES	9
5.14. VARIATION, AMENDMENT AND INTERPRETATION OF STANDING ORDERS FOR MEETINGS ...	9
5.15. SUSPENSION OF STANDING ORDERS	9
CODE OF CONDUCT.....	10
a) Compliance with Laws	10
b) Objectivity / Impartiality	11
c) Fairness / Courtesy.....	11
d) Accessibility.....	11
e) Timeliness	11
f) Quality, Consistency & Cost.....	11
g) Collegiality.....	12
h) Confidentiality.....	12
Disclosure of Interests	12
PUBLIC COMMUNICATION.....	13
6. Policy.....	13

7. Website 13

DEFINITIONS..... 14

Council Orders, Guidance Notes and Directives 14

Acknowledgement of Code of Conduct 14

PREFACE

- 1) The purpose of this manual is to act as an operational guide for the National Conservation Council. It specifies the internal procedures, rules and processes that the Council has established to govern its operation¹. It includes guidance for Council members, Government entities and members of the public. It will be published on the National Conservation Law section of the Department of Environment website for public reference. It will be revised at various times as the Council’s Policies, Procedures and Directives evolve.
- 2) The National Conservation Council may be contacted via the Department of Environment (DoE@gov.ky, www.DoE.ky, Tel: 345-949-8469, Fax: 345-949-4020; PO. Box 10202, KY1-1002) or the Council email: ConservationCouncil@gov.ky.

BACKGROUND

- 3) The National Conservation Council is established under Section 3 of the National Conservation Law (NCL, the Law). It exists to exercise the powers and carry out the duties imposed on it by the Law. The Council’s function, generally, is to promote the conservation and sustainable use of Cayman’s natural resources and biological diversity. The main source of the Council’s functions, powers and duties may be found in Section 3 of the National Conservation Law. The Council’s composition is guided by Schedule 2 of the Law.
- 4) This manual contains material that is in addition to, but does not replace, the Law itself. This manual is not a substitute for the Law itself. A copy of the National Conservation Law may be downloaded from the National Conservation Law section of the Department of Environment website.

ADMINISTRATION

- 5) Subject to any other provision in the Law the Council may regulate its own proceedings.

5.1. MEMBERSHIP

¹ This manual is based in part on the Cayman Island’s Human Rights Commission’s Policies and Procedures Manual and the Code of Conduct for Persons in Public Life in the Cayman Islands, as promulgated by the Commission for Standards in Public Life.

5.1.1. The Council is formed of thirteen voting members, appointed by Cabinet in accordance with Schedule 2 of the Law, having a range of competencies and drawn from relevant government departments, the National Trust and from across all the districts of the Cayman Islands. Duration of appointment is for two years and may be renewed.

5.1.2. Additional non-voting members may be co-opted from time to time.

5.2. QUORUM AND ATTENDANCE

5.2.1. Seven voting members of the Council constitute a quorum. The Chairperson is considered a voting member of the council for purposes of quorum. The statutory quorum will apply regardless of vacancies in the voting membership. No business will be transacted at a Council meeting unless a quorum is present. Members obliged to leave in the course of the meeting should ensure the Chair and secretary have so noted. If during a meeting, the number of members present falls below the quorum the Chair shall terminate the meeting at that point.

5.2.2. Attendance and absence shall be recorded in the minutes.

5.2.3. Subject to Council approval the quorum for Committees will be agreed separately for each Committee as part of the terms of reference for that committee.

5.2.4. Ordinarily all attendance will be in person. Telephone or video-conference attendance may be permitted (with agreement of the Chair) in exceptional circumstances. All persons must be able to hear and be heard when conducting meetings by this means.

5.2.5. Members, including non-Council members of advisory committees will be invited to make any necessary Disclosure of Interest at the start of each meeting.

5.3. SCHEDULE OF MEETINGS, CANCELLATION AND ADJOURNMENT

5.3.1. Until agreed by the Council otherwise, the standing meeting time for the National Conservation Council will be Wednesday afternoons at 2pm.

5.3.2. The Council shall approve in advance of each financial year a provisional set of dates and venues for Council meetings.

5.3.3. Notice of and the agenda for General Council meetings will be published on the National Conservation Law section of the Department of Environment website seven clear days in advance and at the DoE reception area, North Sound Road.

5.3.4. There shall be at least one General Council meeting every quarter of the calendar year.

5.3.5. General Council meetings shall be held in a place open to the public.

5.3.6. At the discretion of the Chair a Special meeting may be called at short notice to consider urgent business. If the Chair fails to exercise her/his discretion to convene a Special meeting, in circumstances where it is reasonably justifiable to do so, seven voting Members may request a Special Meeting by depositing notice together with the wording of the motion to be voted upon with the Director of the Department of the Environment (the Director) who must call the Council meeting within seven clear days of receiving such

written request by immediately posting the deposited notice, provided always that the Director is not the Chair. If the Director is the Chair the notice shall be deposited with the Legal Advisor.

- 5.3.7. Council meetings may be cancelled by the Chair, acting in consultation with other persons as the Chair chooses, with seven clear days notice, if there is insufficient business or other good reason to do so.
- 5.3.8. With agreement of the majority of Members present, and for good reason, the Chair may adjourn a Council meeting for a reasonable period.
- 5.3.9. The Council may adjourn a Council meeting for a reasonable period or to another date, or failing agreement as to date, to a date at the discretion of the Chair. A motion to adjourn must be seconded and the vote taken immediately without amendment or discussion by a show of hands. A similar motion to adjourn to another date may not be moved within an hour of the vote on the earlier motion.

5.4. PUBLIC ATTENDANCE AT COUNCIL MEETINGS

- 5.4.1. Section 3(6) of the NCL prescribes that the Council shall meet in a place open to the public and that agendas and minutes be published.
- 5.4.2. Mobile telephones, pagers, tablets and other such equipment must be switched to silent mode during meetings of the Council so as not to disturb the conduct of the meeting.
- 5.4.3. Committee meetings and executive, non-decision making, Preparatory Workgroup sessions of the Council may be held in private.
- 5.4.4. The Council is not required by legislation to permit the recording or broadcasting of its meetings by sound, video, film, photograph or any other means (this includes blogging or tweeting, posts on social media sites such as facebook or publishing on video sharing sites). However, in the interests of helping the wider public observe and understand Council decisions, requests to record and report on meetings of the Council that are held in public may be permitted providing it can be demonstrated that it will not disrupt the meeting and is carried out in accordance with any protocols and guidance issued by the Council.
- 5.4.5. Requests to record and report on public meetings of the Council and its Committees should be made in writing to the Council at least two clear working days in advance of any such meetings. Open requests will be considered.

5.4.6. The Chair of the meeting has discretion to withdraw or suspend this permission should s/he deem it necessary, for example if the recording is disrupting the conduct of the meeting, or where a member of the public attending a meeting objects to being recorded. In order to assist the Chair to manage the meeting and respect the wishes of other members of the public who are present the recording must be carried out in such a way that everyone present is aware that the meeting is being recorded or reported.

5.5. AGENDA AND BOARD PAPERS

a) General Council meetings

5.5.1. Council members will be given notice and agendas fourteen (14) clear days in advance. Council members may submit matters for inclusion in the agenda up to twenty one (21) clear days in advance.

5.5.2. Board Papers may consist of Information Papers, Working Papers and papers prepared by Council members. Preparation of Board Papers other than members papers shall be delegated to either (i) the appropriate Department represented on the Council or (ii) such other Committee or persons as the Council may determine.

5.5.3. All papers and agendas for general Council Meetings will be available for public inspection seven (7) clear days in advance on the website and at the DoE Reception. In exceptional circumstances late papers will be accepted up to three (3) clear days in advance.

b) Committee and Preparatory Workgroup meetings

5.5.4. Committee and Council members will be given notice and agendas five (5) clear days in advance. Committee and Council members may submit matters for inclusion in the agenda up to seven (7) clear days in advance.

5.6. CHAIRING MEETINGS

5.6.1. The Chair appointed by Cabinet will preside at Council meetings. In the event that the Chairperson appointed by Cabinet is unable to attend any meeting of the Council the members in attendance, by majority vote, shall choose an Acting Chair.

5.6.2. Committees will be chaired by the person agreed by the whole Council to be the Chair of that Committee. In his/her absence Committee members may appoint an acting Chair.

5.6.3. If, in the opinion of the Chair of any meeting, any person present at that meeting is incapacitated or not showing proper behaviour considerate of the other persons present such that the due and orderly despatch of business is not possible, the Chair of that meeting shall have the power to require that person to leave the meeting.

5.6.4. In the case of a Council member the Chair shall first put the motion "That the Member named be not further heard" and the motion if seconded shall be put and determined without discussion.

5.7. COUNCIL DECISIONS

- 5.7.1. The Council will aim to build consensus among attending Members.
- 5.7.2. A Member departing early will be treated as a non-attending Member for the purpose of any decision taken after the time of departure. A Member shall have the option of having his/her dissent recorded to a decision of the Board provided he/she has attended for the whole of the discussion and decision, and asks to record his/her dissent immediately after the decision is concluded.
- 5.7.3. Written comments on agenda items submitted by Members who are not attending will be circulated to Members. All written comments must be received by the Secretary, no later than three (3) clear days prior to the Board meeting.
- 5.7.4. Only attending members will be able to vote, and generally this will be done by a show of hands.
- 5.7.5. At the Chair's discretion, or at the request of a quarter of the members in attendance, voting may be conducted through a secret ballot. In such circumstances the Legal Advisor, or the Secretary if the Legal Advisor is not present, will issue and collect ballot papers, count the vote, and announce the result to the Council.
- 5.7.6. In the event of Council members wishing to make a decision at a meeting contrary to recommendations contained in the relevant Working Paper, the reasons must be clear and minuted, failing which the Chair retains the discretion to adjourn the item to a subsequent meeting.

5.8. COUNCIL DECISIONS VIA CORRESPONDENCE

- 5.8.1. Exceptionally, if a Council decision is required urgently and it is not possible to convene a meeting, the Chair may permit the matter to be dealt with through correspondence. A matter is considered to be urgent only if a decision is immediately required to avert an unfavourable, harmful or adverse outcome.
- 5.8.2. Such correspondence shall clearly state the motion to be decided upon. It shall also clearly state the time frame for discussion and decision.
- 5.8.3. In deciding on written resolutions individual Members will submit their response to the Secretary and the Chair in writing. Such decisions require at least seven positive votes to pass.
- 5.8.4. The decision will be confirmed at the next Council meeting.

5.9. VOTING

- 5.9.1. Decisions of the Council shall be by simple majority of voting Members present.
- 5.9.2. The Chair shall have a casting vote only, i.e., shall only vote in the event of a tied vote. Similarly, an Acting Chair shall have a casting vote only. S/he shall count as a voting member for purposes of quorum.

5.10. PROCEDURE FOR VOTING ON MOTIONS

- 5.10.1. The recommendations contained in Working Papers shall be formulated as motions.
- 5.10.2. Every motion and amendment must be moved and seconded. The terms of all motions and amendments must be clearly stated prior to a Member speaking to the motion or amendment. If the Chair decides, a motion or amendment will be written down, signed by the mover and seconder, and given to the Secretary who will read it to the meeting.
- 5.10.3. Where a motion and one amendment only are before the meeting these will be voted on together, but if there are more amendments than one, the amendment last proposed will be put against that immediately preceding and the amendment then carried against the next preceding and so on until there remains only one amendment, between which and the original motion the vote will be taken. Where convenient for the disposal of the matter under consideration the Chair has the discretion to arrange the consideration of and voting on amendments in the order in which they affect the original motion.
- 5.10.4. Motions or amendments which are not seconded will not be discussed or recorded in the minutes. Any Member may have her/his abstention or dissent from the eventual decision recorded in the minutes.
- 5.10.5. A motion or amendment may be withdrawn by the mover if her/his seconder and the Council agree. Such a motion or amendment will not be inserted in the minutes.
- 5.10.6. A motion for the approval of a report of, or a minute of, the Council will be considered as an original motion and any proposal involving alteration or rejection of the report or minute will be dealt with as an amendment.
- 5.10.7. The Chair may move approval of the report, of, or minute of, the Council.
- 5.10.8. The mover of an amendment and the mover of the original motion each have a right of reply, in that order. When a mover of the original motion has replied the Chair will close the debate and no other Member will be allowed to speak. The Secretary or the Chair will announce the terms of the motion and amendment(s) and take the vote.
- 5.10.9. Where a vote is taken all business will be decided by a majority vote of those present and voting. A vote will normally be taken by a show of hands.

5.11. DISCLOSURE OF INTERESTS

- 5.11.1. Members are under a statutory obligation of disclosure of any interest in relation to any item on the agenda to the Chair and such Council member shall take no part in the discussions or decisions of the Council in relation to that item, and shall recuse her/himself from the meeting during such discussions or decisions.
- 5.11.2. Where any dispute arises as to whether a declarable conflict exists the following will apply:

- 5.11.3. In the event that this situation arises during the course of a meeting, the Chair of that meeting will have the power to rule as to whether such a conflict exists. In the event of such a ruling being made, the member concerned will be required to take no further part in the discussions or decisions relating to the agenda item concerned, or, if the conflict is in relation to more than one items under discussion, for the duration of business in relation to the items concerned and in either case shall recuse her/himself from the meeting during the consideration of the item(s).
- 5.11.4. In the event that the member refuses to remove themselves from the meeting, it shall be in the power of the Chair of the meeting to suspend the item(s) concerned from the agenda and bring it/them back for consideration at a subsequent meeting. In this event, the matter of potential conflict shall be referred to the Legal Advisor for advice on the matter. At the subsequent meeting if, based on the advice of the Legal Adviser there is still no agreement between the Chair and the member in question regarding the existence of a declarable conflict of interest it shall be decided by a binding vote of the Council in which the member in question shall have no vote.
- 5.11.5. In the event that the potential conflict arises outwith a meeting, then the Legal Advisor shall advise as to whether such a conflict exists. In the event of being advised that a declarable conflict exists the member concerned will be required to take no further part in any business relating to that matter. If the member in question still disagrees the existence, or not, of a declarable conflict of interest shall be decided by a binding vote of the Council, informed by the advice previously given by the Legal Advisor, in which the member in question shall have no vote.

5.12. COUNCIL AND COMMITTEE MINUTES

- 5.12.1. Minutes of all Council and Committee meetings will be taken by the Secretary who will normally be a member of staff of the Department of Environment as designated by the Director.
- 5.12.2. Taken in conjunction with the papers presented to the meeting, the minutes should provide a correct record of the meeting and the decisions reached, and sufficient detail to indicate the issues discussed in reaching those decisions.
- 5.12.3. A 'first draft' minute will be circulated to Members within seven (7) clear days of the Council or Committee meeting. Any revisions required by Members will be raised and discussed at the next Council or Committee meeting. The minutes will be signed by the Chair as a correct record (subject to any amendments agreed).
- 5.12.4. The minutes of General Council meetings shall be posted on the National Conservation Law section of the Department of Environment website after they have been confirmed.
- 5.12.5. Minutes of Committee and Executive Preparatory Workgroup Sessions will not generally be published as they are not decision making sessions.

5.13. ESTABLISHMENT OF COMMITTEES

5.13.1. In accordance with section 3(13) of the NCL, the Council may delegate any of its functions other than the making of orders and the issuing of directives, to the Director or to any committee or subcommittee of its members.

5.13.2. By section 4(1) the Council may appoint Advisory Committees consisting of members of the Council, representatives of districts and persons with knowledge and experience of conservation issues to assist it in the performance of its powers and duties.

5.13.3. The Council shall decide the remit, membership and chairmanship of Committees.

5.13.4. Committees shall report directly to the Council.

5.13.5. Environmental Advisory Boards established for the purposes of overseeing Environmental Impact Assessments commenced prior to the appointment of the Council shall be reconstituted as Advisory Committees to the Council, with no changes in makeup or remit.

5.13.6. These Standing Orders will apply to the Committees set up by the Council unless standing orders specific to the committee are established.

5.14. VARIATION, AMENDMENT AND INTERPRETATION OF STANDING ORDERS FOR MEETINGS

5.14.1. These Standing Orders may be varied, revoked or altered only by the Council and any such alterations will require the consent of the majority of Members present at such a meeting. Notice of the intention to bring forward proposed amendments to Standing Orders must be signified at the previous Council meeting. Notwithstanding this provision, no Standing Order may be varied or amended if this would contravene any statutory or other legal provision, or any direction made by Cabinet.

5.14.2. The Chair in consultation with the Legal Advisor or the Secretary will have discretion, with or without discussion with other Members, to determine all questions of procedure where no specific provision is made under these standing orders.

5.14.3. A periodic review at not less than two yearly intervals of the Standing Orders will be undertaken to consider whether amendments should be proposed.

5.15. SUSPENSION OF STANDING ORDERS

5.15.1. Providing it is consistent with any statutory provisions, any one or more of the Standing Orders can be suspended at any meeting, provided that two-thirds of those members present agree.

CODE OF CONDUCT

- 1) The members of the National Conservation Council adopt, uphold, promote and undertake to be bound by the following seven core principles, as a matter of good governance and honourable conduct.
 - a) Leadership - Members should promote and support these principles by leadership and example.
 - b) Selflessness - Members should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.
 - c) Integrity - Members should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
 - d) Objectivity - In carrying out public business council members should make choices on merit.
 - e) Accountability - Members are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
 - f) Openness - Members should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
 - g) Honesty - Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- 2) Additional Requirements
 - a) Compliance with Laws
 - i) Members shall act in accordance with all applicable laws and should comply with the spirit and intent of the law.
 - ii) Members shall not commit or condone an unethical or illegal act or invoke another to do so.
 - iii) Members should be familiar with legislation, policies and directives that apply to their work (most importantly the National Conservation Law and related Regulations, policies and directives) and the work of the Council in order to comply with or facilitate others' compliance with applicable laws.
 - iv) Members should recognize the public interest through consistency and predictability in the exercise of their decision-making authority by considering relevant facts and evidence as well as law and jurisprudence.

- b) Objectivity / Impartiality
 - i) Members should approach every proceeding and every issue arising in a proceeding with an open mind, and avoid doing or saying anything to cause any person to think otherwise.
 - ii) Members should be independent in decision-making.
- c) Fairness / Courtesy
 - i) Members have an obligation to comply with procedural fairness and natural justice requirements and to act impartially in the conduct of proceedings, including in matters of law and member attitude and demeanour.
 - ii) Members should treat each person with dignity and respect and in a manner that builds trust.
 - iii) Members should treat those who appear before this Council fairly, and without favouritism.
- d) Accessibility
 - i) Members should be aware and respectful of social and cultural differences. In the course of their duties, they should act in a manner that promotes an appreciation of diversity.
 - ii) Members must be sensitive to potential barriers to accessibility.
 - iii) Members should conduct hearings or reviews such that those who appear before or make representation to the Council understand procedures and practices and can participate equally.
- e) Timeliness
 - i) Members should take all reasonable steps to ensure that proceedings are concluded in a timely manner, avoiding unnecessary delays and cancellations of proceedings.
 - ii) Parties are entitled to a decision as soon as practicably possible after the proceeding.
- f) Quality, Consistency & Cost
 - i) Members should be fully prepared for a meeting or other proceeding and ensure that proceedings are orderly.
 - ii) Members should ensure that proceedings are streamlined to the best extent possible without sacrificing fairness.
 - iii) The Council should strive to ensure that its meetings and decisions are of an equal high quality and that decisions are consistent.
 - iv) Members should respect the use and treatment of public funds.

- g) Collegiality
 - i) Members should foster a collegial working environment and conduct themselves in a manner that reinforces the integrity and professionalism of the National Conservation Council.
 - ii) Members should conduct themselves in a manner that demonstrates respect for the views and opinions of colleagues, technical staff and the public.
 - iii) Members should not comment publicly on another member's decision or conduct unless otherwise approved through an established policy.
- h) Confidentiality
 - i) Members shall consider the privacy interests of individuals in the conduct of hearings and decisions, consultations, meetings, deliberations, decisions and public statements.
 - ii) Members must not disclose information that the Council considers to be confidential.
 - iii) Members must not take advantage of confidential or other information obtained through official duties to obtain a personal benefit.

Disclosure of Interests

- 1) The National Conservation Law, 2013 (schedule 2, clause 9) requires that if a member of the Council has any pecuniary or other interest in any matter to be dealt with by the Council he shall disclose the fact to the chairman and shall not take part in any meeting at which the matter is considered or discussed.
- 2) A member of the Council who fails to comply with the disclosure obligation commits an offence and is liable-
 - (a) on summary conviction to a fine of twenty thousand dollars and to imprisonment for two years; or
 - (b) on conviction on indictment to a fine of fifty thousand dollars and to imprisonment for five years,unless he proves that he did not know that matter in which he had an interest was the subject of consideration at that meeting.
- 3) It shall be Council practice to ask attending members for a disclosure of interests at the beginning of every meeting.
- 4) Any disclosures shall be recorded in the minutes of that meeting of the Council.
- 5) The Standards in Public Life Law requires that each Council member shall register a declaration of interests with the Commission for Standards in Public Life, in keeping with the requirements of that Law and the standards of that Commission.

PUBLIC COMMUNICATION

6. Policy

- 6.1. The Chair (or designate) speaks (to the media, groups requesting comment, etc.) on behalf of the Council.
- 6.2. Enquiries should be made in writing (email acceptable). Responses, where possible, will likewise be in writing.
- 6.3. The Chair (or designate) speaks after feedback from the Council.
- 6.4. Members of the Council may express their opinions on matters, but must ensure that in doing so it is made clear that these are personal opinions and are not being made on behalf of the National Conservation Council.
- 6.5. Council members may attend meetings of other groups, e.g., district councils, and report on general council meetings or bring back information or questions to the Council.
- 6.6. Similarly Council members may personally and privately respond to 'general' questions and comments from individuals enquiring into the Council's activities but also raising issues for the Council's consideration.
- 6.7. At all times Council members should be mindful and respectful of the personal, private and confidential issues which the Council may have to consider or be made privy to from time to time, including business and government plans and considerations not yet advanced to the stage of public discussion.

7. Website

- 7.1. There shall be created a National Conservation Council website.
- 7.2. All Council and Law related documents for public reference will be uploaded there, including:
 - 7.2.1. Agendas and minutes of General Meetings.
 - 7.2.2. Council Annual Reports after they have been tabled in the Legislative Assembly by the Minister for Environment as provided for in the Law.
 - 7.2.3. All species and area plans and other proposals being made available for public consultation.

DEFINITIONS

8. Terms defined in the Law have the same meaning in this manual.

9. Other definitions:

“clear days” means the number of days specified not counting the day of the notice or the day of the meeting or other activity as applicable.

“Director” means the Director of the Department of the Environment from time to time.

“Legal Advisor” means the person appointed by the Attorney General’s Chambers to provide legal advice to the Council.

Council Orders, Guidance Notes and Directives

Nominations for Protected Areas

Nominations for Protected Species

Applications for Permits & Licences

Consultations by Government Entities

National Conservation Council

Acknowledgement of Code of Conduct

I _____ acknowledge that I have read and understand the Code of Conduct and other principles as set out in the National Conservation Council’s Manual of Policies, Procedures and Directives.

I agree to adhere to this Manual and commit myself to acting in accordance with all applicable legislation, policies, and guidelines, including those contained within the Manual.

Signature of Member

Date: _____

Signature of Witness

Date: _____