



DEPARTMENT OF
ENVIRONMENT
CAYMAN ISLANDS GOVERNMENT

National Conservation Council Guidance Notes to Government Entities

Complying with Section 41 of the National Conservation Law, 2013

The purpose of the National Conservation Law is to promote and secure biological diversity and the sustainable use of natural resources, to protect and conserve endangered threatened and endemic wildlife and their habitats; to provide for protected terrestrial, wetland and marine areas and to give effect to international agreements and conventions to which the Cayman Islands are a party.

The National Conservation Council is specifically charged with promoting the biological diversity and conservation and sustainable use of natural resources. Under the law “sustainable use” means using the components of biological diversity and natural resources in a way that does not lead to long term decline, thereby maintaining their potential to meet the needs and aspirations of present and future generations. One of the ways that the law enables the Council to fulfill its mandate is by facilitating the integration of environmental considerations into national decision-making processes through a consultation process with the Council which is set down in sections 41 through 43 of the law.

Section 41 of the National Conservation Law, 2014, requires all government entities shall comply with the provisions of the Law and section 41 (3) states that *“every entity shall, in accordance with any guidance notes issued by the Council, consult with the Council and take into account any views of the Council before taking any action including the grant of any permit or licence and the making of any decision or the giving of any undertaking or approval that would or would be likely to have an adverse effect on the environment generally or on any natural resource.”*

Under the Law, *“‘entity’ means any body of the government and includes the Cabinet, any ministry, portfolio, statutory authority, government company or any other body which exercises a public function”*. It also includes all government departments, agencies, units, administrations, etc., as arms of their relevant Ministry. “Adverse effect” is given broad meaning under the law and is defined as: *“an effect that may result in the physical destruction or detrimental alteration of a protected area, a conservation area, an area of critical habitat or the environment generally and includes-*

- (a) *alterations that may impair the capacity of the area to function as a habitat beneficial to wildlife;*
- (b) *development that may increase the potential for damage to the area from floods, hurricanes or storms;*
- (c) *alterations of salinity levels, nutrient balance, oxygen concentration or temperature that may be harmful to wildlife or the ecological or aesthetic value of the area;*
- (d) *alterations of hydrology, water flow, circulation patterns, water levels or surface drainage that may be harmful to wildlife or the ecological or aesthetic value of the area or that may exacerbate erosion;*

- (e) alterations that may interfere with the public use and enjoyment of the area;*
- (f) the discharge of pathogens, dissolved or suspended minerals or solids, waste materials or other substances at levels that may be harmful to wildlife or the ecological or aesthetic value of the area;*
- (g) changes in littoral or sediment transport processes that may alter the supply of sediment available for those processes or that may otherwise exacerbate erosion;*
- (h) alterations that may increase losses of the area from a rise in the sea level with respect to the surface of the land, whether caused by an actual sea level rise or land surface subsidence;*
- (i) emissions of air pollutants at levels that may impair the air quality of the area;*
- (j) alterations that may hinder or impede the movement or migration of wildlife;*
- (k) alterations that may impair the capacity of a beach ridge to function as a protective barrier and as a reserve of sand for beach nourishment during storms; and*
- (l) alterations that may impair the capacity of the area to act as a sink or reservoir of greenhouse gases or enhance its potential as a source of greenhouse gases*

The Law and these guidelines apply equally to all entities on all three Cayman Islands and to any actions, permissions, decisions, undertakings or similar that have effect anywhere in the territory of the Cayman Islands.

Copies of the Law may be downloaded from the Gazette website, http://www.gazettes.gov.ky/sites/default/files/extraordinary-gazettes-supplements/Es052014_web.pdf.

In order to comply with the Law all government entities shall consult with the Council if they are taking any action, granting any permission, taking any decision or giving or engaging in any undertaking which matches any of the following ‘trigger’ conditions.

A) Location Triggers are (as shown on the Screening Map):

- i) Activities occurring on the coast, i.e., within 500 feet landward of the high water mark and activities occurring on land parcels with canal frontage.
- ii) Activities occurring seaward of the high water mark
- iii) Activities in areas of primary habitat or critical habitat (as defined in a Conservation Plan)
- iv) Activities in or adjacent to a protected area

B) Activity Triggers include

- i) Subdivision, clearing, filling, or excavation on land of one acre or more
- ii) Land reclamation projects
- iii) Large scale residential developments and special purpose developments, including projects of national importance, mixed use and Planned Area Developments
- iv) Agriculture on land area greater than one acre, and installation of aquaculture and the reclamation of land from the sea for such purpose of any scale.
- v) Telecommunication, broadcast or radar installations
- vi) Transportation infrastructure, including planning or construction of new roads, including construction of road extensions

- vii) Industrial Processing, Manufacturing, Rendering, Production, Treatment, Storage, or Similar Facilities
- viii) Storm water drainage and management schemes
- ix) Petroleum fossil fuel, biofuel and other fuel or chemical production, processing, holding, transfer or transport facilities
- x) Waste Management Activities, Solid & Liquid, including new facilities, expansion, enhancement or change of system at existing facilities
- xi) Excavation and extractive operations, including - marine dredging; quarries; extraction of minerals; deep drillings (including geothermal drilling); extraction of petroleum, natural gas or ores; an installation for the disposal of controlled waste(s) from mines and quarries.
- xii) Energy Generating, Transfer or Transmission Facilities
- xiii) Ground water or sea water abstraction
- xiv) Airports and Airstrips
- xv) Ports, harbours, yacht marina and inland waterways which permit the passage of vessels
- xvi) Water Generating Facilities, including Desalinization Plants
- xvii) Discharge, Emission or Disposal of Effluents or other materials
- xviii) Decommissioning or Decontamination of industrial installations
- xix) Physical, Chemical or Biological Pest Control Activities, including application of pesticides, including larvacides and adulticides, herbicides, insecticides, rodenticides, etc.
- xx) Setting fires for the clearance of land
- xxi) Burial at Sea or other than in a designated cemetery
- xxii) Marine Moorings, etc.
- xxiii) Anchorage Areas
- xxiv) Control of Nuisance Animals or Plants
- xxv) Licensing of Trade Or Business Activities Which Utilize Local Natural Resources For Their Core Activity
- xxvi) Discharge or Modification of Permissions and Conditions Attached to Permissions

C) Strategic Triggers include the creation of

- i) National or Sectoral Policies or Projects including, but not limited to
 - a) Tourism Plans
 - b) Economic Plans
 - c) Energy Policies, including Power Needs/Purchase Planning
 - d) Development Plans
 - e) Transport Plans
 - f) Infrastructure Planning
 - g) Socio-Economic Planning
 - h) Port Plans, Air or Sea
 - i) Emergency Response Planning, Including State of Emergency Derogations
 - j) Industrial Activity Plans
 - k) Emergency or Disaster Response Management Plans
 - l) Acquisition/Sale/Disposal/Lease/Loan of Crown Land

Assessment of Consultations by the Council

In assessing a request for consultation as a result of triggering activities, locations or strategic policies or projects (A – C above) the Council will take in to account the characteristics of the proposed action, its location and the potential for adverse impact on the environment, particularly the cumulative effect of the characteristics. Examples of relevant characteristics are: -

Characteristics of Action

1. The characteristics of an action must be considered having regard, in particular, to –
 - a. Size of the action;
 - b. The cumulation with other actions;
 - c. The use of natural resources;
 - d. The production of waste;
 - e. Pollution and nuisances;
 - f. The risk of accidents, having regard in particular to substances or technologies used.

Location of Action

2. The environmental sensitivity of geographical areas likely to be affected by an action must be considered, having regard in particular, to –
 - a. The existing land use;
 - b. The relative abundance, quality and regenerative capacity of natural resources in the area;
 - c. The absorption capacity of the natural environment, paying particular attention to the following areas-
 - i. Wetlands;
 - ii. Dry forest;
 - iii. Xerophytic shrubland
 - iv. Protected areas;
 - v. Coastal zones;
 - vi. Marine Parks or Reserves;
 - vii. Densely populated areas;
 - viii. Landscapes of historical, cultural or archaeological significance.

Characteristics of the potential impact

3. The potential significant effects of actions must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to–
 - a. The extent of the impact (geographical area and size of the affected population);
 - b. The magnitude and complexity of the impact;
 - c. The probability of the impact;

d. The duration, frequency and reversibility of the impact.

A request for consultation shall be accompanied by:

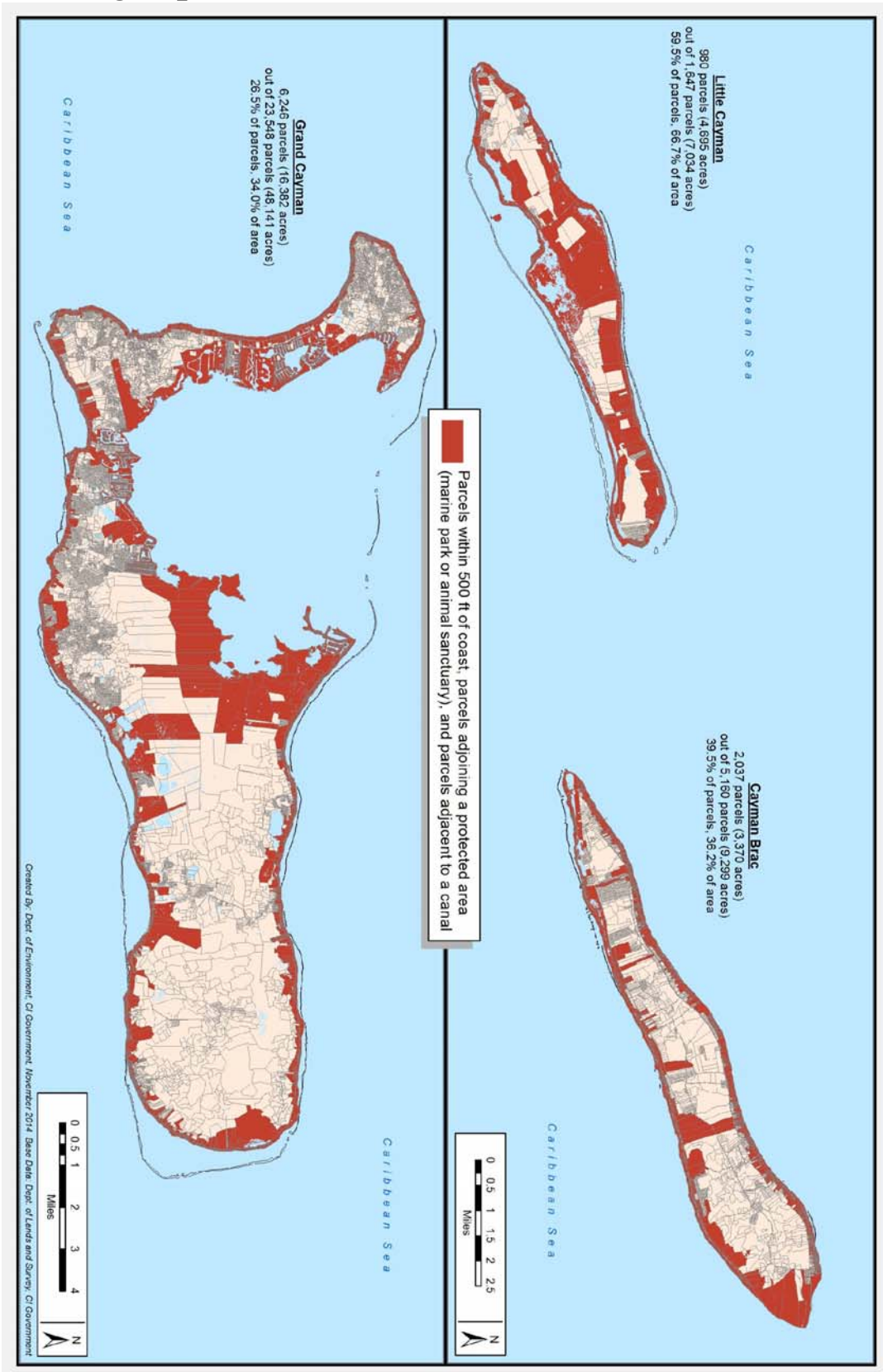
- 1) A plan sufficient to identify the location of activity;
- 2) A detailed description of the nature and purpose of the activity, including any plans in the case of developments or similar, and the activity's possible effects on the environment; and
- 3) Any other information that the entity making the request may wish to provide.

The DoE, on behalf of the Council, if they consider that they have not been provided with enough information to provide an informed consultation response, shall notify in writing the entity making the request of the points on which they require additional information.

Council consultation may be begun by emailing ConservationCouncil@gov.ky, or by memo or mail care of the Department of Environment. Questions regarding the Law in general or consulting with the Council in particular may be likewise directed. These Guidance Notes will be reviewed periodically by the Council as appropriate.

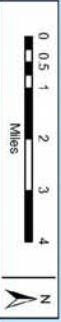
The Council welcomes pre-project/application consultation with individuals as well as entities considering any of the above.

Screening Maps





Primary habitat



Created by: Dept. of Environment, Government, November 2014. Base Data: Dept. of Lands and Surveys, Government