
GOVERNMENT

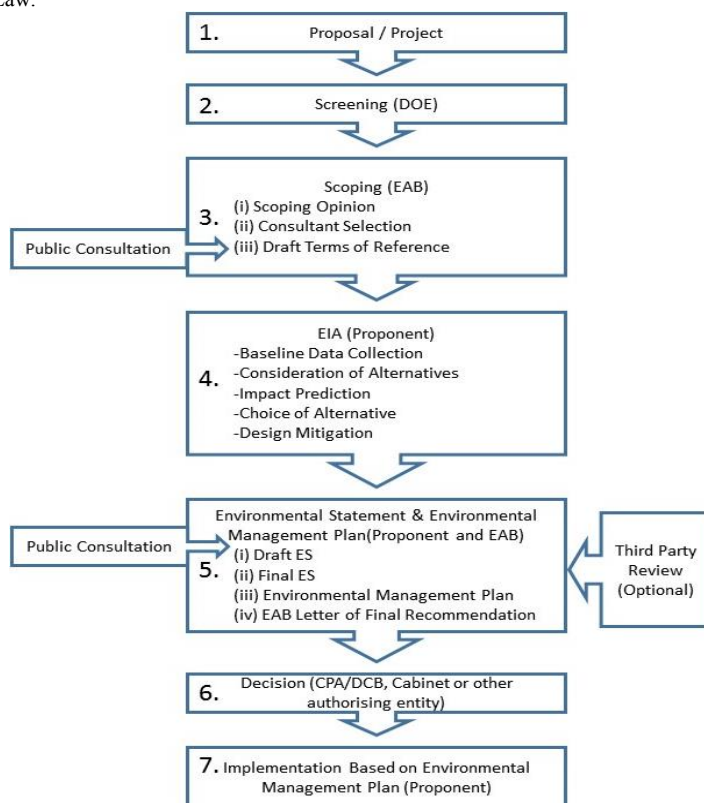
Departmental Notice

INTERIM FISH CONSERVATION PLAN

In order to continue the licencing of fish pots, spear guns and nets the following interim Fish Conservation Plan has been issued by the National Conservation Council under section 17(7) of the Law. **“The take of any of the fish species listed in Schedule 1 Part 1 and Part 2 of the National Conservation Law, 2013 with a spear gun, seine net, gill net or fish pot is prohibited without a licence.”**

NATIONAL CONSERVATION COUNCIL DIRECTIVE FOR ENVIRONMENTAL IMPACT ASSESSMENTS SECTION 43, NATIONAL CONSERVATION LAW

This Directive is issued under section 3(12)(j) and has effect under section 43(2)(c) of the National Conservation Law.



These directives are to be read in conjunction with the Environmental Impact Assessment (EIA) process flowchart above.

1. Proposal/Project

- An EIA can be initiated by the National Conservation Council under 41(3) or 41(4).
- A proponent may initiate EIA discussions with the Council prior to the formal submission of an application for approval.
- In both instances the process specified hereafter will be used.
- The proponent may or may not wish to request a Screening Opinion.
- In all cases the costs of the EIA and the monitoring of any subsequently permitted activities shall be the responsibility of the project proponent (34(4)).

Acronyms

- EIA – Environmental Impact Assessment
- DoE – Department of Environment
- EAB – Environmental Assessment Board
- ES – Environmental Statement
- EMP – Environmental Management Plan

2. Screening

All activities listed in Schedule 1 will be considered against the screening criteria listed in section 1 to 3 of Schedule 1 to determine if an EIA may be required. The requirement for an EIA will be triggered by the type and characteristics of development, locational considerations and the characteristics of the potential impact.

In order to ascertain whether a development listed in Schedule 1 should be the subject of an EIA the Council shall screen the proposal and issue a Screening Opinion.

The assessment of proposals and preparation of the Screening Opinion has been delegated by the National Conservation Council to the Department of Environment (under section 3 (13)).

A request for a screening opinion shall be accompanied by:

- a) A plan sufficient to identify the location of activity;
- b) A brief 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
- c) Any other information that the entity or proponent making the request may wish to provide.

The DoE shall, if they consider that they have not been provided with enough information to issue an opinion, notify in writing the person making the request of the points on which they require additional information.

The DoE shall issue a screening opinion to the National Conservation Council within 3 weeks beginning with the date of receipt of a request for screening, made in accordance with the provisions above. As soon as practical thereafter, the Council shall issue its decision to the originating entity on the requirement for an EIA, pursuant to Section 43 (1).

The originating entity shall advise the proponent of the Council's decision. In the case of proponent-submitted proposals this communication shall be delivered by the Department of Environment. The proponent shall have a period of up to 28 days to respond in writing to confirm whether they wish to proceed with an EIA or withdraw the application.

3. Scoping

Scoping of the EIA shall be carried out by the Environmental Assessment Board (EAB), which shall be a sub-committee of the Council in accordance with Section 3 (13). The EAB shall be chaired by the Director and shall have as permanent members the Deputy Director for Research & Assessment (DoE) and the Director of Planning, or their designates. Other members of the EAB shall be appointed by the Council on an ad hoc basis, based on the likely significant effects of the development or project. The EAB shall only be comprised of Government agencies or departments that are normally part of the regulatory processes associated with the review, control and approval of plans, projects and/or development.

Each EIA shall be assigned its own EAB.

The EIA shall conform to the outcome of the scoping exercise.

(i) Scoping Opinion

A proponent submits a written request for a scoping opinion to the Environmental Assessment Board (chaired by DoE). The request shall be accompanied by:

- a) A plan sufficient to identify the location of development;
- b) A full description of the nature and purpose of the development and its possible effects on the environment, and
- c) Any other information that the proponent may wish to provide.

The EAB shall, if they consider that they have not been provided with enough information to issue an opinion, notify in writing the project proponent of the points on which they require additional information.

The EAB shall issue a scoping opinion within 4 weeks beginning with the date of receipt of a request, made in accordance with the provisions above. The opinion will identify those environmental impacts which will likely be significant and which will need to be addressed as part of the EIA. The scoping opinion will also indicate the range of technical competencies which the consultants selected to carry out the EIA will need to possess; these competency requirements will be dependent upon the scale and complexity of the proposed project and associated EIA.

(ii) Consultant Selection

The proponent shall submit to the EAB details of up to three consultancy firms/teams which possess the technical capacity to undertake the EIA, based on the scoping opinion. The EAB shall review and confirm if the proposed team(s) meet the competency requirements to carry out the EIA. If details of more than one consultancy team are provided to the EAB for review, and all teams meet the competency requirements, the selection of the preferred consultant shall be made by the proponent.

Should the EAB determine that the consultancy team(s) do not meet the basic competency requirements, the proponent shall engage further with consultancy teams until a team is identified that meets the requirements.

The proponent shall incur the costs associated with an EIA.

(iii) Terms of Reference

The proponent's appointed consultancy team, in collaboration with the EAB, shall develop and refine the scope of the EIA. The end result of the scoping process shall be the Terms of Reference for the EIA.

A draft Terms of Reference shall be released to the public to ensure that it addresses the likely significant issues of importance.

The public consultation for the draft Terms of Reference shall comprise, as a minimum, the following elements:

- i. Publication of the draft Terms of Reference or a link thereto on the DoE's website for a period of 21 consecutive days;
- ii. Notification of the publication and public meeting in the local press on two separate occasions, within 10 days prior to the publication of the draft Terms of Reference;
- iii. A public meeting at a venue to be agreed with the EAB to present the draft Terms of Reference. The meeting shall be held at least 7 days prior to the end of the consultation period;

Comments on the published draft Terms of Reference shall be submitted in writing to the EAB c/o the DoE via email, post or hand delivery to the offices of the Department of Environment. Comments from the National Conservation Council on the draft Terms of Reference may also be received at this time. The EAB shall work with the proponent's consultants to ensure that all relevant comments are reflected in the final Terms of Reference. The proponent shall provide a written response to the consultation comments. All responses shall be appended to the Terms of Reference.

Once the Terms of Reference have been finalised by the EAB and the proponent's consultant, inclusive of the relevant concerns of the public and the National Conservation Council, the Environmental Impact Assessment can begin.

4. EIA

Consultation Process

During the EIA process, the proponent shall submit for review by the EAB interim draft documents/chapters of the Environmental Statement and the final report (*Environmental Statement* – 'ES') against the agreed scope and in accordance with a predetermined schedule. Public consultation may be undertaken during the course of the Assessment if such consultation is felt to be advantageous by the applicant or EAB. Consultations shall be undertaken with additional key stakeholders as identified by the EAB.

5. Environmental Statement & Environmental Management Plan

Schedule 2 outlines the information to be included in the ES and provides guidance on the preparation of an ES.

Consultation shall be undertaken upon completion of the draft ES in order to to entertain representations by the public or key stakeholder groups with valid concerns associated with the ES. This consultation shall include, as a minimum,

- a) Publication of the draft ES or a link thereto on the DoE's website for a period of 21 consecutive days;
- b) Notification of the publication and public meeting in the local press on two separate occasions, within 10 days prior to the publication of the draft ES;

- c) A public meeting at a venue to be agreed with the EAB to present the draft ES. The meeting shall be held at least 7 days prior to the end of the consultation period.

The proponent shall respond to and address as appropriate representations received during the consultation on the draft ES. These representations and responses shall be appended to the final ES.

Environmental Management Plan

The results of the EIA will be used by the project proponent to develop an Environmental Management Plan (EMP) for the project. The EMP will form the basis for environmental monitoring and mitigation during the implementation of the project.

Schedule 3 outlines the information to be included in the EMP.

Third Party Review

It is open to both the proponent and the EAB to engage an independent third party with the appropriate expertise to review any component of the EIA or ES if they so choose. This option may be particularly useful if there is disagreement regarding the scope, findings or conclusions set out in the ES. The reviewer shall be selected in a manner to be agreed by the EAB and proponent's consultant. The review shall be funded by the proponent. Once the third party report is received it shall also be made available to the proponent, EAB and public.

Procedures on Submission of Environmental Statements

1. EIA initiated by the National Conservation Council under 41(3) or 41(4).
 - a. The proponent's consultant shall submit five hard copies and five electronic media copies of the ES and supporting documentation to the EAB.
 - b. The EAB, within 28 days of receipt of the final ES and supporting documentation, shall submit to Council the
 - i. EAB's final report which may include a recommendation on whether to approve or deny the application;
 - ii. ES
 - iii. Technical appendices (including record of public consultation including all feedback received)
 - iv. Non-technical summary.
 - c. The Council formulates their recommendations or decisions and submit to the originating entity.
 - i. The Council shall include the ES documentation and the EAB's Report in their submission.
2. Proponent Originated EIAs
 - a. The proponent's consultant shall submit five hard copies and five electronic media copies of the ES and supporting documentation to the EAB.
 - b. The EAB, within 28 days of receipt of the final ES and supporting documentation, shall submit to the project proponent the EAB's final report on the ES.
 - i. A copy of the EAB's report shall be presented to the Council.

3. If, due to exceptional circumstances, the EAB cannot meet the above 28 day timelines, the EAB shall notify the Council or project proponent, as appropriate, in writing within 14 days of receipt of the ES and a revised timeline will be agreed for submission of the EAB report.

6. Decision

In the case of consultations pursuant to Section 41(3), decisions on the assessed proposal will be made by the Central Planning Authority, Development Control Board, or Cabinet or other authorizing entity; while taking into account the Council's recommendations.

“41(5) In the case of a proposed action to which subsection 41(4) applies, the Council may, having regard to all the material considerations in this Law and regulations made under this Law-

(a) agree to the proposed action subject to such conditions as it considers reasonable, in which case the originating authority shall ensure that the proposed action is made subject to such conditions; or

(b) if the Council considers that the adverse impact of the proposed action cannot be satisfactorily mitigated by conditions, the Council shall so direct the originating authority and that authority shall refuse to agree to or refuse to proceed with the proposed action.”

7. Implementation Based on Environmental Management Plan

Project proponent carries out project according to the EMP as contained in permissions granted by the relevant entities.

The cost of monitoring inspections shall be at the expense of the project proponent.

SCHEDULE 1 Activities Considered For Environmental Impact Assessment

The following types of activities will be considered against the screening criteria listed in section 1 to 3 of this Schedule -

- 1) Subdivision of Land
- 2) Land reclamation projects
- 3) Large scale residential developments and special purpose developments, including projects of national importance, mixed use and Planned Area Developments
- 4) 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.
- 5) Infrastructure projects including:
 - i) Telecommunication, broadcast or radar installations
 - ii) Transportation infrastructure, including planning or construction of new roads, and of road extensions
 - iii) Storm water drainage and management scheme
 - iv) Waste Management Activities, Solid & Liquid, including expansion, enhancement or change of system at existing facilities; handling of sludge or scrap material
 - v) Airports and Airstrips
 - vi) Ports, harbours, yacht marina and inland waterways which permit the passage of vessels
 - vii) Water Generating Facilities, including Desalinization Plants
 - viii) A dam or other installation designed to hold or store water on a long-term basis

- 6) An industrial estate development.
- 7) Canalisation for flood-relief works
- 8) Coastal works to combat erosion and maritime works capable of altering the coast through the construction, for example, of groynes, jetties & other sea defence works
- 9) Ground water or seawater abstraction
- 10) Hotel and resort developments, including golf courses
- 11) Commercial developments
- 12) Petroleum fossil fuel, biofuel and other fuel or chemical production, processing, holding, transfer or transport facilities including:
 - i) An oil or gas pipeline
 - ii) the surface storage of natural gas
 - iii) the underground storage of combustible gases
 - iv) A crude-oil refinery or an installation designed for the handling and storage of petroleum products
- 13) Institutional Developments or Facilities, including but not limited to
 - i) Hospitals
 - ii) Educational Establishments
 - iii) Remand or Correctional Facilities
- 14) Industrial developments, including but not limited to:
 - i) Processing, manufacturing, rendering, production, treatment, storage, or similar facilities
 - ii) obnoxious and other industrial plants such as workshops and similar establishments
 - iii) processing of metals, including ironworks or steelworks;
 - iv) brewing or malting
 - v) the storage of petroleum or petrochemical or chemical products
 - vi) Decommissioning or Decontamination of industrial installations
- 15) Energy Generating, Transfer or Transmission Facilities including but not limited to:
 - i) Installations for the harnessing of wind, solar, wave, ocean thermal, ocean current or other renewable energy sources
 - ii) Installations for the production of electricity, steam and hot water
 - iii) Surface storage of natural gas; underground storage of combustible gases; surface storage of fossil fuels
 - iv) an industrial installation for carrying gas, steam or hot water or the transmission of electrical energy by overhead or submarine cables
- 16) 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.
- 17) Industrial Processing, Manufacturing, Other projects, including a permanent or testing track for cars or motor cycles; a site for depositing sludge; the storage of scrap iron.
- 18) National or Sectoral Policies or Projects including, but not limited to
 - i) Tourism Plans
 - ii) Economic Plans
 - iii) Energy Policies, including Power Needs/Purchase Planning
 - iv) Development Plans
 - v) Transport Plans
 - vi) Infrastructure Planning
 - vii) Socio-Economic Planning
 - viii) Port Plans, Air or Sea
 - ix) Emergency Response Planning, Including State of Emergency Derogations

- x) Industrial Activity Plans
- xi) Emergency or Disaster Response Management Plans
- xii) Acquisition/Sale/Disposal/Lease/Loan of Crown Land

Characteristics of development

1. The characteristics of development must be considered having regard, in particular, to –
 - a. The size of the development;
 - b. The cumulation with other development;
 - 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 development

2. The environmental sensitivity of geographical areas likely to be affected by development 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 development 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.

SCHEDULE 2

Information for inclusion in environmental statements

1. Description of the development , including in particular-
 - a. A description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;
 - b. A description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
 - c. An estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.

2. An outline of the main alternatives studied by the applicant, including the “No Project” alternative, and an indication of the main reasons for the choices made, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and interrelationship between the above factors.
4. The basis for the evaluation of impact significance must be clearly set out for each topic in each section of the environmental statement and supporting documentation listed.
5. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, residual, short, medium and long term, permanent and temporary, positive and negative effects of the development, resulting from-
 - a. The existence of the development;
 - b. The use of natural resources;
 - c. The emissions of pollutants, the creation of nuisances and the elimination of waste, and the description by the applicant of the forecasting methods used to assess the effects on the environment.
6. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
7. A non-technical summary of the information provided under paragraphs 1 to 5 of this Schedule.
8. An indication of any difficulties (technical deficiencies, data gaps or lack of know-how) encountered by the applicant in compiling the required information.
9. All of the above shall be read in conjunction with guidance published by the DoE.

GUIDANCE ON PREPARATION OF AN ENVIRONMENTAL STATEMENT

1. Preparation of the Environmental Statement

- 1.1 The pre-application discussions, screening and scoping exercises (including the agreed Terms of Reference) will identify the key issues to be addressed in the EIA.
- 1.2 The key requirements for each aspect of the EIA process are:
 - Describe and state the need for the project;
 - Confirm the nature of the proposal including any alternatives under consideration (see paragraphs 1.4 to 1.6 below);
 - Identify the range of key likely effects on the environment with reference to any pre-application consultation undertaken;
 - Identify the extent to which these effects need to be investigated;
 - Identify and agree methodologies to be employed;
 - Define data availability and further data gathering required;
 - Set the indicative thresholds and significance criteria to be used in evaluation of impacts;
 - Identify broad mitigation measures; and • Agree the above with statutory bodies.
- 1.3 When considering the environmental consequences of the proposed development, the impact of mitigation measures, which will form an integral part of the proposal, should also be considered. Collecting the information may involve, in the first instance, desk studies of existing records. Where information does not exist or is inadequate for the purposes of making accurate predictions about

potential impacts, additional field surveys may need to be undertaken. The data collected should include that which is identified in the agreed Terms of Reference.

- 1.4 **Assessment of Alternatives** - The reasons for choosing a proposed development, taking account of the environmental effects, should be justified in the ES. The purpose of this description is to demonstrate that the environmental impacts of alternatives have been considered as an integral part of the design process.
- 1.5 The consideration of alternatives (including alternative sites, alternative site layouts, alternative processes and alternative phasing of construction) is good EIA practice. If the EIA starts at the stage of site and process selection, as it should, the environmental merits of practical alternatives can be properly considered. The main alternatives considered should then be outlined in the ES. The “do nothing” option (that is, the possibility of not carrying out the proposed development at all) should also be included.
- 1.6 It is particularly important to justify convincingly why it was decided to choose the site proposed. The choice of the preferred alternative should involve a comparison of the magnitude and significance of the effects of the alternatives considered. Where no alternative sites were considered, the reason why alternatives were not feasible should, where appropriate, be explained in the ES.

2. Reporting the Results of Scoping

- 2.1 The applicant should summarise the source and content of the relevant scoping response as a basis for the assessment that follows. Providing the results of scoping allows the reader to follow a clear progression through the stages of the EIA and provides a means to systematically set out the structure of the ES.

3. Baseline

- 3.1 The purpose of the baseline studies are to determine and describe the environmental conditions against which any changes – in particular those associated with the proposed development that is the subject of EIA - can be measured, predicted or assessed. Without an adequate baseline, there will be an insufficient basis to determine the impacts of a proposal.
- 3.2 It is necessary to indicate clearly, how characterisation of the baseline environment was derived for the issues that were initially identified as likely to result in a significant negative environmental effect. Consultees and relevant agencies may be able to supply relevant information for the purpose of EIA. Desk studies, field surveys, modelling and consultation are all relevant methods to characterise the baseline environment. An evaluation or subjective interpretation of technical reports may be required, and applicants should seek to avoid overbalancing the ES with information regarding the baseline conditions, always bearing in mind that the purpose of an ES is to describe the main or significant effects.
- 3.3 Other relevant developments, which are planned or have received planning permission, should be considered in a cumulative assessment.

4. Identification of Receptors

- 4.1 Receptors may comprise resources such as protected habitat or species, water quality, an archaeological feature or the value of worth as identified by legislation or public perception. Applicants may experience problems in assessing the sensitivity of a receptor in the absence of prescriptive guidance and, therefore, subjective measurements may be required.

5. Assessment of Impacts

- 5.1 The assessment of the environmental impact of a development is the main focus of the EIA and therefore the methods used to predict and evaluate the impact are critical to the credibility of the EIA. The assessments should therefore be set out in a clear and structured manner in order to clarify how judgments have been reached. The assessment stage of the EIA should follow a clear progression from the characterisation of the impacts, to the assessment of the significance of the effect. It is important that a consistent approach to terminology is used as confusion often occurs over the difference between impact and effect. The use of the terms should be explained clearly within the report.
- 5.2 The impacts should be described and characterised in order to allow the significance of the effects to be determined based on frequency, duration, reversibility, and probability of the impact occurring. Additionally it is considered good practice to quantify all impacts where possible.

IMPACT PREDICTION

Prediction and describing environmental effects is a fundamental requirement and must be included in an ES. One of the main purposes of an ES is to clearly identify the impacts of a proposal. As a minimum, Governmental departments and consultees will seek to ensure that an ES describes:

- a) The sensitivity of the environmental resource;
- b) The magnitude of change;
- c) The likelihood of the impacts occurring;
- d) The certainty with which impacts have been identified;
- e) The comparison with the do nothing / future use of site; and
- f) The significance of the impacts based on factors (a) – (d) above.

- 5.3 In considering the nature of impacts, the assessment will need to consider whether each is:
- Direct - arising as a result of the proposal itself (e.g. changes in water quality, or land take to construct land based infrastructure);
 - Indirect - arising from effects associated with measures required to accommodate the proposal (e.g. land take for planting required to screen a new development);
 - Secondary/induced - arising from development or induced by the proposal;
 - Short, medium or long term - the duration of effects where short term may be less than one year, medium term one to five years and long term over five years;
 - Permanent or temporary - whether or not change is reversible or irreversible, given mitigation measures, or whether the effect is for a limited duration;

- Positive or negative - whether the effects are beneficial or detrimental to resources or receptors; and
 - Cumulative - arising from combined effects (see below).
- 5.4 The basis for the evaluation of impact significance must be clearly set out for each topic in each section of the environmental statement and supporting documentation listed. In most cases, impact significance is a function of the impact magnitude and the sensitivity and proximity of a receptor. For example, a small-scale proposal in an area of unremarkable landscape may not be significant in terms of landscape quality whereas the same proposal in an area of Scenic Coastline may be evaluated as having a major impact. Small increases in noise levels may not be significant where noise levels are already high, but could be significant in a quiet rural location.
- 5.5 A range of definitions can be adopted for assessing the predicted magnitude of an impact, based on the following criteria:
- High
 - Medium
 - Low
- 5.6 Once the magnitudes of impacts have been identified, impacts must be evaluated so that their significance can be determined. Significance can be recorded, using the suggested references described above:
- No impact;
 - Minor impact (positive/negative);
 - Moderate impact (positive/negative); and
 - Major impact (positive/negative).
- 5.7 All risks and uncertainties associated with a proposal need to be fully taken into account within the appraisal process. Only after this has been done will the reviewing bodies be able to obtain robust estimates of the costs and benefits of each option.

6. Cumulative Impacts

- 6.1 The EIA should assess indirect and cumulative impacts, and impact interactions at all stages of the project and to present the findings in the Environmental Statement. The direct impacts of a project can generally be predicted with certainty. However, the assessment of indirect and cumulative impacts and interactions may be met with uncertainties and may be based upon assumptions. In such situations the EIA will need to ensure that any assumptions made as part of the assessment are made clear.

CUMULATIVE IMPACTS

Impacts that result from incremental changes caused by other past, present or reasonably foreseeable actions together with the project. For example:

- Incremental noise from a number of separate developments;
- Combined effect of individual impacts, e.g. noise, dust and visual, from one development on a particular receptor;
- Several developments with insignificant impacts individually but which together have a cumulative effect, e.g. development of a golf course may have an insignificant impact, but when considered with several nearby golf courses there could be a significant cumulative impact on local ecology and landscape.

IMPACT INTERACTIONS

The reactions between impacts whether between the impacts of just one project or between the impacts of other projects in the area.

- a chemical plant producing two streams of waste that are individually acceptable but react in combination producing highly significant levels of pollution;
- emissions to air from one project reacting with emissions from an existing development;
- two major developments being constructed adjacent to one another and during overlapping time periods will have many interactive impacts, from land use issues to construction and operational noise.

7. Mitigation Measures

7.1 Mitigation refers to the reduction or removal of environmental effects/impacts of a project and instigation of mitigation measures is one of the major benefits of undertaking an EIA. Mitigation measures are most successful when they are considered from the outset of the project rather than as a late stage solution to an identified problem. This can allow the design of the facility to include solutions to potential environmental problems rather than finding a solution, which fits with the design.

7.2 Mitigation can take varying forms including in order of best practice first:

- Avoidance - this would require the project to be designed or the site selected to avoid any environmental impacts.
- Reduction - this can be achieved by the addition of mitigation measures such as bunding, screening, or applying abatement technology;
- Compensation - where impacts have been unavoidable this method can be used and can involve the improvement of a related environmental issue for example replanting of a deforested area in an alternative location.
- Remediation - this option would involve the clean-up and restoration of an area where the environmental impact is unavoidable; and
- Enhancement - this method involves the improvement of the site beyond the existing baseline.

7.3 Mitigation measures for a site will be highly specific for each development. It is recommended that the developer provides detailed information about each of the mitigation measures including, what is proposed, where and when it will be proposed, duration of the measure, how effective the measures will be, and responsibilities for monitoring the measure. Additionally, any uncertainty in the effectiveness of the measures should be noted in the ES. It is good practice to provide a section pulling together all proposed mitigation measures for each of the potentially significant impacts; this can be of immense use for the process of identifying and agreeing planning conditions. This also demonstrates that the findings of the ES have been considered in an integrated manner.

8. Non-technical Summary

8.1 The non-technical summary (NTS) forms an important part of the EIA and will be read by both the public and decision makers. The NTS should:

- Be a fair reflection of the main ES and cover all aspects of the EIA process and not just provide a summary of the impacts;
- Be available as a separate document;
- Be written in non-technical language; and
- Inform people of the environmental effects of the project rather than concentrating on the measures to reduce environmental effects.

SCHEDULE 3

Information for inclusion in environmental management plans

A proposed Environmental Management Plan shall include the mitigation measures recommended and present procedures and reporting relationships.

The Management Plan should clearly state:

- Institutional arrangements for carrying out the work parameters to be monitored
- Methods and best management practices to be employed
- Standards or guidelines to be used and thresholds to be adhered to
- Schedule and duration of monitoring (including details of initiation of action necessary to limit adverse impacts evident from monitoring)
- Format and frequency of reporting of results
- Actions to be taken, including stoppage of works, mediation of impacts and revocation of permits, for non-compliance with any aspect of the Environmental Management Plan.

NATIONAL CONSERVATION COUNCIL

Guidance Note on the Use of the Environmental Protection Fund, section 47, National Conservation Law

This Guidance Note is issued under section 3(12) of the National Conservation Law.

Introduction

The Environmental Protection Fund and Fee were created by the Legislative Assembly in 1997, “for the purpose of defraying expenditure incurred in protect[ing] and preserving the environment of the islands” (Hansard 15th December 1997).

With the passage of the National Conservation Law, 2013, that purpose was further refined. Under section 46(1) of the National Conservation Law “there continues to be established and managed an environmental protection fund to be used for the acquisition and management of protected areas and for measures to protect and conserve protected species and their critical habitat”.

Section 47 (1) requires the Council to advise the Cabinet on the use of the Fund and to be responsible for the management of monies disbursed from the Fund and section 3(9)(a) gives the Council the function of making recommendations on the use of the Fund.

These purposes are consistent with a range of local and international environmental law wherein the Cayman Islands have committed to sound environmental management, not least of which are the Bill of Rights (Clause 18) but also the Environmental Charter, the Convention on Biodiversity, the Ramsar Convention and the Convention on the Protection of Migratory Species.

In advising the Cabinet on the use of the Fund the Council will have regard to the purpose of the Law and the Fund and the statutory provisions relating to each purpose for which the Fund is established. Those provisions are contained mainly in Part 3 - Conservation of Land (acquisition and management of protected areas); Part 4 – Conservation of Wildlife (measures to protect and conserve protected species and their critical habitat).

Eligible Uses of the Fund

Crown Acquisition of Land for Protected Areas

Use of the Fund for acquisition of protected areas relates to the acquisition of non-Crown land so that it may be made the subject of an order under section 7 of the Law. Provided that the purposes, objectives and criteria for designation contained in section 8 are met and the landowner agrees to sell to the Crown the Council may make a recommendation to Cabinet for designation.

Creation of Protected Areas by Conservation Agreement

The Fund shall not be used for third party acquisition of land to be made the subject of a section 14 conservation agreement for management as a protected area, unless the land is made subject to a permanent easement, strict conditions restricting the use or development of the land apply and there are exceptional circumstances.

EPF funding will be available to provide the consideration for the entry into conservation agreements. Conservation agreements will specify the terms on which payments are made, ordinarily quarterly or annually.

Management of Protected Areas

Management may be for individual protected areas (existing or proposed), protected areas in general, or the protected area system as a whole, including *inter alia*:

- a) development of management plans for protected areas;
- b) protected area planning workshops and stakeholder meetings;
- c) public education, outreach and awareness programmes focussed on existing and/ or proposed protected areas;
- d) applied research called for in management plans, to inform protected area management activities;
- e) planning, development and implementation of sustainable recreational and nature tourism activities within protected areas, and/or associated with them - including assessing and management of environmental impacts from activities already underway;
- f) efforts to eradicate or control invasive non-native species, especially within protected areas or under the ambit of a Conservation or Management Plan;
- g) projects seeking to restore near-natural communities of native plants and animals in degraded habitats within protected areas;
- h) long-term monitoring of species, biodiversity and/or ecological processes within protected areas, to improve knowledge and understanding and to alert managers to any developing problems or issues;
- i) protected area boundary maintenance, posting, and/or fencing;
- j) Initiatives to devise and set up independent sustainable funding mechanisms for protected area management;

Conservation of Wildlife (measures to protect and conserve protected species and their critical habitat).

Protection of locally endemic, or regionally endangered native species, especially those in Part 1 of Schedule 1, which, in the opinion of the Council, face threats so extreme that protection and management of their natural habitat alone is insufficient to secure their survival. Eligible projects may include:

- a) direct conservation interventions, such as captive breeding, propagation, reintroduction, headstarting, restocking, population management, predator control, habitat enhancement, etc.;
- b) species recovery planning, which may include 'workshop' meetings;
- c) research where this will provide clearly essential information to a conservation programme;
- d) conservation education activities focussed on particular protected or endangered species;
- e) initiatives to devise and set up independent sustainable funding mechanisms for particular protected species conservation projects.

Legal Support

Legal support for the acquisition and management of protected areas or measures to protect and conserve protected species and their critical habitat may be paid out of the Environmental Protection Fund. This includes, but is not limited to, legal defence and/or extraordinary enforcement or prosecution activities needed to secure protected areas or any challenge to the integrity of a protected area, or to the protection and conservation of protected species and their critical habitat.

NATIONAL CONSERVATION COUNCIL

GUIDANCE NOTE ON THE USE OF THE ENVIRONMENTAL PROTECTION FUND, SECTION 47, NATIONAL CONSERVATION LAW

This Guidance Note is issued under section 3(12) of the National Conservation Law.

Introduction

The Environmental Protection Fund and Fee were created by the Legislative Assembly in 1997, “for the purpose of defraying expenditure incurred in protect[ing] and preserving the environment of the islands” (Hansard 15th December 1997).

With the passage of the National Conservation Law, 2013, that purpose was further refined. Under section 46(1) of the National Conservation Law “there continues to be established and managed an environmental protection fund to be used for the acquisition and management of protected areas and for measures to protect and conserve protected species and their critical habitat”.

Section 47 (1) requires the Council to advise the Cabinet on the use of the Fund and to be responsible for the management of monies disbursed from the Fund and section 3(9)(a) gives the Council the function of making recommendations on the use of the Fund.

These purposes are consistent with a range of local and international environmental law wherein the Cayman Islands have committed to sound environmental management, not least of which are the Bill of Rights (Clause 18) but also the Environmental Charter, the Convention on Biodiversity, the Ramsar Convention and the Convention on the Protection of Migratory Species.

In advising the Cabinet on the use of the Fund the Council will have regard to the purpose of the Law and the Fund and the statutory provisions relating to each purpose for which the Fund is established. Those provisions are contained mainly in Part 3 - Conservation of Land (acquisition and management of protected areas); Part 4 – Conservation of Wildlife (measures to protect and conserve protected species and their critical habitat).

Eligible Uses of the Fund

Crown Acquisition of Land for Protected Areas

Use of the Fund for acquisition of protected areas relates to the acquisition of non-Crown land so that it may be made the subject of an order under section 7 of the Law. Provided that the purposes, objectives and criteria for designation contained in section 8 are met and the landowner agrees to sell to the Crown the Council may make a recommendation to Cabinet for designation.

Creation of Protected Areas by Conservation Agreement

The Fund shall not be used for third party acquisition of land to be made the subject of a section 14 conservation agreement for management as a protected area, unless the land is made subject to a permanent easement, strict conditions restricting the use or development of the land apply and there are exceptional circumstances.

EPF funding will be available to provide the consideration for the entry into conservation agreements. Conservation agreements will specify the terms on which payments are made, ordinarily quarterly or annually.

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