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Our Ref: JMH

13 April 2021

Attorney General's Chambers
Portfolio of Legal Affairs
4th Floor, Government Administration Building
133 Elgin Avenue, George Town
PO Box 136
Grand Cayman KY1-9000
CAYMAN ISLANDS

ATTN: Michael Smith, Crown Counsel (Civil)
By Email: Michael.Smith@gov.ky

Dear Sirs

**The Port (Amendment) Regulations, 2021 (the "New Port Regulations") and
The National Conservation (Marine Parks) Regulations, 2021 (the "New Marine
Park Regulations")**

We act for the Ms Shirley Roulstone. We refer to the New Port Regulations and the New Marine Park Regulations that were gazetted on 12 March 2021.

Ms Roulstone is concerned that the removal of the protected status of the George Town Harbour is contrary to Section 41(1) of the National Conservation Law 2013 (the **NC Law**) as it is "*inconsistent with and jeopardise[s] the conservation and protection of...*": (i) "*protected areas*" (George Town Port); (ii) the "*protected species*" being the fish, anemones, sponges, hard and soft coral and other species that inhabit that area identified in Part I of Schedule 1 of the NC Law; and (iii) the reefs being their habitat in that area.

The protected areas (as well as the protected species and critical habitats) jeopardised by the New Port Regulations and the New Marine Park Regulations comprise not merely the specific area of reef in the newly demarcated "anchorage zone" but also the adjacent reefs which are at material risk of being adversely affected by allowing anchorage anywhere in that zone. We consider that the new anchorage zone will impair life on the entire reef system of which Soto's Reef and others in the George Town area form a part. Anchoring can take place in sandy areas as it has done over the years in a manner which does not damage the reefs and which can be monitored and regulated. We do not accept that the protected status of George Town Harbour needs to be removed.

We are also concerned that the rezoning was intended to facilitate potential development of the George Town port as indicated in the Second Affidavit of Stran Bodden in the recent judicial review proceedings, Cause No. GC 195 of 2019, that Ms. Roulstone brought in a representative capacity on behalf of CPR (the **Proceedings**). Mr. Bodden's affidavit was sworn in answer to the National Trust's Statement of Grounds in the Proceedings. We draw your attention, in particular, to Section II (1) The George Town Harbour Reefs, of the Statement of Grounds, paragraph 17(1) of which states: "*The George Town Harbour Reefs are in [an] area which is designated as protected under the NC Law*" to which CIG's response was (Stran Bodden's Second Affidavit, paragraph 29(ii)): "*Regarding para. 17(1), the protected area will be changed to accommodate the Project*". We also have



reason to believe that the Major Projects Division of the Public Works Department, has been working on designing a cruise berthing facility for the George Town Port.

As set out in the National Trust's letter to you of 10 January 2020 in the Proceedings in relation to this, any Regulations which remove the protected status of areas such as George Town Harbour or which jeopardise the species or habitat in that area constitute a violation of Section 41 of the NCL as well as Section 18 of the Cayman Islands Constitution (the **Constitution**). If CIG accepts that Section 41 is infringed and CIG did not in fact amend the regulations in order to facilitate the redevelopment of the George Town port but merely to regularize certain of the sandy anchorage areas within the previously designated marine park zone, we would invite CIG to confirm that fact to us within the next fourteen (14) days and also to undertake (a) to reform the New Port Regulations so as to ensure that anchorage will take place only on sand and in an area free of coral and (b) to amend the New Marine Park Regulations so as to reinstate the marine park in George Town Harbour. We consider that well-managed anchorage rules can ensure that anchoring can take place as it has done before while George Town Harbour remains a marine park but not jeopardising any of the reefs. Anchoring in that way has been carried out for years in a manner that is sensitive to its surrounding area as a marine park.

If CIG is not prepared to provide such confirmation and undertaking within 14 days of the date of this letter, Ms Roulstone would feel compelled to seek injunctive/declaratory relief.

Yours faithfully,

Nelsons

NELSONS