

THE NATIONAL CONSERVATION COUNCIL

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

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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 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 m² to 18,000 m² of, presumably concrete and rebar, artificial boulders on which to cement them. (C) significantly, only 1,600 m² to 4,800 m² 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.