

National Conservation Council and Department of Environment

MEDIA STATEMENT

6 August 2021



DEPARTMENT OF
ENVIRONMENT
CAYMAN ISLANDS GOVERNMENT



National Conservation Council and Department of Environment Response to Dart Media Statement on PAD Application Process

Late last week the Dart organisation released a media statement addressing the application process for Planned Area Developments (PADs). The statement calls into question the validity of the requirement placed on the organisation by the National Conservation Council (NCC) to undertake an Environmental Impact Assessment (EIA) to inform the approval process for the PAD for a resort residential district in the northern Seven Mile Beach corridor. The Department of Environment (DoE) and the NCC believe it is in the public's interest to address some of the assertions made so as to provide clarity about the PAD application process.

Essentially, the Dart organisation has been asked to provide an EIA because the PAD application that has been submitted by the organisation seeks permission to develop on a scale that substantially exceeds the allowances indicated in the Development and Planning Regulations. Therefore, the DoE believes it is imperative that an EIA is carried out as part of its due diligence. The NCC concurs with this opinion and is legally able to request the EIA under Section 43 of the National Conservation Act (NCA) (2013). Further explanation is provided below.

Regulation 8 (14) (a-g) of the Development & Planning Regulations (2021) outline a list of considerations that should be considered when assessing a PAD application to ensure that the impacts and effects of the master-planned development are fully understood prior to determining such a proposal, given that it, in effect, creates an update to the country's Development Plan. These include assessing the likely impact of the proposed development on the infrastructure of the Islands as well as on the educational, social, medical and other aspects of life in the Islands; consider whether there are other issues of national importance which are relevant to the determination of the application for development and require evaluation, amongst others.

Section 43 of the NCA outlines the legal framework for EIAs. The NCC's Directive for Environmental Impact Assessments, gazetted in 2016, outlines the steps within an EIA. Schedule 1 of the Directive lists the type of activities considered for an EIA; item 3 of this Schedule includes mixed use schemes and Planned Area Developments. The requirement for the DoE to produce the Screening Opinion is mandated in the aforementioned Directive.

As per the Directive, the DoE provided its Screening Opinion to the NCC, which recommended an EIA. The EIA Directive requires the NCC to vote on all Screening Opinions. The NCC voted to accept the findings of the Screening Opinion and wrote an endorsement on 9 April 2021 confirming that an EIA was required. The Screening Opinion and the NCC's

endorsement were sent to the Planning Department and Dart on 19 April 2021. The NCC then ratified the decision in public at a general meeting on 21 July 2021. There was no breach of the NCA.

Under Section 39(1) of the NCA, any person aggrieved by a decision of the Council may, within 21 days of the date on which notice of the decision is received, appeal against it to the Cabinet by serving on the Cabinet notice in writing of the intention to appeal and the grounds of the appeal. As far as the DoE is aware, no appeal has been lodged.

The Dart press release has expressed that there has been inconsistency in the NCC's treatment of Dart's PAD application. The concept of a PAD was introduced into the Development and Planning Act in 2010. At that time, there was no NCA, as this was passed in 2013 and came into effect in 2015 resulting in the formation of the NCC. The EIA Directive was gazetted on 29 June 2016 giving the NCC the ability to legally require an EIA for the first time.

Prior to the formation of the NCC, the DoE recommended EIAs for the Health City PAD, the City Services PAD, and the Camana Bay PAD. The Central Planning Authority of that time did not follow the recommendations of the DoE, and therefore no EIAs were required of the developers. Since the formation of the NCC, only two PAD applications have been submitted: the Aster MedCity development and the Dart Canal and Hotel District development. Both developments were screened for EIAs and the EIA Screening Opinions were endorsed by the NCC. The Aster MedCity development did not require an EIA because it is smaller and much less complex. This should not be confused with saying there is no impact, because the DoE did recommend additional studies to fully understand the impacts associated with Aster MedCity. Both EIA Screening Opinions are available at the NCC's website (<https://conservation.ky/eia-screening-options/>)

The Dart press release also states that beachrock removal is not part of the PAD application. On 2 March 2017, the NCC required an EIA for the proposed removal of beachrock because it could fundamentally alter Seven Mile Beach forever (among other things) and so needs to be studied carefully. Dart had expressed to the DoE that the removal of beachrock was required to facilitate hotel development at the PAD site. To the DoE's knowledge, in the four years which have passed, Dart has not progressed the EIA in line with the EIA Directive. Members from Dart met with the Department of Environment in January 2021 and confirmed that they are still pursuing the beachrock removal. An EIA is required for the Hotel and Canal District PAD based on its own merits and an EIA is required for the beachrock removal based on its own merits. It would be logical to do them together as one study.

Dart's CEO comments have made reference to the need for an Environmental Management Framework. The Development Plan should be the overarching framework for development in the Cayman Islands and should consider the environmental, social and economic aspects of development. The DoE agrees that an up-to-date and comprehensive Development Plan is long overdue. EIA is a process used across the globe to assess projects, and any Environmental Framework or Development Plan would include EIA as a tool to assess development.

An EIA is used to work out the details of a complex project. It does two key things:

1. It makes sure that when a decision is made, it is done with the full understanding of the consequences on the environment and on people.
2. It identifies ways to make a project better for the environment, by making changes to the design to address the significant environmental effects.

The DoE and the NCC maintain that it is in the best interest of the country to ensure that the approval process for a major mixed-use development, such as this, be informed by a thorough assessment of the potential environmental and socio-economic impacts which would be encapsulated in the EIA process, a decision-making tool which is recognised, accepted, and welcomed globally.

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