



**PUBLIC LANDS  
COMMISSION**  
CAYMAN ISLANDS GOVERNMENT



# ANNUAL REPORT 2020

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# 1. ABOUT THE PUBLIC LANDS COMMISSION

## Mandate

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**Mandate:** The mandate of the Public Lands Commission, set out in Section 5 of the Public Lands Act (2020 Revision), is to regulate the use of public land in the public interest, and in particular;

- To regulate the use and enjoyment of public land in the Cayman Islands by members of the public.
- To protect the right of access to and use of public land by members of the public. including the enforcement of public rights of way over private lands.
- To respond to complaints regarding the use or misuse of public lands.
- To issue permits for the use of, and activities on public lands; and
- To advise the Chief Officer of the Ministry presided over by the Minister on general policies respecting the enforcement of the Law and in particular enforcement matters; and
- To exercise the powers and carry out the functions delegated to the Commission by the Minister for Lands.



## 2. Who Are We?

### Commission Membership

In August 2019 the Public Lands (Amendment) Act, 2019 was passed in the Legislative Assembly and assented (see the “Acts, Regulations & Policy” section). This amendment to the Law restructured the Commission membership to comprise members of the public representing specific Districts, including the Chairperson.

To comply with the amended Act the Cabinet then appointed the following replacement members for a two year term commencing 1<sup>st</sup> December 2019;

#### Chairperson

- Member of the Public representing George Town– Mrs. Terrence Caudeiron

#### Members

- Member of the public representing Bodden Town - Ernest Peterkin Berry
- Member of the public representing West Bay – Ms. Ezmie Smith
- Member of the public representing Cayman Brac & Little Cayman – Ms. Elsie Kynes
- Member of the public representing East End - Shane Edwards
- Member of the public representing North Side - Teddie Ebanks
- Director, Lands & Survey Department, or designate
- Chief Officer, Ministry of Lands, or designate
- Chief Officer, Ministry of Tourism, or designate
- Chief Officer, Ministry of Commerce, or designate

Throughout 2020, membership of the Commission remained unchanged.



## Commission Meetings

Under Section 7 Public Lands Act (2020 Revision) the Commission shall meet at least six times annually. Members are remunerated in the amount of CI\$ 100 per meeting attended (civil servant members receive no remuneration). All meetings are minuted.

During 2020, the Commission met on seven occasions, two of these meetings were held virtually by Zoom due to COVID-19. Member attendance & total remuneration in 2020 is shown below;

<b>Member</b>	<b>#Meetings attended</b>	<b>Remuneration Received CI\$</b>
Mrs. Terrence Caudeiron (Chairperson) Member representing George Town	7	\$700
Ernest Peterkin Berry Member representing Bodden Town	6	\$600
Ms. Ezmie Smith Member representing West Bay	7	\$700
Ms. Elsie Kynes Member representing Cayman Brac & Little Cayman	7	\$700
Shane Edwards Member representing East End	6	\$600
Teddie Ebanks Member representing North Side	7	\$700
Director, Lands & Survey Dept., or designate	6	NIL- Civil Servant
Chief Officer, Ministry of Lands, or designate	6	NIL- Civil Servant
Chief Officer, Ministry of Tourism, or designate	6	NIL- Civil Servant
Chief Officer, Ministry of Commerce, or designate	1	NIL- Civil Servant

## Staffing

Under Section 11 Public Lands Act the Chief Officer of the Ministry of Lands is authorized to appoint a Secretary to the Commission, a Chief Inspector, and such additional Inspectors as deemed necessary. These appointments are to be employees of the Ministry.



**Mrs. Winsome Prendergast, Chief Inspector**

In 2019 the Chief Officer appointed Mrs. Winsome Prendergast as Chief Inspector to the Commission.

No Inspectors were appointed to the Commission in 2020, although recruitment is anticipated in 2021, for which budgeted funding is in place.



Ms. Jerray Brown is the Secretary to the Commission



**Ms. Jerray Brown, Secretary**

The Secretary and Chief Inspector are based at the Government Administration Building, 133 Elgin Avenue, George Town, Grand Cayman. In early 2021 it is anticipated that the Secretary and Inspectorate will relocate to leased office accommodation in George Town, to make way for other Ministry staff in the limited desk-space available in the Government Administration Building.

The contact details for the Public Lands Commission Secretary are as follows;

Box 108 Government Administration Building  
133 Elgin Avenue  
George Town  
Grand Cayman  
KY1-9000

Telephone: (345) 244 2467

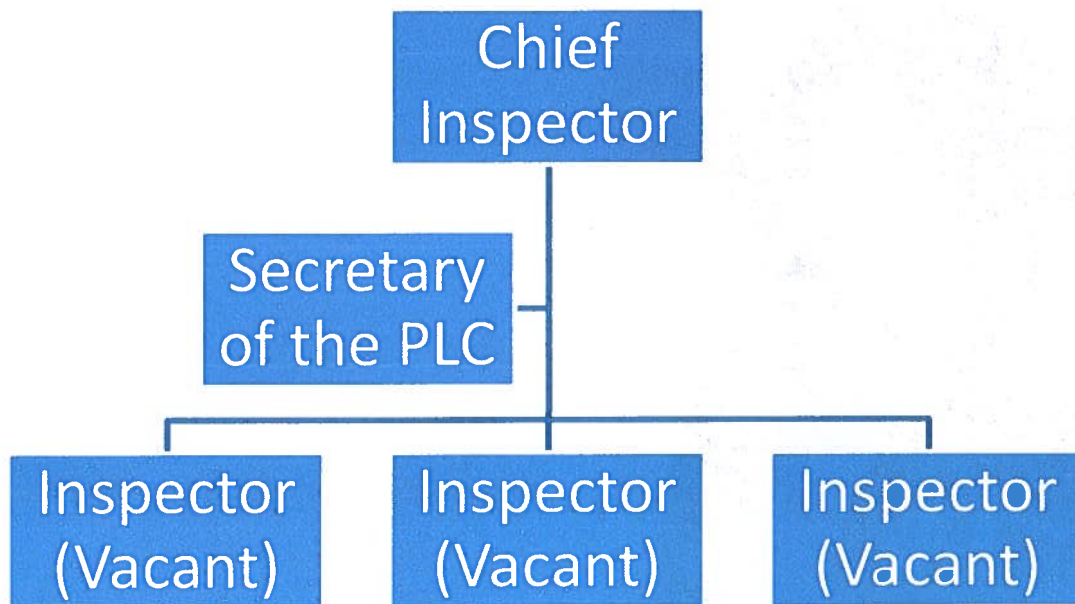
Mobile/Cell: (345) 925 5739

Email: [PLC@gov.ky](mailto:PLC@gov.ky)

In 2020 the Commission still did not have a website, although efforts to arrange one continue via the Government's Computer Services Department.



## Organizational Chart – Public Lands Inspectorate





### 3. Acts, Regulations & Policy

A copy of the Public Lands Act (2020 Revision) can be viewed and downloaded online at the Lands & Survey Department's website [www.legislation@gov.ky](http://www.legislation@gov.ky) as at the time of writing the Commission still does not have its own website.

Section 39 of the Public Lands Act gives the Cabinet authority, after consultation with the Commission, to make Regulations. During 2020 Regulations have still not yet been passed, although considerable work has been undertaken towards production of a final working draft acceptable to Cabinet. It is anticipated that Regulations will be passed by Cabinet in early 2021.

Section 3(3) of the Public Lands Act gives the Minister responsible for Lands, after consultation with the Commission, authority to give such general directions as to the policy to be followed by the Commission in the performance of its functions as necessary in the public interest. During 2019 a policy directive was given to extend the pre-existing Cabinet-approved beach vendor licenses until such time as the Cabinet passes Regulations under the Public Lands Act.



## 4. Operational Overview

### Beach Access

The Cayman Islands Government appreciates that the beaches and seashore of the Cayman Islands are an outstanding natural and cultural resource that play an integral social and recreational role for the local population and tourism. Therefore, during 2016-2017 the Survey team in the Lands & Survey Department located, inspected and mapped all existing registered and unregistered beach accesses on Grand Cayman, Cayman Brac, and Little Cayman and compiled a comprehensive Beach Access Report. This finalized Report was brought to Cabinet on 13<sup>th</sup> February 2018 and approved for public release.

The findings from the Survey team are presented in the form of a comprehensive 1,174 page Report detailing each access individually, including photographs and map extracts. The Report has been cross-checked against the Lands Register, and notes the legal width and status of the accesses, both registered and unregistered. Regarding public accesses, the Report notes whether the accesses are clear or obstructed and the nature of any obstruction, and the presence or absence of public beach access signage.

The report can be found online for public viewing on the Lands & Survey Department's website [www.caymanlandinfo.ky](http://www.caymanlandinfo.ky) (Library / Beach Access Report) and as a link on the Ministry of Education, Youth, Sports, Agriculture & Lands website [www.education.gov.ky](http://www.education.gov.ky). It may also be viewed in hard-copy binder format at the Lands & Survey Department's public counter on the ground floor of the Government Administration Building, at the Lands Office, Cayman Brac, and at the Post Office, Little Cayman.

The Ministry of Lands anticipates that this report will allow the Commission to:

- 1) Clearly identify and arrange clearance of any registered public rights of way on Crown land that are currently overgrown.
- 2) Arrange erection of beach access signage for all registered public rights of way to the beach. There are a number of signs that have already been erected. The Commission reviewed the existing signage and has agreed that the wording requires changes depending on location where the signs are being placed. There are areas where swimming is not permitted or is not a beach but rather just coastline access.
- 3) Take action under the Public Lands Act to ensure existing registered public rights of way to the beach over private land are clear and unobstructed.
- 4) Ensure the regular maintenance of all registered public access ways by the Recreation, Parks & Cemeteries Section of the Public Works Department.
- 5) Effectively intervene on behalf of the public to bring disputed cases to the Grand Court in seeking to register prescriptive public rights of way to the beach, by inviting affidavits from the general public evidencing continuous and regular use.

It is expected that the roll out of these initiatives by the Commission will significantly improve public access to the beaches.



## Registered Public Rights of Way to the Beach / Seashore

Initial actions taken upon completion of the Beach Access Report were, firstly, to check and clear all registered public rights of way over Crown land, and secondly, to review the signage of these accesses.

The 2017 Beach Access Report found there to be 121 registered public beach accesses in the Cayman Islands, of which only 17 were clear and had identification signage in place. Most of these were clear but unsigned. An updated beach access sign was ordered and roll-out commenced in 2018. A few registered beach accesses still do not have signs erected yet. This is deliberate, in situations such as where the 'beach access' actually leads to iron-shore cliff where diving and swimming is considered dangerous. Custom signage is to be prepared for these rights of way.

It should be noted where registered public rights of way are classified as obstructed, these rights are over privately-owned land, where pathways may be fully or partially obstructed by mature trees, shrubs, overgrown vegetation and / or utility poles/cabinets. It is unclear if ensuring these rights of way are kept clear is the responsibility of the landowner. Some registered public rights of way were found to be obstructed by man-made obstacles such as fences, walls or structures.

Legal advice received indicated some uncertainty with regards to the extent of the Commission's existing rights to clear obstructions of public rights of way registered over private land. The legal recommendation was to specifically address this in Regulations, ie provide the explicit right for the Commission to enter private land to clear obstructed public rights of way, and to recover associated costs if considered appropriate. As such, the passing of the Regulations is considered a key action required to move forwards with the priority of clearing all obstructed registered pedestrian public rights of way to the beach/shoreline.

During July 2020 the Chief Inspector re-inspected all registered rights of way to assess the extent of any obstructions, and several property owners have been contacted to address obstructions.

Upon the passing of Regulations, the Commission will liaise with the Recreation, Parks and Cemeteries Unit (RPCU) to ensure regular maintenance of all registered public rights of way by cutting back vegetation to facilitate public access at all times. The RPCU only maintain a small number of registered public beach accesses at present.

On the initiative of the Chief Inspector, a project commenced to check that all public rights of way to the beach/sea were to be granted and registered by a developer as a condition of planning consent for development are in fact registered with the Land Registry and signage is erected on site. Resources permitting, it is intended to check the planning consent granted for all sea frontage development on Grand Cayman, with the priority being Seven Mile Beach.



The PLC is liaising with the Planning Department to ensure the registration of Dedicated public rights of way, where required as a condition of Development & Planning requirements, prior to the issuance of a Certificate of Occupancy.

## **Unregistered Public Rights of Way to the Beach / Seashore**

Progress to formally protect public beach access rights through the registration of unregistered prescriptive public rights of way to the beach/shoreline was facilitated, in principle, by the enactment of amendments to the Prescription Act in 2018. These amendments now enable the Commission to act on behalf of the public to initiate applications to the Grand Court for the registration of prescriptive beach accesses that can be proven to have been used by the public without interruption for at least 20 years.

In July 2020 all unregistered Beach Accesses on Grand Cayman were inspected.

## **Commercial Vending**

Private commercial vending, generally uncontrolled, has historically been a prevalent issue at certain Crown land locations, in particular at Seven Mile Public Beach and West Bay Public Beach, and at various public docks.

In December 2016 Cabinet approved the issuance of one year licenses (permits) to existing Seven Mile Beach, Beach Vendors, to all watersports users of public docks, and to the Cayman Turtle Centre at West Bay Public Beach, pending the then forthcoming enactment of the Public Lands Act. This legislation would then pass responsibility for authorizing and managing beach vending on Crown land to the Public Lands Commission.

The Public Lands Act came into effect in June 2017 and requires a vendor who wishes to carry out commercial activity on public land to apply to the Public Lands Commission for a Permit in respect of each location where the activity is proposed to take place. The Commission may refuse such applications, or grant Permits for a maximum two-year term, and it may charge Permit fees in accordance with Regulations. The Commission also has powers of enforcement in this respect under the Public Lands Act.

The Commission has received several requests for a permit to vend on Seven Mile Public Beach but it is unable to grant vendor permits or charge permit fees until Regulations are passed in Cabinet. The Commission sought specific policy direction from the Honorable Minister for Lands on the matter of beach vending and the commercial use of public land including docks and parks, for commercial, semi-commercial, promotional, sporting, and Not for Profit events. The Commission has agreed that it is necessary to formulate a system for the granting of vendor permits that offers a fair opportunity to each applicant as it recognizes that there will inevitably be more applicants than there can be permits.

In the interim, on the direction of the Minister for Lands, the beach vendor permits approved by Cabinet prior to the existence of the Commission were extended.

Between January and March 2019, being high tourist season, the Public Lands Commission Chief Inspector established the identity of all vendors then trading from public lands/ beaches, and of those, who were approved by Cabinet and who was not. Information was garnered from enquiries conducted from multiple site visits to the beaches on Cruise Ship visiting days, to produce a list of names of persons and companies operating from Seven Mile Public Beach and West Bay Public Beach. Documents were sought from the Lands and Survey Department and the Ministry of Tourism to assist with identifying the vendors approved by Cabinet.

It was found that;

- 27 Companies/Trading Names were operating from West Bay and Seven Mile Public Beach (4 West Bay, 23 Seven Mile Public Beach)
- The 27 Entities/Trading names consist of 50 individuals.
- Only 13 persons have a duly executed Vendor's License.
- 4 approved vendors had not signed the Vendor Agreement offered but were still operating.

Seven Mile Public Beach

- 10 Beach Chair vendors
- 5 Wave Runner/ Jet Ski Operators
- 5 Food Truck/Food Vendors
- 1 hair braiding
- 7 unapproved vendors were found to be operating

West Bay Public Beach & Ramp

- 2 Souvenir Vendor
- 1 Beach Chair Vendor
- 1 Coconut Vendor

It is the Commission's intent to regularize the vendor/vending on public land throughout the Cayman Islands, and a policy on this matter is being developed by the Commission in consultation with the Ministry so that the strategy for managing vending on any public land is clear and enforceable. In the meantime, the Hon Minister for Lands directed that Cabinet-approved vendors at Seven Mile Public Beach and West Bay Public Beach be granted approval to remain trading from the public land until regulations are passed in Cabinet. It is envisaged that a policy will be in place by the time the borders are reopened.

However, as a result of the COVID-19 pandemic, the closure of the international border in March 2020 resulted in an immediate cessation of all tourist visits, including cruise ships. As a result, demand for beach vendor services immediately dried up, and no beach vendors were observed operating on public land for the remainder of 2020.

## Non-Vendor Permits

The commission monitored and did not object to most non-vendor permit application requests received during 2020, and recognizes that the number of requests was low during this year given the ongoing COVID-19 restrictions and closed borders. We anticipate that these numbers will increase as we get hopefully back to normal operations in the next year and beyond.

## Coastal Works

Under the Public Lands Act, the definition of public land includes the seabed and territorial waters of the Cayman Islands. This expressly excludes Cayman waters designated as marine Protected Areas under Section 7 of the National Conservation Act, 2013. These designated areas are managed by the National Conservation Council / Department of the Environment.

All coastal works require a permit to be granted by Cabinet or its delegates, under Section 21 of the National Conservation Act.

The Public Lands Commission has a mandate to issue Permits for commercial use of Crown land. However, the Commission is unable to grant any permits until Regulations under the Public Lands Law are passed.

To date the Commission has confined itself to providing the Ministry of the Environment with comments on applications that the latter prepares for Cabinet, rather than issuing permits, which under the Public Lands Act may only be for a maximum two year duration.

Going forwards, the Commission may ask the Ministry of Lands to recommend that Cabinet clarifies the role expected of the Commission with regards to coastal works, pursuant to Cabinet's authority under Section 40 Public Lands Act.

## Enforcement

The effectiveness and enforcement of the Public Lands Act is dependent upon the passing and implementation of Regulations. These regulations are currently still under Ministerial review and are expected to be finalized for Cabinet in the coming weeks.

The Commission will require Inspectorate staffing to take the enforcement action where appropriate, once Regulations are passed. Approval has been obtained to fill two budgeted Inspectorate posts in 2021.

Due to the ongoing COVID pandemic, a lack of additional inspectors, and pending final approval of the Regulations, no tickets could be issued during 2020, and thus no fines were collected.





Notwithstanding the lack of Regulations, during the year 2020 the Chief Inspector of the Public Lands Commission dealt with a considerable amount of enforcement matters. While no prosecutions were initiated regarding the identified breaches, there were several warnings issued by the Chief Inspector. It is envisaged that in due course the Commission will begin a public education campaign would be of benefit, to improve awareness of the functions and mandate of the Commission, and the rights of the public as pertaining to the use of public land.

Due to the COVID pandemic, the level of public complaints about unlicensed vendors fell away, however there was an increase in complaints of unauthorized use and misuse of Crown lands. The majority of these complaints received concerned the storage and dumping of derelict vehicles, the operation of illegal vehicle mechanics, and the dumping of garbage. The Public Lands Inspectorate and the Department of Environment work closely to tackle this problem and will try to prosecute those found to be responsible

## 5. Finances

As employees of the Ministry of Education, Youth, Sports, Agriculture & Lands, the salaries of the Secretary and Chief Inspector are funded by that entity. The Ministry also funds Commission member remuneration.

During the year, the PLC spend budgeted funds on the purchase of uniforms, a camera, and also a number of picnic benches (in used condition) offered to the Government by the proprietor of Calico Jacks bar on Seven Mile Beach. The picnic benches are now located on the Seven Mile public beach park and are available for public use.



## 6. Administration / Correspondence

The following table summarizes the quantities of issues that were passed to the Commission in 2020;

Request for Use of Crown Land	Coastal Works	Complaints	Correspondence
23*	1**	11***	119****

\*This is a representation of the number of requests received by the Commission regarding the request for use of public lands for events, fundraisers etc.

\*\*The number of Coastal Work Applications submitted to the PLC for their review and comments.

\*\*\*The approximate number of complaints received regarding public lands and or registered right of ways (Beach Accesses).

\*\*\*\*Approximate number of correspondences received by the Commission from members of the public and other Government agencies.

## 7. Media Coverage

During 2020 the following press articles were published pertaining to the Public Lands Commission and matters under its responsibility;

- “Beach Access case inches towards Judicial Review” - CNS 10<sup>th</sup> January 2020.  
Update on a court case where the applicant is seeking judicial review to challenge the refusal of the Registrar of Lands to register prescriptive public rights of way to the beach.
- “Legal Aid refused in “secret” Dart beach access fight” – CNS 17<sup>th</sup> February 2020.  
A report on a local activist group’s attempt to secure legal aid towards funding its legal action against the relocation of registered public beach accesses on Seven Mile Beach by the Kimpton Seafire Hotel and at Royal Palms / Coral Beach.
- “MLA takes Beach Access battle to LA” – CNS 25<sup>th</sup> June 2020.  
A report that Hon. Anthony Eden MLA is bringing a private-member motion calling on government to make blocking prescriptive public beach accesses a criminal offence.
- “Public Rights of Way Motion Withdrawn” – Cayman Compass 4<sup>th</sup> July 2020
- “MLA persuaded to drop Beach Access Motion “ – CNS 9<sup>th</sup> July 2020.  
Reporting that the Minister responsible for Lands has persuaded Hon Anthony Eden MLA to withdraw his private member motion that calls on government to make blocking prescriptive public beach accesses a criminal offence. The article states that the Minister told members of the Legislative Assembly that draft Regulations were coming to address the issue.
- “Lands Minister pulls proposed Beach Access changes” – Cayman Compass 23<sup>rd</sup> October 2020.  
Report that the Minister for Lands withdrew the Prescription (Amendment) Law 2020 and the Registered Land (Amendment) Law 2020 from the Legislative Assembly agenda, for further review and amendment.
- “Fewer Beach Accesses blocked” – Cayman Compass 3<sup>rd</sup> November 2020.  
Interview with the Public Lands Commission Chairperson, who revealed there has been an improvement in the number of beach accesses blocked since the 2018 beach Access Report was published.
- How Accessible are Beach Accesses? – Cayman Compass 8<sup>th</sup> November 2020.  
Newspaper investigation inspecting 64 beach accesses, which alleged that “around 30 were either completely blocked, had obstacles in their path or were not properly marked.”

