




ROAD PAVING EXPENDITURE IN CAYMAN BRAC

Public Interest Report

April 2012



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INTRODUCTION

1. During 2011 the Office of the Auditor General (OAG) became aware of concerns raised by a number of parties about the paving programme that was being carried out on Cayman Brac. The main concerns raised surrounded the legality of some of the work conducted and some of the decisions made around this project. On the basis of these concerns and some preliminary work we decided that there was a clear public interest in the OAG reporting on certain aspects of this project to the Legislative Assembly.
2. Public interest reports report on issues that are identified or requested during the year, and which in the public interest, should be reported to the Legislative Assembly in a reasonably short time frame. In general, these reviews are reactive and cover single issues at an individual entity, and to an extent draw from significant issues identified through our normal financial audit work. The overriding factor for the OAG to report to the Legislative Assembly is that a public interest report should add value for decision making and accountability. The nature of the work conducted is more about reporting information rather than following the auditing standards required for the conduct of a performance audit.
3. As the Public Accounts Committee may only consider reports which have been presented to the Legislative Assembly, a Public Interest report is the mechanism through which the OAG makes the information available for its consideration. In determining what represents added value, the OAG has identified certain circumstances in which a Public Interest Report may be produced. Note that these circumstances are not intended to be exhaustive and judgment will be exercised in individual cases:
 - where the audit of the financial statements raises an issue which needs to be publicly drawn to Legislative Assembly's attention through a separate report;
 - where the Auditor General believes that an issue related to an entity merits public disclosure or emphasis through a Public Interest report; and
 - where a statutory requirement has been breached which is therefore contrary to the intention of the Legislative Assembly and should be drawn to their attention through a Public Interest Report.
4. In respect of the Cayman Brac road paving programme this report considers three specific areas:
 - the paving of commercial/private parking lots;
 - the procurement of Hot Mixed Asphalt (HMA) Plant and the project manager; and
 - the role of the National Roads Authority.

5. Although we obtained information regarding certain aspects of the wider project to provide the relevant context, we have restricted our reporting to these three specific areas.
6. The objective of our review was to determine whether certain activities of the Cayman Brac paving programme were carried out in accordance with the *Roads Law (2005 Revision)*, the *National Roads Authority Law (2006 Revision)* and the *Public Management and Finance Law (2010 Revision)* (the “PMFL”), and whether there were reasonable management practices in place for the type of expenditures incurred. To conduct our work we interviewed key individuals involved in the programme and reviewed relevant documents.

BACKGROUND

7. The Ministry of District Administration, Works, Lands and Agriculture (“the Ministry”) developed plans to begin a programme of road paving in Cayman Brac during the 2009/10 fiscal year. The plan was to commence with the surfacing of the North Coast Road, the cross island road followed by the South Coast Road and the Bluff roads and other roads both on the coastal low land and on the bluff. It was planned that this work would be carried out in phases over a number of years due to budgetary pressures. The Ministry informed us that certain parking lots that were used by the public were included in the programme as it was considered a contribution to the overall infrastructural development on Cayman Brac and it would act as an economic stimulus to the local businesses and churches.
8. During 2009 the Ministry commenced the procurement of a portable Hot Mixed Asphalt (HMA) plant for the purposes of road paving in Cayman Brac. Four pre-qualified bids were received and the Central Tenders Committee (CTC) approved the selected tender on 6 January 2010 at a value of \$614,547. The HMA plant was delivered to Cayman Brac on 9 April 2010.
9. Mr. Colford Scott, who is also the Chairman of the National Roads Authority (NRA), was contracted as the project manager to manage the paving of Cayman Brac roads on 1 March 2010.
10. Responsibility for the programme was given to District Administration (DA), a department within the Ministry. On April 2010 the DA entered into a memorandum of understanding with the NRA for the supply of certain equipment, labour and engineering services, which was subsequently revised in June 2010. NRA’s role was therefore solely for the supply of staff and equipment, and certain other engineering services.
11. After the set up of the HMA plant a road paving commenced on 30 June 2010. The paving of the full length of the North Cost road (approx. 11 miles) was completed on 2 February 2011. The paving of a limited number of government and commercial parking lots commenced in August 2010, but the commencement of the paving of the majority of commercial parking lots began in February 2011. The paving of the Agricultural Ground public access road and asphalt plant began in January 2011 and was completed on 1 March 2011, and paving of other public roads commenced again on 12 September 2011 and is still ongoing along with the continuation of the paving of private parking lots.
12. As at October 2011, the total direct operational costs incurred by the programme were \$3,487,025 according to Ministry records. This excludes any capital expenditures such as the purchase and depreciation of the HMA plant.

FINDINGS

PAVING OF PRIVATE PARKING LOTS

13. As part of the road paving programme in Cayman Brac, the parking lots for 56 private (businesses and church) parking had been paved as at October 2011, as well as parking lots for Government purposes. The breakdown in terms of the volume of HMA used for each category of paving is included in Table 1.

Table 1: Volume (Tons) of HMA used in paving as at October 2011

	Volume (Tons)
Public Roads	25,083
Government building/entity parking lots	2,765
Private parking lots	4,870
Total	32,719

14. Based on the direct operational costs provided by the Ministry of \$3,487,025, the estimated direct cost for each ton of HMA is \$107. This amount excludes any capital or indirect costs. Based on this analysis, the estimated direct cost of paving private parking lots is \$521,090. We confirmed with the Ministry that no financial contributions were sought or required from the beneficiaries of the paving of private parking lots, although we are led to understand that in a number instances the beneficiaries did offer to pay for the paving, but were informed it was not required.
15. It was brought to our attention that prior to the purchase of the HMA plant, there was limited capability on Cayman Brac to carry out paving work and carry out a project of this scale.

STATUTORY AUTHORITY FOR PAVING PRIVATE PARKING LOTS

16. We reviewed the relevant legislation in respect of roads, specifically the *Roads Law (2005 Revision)* and the *National Roads Authority Law (2006 Revision)*, to identify whether they provided the legal basis for the paving of private parking lots. In respect of these specific laws we were unable to identify any statutory provisions that allow for the paving of private parking lots.
17. We also reviewed the relevant budget documents to identify whether the Government had the relevant authorities to incur expenditure for the paving of private parking lots. We were unable to identify any.

18. Therefore, whilst we can understand that in terms of the specific circumstances of Cayman Brac that the paving of the public roads provided a wider opportunity for providing paving services to the wider community, on the basis of the evidence we have obtained, the DA did not have the legal authority to do so.

Ministry Response:

The NRA in practice does not control road construction in Cayman Brac or Little Cayman. The NRA has been utilized on this project merely as providers of contract labour and services.

We do not accept that there is anything within the NRA or Roads Law which specifically prevents the paving of parking lots.

Monies are provided for under the Ministry's budget to cover the maintenance and repair of roads and associated works.

BUSINESS CASE FOR THE PAVING PROJECT

19. We were informed by the Ministry that there was no documented business case prepared for either the road paving programme or the paving of commercial/private parking lots that demonstrated the value or benefit that would be obtained. Under the financial regulations to the PMFL, as the programme is a capital acquisition greater than \$300,000, a business case should also have been submitted to the Public Sector Investment Committee.

20. We were informed that the justification for the programme was provided in a response by the Minister to a Parliamentary Question regarding the purchase of the HMA plant. She stated that:

"...the decision to acquire an asphalt mixing plant for Cayman Brac was made after careful consideration of several factors, most notably that the existing road surface in Cayman Brac were laid over 25 years ago, and traffic has caused significant deterioration to the quality of the roads.

Major arterial roads in Grand Cayman have been surfaced with hot mixed asphaltic concrete and Government desires to commence a similar programme in Cayman Brac (and eventually in Little Cayman)"

BUSINESS CASE FOR THE PURCHASE OF HMA PLANT

21. The Ministry commenced the procurement of a portable Hot Mixed Asphalt (HMA) plant for the road paving programme in Cayman Brac in 2009. Four pre-qualified bids were received and CTC approved the selected tender on 6 January 2010 at value of \$614,547. The HMA plant was delivered to Cayman Brac on 9 April 2010. We carried out a high level review of the procurement process for the HMA plant, and we found that the procurement was carried out in line with the financial regulations, with one exception.
22. There was no formal business case prepared to demonstrate the value and benefit of the purchase of the HMA plant, including how it compared to other potential options for the work to be carried out. Under the financial regulations a capital acquisition greater than \$300,000 requires a business case should be submitted to the Public Sector Investment committee for review and approval.
23. We were informed by the Ministry that other options were considered, such as contracting with the private sector. However it was considered that the private sector had no appetite for this, as the mobilisation costs of taking HMA plant from Grand Cayman and back would be prohibitive and it would affect their ability to conduct their business in Grand Cayman. We were also informed that the decision to purchase the HMA plant supported the effective use of NRA and Cayman Brac Public Works employees.
24. Again, without the appropriate documentation, we were informed that the justification for the purchase of the HMA plant was provided in responses to possible supplementary parliamentary questions. Specifically:

“Did Government consider using the Private sector for this project? Yes, but after consulting with technical expertise, it was deemed more feasible (due to high costs of mobilisation for example) to purchase the equipment itself.

What do you mean by more feasible? It was deemed more feasible because, as mentioned earlier, costs of mobilisation, that is, relocating plant from Grand Cayman, could be very high. Because the construction would be carried out in stages, a private contractor would not be able to continually keep their equipment over in the Brac; thus, there would be a cost associated with this. This is one reason actually why roads haven’t been upgraded in these many years, as past Governments have been “waiting on the right time” to undertake the project meanwhile, my people in Cayman Brac are in dire need of better roads. In other words the relatively small size of the project, spread over several years, is neither financially attractive nor economically viable to a private contractor.”

25. We were informed that the HMA plant has an estimated useful life of approximately 15 years. Once the current road paving programme is complete, it is not clear what will happen to the plant, although it will potentially be used to pave other existing and proposed roads for the Cayman Brac Bluff, and the roads in Little Cayman, depending on budgetary constraints. At present the option of relocating the plant, which is classed as portable, to Grand Cayman for the use by the NRA, does not appear to be an option. We were informed that the Government had made a policy decision that it would not enter into HMA production in Grand Cayman and that it would purchase HMA from the private sector.

Ministry Response:

The asphalt plant will remain on Cayman Brac for continued use. There is no intention to bring it to Grand Cayman. There is too much work on the Brac and Little Cayman to do.

EMPLOYMENT OF A PROJECT MANAGER

26. The project manager engaged to manage the programme was appointed without any formal procurement or other formal competitive recruitment. We were informed that the project manager engaged was the best person for the job, due to his significant qualifications and experience in the industry, and being locally based. However, as the value of the contract over the course of the project had exceeded the tendering threshold of \$50,000, the Ministry should have documented their justification for a single source supplier, copied to the Director of Internal Audit and the Auditor General, or opened the contract to a competitive process.

27. The project manager is the chairman of the NRA, which due to the significant involvement of NRA resources in this project presents the risk of at least a perceived conflict of interest. The Ministry informed us that they did not see any conflict of interest and therefore there was no need to mitigate or manage the risk.

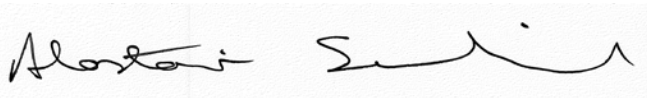
THE ROLE OF THE NRA

28. Under the NRA Law (2006 Revision), the NRA is responsible for management and maintenance of roads across all the Cayman Islands, including the sister islands. However, for this significant road programme the District Administration had the responsibility for its management, although the majority of the equipment and road crew were obtained from the NRA.

29. Through our discussions with officials, we were informed that it would not be an efficient use of resources for the NRA to have a permanent presence on the Sister Islands, and it is more efficient for any routine road maintenance to be carried out by the Public Works Department (PWD) staff based in Cayman Brac. However, whilst there is a clear benefit of using PWD staff based in Cayman Brac to support the road paving programme in terms of effective use of resources and knowledge sharing, it is not clear for such a significant project why the NRA is not responsible for its management, particularly when they provided the technical services and majority of the equipment and road crew.
30. As a result of the decision to use to NRA staff and equipment to carry out the Cayman Brac project, the decision was made by the Ministry to continue with the NRA's planned HMA paving work in Grand Cayman, but to procure the placement as well as the production of HMA from the private sector.

CONCLUDING REMARKS

31. I have prepared this report to address the concerns raised with me about certain aspects of the paving programme in Cayman Brac. It provides information for consideration by the Legislative Assembly, in particular relating to the concerns regarding compliance with laws and regulations of the Cayman Islands.



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5 April 2012

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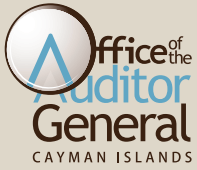
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April 2012