

EXECUTIVE COUNCIL

PUBLIC

Title:	Falklands Conservation and Falkland Islands Government Memorandum of Understanding
Paper Number:	75/18
Date:	25 April 2018
Responsible Director:	Director of Policy and Economic Development
Report Author:	Environmental Officer and Policy Advisor
Portfolio Holder:	MLA Teslyn Barkman
Reason for paper:	This paper is submitted to Executive Council: For policy update/information
Publication:	Yes
Previous papers:	287/07, 80/11, 20/14
List of Documents:	Falklands Conservation and Falkland Islands Government Memorandum of Understanding.

1. Recommendations

Honourable Members are recommended to approve:

- (a) That Honourable Members authorise FIG to make the necessary arrangements to implement the commitments to be agreed in the MoU.
- (b) That Honourable Members authorise the Chief Executive to sign the MoU between FIG and Falklands Conservation.

2. Additional Budgetary Implications

None

3. Executive Summary

3.1 The proposed MoU is very similar to that put in place from 2014 to 2016. The most notable difference is the addition of Falklands Conservation's support of a National Oil Spill Contingency plan.

- 3.2 The MoU also details Falklands Conservation’s commitments to oil and non-oil related wildlife emergency response.
- 3.3 The MoU notes that FC is conscious of its role as an independent adviser to government and will avoid taking on any commercial activity which creates a potential conflict. FC also commits to providing independent scrutiny of large scale development proposals including Environmental, Social and Health Impact Assessments, Environmental Impact Assessments and Strategic Environmental Assessments.
- 3.4 The MoU sets out the high-level expectations for the relationship between FC and FIG forming a basis for all collaboration but also for the basis of the subvention support received from FIG.

4. Background and Links to Islands Plan and Directorate Business Plan/s

- 4.1 The relationship between the Falkland Islands Government and Falklands Conservation provides for collaboration on environmental matters relating to the Falkland Islands. This relationship has been documented and formalised through a Memorandum of Understanding, renewed on a three-year basis, since 2006.
- 4.2 The three year Memorandum of Understanding between FIG and Falklands Conservation (FC) expired in November 2016. A revised three year MoU has been drawn up between FC and the FIG Environmental Planning Department (EPD), with advice from the Attorney General’s Department. It is proposed that this MoU will take effect from signing and run for the remainder of the three year period.
- 4.3 The MoU provides a framework for ongoing co-operation between FIG and FC and outlines the roles of each party with respect to the protection of biodiversity in the Falkland Islands. It also sets out the duties and responsibilities of FC with respect to core funding received from FIG.
- 4.4 The MoU also sets out procedures for FC to apply for core funding from FIG each year and outlines its reporting obligations.

5. Options and Reasons for Recommending Relevant Option

None

6. Resource Implications

6.1 Financial Implications

None arising from the MoU. Annual subvention requests are submitted by FC to support its core activities. The request is then considered as part of the annual Budget Select Committee subventions process. FC also applies for environmental research grants which are considered through the normal decision process.

6.2 Human Resource Implications

The MoU does not change or increase the workload of the Policy Unit or any other FIG department and can be implemented with existing staff resources.

6.3 Other Resource Implications

None

7. **Legal Implications**

7.1. The MoU does not propose any changes in legal responsibilities or accountabilities of FIG. However, it recognises that this will provide a mechanism and opportunity to tailor the established working relationship with the FC to meet the need to protect the biodiversity of the Falkland Islands and its future sustainable management.

7.2. FIG commits itself, subject to resources being made available for the purpose, to undertake eight different actions as listed in part 4.2 (Roles) of the MoU. This includes three actions which involve administrative decision-making, namely:

(i) Recognise Important Bird Areas, Important Plant Areas and other environmental designations when making decisions affecting such areas, species, habitats or features of interest;

(ii) Provide a place for FC on the Environmental Committee, and a commitment that issues raised by FC on behalf of itself or other members of civil society will be considered by that Committee; and

(iii) Solicit FC's advice regarding the conservation and wildlife values of Government land considered for disposal. This will not give FC priority or first option to purchase such land.

7.3 The MoU is not intended to be legally binding. It is considered to be a necessary key part of putting in place a formalised arrangement between the FIG and FC to ensure their willingness to co-operate is sufficiently satisfied

The MoU was drafted in consultation and advice with the Crown Counsel.

8. **Environmental & Sustainability Implications**

8.1 The MoU between FC and FIG helps improve our environmental resilience by formalising the relationship. FC is a conservation charity at the heart of our community. This MoU ensures a wider amount of environmental expertise on a wide range of environmental issues as well as FIG's support of the charity and their work with the community for our environment.

Memorandum of Understanding

between

Falklands Conservation

and

Falkland Islands Government

1 Terms

This Memorandum of Understanding (MOU) is made and entered into between Falklands Conservation (FC) and Falkland Islands Government (FIG) and is effective until 30th November 2019, commencing from the date of both signatures unless terminated in accordance with the provisions of this MOU.

FIG and FIC shall be singularly known as the Party and collectively as the Parties.

2 Objectives

The purpose of this MOU is to provide a framework for ongoing support and co-operation between the Parties in the exercise of the Parties mutual commitment to their common interest for the protection of biodiversity of the Falkland Islands and its future sustainable management to ensure better protection of the environment. It consolidates and builds on a long-term relationship and sets out responsibilities and duties in terms of core funding support by FIG to FC.

In order to work cooperatively and efficiently together within these objectives, the Parties have reached the following understanding:

3 Values

3.1 Falklands Conservation

FC is an independent membership-based, non-governmental organisation. It strives to ensure the conservation and protection of wildlife in the Falkland Islands for future generations by providing advice and education, undertaking practical conservation action, and conducting research. FC's Vision is two-fold:

The Falkland Islands are a mosaic of natural, restored and managed landscapes capable of sustaining the richness of biodiversity and habitats, including species of local, regional, and global importance.

Falklands Conservation is a charity at the heart of the community.

FC is a company limited by guarantee in England and Wales (Company Registration number 3661322) and a UK registered charity (UK Registered Charity Number 1073859), with its registered office Bridge House, 4 Borough High Street, London Bridge, London, SE1 9QR. In the Falklands, FC is registered as an Overseas Company, whose principal place of business is at Jubilee Villas, Ross Road, Stanley, Falkland Islands.

In undertaking its work under this MOU, FC endeavours to be (but not limit itself to be):

- a) Democratic and membership based
- b) Respectful of local traditions and values
- c) Independent and objective in its advice
- d) Working in partnership with others to increase its effectiveness and resources
- e) Priority driven, taking account of objectives set out in the Falklands Conservation Strategy 2015-2019, and the priorities agreed in the Falkland Islands Biodiversity Framework 2016 - 2030.
- f) Committed to the involvement of volunteers and all sectors of the community in its activities.

FC is conscious of its role as an independent adviser to government and will discuss with FIG taking on any commercial activity which creates a potential conflict.

3.2 Falkland Islands Government

FIG's address is: The Secretariat, Thatcher Drive, Stanley, Falkland Islands. FIG is responsible for conserving the environment and recognises the previous contributions by FC and others in supporting government to meet that responsibility. FIG also recognises the long-term, and beneficial collaboration between FIG and FC. FIG is conscious of on-going commitments to previous strategic and policy documents, in particular the Environment Charter – Falkland Islands (26 September 2001) and, subject to the availability of resources and funding, its aim is to:

- a) Conserve and enhance the natural environment and built heritage of the Falkland Islands to support our economic and social well-being, biodiversity, and managed response to climate change (Islands Plan, Protecting the Environmental Vision Statement)
- b) Develop and implement an overarching Environmental Strategy that encompasses the environmental vision for the Falkland Islands.
- c) Ensure the implementation of the Biodiversity Framework, notably the adoption of Species and Habitat Action Plans
- d) Implement the Convention of Biological Diversity in the Falkland Islands
- e) Note and respect the guiding principles and commitments set out within the Environment Charter for the UK Government, FIG and for the people of the Falkland Islands.

4 Roles

4.1 Falklands Conservation will, subject to sufficient resources being made available:

- a) Provide appropriate independent environmental advice
- b) Scrutinise and advise on FIG's environmental policies and proposals for legislation
- c) Provide independent oversight and scrutiny of large scale development proposals including Environmental, Social and Health Impact Assessments, Environmental Impact Assessments and Strategic Environmental Assessments:
 - i. To ensure clarity of lines of comment and to strengthen FIG's approach as regulator. In each of the above (a, b and c) – FC comment will be provided to FIG alone in confidence. FIG can then consider this advice but will not use it publically
 - ii. This does not preclude FC from making comment through public consultation processes
- d) Support and facilitate environmental education within the Islands' schools through talks and presentations at schools and open days at FC activity sites, such as Cape Pembroke sites and the penguin rehabilitation centre.

- e) Coordinate a wildlife group/s for the young people of the Islands. This will accommodate up to 60 Watch members at one time.
- f) Engage the local community in conservation projects, issues and activities by promoting information-sharing, dissemination and knowledge transfer.
- g) Lead response to, and report on small-scale wildlife emergencies. This includes:
 - i. Treatment of up to 20 oiled birds in accordance with national oil-spill response protocols
 - ii. Cetacean stranding's in accordance with national protocols
 - iii. Wildlife disease outbreaks in accordance with national protocols
 - iv. With the aid of funding from FIG to cover expenses, help in responding to wildlife emergencies outside East Falkland.
- i) Support a National Oil Spill Response Plan. On the occasion of a large scale oil spill, FC will follow the agreed approach laid out in relevant policy documentation.
- j) Participate in and support FIG in carrying out practical control of invasive species through member and volunteer events:
 - i. For invasives that have been identified as a significant biodiversity threat.
 - ii. Support general awareness raising, foster a positive mindset and provide enabling guidance for stakeholders to contribute to goals
- k) Support implementation of the Biodiversity Framework notably the adoption of Species and Habitat Action Plans. FC will deliver on actions against which their delivery is specified and agreed, and where specific funding is available.
- l) Curate and manage the Falkland Islands' national herbarium. The Herbarium will be open to the public on request.
- m) Work in partnership with landowners to undertake habitat restoration:
 - i. Including tussac planting and native seed trials

4.2 The Falkland Islands Government will, subject to resources being made available for this purpose:

- a) Provide funding to support FC in undertaking the roles identified above, to be agreed annually through the budget subvention process
- b) Provide additional funding for specific mutually agreed conservation projects, including those where matching external funds are being sought, or are available
- c) Recognise Key Biodiversity Areas including Important Bird Areas, Important Plant Areas and other environmental designations when making decisions affecting such areas, species, habitats or features of interest
- d) Coordinate the development and maintenance of Falkland Island environmental databases, including encouraging shared access and compatibility between datasets
- e) Provide a place for FC on the Environmental Committee, and a commitment that issues raised by FC on behalf of itself or other members of civil society will be considered by that Committee
- f) Facilitate the cooperation of relevant Government Departments
- g) Solicit FC's advice regarding the conservation and wildlife values of Government land considered for disposal. This will not give FC priority or first option to purchase such land.

5 Information Sharing and Use of Intellectual Property

- 5.1** The exchange of information between the parties is necessary to work closely and develop the objectives set out in this MOU.
- 5.2** Nothing in this MOU will give one Party any intellectual property rights of the other party, unless agreed by way of the granting of a licence under this MOU and each Party will take all reasonable steps to prevent any infringements of the other Party's rights.

- 5.3** Where either party make it clear that information during discussion or in e-mail is confidential, both parties will respect that confidential designation, and will not disclose the information/advice or anything relating to that information/advice to any person or third party without the prior consent of both Parties.
- 5.4** Unless otherwise agreed in advance by both Parties, FC shall have the right to make public data, reports or graphic information arising from the core funding provided by FIG to FC.

6 Funding

- 6.1** FC will apply for annual core funding through FIG's budget subvention process in line with guidelines and timescales issued by the FIG Financial Secretary. The application should set out FC's proposed activities and expected outcomes for the financial year ahead, and should be accompanied by such supporting documents as are necessary to demonstrate the core costs to be incurred by FC. This should include a tentative budget for the next three financial years.
- 6.2** This MOU and any continuation thereof shall be contingent upon the availability of funds appropriated by FIG. It is understood and agreed that if funding is allocated to FC for the purposes covered by this MOU, that such funding be expended in accordance with its terms.

7 Reporting and Accountability

By 31st December of each year, FC will provide FIG's Financial Secretary and the Environmental Officer with an annual report on its core programme activities for the previous year (July to June). The report should document, as appropriate, activities and outputs associated with the FC matters stated in Paragraph 4 a) to l). Around the same time FC, will also provide FIG's Financial Secretary with its audited accounts for the preceding budget year.

8 Implementation and Governance

Following the reporting requirements in Clause 7, the Parties will convene a meeting of representatives of FC, the Directorate of Policy and Economic Development and the Financial Secretary to undertake an annual joint review of the operation of the MOU, looking back at the previous year and forward to the coming year to identify issues, priorities of mutual interest, expected outcomes and timelines. In addition, the FC Chief Executive Officer and FIG should liaise on a regular (e.g. every two months) basis to ensure close co-operation, consultation and implementation of this MOU for the advancing of the objectives of this MOU.

FIG support shall be acknowledged by FC in publications or presentations arising directly from FIG grant support or project funding. FC contributions or advice given shall be acknowledged in any FIG publications or presentations arising from support provided by FC.

9 Termination

- 9.1** This MOU may be terminated by the mutual consent of both Parties.
- 9.2** Either Party is entitled to terminate this MOU by providing reasonable notice in writing.
- 9.3** Termination of this MOU (howsoever arising) will not relieve either Party of any responsibility which is expressed or intended to continue after termination and will be entirely without prejudice to any benefits or responsibilities of either Party which have accrued at or prior to termination.

9.4 This MOU may be terminated by either party giving six months' written notice to the other.

10 Resolution of Disputes

Every endeavour will be made to resolve disputes in the first instance by discussion but in the event that the dispute cannot be resolved, the matter will be referred to a senior management level and thereafter to the Chief Executive (or equivalent) of both Parties for final resolution.

11 Terms of MOU

This MOU will be valid from date of both signatures until 30 November 2019. Any extension beyond that period must be agreed in writing by both parties.

12 Amendment

This MOU may be amended at any time by the written agreement of the Parties.

13 Entire Understanding

This MOU supersedes and cancels all previous agreements, arrangements and understandings between the Parties, whether oral or written, expressed or implied between the Parties in respect of or in connection with the matters referred to in this MOU.

14 Legal Status

This MOU is not intended to be legally binding on either Party and is not intended to create any obligation under law.

Signatories

The foregoing is the understanding reached by the Parties.

Signed on behalf of Falklands Conservation:

Name:

Position: Chief Executive Officer

Date:

Signed on behalf of Falkland Islands Government:

Name:

Position: Chief Executive

Date: