

Consultation with the Council and Environmental Assessment Process

The following details the consultation with the Council and the environmental assessment process envisioned under the (draft) National Conservation Law for reviewing development projects and other proposals. It is based on consultations with the Planning Department and other stakeholders and in fact closely mirrors the current application review process. The Department of Environment envisions the process and procedures will form the basis of the directives on the General Obligation (Section 35) for consulting with the Council under the (draft) National Conservation Law. These directives will be in the public domain and all agencies will be aware of the requirement and procedure for when and how to consult with the Council to ensure compliance with the Law.

Consultation with the Council (Section 35, General Obligations) will occur under 3 distinct approval processes: Planning Permission; Coastal Works Licence Approval; and Authorization under other laws, policies or plans.

Any Government Department, Officer or Agency or Statutory Authority

Must consult with the Council
when:

Taking any action, including making any decision or giving any undertaking or approval (e.g. project requiring Planning permission or Coastal Works Licence, project authorised by any other law, policies, plans and proposals) that would be likely to have a significant adverse effect on -

A Protected Area Of Critical Habitat of a protected species

Environment generally
or natural resource

Council agrees and sets
conditions of approval;
Authority ensures proposed
action subject to conditions;
Compliance with conditions
through inspections

Council determines conditions
cannot satisfactorily mitigate
impacts and directs authority
to refuse proposed action

Take into account
Council
recommendations

Appeal decision of Council to Governor-in-Cabinet

Explanation of Acronyms

- It is expected that the Council will delegate the responsibility for processing incoming applications to the Department of Environment (DoE) and this review & recommendation process is referenced as “Council (DoE)” in the following slides.
- It is expected that the Council will delegate screening to determine the requirement for an EIA to a subcommittee, the Environmental Assessment Board, referenced as “Council (EAB)” in the following slides.
- Both of these expectations are based on practicality.
 - Currently, several applications are reviewed and commented on by the DoE weekly. We do not expect that the Council will want to take on that level of workload nor should they need to.
 - We expect that different EABs will be constituted for different projects and that while some persons may remain the same, DoE representation for example, others will vary depending on the project, e.g., Dept. of Tourism representation for a proposed hotel. Again, we do not expect it to be practical or necessary for the whole Council to be involved in the details of each individual EIA.
- EIA – Environmental Impact Assessment (the process)
- EIS – Environmental Impact Statement (the report emanating from the EIA process)

Project requiring PLANNING PERMISSION

Application submitted to Planning Department for CPA or DCB determination as normal

Tier 1 Screening by Planning Department to determine need for consultation with Council:
Protected Area, Critical Habitat for a Protected Species (as specified in a Species Management Plan),
Primary Vegetation (See Habitat Map,) Coastal Land, below Mean High Water Mark, or a “Major” project
(See List of Projects)

Application sent to Council (DOE) as part of Interagency Review procedure for determination of impacts

Impacts

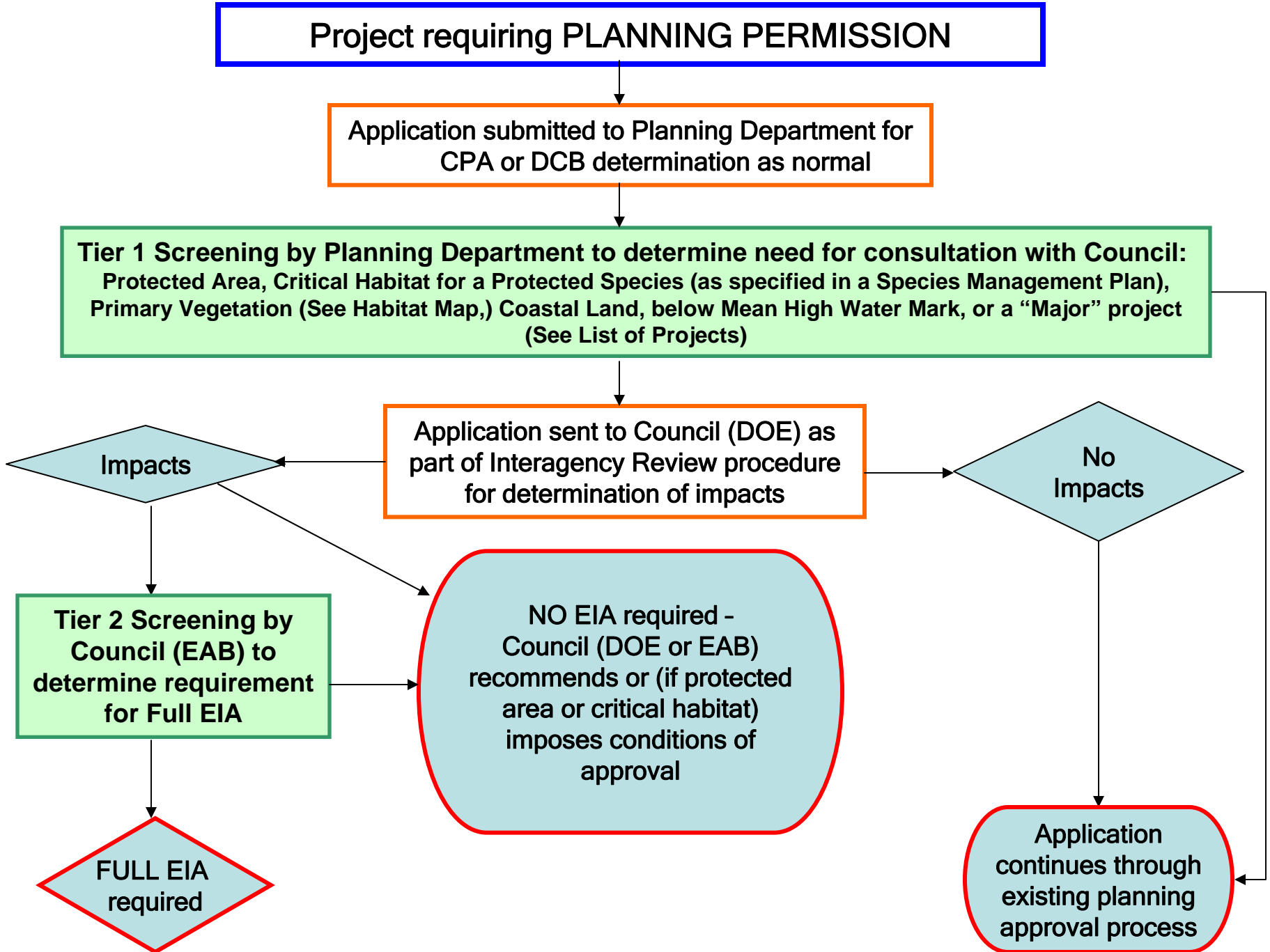
No Impacts

Tier 2 Screening by Council (EAB) to determine requirement for Full EIA

NO EIA required - Council (DOE or EAB) recommends or (if protected area or critical habitat) imposes conditions of approval

FULL EIA required

Application continues through existing planning approval process



Project requiring COASTAL WORKS LICENCE

Application submitted to Ministry of Environment
for Cabinet determination as normal

**Tier 1 Screening: All Coastal Works applications trigger consultation with Council as
proposed location is below Mean High Water Mark**

Application sent to Council (DOE) as
part of Interagency Review procedure

Impacts

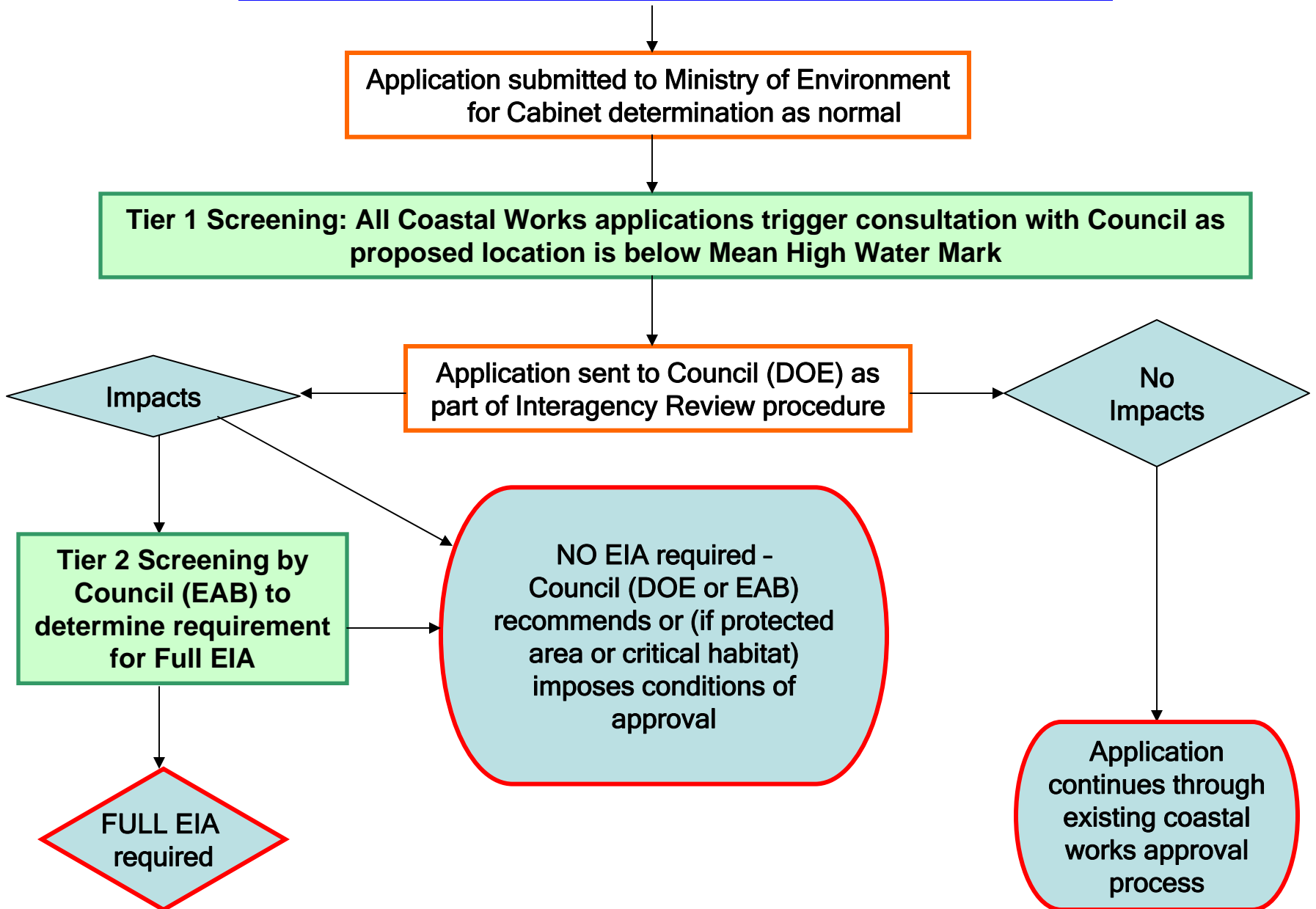
No
Impacts

**Tier 2 Screening by
Council (EAB) to
determine requirement
for Full EIA**

NO EIA required -
Council (DOE or EAB)
recommends or (if protected
area or critical habitat)
imposes conditions of
approval

FULL EIA
required

Application
continues through
existing coastal
works approval
process



Project authorized under any other law
(e.g. Roads Law, Water Authority, Port Authority)

Tier 1 Screening by Planning Department to determine need for consultation with Council:
Protected Area, Critical Habitat for a Protected Species (as specified in a Species Management Plan),
Primary Vegetation (See Habitat Map,) Coastal Land, below Mean High Water Mark, or a “Major” project
(See List of Projects)

Plan or proposal of originating agency
sent to Council (DOE) for
determination of impacts

Impacts

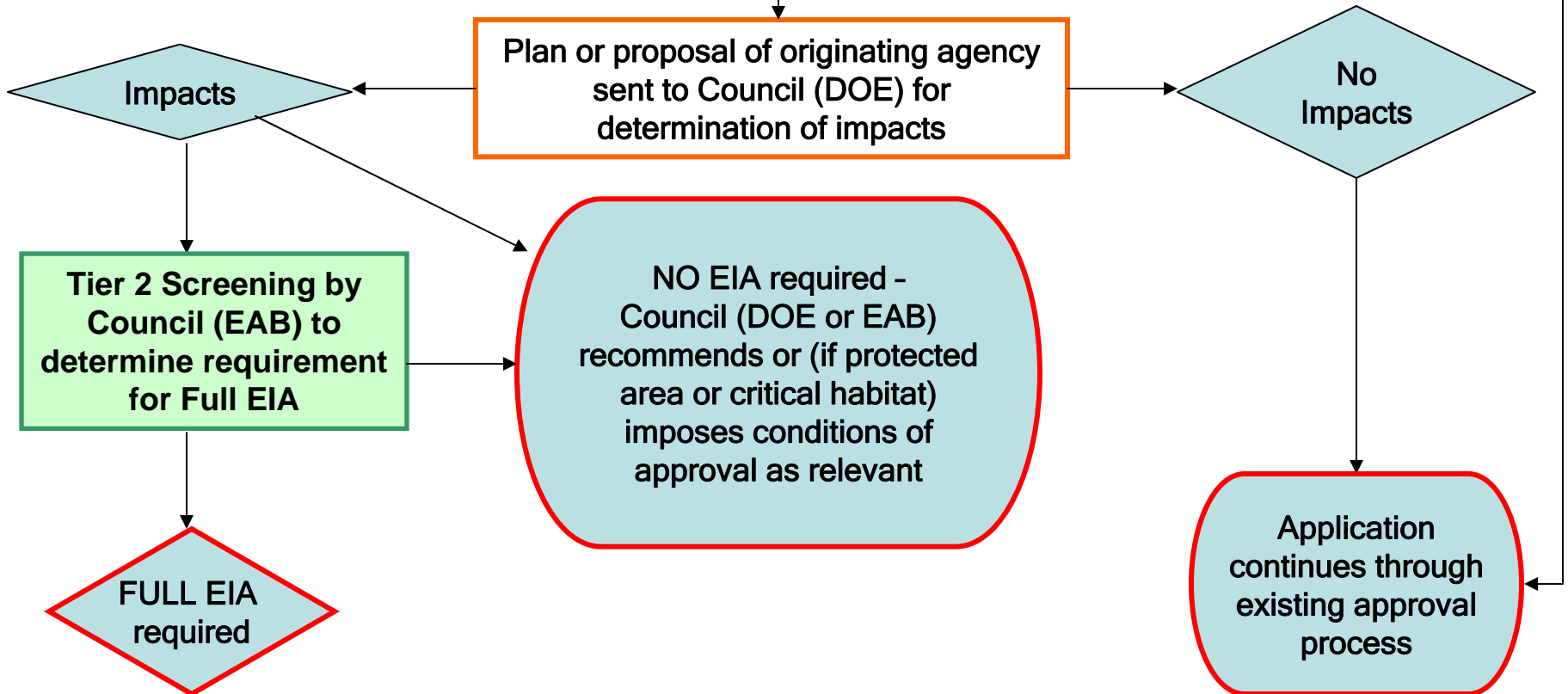
No
Impacts

Tier 2 Screening by
Council (EAB) to
determine requirement
for Full EIA

NO EIA required -
Council (DOE or EAB)
recommends or (if protected
area or critical habitat)
imposes conditions of
approval as relevant

FULL EIA
required

Application
continues through
existing approval
process



Full Environmental Impact Assessment Process

A detailed process flowchart has been developed which will take the form of Directives of the Council or Regulations made by Cabinet. This includes detailed steps for the selection of consultants for comprehensive Environmental Impact Assessments (EIAs) hired by the proponent but approved by an Environmental Assessment Board (EAB) appointed by the National Conservation Council. While the selected consultant shall work for the EAB, the proponent shall incur the costs associated with an EIA. An escrow account shall be set up using proponent funds, from which consultant's fees will be drawn. This arrangement should address a major criticism of EIA processes worldwide by reducing the bias associated with whichever entity funds the EIA.

The EAB together with the proponent and consultant determine the scope of the EIA. The scope shall include the "No Project" option and address the country's need for the proposed development.

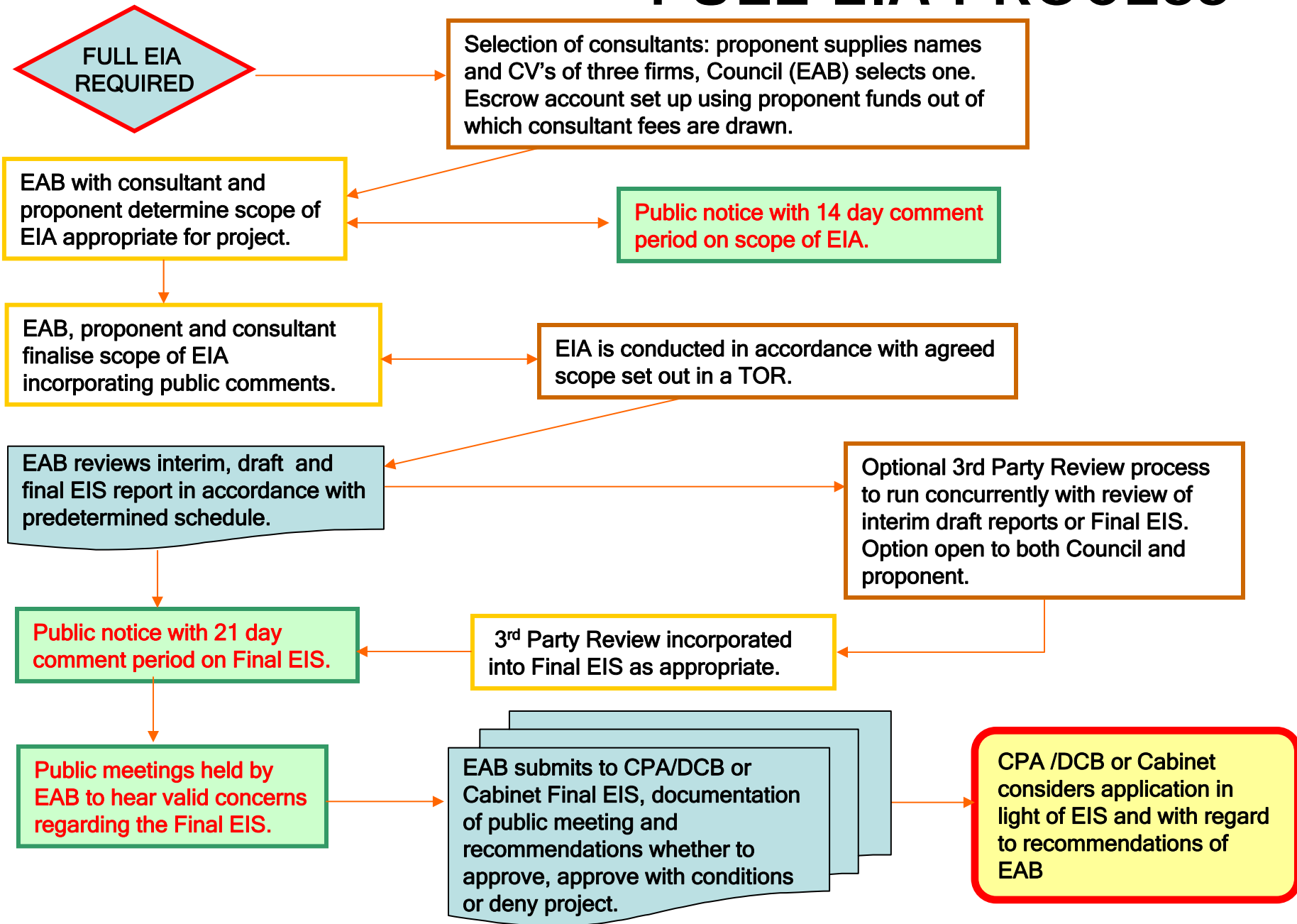
A preliminary scoping document shall be released to the public to ensure the study addresses all issues of importance that will factor into the decision-making process. Once the scope of the study has been finalised by the EAB, proponent, and consultant, inclusive of the primary concerns of the public, the consultant can begin with data collection and analysis and preparation of the EIA documents.

The EAB will review interim and draft documents and final report (Environmental Impact Statement, EIS) against the agreed scope and in accordance with a predetermined schedule, and to deem the EIS complete. It is open to both the proponent and the EAB to engage an expert third party to review the EIS if they so choose. This option may be particularly useful if they are in disagreement regarding the scope, findings or conclusions set out in the EIS. The reviewer shall be selected and funded in a similar manner to the selection of the consultant commissioned to conduct the EA. Once the third party report is received it shall also be made available to the public.

The EAB shall hold a public hearing to entertain representations by persons with valid concerns associated with the EIS.

The EAB shall submit to the CPA/DCB or Cabinet the EIS, documentation of the public hearing and EAB report, which may include a recommendation on whether to approve or deny the application. There should be no binding decision made by the CPA/DCB on applications until the EIS has been completed, reviewed, accepted and forwarded by the EAB.

FULL EIA PROCESS



***Types of Projects which Trigger Environmental Assessment Process (proposed)
Based on Environment & Coastal Zone Management Special Issues Committee
Report 2002***

There are two types of triggers for the Environmental Assessment process: location and type of development.

A. Location triggers include:

- All coastal development
- Applications in areas covered by the Habitat Screening Map (which reflects areas of primary habitat, including critical habitat (as defined in a Conservation Plan))
- Development in or adjacent to a protected area
 - A Screening Map for Grand Cayman follows

B. Type of development

1. For Planning purposes, 'major' applications are all project types except single-family homes and duplexes. Therefore the types of development that would trigger the environmental assessment process would include the following –
 - a. Large scale residential developments
 - b. Hotel and resort developments
 - c. Commercial developments, including gas stations and garages
 - d. Subdivision of land
 - e. Industrial developments, including manufactories, obnoxious and other industrial plants such as workshops and similar establishments
 - f. Excavation operations
 - g. Reclamation projects
 - h. Infrastructure projects
 - Power plants and water supply systems, including a long-distance aqueduct
 - Waste water treatment plant and disposal systems
 - Solid waste disposal systems, including a waste-disposal installation for the incineration of chemical treatment of special waste
 - Major road proposals, including a line for long-distance road traffic, a tramway, elevated or underground railway, suspended line or similar line for passenger transport
 - An industrial estate development
 - An oil or gas pipeline
 - A crude-oil refinery or an installation designed for the handling and storage of petroleum products
 - Canalisation of flood-relief works
 - A dam or other installation designed to hold or store water on a long-term basis
 - Airports and airstrips
 - Ports, harbours, yacht marina and inland waterways which permit the passage of vessels
 - Coast protection works

- i. Special purpose developments, including projects of national importance
2. Development for any of the following purposes -
 - a. Agriculture, including installation of aquaculture and the reclamation of land from the sea for such purpose.
 - b. Extractive industry, including extraction of minerals such as sand, gravel by deep drilling or open-cast mining, extraction of petroleum, natural gas or ores, or installation for the manufacture of cement.
 - c. Energy industry, including an installation for the production of electricity, steam and hot water; an industrial installation for carrying gas, steam or hot water or the transmission of electrical energy by overhead cables; the surface storage of natural gas; the underground storage of combustible gases.
 - d. Processing of metals, including ironworks or steelworks; an installation for the production of non-ferrous metals, other than precious metals; the pressing, drawing or stamping of large castings; the surface treatment and coating of metals; manufacturing or assembling motor vehicles or manufacturing motor-vehicle engines; a shipyard; an installation for the construction or repair of aircraft.
 - e. Glass making
 - f. Chemical industry, including the treatment of intermediate products and production of chemicals; the production of pesticides or pharmaceutical products, paints or varnishes, elastomers or peroxides; the storage of petroleum or petrochemical or chemical products.
 - g. Food industry, including the manufacture of vegetable or animal fats; the packaging of canning of animal or vegetable products; the manufacture of dairy products; brewing or malting; confectionery or syrup manufacture; an installation for the slaughter of animals; a fish-meal or fish-oil factory.
 - h. Textile, leather, wood and paper industries
 - i. Rubber industry
 - j. Other projects, including a permanent or testing track for cars or motor cycles; an installation for the disposal of controlled waste(s) from mines and quarries; a site for depositing sludge; the storage of scrap iron.

Habitat Screening Map For Environmental Assessment Consultation

