

Chapter 3

3.0 POLICY, LEGAL AND ADMINISTRATIVE ISSUES

3.1 Environmental Protection Legislation

Current national environmental policies are based on the need to take an integrated approach to environmental management and the need to work towards the goal of sustainable development. The Government of Belize through the Department of Environment, Coastal Zone Management Authority and Institute, the Department of Fisheries, Forestry Department and the other government institutions are the regulatory bodies of the various instruments.

Of importance to the proposed development is the need to identify those regulations and legislations which will need compliance for development activities in respect to the area and region of the proposed development. In light of the fact that the area and region of the proposed development is within an area of significant importance in terms of its tourism and ecological importance and proposed planning regime, it is also of important that developmental activities strike a balance between development and the environment.

This section is aimed at reviewing relevant environmental resource and planning legislations and regulations to ensure that the “development project” meets policy and legislative criteria, and that relevant requirements are built into project design and implementation. The policy review also outlines specific procedures and measures to be carried out before, during and after project development. It is noted that the proposed development site is located within two protected areas. Specific conservation zones been established for all user activities within the marine reserve.

3.1.1 The Environmental Protection Act SI 22/1992 and 328/2003

THE ENVIRONMENTAL PROTECTION ACT established the Department of the Environment. Under section 3 (3) the Department has the responsibility to monitor the implementation of the Act and Regulations, and to take necessary actions to enforce the provisions of the Act and Regulations. This enabling legislation provides the Government and the Department with the comprehensive environmental protection authority it needs in order to address modern environmental pollution problems. The ACT also grants the Department of Environment broad regulatory and enforcement authority for the prevention and control of environmental pollution, conservation and management of natural resources, and environmental impact assessment (EIA).

The Environmental Protection Act entrusted the Department of the Environment and Ministry of Tourism with a broad range of functions relating, but not limited to, the assessment of water pollution, the coordination of activities relating to the discharge of wastes, the licensing of activities that may cause water pollution, the registration of sources of pollution and the carrying out of research and investigations as to the causes, nature and extent of water pollution, and the necessary prevention and control measures (section 4). The Department is also empowered to approve EIAs.

Under the revised edition 2000 Part III 7 (1) (d) specifying the standards in excess of which pollutants discharged into the environment shall not be discharged or emitted; (e) formulating environmental codes of practices specifying procedures, practices or releases limits for environmental control relating to works, undertakings and activities during any phase of the development and operation, including the location, design, construction, start-up, closure, dismantling and clean-up phases and any subsequent monitoring activities and (f) environmental quality guidelines specifying recommendations in quantitative or qualitative terms to support and maintain particular uses of the environment and (j) the control of noise.

Under the Act, no person, installation, factory or plant shall, unless specifically permitted by the Department, emit, deposit or discharge or cause emission of any pollutant or contaminant into the atmosphere or environment in contravention of the permitted levels. Every person, installation, factory or plant emitting air pollutants is required to maintain and submit to the Department, records of the type, composition and quantity of pollutants emitted.

Schedule II [Regulation 8] of the 2003 revised edition specifies projects which may require an environmental impact assessment or environmental impact study depending on the location and size of the project. These include but are not limited to coastal land reclamation involving an area of more than 10 acres; resort and recreational development in terms of construction of coastal resort facilities or hotels and development of tourist or recreational facilities on small islands; and infrastructure projects such as yachts/marinas.

No person shall cause or permit the extracting, crushing, screening, handling or conveyance of materials or other operations likely to give rise to airborne dust without taking reasonable precautions, by means of spray bars or wetting agents, to prevent particulate matter from becoming airborne.

Furthermore any person or undertaking exploiting the land, water resources, seas or other natural resources shall ensure the protection of the environment against unnecessary damage or from pollution by harmful substances; and no person shall emit, import, discharge, deposit, dispose of or dump any waste that might directly or indirectly pollute water resources or damage or destroy marine life.

3.1.2 Environmental Impact Assessment Regulations SI 107/1995 and 24/2007

The Environmental Impact Assessment (1995) regulations describe in detail the processes involved in the preparation and evaluation of environmental impact assessments. The regulations divide projects or activities into three categories. The first category consists of those projects that automatically require an environmental assessment based on the sensitivity of the surroundings or the nature of the undertaking. The second category comprises those projects that may require an assessment to be carried out, but with some modifications based on the location and size of a project. The third category encompasses activities or programs that do not require an assessment to be conducted which may not have significant impacts on the environment. In March of 2007, amendments to the regulations were published in which each category or

schedule would carry an application and processing fee. In addition, an environmental clearance (schedule III) fee was also instituted which should generate considerable income for the Department.

The Environmental Impact Assessment Part V - 20 (4) states that every project, programme or activity shall be assessed with a view of the need to protect and improve human health and living conditions and the need to preserve the reproductive capacity of ecosystems as well as the diversity of species. Under 20 (5) when making an environmental impact assessment, a proposed developer shall consult with public and other interested bodies or organizations and under 20 (7) a decision by the DOE to approve an environmental impact assessment *may* be subjected to conditions which are reasonably required for environmental purposes.

3.1.3 Coastal Zone Management Strategy Chap. 329 2000 Revised Edition

The Coastal Zone Management was legally established in 1998 with the passage of the Coastal Zone Management Authority Act (Act # 5 of 1998). Under section 5 (1), the main functions of the Authority include (i) to advise Government on matters related to development and use of resources in the coastal zone in an orderly and sustainable manner; (ii) formulation of policies on coastal zone management; (iii) development of a coastal zone management plan and revise it as needed; (iv) commission monitoring and research of coastal areas; (v) promote public awareness and (vi) prepare guidelines for developers.

The Coastal Zone Management Strategy seeks to facilitate improved management of coastal resources, to ensure economic growth is balanced with sound environmental management practices. The Strategy seeks to review and “enhance existing laws, regulations, ‘policies’ and guidelines relating to conservation, resource management and development controls in the coastal zone are.” These support a coastal area management framework that addresses the need for management approaches in location between, as well as within, Coastal and Marine Protected Areas, and special requirements for management development and conservation in the barrier reef region, particularly the cayes.

3.1.4 Effluent Limitation Regulations SI 94/1995

THE ENVIRONMENTAL PROTECTION EFFLUENT LIMITATION REGULATIONS came into force in 1996, at which time the Department of the Environment commenced enforcing the Regulations. The Regulations are intended to control and monitor discharges of effluent into any inland waters or the marine environment of Belize.

3.1.5 Pollution Regulations SI 56/1996

The Pollution Regulations of 1996 addresses issues of air, water and soil pollution, including noise pollution. Part III – 6 (1) deals generally with the emission of contaminants into the air where no person shall cause, allow or permit contaminants to be emitted or discharged either directly or indirectly into the air from any source.

Part X 31 (c & d) deals with pollution of land generally that could be harmful, or potentially harmful to animals, birds, wildlife, plants or vegetation. The Department of Environment is responsible for the enforcement of the Pollution Regulations Act.

3.1.6 Solid Waste Management Authority Act SI 224 of 2003

Under the Act, the Authority shall devise ways and means for the efficient collection and disposal of solid waste employing modern methods and techniques and exploring the possibility of recycling waste materials. Under the Act “construction waste material” includes building materials from construction, alteration and remodeling building or structure of any kind, such as lumber, concrete, steel roofing, etc. SI 13/1991 established the Solid Waste Management Authority and gave it broad powers for the collection and disposal of solid waste.

3.1.7 National Institute of Culture and History (NICH) Act SI No. 331 of 2000

Under section (37.) of the NICH Act, All ancient monuments and antiquities wherever situate whether upon any land or in any river, stream or watercourse, or under the territorial waters of Belize, shall absolutely vest in the State.

Section 38.-(1) state that: Subject to this Act, no person shall possess or have in his custody any ancient monument or antiquity except under a licence in writing granted by the Director in the prescribed form. (2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding five years, or to both such fine and term of imprisonment, and in addition, any such ancient monument or antiquity shall be forfeited to the State.

Under section 39.-(1) it state: Any person who at any time has or takes or comes into possession, custody or control of any ancient monument or antiquity shall within fifteen days of his first having or taking or coming into such possession, custody or control of the ancient monument or antiquity, register his possession, custody or control with IRMAC

Institute of Culture and History (Amendment) Act SI No. 20 of 2003

This act empowers the Institute of Archaeology to carry out research, interpretation and the protection of the Archaeological Heritage of Belize. The ownership of all ancient monuments and antiquities shall rest in the Institute of Archaeology, Government of Belize.

3.1.8 Belize Water Industry Act No. 1 of 2001

The Water Industry Act repeals the Water and Sewerage Act, Chapter 185 of 1971 Laws of Belize. Chapter one of the Act deals with controlling disposal of wastes generated from sewer treatment. The Act makes new provisions with respect to the supply and control of water and sewerage services in Belize.

The Water Industry Act also establishes the responsibility of private entities to provide facilities for the final disposal of sewerage taking into consideration Chapter 36 of the Environmental Protection Act 1 of 2001.

3.1.9 Belize Public Health Act Revised Edition SI 40/2000

Under Part VIII of Offensive Trades 128 (1) b the Minister can make regulations relating to nuisances for the prevention, control or reduction of pollution or contamination of air, soil or water caused by any activity or condition resulting in the emission of a pollutant or contaminant into the environment. The Act also specifies restrictions and regulations for nuisances from factories or other industrial developments, and incidental provisions relating to offensive businesses.

3.1.10 National Lands Act (No. 6 of 1992) and SI 191 of 2000

The Act is designed to establish a framework for the management of national lands. The Act applies to all lands (other than Reserved Forest) not already "located" or granted, including any lands acquired by or ceded to the Crown. They are classified as town, suburban, rural, mineral lands and beach lands.

In Section 28, where the sea, or any sound, bay or creek is described as forming part of the boundary of any national land to be granted or disposed of, then the high water mark shall be considered to be the property boundary. Under the Act, the seabed defined as the land extending seawards from the high water mark of ordinary tides, is National Land owned by the Government of Belize under the authority of the National Lands Act.

3.1.11 Crown Land Rules SI 60 of 1939

Under Crown Land Rules (Statutory Rules and Orders 66 of 1939), a 66 ft wide strip of land along all water frontages, measured from high water mark, is designated as public easement, but lands titles prior to 1930 included the land to the high water mark and in some cases, below the high water mark.

3.1.12 Mines and Minerals Act Chap. 226 of 2000

The Mines and Minerals (General) Regulations provide a general framework for the implementation of the Mines and Minerals Act. These Regulations cover a range of topics such as application, duties, terms and conditions and failure to comply with the conditions of a mining license. Under the Act "land" includes land beneath water. The Act also addresses dredging and sand mining, which is essential in avoiding destruction to coastal habitats such as seagrass beds and the coral reef.

3.1.13 Forests (Mangrove Protection) Regulations, SI No. 52 of 1989

The Forests (Protection of Mangrove) Regulations, 1989, prohibit any "alteration" (which includes cutting and defoliating, but does not include "selective trimming") of mangroves on any land except with a permit (reg. 4). Alterations which involve dredging or filling can be authorized only in "exceptional circumstances."

Factors considered for issuing or denying permits include the proximity of the proposed project to coastal and reef areas known to be of outstandingly high ecological value (reg. 5(2) (i)), and the existing or proposed plans such as the barrier reef regional management and development plan. The Mangrove Regulations were amended in 1992 to increase the level of fines and sanctions.

3.1.14 The Forest Act SI 213/2000

The protection of all mangroves fall under this Act via the Forest (Protection of Mangrove) Regulations. Mangrove clearance may be permitted under this Act. In most cases a permit to clear mangroves is issued after a multi-agency assessment is conducted. This Act includes the establishment of Forest Reserves which may include mangroves, littoral forests and water bodies. However, no specific regulations exist under this Act that address littoral forests. The Forest Act is currently being revised.

The legislative basis for conservation of national lands within BCNP is defined by the Forest and Wildlife Conservation Acts. The Forest Act provides for the protection and conservation of all mangrove forests on both private and national lands, any alterations to which require evaluation and permit by the Forestry Department.

3.1.15 Belize Tourist Board Act SI 275 of 2000

The Belize Tourist Board Act establishes the Belize Tourist Board with wide responsibilities for the promotion of tourism in Belize. Apart from being charged with the development of the tourism industry, the Belize Tourist Board also has the responsibility to foster understanding within Belize of the importance of environmental protection and pollution control and the conservation of natural resources. The 2003 revised edition contains specific regulations relating to requirements and licenses, etc., of tour guides, tour operators, and local water passengers and water sport vessels.

3.1.16 Hotels and Tourist Accommodation Act SI 285/2000

Under Part II (2) an application for registration in respect of any premises used for the business of a hotel or tourist accommodation should be carried out. Part III (14) defines the minimum standards to be observed by hotel and tourist accommodation. Part III of the Act defines registration and Regulations of Hotels and Tourist Accommodations. Under the Act the Belize Tourism Board has the responsibility of registering all hotel and tourist accommodation in Belize.

Subject to the provisions of the Act, Part IV (22 91)) states that “there shall be levied and paid a tax at the rate of seven per centum of all the accommodation charges in regards to lodging.” Part V General, sets out Offences and penalties and regulations prescribing standards for hotels and tourist accommodation. The Hotels Act and the Housing and Town Planning Act complement each other, since they both address tourism and residential developments in coastal areas.

3.1.17 Protected Areas Conservation Trust Act (PACT) Chap. 218/2000

The Protected Areas Conservation Trust Act (PACT) establishes a fund for the financing of all protected areas, including marine reserves and all other protected areas on the coast. Indirectly related is the Fiscal Incentives Act, which provides numerous facilities for coastal developments. A portion of the fees collected at the border points is used to finance local community based initiatives.

3.1.18 Customs and Excise Duties Act Revised Edition SI 48 of 2000

Part II Customs and Excise Duties 3.-(1) addresses any exemption or rebates provided by or under the authority of the Act; that there shall be raised, levied, collected and paid for the use of the Government, the customs duties, in respect of goods imported into Belize, or taken out of bond for consumption in Belize, at the rates set out in the First Schedule of the Act.

Under PART V 35.-(1) the Minister may make regulations for the licensing and establishment of inwards duty free shops and for all matters connected therewith. Under (2) without prejudice to the generality of the foregoing, the Minister may make regulations for any or all of the following matters: (a) the fees and other charges that may be payable by the operators of such shops; (b) the type of goods to be sold in such shops; (c) the category of persons who may purchase goods from such shops; (d) the maximum value of purchases which may be made by persons from such shops; (e) the currency to be used in purchasing such goods; (f) the areas where such shops may be established; (g) the maintenance and inspection of records relevant to the storage, sales and receipts of goods; (h) any other matters for which it may be deemed expedient to make regulations.

3.2 International Conventions and Agreements

Belize is signatory or party to many international conventions and agreements, and is a member of many regional organizations involved in the management and protection of biological resources. Those that impact on biodiversity are listed below.

(a) United Nations Law of the Sea Convention (LOSC) (ratified 13 August, 1983).

(b) World Heritage Convention (ratified in 1990).

(c) Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES) (ratified 1976).

- (d) Convention on Biological Diversity (CBD) (ratified in December, 1993).
- (e) Central American Biodiversity Convention.
- (f) Convention for the Conservation of Biodiversity and the Protection of Priority Areas in Central America.

- (g) Agreement on Cooperation between Belize and Mexico for the Protection and the Improvement of the Environment and the Conservation of Natural Resources in the Border Zone (signed 20 September, 1991).

- (h) Protocol on Specially Protected Wildlife (SPAW Protocol)
- (I) Land-Based Sources of Pollution Protocol (LBSP).
- (j) United Nations Framework Convention on Climate Change (ratified September, 1994).
- (k) Convention for the Prevention of Pollution from Ships (MARPOL 73/78) (ratified 12 May, 1995).

- (l) International Convention for the Regulation of Whaling (signed 1982).

- (m) Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (signed 1995).

- (n) Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) Toxins and their Destruction (signed 1980).

- (o) Western Central Atlantic Fisheries Commission (WECAFC) (1985).
- (p) Latin American Organization for Fisheries Development (OLDEPESCA) (1997).
- (q) Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (The Cartagena Convention).

- (r) The Convention on Wetlands of International Importance Especially as Waterfowl Habitats (RAMSAR)(Signed 1971).

Belize's compliance with its commitments under the above mentioned conventions has been minimal due to the lack of appropriate enforcement mechanisms. Belize may soon become party or signatory to the following conventions and agreements:

- International Dolphin Conservation Program (IDCP).
- International Commission for the Conservation of Atlantic Tunas (ICCAT)
- Inter-American Convention for the Conservation and Protection of Marine Turtles (in progress)

Table 3.1 Licenses and Permits required by the Development

Activity	License or Permit required	Permitting Agency
Pier Construction	Permit to construct pier, marina (or sea wall)	Land Utilization Authority
Land Clearing	Permit to alter mangrove required	Forest Department
Road Reserve		
Dredging and Quarry	Mining license and permit for extraction of materials	Geology and Petroleum Dept.
Hotel License	Establishment and operation of hotel and prescribing conditions	Belize Tourism Board
Tour Operation	License to conduct offshore and inland tours and fishing trips	Belize Tourism Board, Dept. of Fisheries
Food Handler's Certificate	Handling of food certificate for persons working in restaurants and kitchens	Public Health Dept.
Effluent Discharge	Effluent Discharge of gray water and effluent from waste treatment plant	Dept. of Environment