
CHAPTER 3

POLICY, LEGAL AND ADMINISTRATIVE FRAMEWORK

3.1 Introduction

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, and the other government institutions such as the Land Utilization Authority (LUA), the Geology and Petroleum Department (GPD), the Forest Department, the Fisheries Department, and the Public Health Department (PHD). 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 ecological and biological importance and proposed planning regime, it is also of important that development activities strike a balance development and the environment.

This section is aimed at reviewing relevant environmental resource and planning legislations and regulations to ensure that “development projects” 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 marine reserve.

3.2 Legal Framework

The principal legislation having direct or indirect bearing on the project are therefore the following.

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 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 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.

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.

Environmental Impact Assessment Regulations SI 107/1995

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.

The Environmental Impact Assessment Part V - 20 (4) states that every project, programme or activity shall be assessed with a view to 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

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 Regulations made Act.

The Mines and Minerals Act (Chap 226/ 2000)

The extraction of all non-renewable resources except petroleum is regulated by the Mines and Minerals Act (1988). The government owns all minerals under public and private lands, and, minerals are reserved from all future grants of state lands. The Act provides for licenses and royalties for the taking of minerals, and prohibits the pollution of any river, stream or watercourse.

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.

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.

Petroleum Act (Chap 225 /2003)

Describes all aspects of oil exploration and exploitation including licences, fees etc. The government owns all oil and gas under public and private lands, and these are reserved from all future grants of state lands.

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.

The Land Utilization Act (Chapter 188 of revised edition 2000)7.

The Land Utilization Act, under which the Land Utilization Authority of the Ministry of Natural Resources, Local Government and the Environment (MNREI) is established, provides for measures to govern the use and development of land, and introduces measures for the conservation of land and watersheds. This Act governs the subdivision of private lands and the construction of jetties on coastal areas.

The Wildlife Protection Act (Chap 220/2000)

The Wildlife Protection Act controls the conservation, and use of protected species. It also empowers the Forest Department to pass regulations that govern the management of endangered flora and fauna. Under this Act “Endangered Species” may not be kept in captivity unless so approved by the Forest Department. All species listed as endangered by CITES are protected in Belize.

National Park System Act SI 215/2000

The National Parks Systems Act - This Act establishes four types or categories of protected areas: Natural Monuments, National Parks, Nature Reserves and Wildlife Sanctuaries. Several reports have suggested the usefulness of a revision of this Act to address the mandatory requirement of management plans for protected areas, assessment of the success of protected areas, and the periodic review of existing Management Plans for Protected Areas.

Under part II of the act the Minister may declare any specified area of land to be designated a national park, a nature reserve, a wildlife sanctuary or a natural monument. Essential features include but are not limited to the following:

a) No person shall be entitled to enter any national park except for the purpose of observing the fauna and flora therein and for the purpose of education, recreation and scientific research;

(b) No person shall be entitled to enter any nature reserve or in any way disturb the fauna and flora therein;

(c) No animal shall be hunted, killed or taken and no plant shall be damaged, collected or destroyed in a national park or nature reserve;

(d) No person shall hunt, shoot, kill or take any wild animal, or take or destroy any egg of any bird or reptile or any nest of any bird, in any wildlife sanctuary and;

(e) No person shall disturb the natural features of a natural monument, but may use the unit for interpretation, education, appreciation and research.

A special permit can be obtained to carry out various activities in the protected area; however, specific rules are also enforced for various activities. Section III sets out the general rules and regulations pertaining to the Act.

Ancient Monuments and Antiquities Act SI 330/2000

Under section (4) of the Ancient Monuments and Antiquities Act, all ancient monuments and antiquities however situate, whether upon any land or in any river, stream or watercourse, or under territorial waters of the country, and whether or not before the date of the commencement of this Act in private ownership, possession, custody or control, shall absolutely vest in the Government. Under section (12), if any person finds any ancient monument or antiquity he shall within fourteen days of such findings report the details of the findings to the Minister.

Institute of Culture and History (Amendment) Act (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.

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.

Solid Waste Management Authority Act SI 224 of 2000

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.

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.

3.3 Administration

Some of the key agencies responsible for environmental protection and natural resources management are the Ministry of Natural Resources and the Environment (MNREI), the Ministry of Agriculture and Fisheries (MAF), the Ministry of Health, and the Ministry of Tourism. These Ministries are empowered by legislation which govern the use of the natural resources and environment.

The MNREI is one of the largest Ministries of the Government of Belize. It includes the DoE, the Geology and Petroleum Department (GPD), Forest Department (FD), Lands and Surveys Department (Lands), Land Utilization Authority (LUA), and the Land Valuation Department, Department of the Environment. Among these departments are also various important sections such as the Conservation Division of the Forest Department.

The Environmental Protection Act 1992 legally established the Department of Environment (DoE), which is charged with a wide range of responsibilities. These include the guidance of development by industry, the encouragement of the adoption of environmentally friendly technology, the control of pollution, the requests for and administration of the EIA process, and the sustainable use of the natural resources and the environment.

The Geology and Petroleum Department is responsible for most aspects of oil and gas exploration and exploitation.

The Forest Department is responsible for the approval of mangrove alteration permits, and for implementation of the Wildlife Protection Act, 1981. The Forest Department is also the enforcing agency for the Wildlife Protection Act.

The Public Health Department of the Ministry of Health is responsible for overseeing a wide range of public health matters including the on-site sanitary working conditions of projects and developments, sewage systems, safety of and within buildings.

The National Institute of Culture and History (NICH) houses the Institute of Archaeology, which is responsible for the administration of the archaeology countrywide. The Institute of Archaeology monitors all ongoing archaeological projects in Belize and issues permits for site work. The Institute is also responsible for all aspects involving any ancient Maya remains, artefacts and structures as well as any other item of historical significance. Any findings have to be reported to this department. Removal of artefacts or disturbance of sites is illegal without written permission of this Department.

3.4 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)