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## CHAPTER 3

### LEGISLATION AND ADMINISTRATIVE FRAMEWORK

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#### 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 the Environment, Coastal Zone Management Authority and Institute, the Department of Fisheries, 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 ecological and biological importance and proposed planning regime, it is also important that development 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 have been established for all user activities within marine reserves.

#### 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 entrusts 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, 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) of the Environmental Protection Act, the following sections entails:

- (d) specify 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,
- (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.

### **3.1.2 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 and which may not have significant impacts on the environment.

The Environmental Impact Assessment Part V - 20 (4) states that every project, program 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

### **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 and, 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. 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 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.

### **3.1.7 National Institute of Culture and History 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

### **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 section 36 of the Environmental Protection Act 1 of 2001.

### **3.1.9 Belize Port Authority Act SI 233 of 2000/2003**

Under Part III Sec. 23 (1) the Minister may, after consultation with the Authority, grant in writing a license to any person, corporation or other body to construct and operate a private port subject to such terms, conditions and restrictions and on the payment of such fees as the Minister may consider appropriate (Private ports 15 of 1989).

Under part III 19 –(3) and in particular and without prejudice to the generality of the provisions of subsections (1) and (2), it is the duty of the Authority- (a) to operate the ports as appears to it best calculated to serve the public interest; (b) to regulate and control navigation within the limits of ports and their approaches; (c) to maintain, improve and regulate the use of such ports and services and facilities therein as it considers necessary or desirable; (d) to provide for such ports

and the approaches thereto such pilotage services, beacons, buoys and other navigational services and aids as it considers necessary or desirable; (e) to exercise the duties and functions relating to shipping and navigation exercisable under the provisions of any other law.

### **3.1.10 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.

### **3.1.11 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.

### **3.1.12 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.

### **3.1.13 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.

### 3.1.14 Caye Caulker Forest and Marine Reserve Management Plan

The Fisheries (Amendment) Act of 1983, Section 7A provides for the establishment of marine reserves. It describes the reasons for declaring such reserves, and includes some general governing rules. The Fisheries (Amendment) Act of 1988 empowers the Minister to make regulations for the management of marine reserves, such as zoning rules.

The Forest Protection Act of 1922 Allows for the establishment and operation of Forest Reserves. This category of protected area is primarily designed to permit controlled extraction, a somewhat inappropriate category for the small area at the north of Caye Caulker. Zisman (1992) recommended the status of Wildlife Sanctuary to provide adequate conservation for the area.

The Caye Caulker Marine Reserve was declared under Statutory Instrument (S.I.) No. 35 of 1998, first gazetted on the 25<sup>th</sup> of April 1998. The Forest Reserve was gazetted on the 4<sup>th</sup> of April 1998, in Statutory Instruments No. 28 of 1998. Perimeter GPS points appear in the SI.

The Fisheries Regulation 1977, and its various Amendments, also apply within the boundaries of the Zones where fishing is permitted. Section 8(2) states that “no person shall with intent to take fish, use any trap or other device constructed of net or wire in any area within a distance of one hundred yards of the Barrier Reef”. Subsection 9A-1(a) provides for special protection to the aquatic flora and fauna, their natural breeding grounds, and habitats. Subsection 9A2 (a) further states that “no person shall, in a marine reserve, engage in fishing without a license issued by the Fisheries Administrator”. Section 26 of this regulation also prohibits anyone from setting nets across channels to restrict the free passage of boats or to wholly prevent the passage of fish.

Zone boundaries will be gazetted along with rules and regulations rapidly following submission of this management document.

The Tourguide SI of 1994 addresses qualifications and conduct of Tourguides while on the job. It supports the Fisheries Act and goes a step further, prohibiting harassment of wildlife and damage to reef corals or other habitat—terrestrial or marine— by guides or tourists while on the job.

The Marine Reserve covers only the marine area, while the Forest Reserve encompasses land ecosystems. Other relevant legislation can be invoked to ensure the protection and sustainable use of the Cayes, such as the:

- Wildlife Protection Act, 1981: Prohibits hunting of all but 6 bird species, only one of which has ever been recorded at Caye Caulker; prohibits hunting or molestation of crocodiles (*Crocodylus acutus*), marine mammals such as West-Indian Manatee (*Trichechus manatus*) and Bottlenose Dolphin (*Tursiops truncatus*) and other organisms found at CCFR/MR;
- Forest (Protection of Mangroves) Regulations 1989: Requirement of permit to cut mangroves; very important in reduction/prohibition of sediment pollution in unprotected portions of the island;

- Superseded by this IMP within CCFR boundaries, where cutting/removal of mangroves is prohibited.
- Environmental Protection Act 1992, and the Environmental Impact Assessment (EIA) Regulations 1995: calls for constraints in emissions, effluents and waste materials introduced into waters, affording some protection to marine systems from various forms of pollution. The EIA Regulations require review and approval of all proposed development projects by the National Environmental Appraisal Committee (NEAC), having membership from relevant government departments. Further, projects deemed to be of high impact are required to undergo review by professionals at the developers' expense.

### **3.1.15 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.

### **3.1.16 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.

### **3.1.17 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.

### **3.1.18 Fisheries Act SI 210/2000**

Under 6(1) of the Act, no person shall use or employ any boat in commercial fishing unless there is in force in respect of such boat a "license to fish" issued under the provisions of any regulations made under this Act. (7) No person shall engage in commercial fishing or be engaged or employed in or on any boat while in use for commercial fishing unless he is the holder of a valid "fisherman's license" issued under the regulations made under this Act (2 of 1972).

(8) No person shall conduct or be engaged or employed in any scientific or research operations in any water or waters to which this Act applies which involve the taking, killing or capturing of any fish, or any interference or disturbances of fish, or with the seabed, unless there is in force in respect of such operations a license granted under the regulations made under this Act (2 of 1972).

9.-(1) No person shall export, attempt to export or purchase with a view to export any fish unless he is the holder of a valid fish exporter's license issued under the regulations made under this

Act (2 of 1972,1 of 1983 &19 of 1989). Penalties for breach of the regulations are also included in the Act.

The Fisheries Amendment Regulation also provides complete protection for the marine turtles of Belize. This is aimed at bringing Belize in line with the Inter-American Convention for the Protection and Conservation of Marine Turtles (IAC), which Belize ratified in February 2003. These Regulations prohibit:

- fishing in the waters of Belize or the purchase, sale or possession any marine turtle;
- the take of any turtle found on land; the disturbance, take, purchase, sale or possession of any turtle or turtle eggs; and the interference with any turtle nest, except under written permission by the Fisheries Administrator; and
- The import into, transit through or export from Belize of any turtle or turtle products.

### **3.1.19 The Wildlife Protection Act SI 220/2000**

The Wildlife Protection Act - This Act seeks to control hunting, research and trade of wildlife. It protects many species from hunting, killing and harassment. Part II of this Act states that many coastal and marine species are protected under this Act and includes two species of crocodiles, the manatee, all birds with the exception of six species, whales, dolphins, and the Caribbean monk seal.

The Act also prohibits the hunting of endangered species such as cetaceans, freshwater turtles and crocodiles and those listed in its Schedule. A formal conservation zoning scheme has yet to be developed and enacted.

### **3.1.20 Housing and Town Planning Act SI 182/2000**

Part II of the Act, gives general powers of the Central Authority. Under the Completion of Schemes and Consequential Powers and Duties of the Central Authority 31 (2) the Central Authority may, in connection with any scheme, authorize the laying out and construction of roads and services upon the land acquired by it, and all roads and services as laid out and constructed, if situated within the jurisdiction of a local authority, shall thenceforth be public roads and services maintained by the local authority.

### **3.1.21 Hotels and Tourist Accommodation Act 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.

### **3.1.22 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.

### **3.1.23 Belize Tourist Board Act**

The Belize Tourist Board Act indirectly encompasses most of the other Acts, since it contains provisions for the development of tourism policies, which would need to consider the effects and roles of all sectors in the development of tourism.

### **3.1.24 Civil Aviation ACT 239**

The Civil Aviation Authority is the sole authority for the granting of aerodrome licenses which would encompass the construction and usage of airstrips, runways and helipads for the use of landing and departure of aircrafts. Any person or individual embarking on such a task must get approval in the form of licenses or concessions from the Civil Aviation Authority in conjunction with the relative agencies involved. Similarly any development at or near the runway must seek clearance

### **3.1.25 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).
- (s) IAC (marine turtle protection)

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

**Table 3.1** Licenses and Permits required by the Development

<b>Activity</b>	<b>License or Permit required</b>	<b>Permitting Agency</b>
Pier Construction	Permit to construct pier, marina (or sea wall)	Land Utilization Authority
Land Clearing	Permit to alter mangrove required	Forest Department
Road Reserve	Permission to utilize road reserve	Ministry of Works
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 trip	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