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**PLANNING AND DEVELOPMENT (ENVIRONMENTAL IMPACT
ASSESSMENT) REGULATIONS, 2021**

Arrangement of Regulations

1. Citation
2. Definitions
3. Environmental Impact Assessment Committee
4. Screening of applications
5. Exemption from environmental impact assessment requirements
6. Publicity for applications
7. Initial Environmental Evaluation
8. Scoping of environmental impact assessment
9. Class Model environmental impact assessment
10. Qualified persons to conduct environmental impact assessment
11. Public participation in environmental impact assessment
12. Minimum contents of environmental impact statement
13. Submission of environmental impact statement

14. Review of environmental impact statement
15. Procedure where environmental impact statement is deficient
16. Public scrutiny of environmental impact statement
17. Decision following environmental impact assessment

Planning and Development Act, 2019

Act 2019-5

PLANNING AND DEVELOPMENT (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS, 2021

The Minister, in exercise of the powers conferred on him by section 30(4) and section 104(1A) of the *Planning and Development Act, 2019*, makes the following Regulations:

Citation

1. These Regulations may be cited as the *Planning Development (Environmental Impact Assessment) Regulations, 2021*.

Definitions

2. In these Regulations,

“application” means an application for planning permission made under Part IV of the Act;

“Committee” means the Environmental Impact Assessment Committee established by regulation 3;

“scoping” means the process of identifying the scope of work to be carried out for an environmental impact assessment;

“screening” means a preliminary assessment of the proposed development to determine whether its environmental impacts are likely to be significant;

“terms of reference” means a document prescribing the nature and extent of the environmental information to be provided and the analysis required in carrying out an environmental impact assessment.

Environmental Impact Assessment Committee

3.(1) The Board shall appoint an Environmental Impact Assessment Committee, pursuant to section 6(10) of the Act, to carry out the functions conferred upon it by these Regulations.

(2) The Committee shall comprise persons who possess qualifications and experience in the following areas:

- (a) ecology;
- (b) geology, hydrology and soil conservation;
- (c) environmental, coastal and civil engineering;
- (d) marine science;
- (e) disaster risk mitigation and management;
- (f) public health;
- (g) economics;
- (h) sociology; and
- (i) physical planning.

(3) The function of the Committee is to advise the Board and the Minister, with respect to environmental impact assessment studies and for this purpose to

- (a) screen applications for planning permission to determine whether an environmental impact assessment is required in any case;
- (b) scope the development proposal to specify the terms of reference for the environmental impact assessment where an environmental impact assessment is required;
- (c) review the environmental impact statement submitted by the applicant and public comments on the environmental impact statement; and

- (d) make recommendations to the Board with respect to the environmental impacts of proposed development projects, including the imposition of conditions on the grant of planning permission for the purposes of avoiding, mitigating and offsetting adverse environmental impacts.
- (4) A member of the Committee shall serve for a term not exceeding 3 years and is eligible for reappointment. as often as the Board sees fit.
- (5) The Board shall designate one of the members of the Committee to act as Chairperson.
- (6) The Director shall assign an officer from the Planning and Development Department to serve as Secretary to the Committee.
- (7) The Committee may appoint from amongst its members such working groups as are necessary or expedient to carry out specific tasks.
- (8) Minutes in proper form of each meeting of the Committee and of any working group shall be kept by the Secretary and confirmed by the Committee at its next meeting; and the Chairman shall sign the minutes once confirmed.
- (9) The provisions of subsections (9) and (12) of section 6 and of section 103 of the Act apply *mutatis mutandis* to the Committee and members thereof as they apply to the Board.
- (10) The Committee has the power to regulate its own proceedings subject to the provisions of this regulation.

Screening of applications

- 4.(1) Subject to the approval of the Board, the Committee shall establish guidelines for screening applications, including applications for approval in principle, keep those guidelines under continuous review and revise them from time to time as it considers necessary or expedient.
- (2) The screening guidelines established under paragraph (1) may include consideration of the following:
 - (a) the size and scale of the proposed development;

- (b) the location of the proposed development in relation to sites or areas that are of special importance or vulnerability; and
 - (c) the activities involved in the proposed development that may particularly activities with complex and potentially adverse impacts, including but not limited to serious impacts on human beings and valued ecosystem components, or which would cause additional loading of the environment to unsustainable levels.
 - (i) seriously impact on human beings and valued ecosystem components; or
 - (ii) cause additional loading of the environment to unsustainable levels.
- (3) The Director shall make copies of the approved screening guidelines available to members of the public on the internet or in hard copy at the cost of making copies.
- (4) Within 14 days of the submission of an application, the Committee shall carry out, or cause to be carried out, a screening of the application and
 - (a) in the case of an application for approval in principle, where the screening shows that the adverse impacts of the proposed development may be significant, advise the Board that the applicant is required to carry out an initial environmental evaluation in relation to that application;
 - (b) in any case where the application is for proposed development of a class listed in the *Sixth Schedule* to the Act, advise the Minister whether the application may be exempted from the requirement that an environmental impact assessment shall be carried out, pursuant to section 30(2) of the Act, in accordance with regulation 5; and
 - (c) in the case of any other application, where the screening shows that the adverse impacts of the proposed development are likely to be significant, advise the Director that an initial environmental evaluation or an environmental impact assessment shall be carried out in support

of the application before it is determined, pursuant to section 30(1) of the Act.

- (5) The Director shall give the applicant notice of the decision to require, or to dispense with the requirement, that an environmental impact assessment be carried out with respect to the proposed development, as the case may be, no later than 28 days after the date of the application, pursuant to section 27 of the Act.

Exemption from environmental impact assessment requirements

5.(1) The Committee shall advise the Minister that an environmental impact assessment is not required with respect to an application for a development of any kind mentioned in the *Sixth Schedule* to the Act where

- (a) the application had been preceded by an application for approval in principle;
- (b) an initial environmental evaluation was carried out with respect to the conceptual plans for the development before approval in principle was granted; and
- (c) the grant of approval in principle was not made subject to a condition that an environmental impact assessment be carried out and an environmental impact statement submitted in relation to the application for planning permission for the development.

- (2) Every direction given by the Minister pursuant to section 30(2) of the Act, on the advice of the Committee, and published in accordance with section 2(3) of the Act, shall contain a statement of reasons for the decision.

Publicity for applications

6.(1) Where an applicant is notified that an environmental impact assessment is required, the applicant shall publicize the application, in accordance to subsection 29(2)(a) of the Act, giving notice of the application to the public in general, and particularly persons whose interests are likely to be affected, directly or indirectly, by the proposed development.

- (2) Without prejudice to the generality of paragraph (1), within 14 days of service of the notice, the applicant shall
- (a) cause a notice containing particulars of the application to be published twice in at least one daily newspaper in general circulation in Barbados or to be published electronically on the internet;
 - (b) give copies of such notice to the owners or occupiers of every parcel of land adjacent to the premises on which the proposed development is to take place; and
 - (c) affix a conspicuous notice containing the same particulars to some object on the land where the proposed development is to take place.
- (3) Every such notice shall
- (a) include the name of the applicant, the reference number and date of the application and a brief description of the proposed development; and
 - (b) specify that an environmental impact assessment is required to be carried out with respect to the proposed development and that members of the public shall be afforded the opportunity to scrutinize the environmental impact statement and submit objections or representations with respect to the application in due course.

Initial Environmental Evaluation

- 7.(1) An applicant may be required to submit an initial environment evaluation
- (a) in support of an application for approval in principle pursuant to section 25(3) of the Act; or
 - (b) in support of an application for planning permission *in lieu* of an environmental impact assessment, where so determined by the Committee in accordance with the screening guidelines.
- (2) In every case where the Director requires an initial environment evaluation in respect of an application for approval in principle, the applicant may submit

in satisfaction of that requirement a report on the initial environment evaluation

- (a) predicting the main impacts of the proposed development and evaluating the importance of those impacts;
- (b) indicating the key mitigating actions which would be required if the development is permitted; and
- (c) identifying any significant gaps in knowledge and uncertainties about environmental impacts which should be addressed by a more rigorous environmental impact assessment before detailed plans are prepared and submitted for planning permission.

(3) An initial environment evaluation submitted pursuant to subsection (2), shall assess the predicted environmental impacts of the proposed development in sufficient detail to enable the Board to identify any conditions subject to which approval in principle may be granted and any matters concerning which the Board shall reserve planning permission until detailed plans have been submitted.

(4) Where the Committee is of the opinion that the available information is not adequate for the purposes of conducting an initial environment evaluation, the Director may require any supplementary preliminary studies and information that are reasonably necessary for those purposes to be undertaken or collected by the applicant.

Scoping of environmental impact assessment

8.(1) In every case where the Board requires an environmental impact assessment with respect to an application, within 7 days of the date of notification under regulation 3(5), the Committee shall consider the scope of works necessary to assess the potential impacts of the proposed development on the environment, prepare a draft terms of reference for the environmental impact assessment required in respect of the proposed development and the Director shall issue the draft terms of reference to the applicant.

- (2) In considering the scope of works to be undertaken for a development listed in the *Sixth Schedule* to the Act, the Committee shall take into account the existing class model for projects of the same class, adopted pursuant to regulation 9, if any.
- (3) If the applicant wishes to have the draft terms of reference amended, the applicant shall conduct consultations with any relevant governmental agencies, non-governmental organisations and members of the public with respect to the required scope of work for the environmental impact assessment and, within 14 days of the date of issue of the draft terms of reference under sub-regulation (1), submit to the Director a report on the scoping exercise, inclusive of proposals for the revision of the draft terms of reference, if any.
- (4) The Committee shall consider any scoping report submitted by the applicant pursuant to paragraph (2), if any, and issue final terms of reference for the environmental impact assessment to the applicant within 7 days after the date of submission of the scoping report or, if the applicant fails to submit a scoping report, after the expiry of the period allowed by paragraph (3) for the submission of a scoping report, whichever is earlier in time.

Class Model environmental impact assessment

- 9.(1) Where the Committee determines that an environmental impact assessment can be used as a basis for carrying out environmental impact assessments for other projects of the same class specified in the *Sixth Schedule* to the Act, it may declare the environmental impact statement to be a class model report.
- (2) Any declaration made pursuant to paragraph (1) shall be published in the *Official Gazette* and the environmental impact statement to which it relates shall be made freely available to the public in electronic form on the Department's internet website.
- (3) Where a project is within a class in respect of which a class model report has been declared, the Committee may permit the use of that environmental impact statement and the environmental impact assessment on which it is based

to whatever extent it considers appropriate for the purposes of complying with the requirements of these Regulations.

(4) Where the Committee permits the use of a class model report, it shall ensure that such adjustments are made to the terms of reference of the environmental impact assessment for the proposed development as are necessary to update the baseline environmental information and take into account the site specific circumstances of the development to which the application for planning permission relates.

(5) Where the Committee determines that an environmental impact statement can no longer be used as a class model for carrying out environmental impact assessments for projects of the same class, it may declare the environmental impact statement not to be a class model.

(6) Any declaration made pursuant to paragraph (5) must be published in the *Official Gazette* and the environmental impact statement to which it relates may be removed from the internet.

Qualified persons to conduct environmental impact assessment

10.(1) The applicant shall ensure that the environmental impact assessment is carried out by independent and suitably qualified persons with recognised expertise and experience in the specific areas with respect to which information and analysis is required by the terms of reference.

(2) The environmental impact statement shall include information outlining the relevant qualifications and experience of the experts who carried out the environmental impact assessment.

(3) For the avoidance of doubt, it is declared that the Board, on the advice of the Committee, may reject an environmental impact statement on the grounds that it is not satisfied that the environmental impact assessment to which it relates has been carried out in accordance with the provisions of this regulation.

Public participation in environmental impact assessment

11.(1) The applicant may be required to provide, during the course of the environmental impact assessment, an opportunity for the interested members of the public to meet with the person carrying out the environmental impact assessment on behalf of the applicant in order to

- (a) provide information concerning the proposed development to the persons whose environment may be affected by the development; and
- (b) record the concerns of the community regarding the potential environmental impact of the proposed development and to include the record of such concerns in the environmental impact statement.

(2) The procedure for public contact and involvement with the applicant and environmental impact assessment prepared during the course of the environmental impact assessment shall be prescribed by the Committee in the terms of reference.

Minimum contents of environmental impact statement

12.(1) An environmental impact statement shall include at a minimum

- (a) a description of the proposed development;
- (b) a description of the potentially affected environment, including specific information necessary for identifying and assessing the environmental impacts of the proposed development;
- (c) a description of practical alternatives, as appropriate;
- (d) an assessment of the likely or potential environmental impacts of the proposed development and alternatives, including direct, indirect, cumulative, short-term and long-term impacts;
- (e) an identification and description of measures available to mitigate or offset adverse environmental impacts of the proposed development and alternatives, and an assessment of those measures;

- (f)* an indication of gaps in knowledge and uncertainties which may be encountered in compiling the required information;
 - (g)* an indication of whether the environment of any area beyond the territorial jurisdiction of Barbados is likely to be affected by the proposed development or alternatives; and
 - (h)* a brief non-technical summary of the information provided under subparagraphs *(a)* to *(g)*.
- (2) The environmental impacts in an environmental impacts statement should be assessed in a degree of detail commensurate with their likely environmental significance.

Submission of environmental impact statement

13.(1) When the environmental impact assessment has been completed, the applicant shall submit the environmental impact statement to the Director, accompanied by proof of payment of the applicable fee payable at the review stage of the environmental impact assessment process.

(2) The environmental impact statement shall be submitted within 3 years of the date of the notice given in accordance with regulation 4(5), or such longer period as may be agreed upon between the applicant and the Director, failing which the application to which the environmental impact assessment relates may be cancelled pursuant to section 27(4) of the Act.

Review of environmental impact statement

14.(1) Within 28 days after submission of an environmental impact statement, the Committee shall review it to determine whether the environmental impact assessment substantially complies with the terms of reference and is of a satisfactory standard.

(2) Where the Committee considers this to be necessary, because expert advice is required with respect to any aspect of an environmental impact assessment, the

Board may engage an independent consultant to assist the Committee in reviewing the environmental impact statement.

(3) Other than in a case to which regulation 15 applies, the Director on the advice of the Committee shall notify the applicant that the environmental impact statement is accepted, subject to its submission for public scrutiny in accordance with regulation 16.

Procedure where environmental impact statement is deficient

15.(1) Where the Committee considers that the environmental impact statement is deficient in any respect, the Director may require the applicant to conduct further work and amend the environmental impact statement accordingly.

(2) Where the Committee considers that an environmental impact statement is deficient in terms of paragraph (1) and advises the Director to refer it back for further work, the Director shall indicate in writing to the applicant the nature of the further work that is required to satisfy the terms of reference.

(3) Where the Board refers an environmental impact statement back for further work, consideration of the application to which the environmental impact assessment relates shall be deferred until after the amended environmental impact statement is resubmitted by the applicant and the environmental impact statement has been submitted for public scrutiny in accordance with regulation 16.

(4) Where the Committee refers an environmental impact statement back to the applicant for further work and the applicant fails to carry out the further work which is required to the satisfaction of the Committee, the Committee may reject the environmental impact statement and the Director may cancel the application pursuant to section 27(4) of the Act.

Public scrutiny of environmental impact statement

16.(1) When the Committee accepts an environmental impact statement, the Director shall, in any manner which the Board considers appropriate to facilitate public access to the report, publish a notice setting out the following information:

- (a)* the date on which copies of the environmental impact statement will be available for public scrutiny;
- (b)* the places at which copies of the environmental impact statement may be scrutinised; and
- (c)* the deadline and address for the submission of public comments on the findings and recommendations of the environmental impact assessment.

(2) Prior to the deadline set out in the notice published pursuant to paragraph (1), any person may file written comments with the Director relating to the findings and recommendations and any other aspect of the environmental impact assessment.

(3) The Director shall receive written comments for not less than 21 days and, if the Committee determines that there is sufficient public interest in the matter, the Director shall cause a public consultation to be held to receive verbal comments on the matter, not later than 7 days after the end of the period allowed for the submission of written comments.

(4) In determining whether there is sufficient public interest to cause a public hearing to be held on the application pursuant to paragraph (3), the Committee may take into account

- (a)* the number of written comments submitted within the period allowed for the submission of public comments; and
- (b)* the amount of public interest in the matter as evidenced by coverage of the issue in the mass communications media.

(5) Where any deficiencies in the environmental impact assessment are identified as a result of the public scrutiny procedure, the Director may require the applicant to conduct further work and amend the environmental impact statement accordingly, provided always that such work is within the scope of the terms of reference.

Decision following environmental impact assessment

17.(1) After taking into consideration the environmental impact statement and any public comments filed pursuant of regulation 16, the Committee, where taking into account the implementation of any mitigation measures that it considers appropriate,

- (a) concludes that the development is not likely to cause significant adverse environmental impacts, shall recommend that planning permission be granted subject to such conditions as are required to ensure that any adverse impacts of the development on the environment are reduced and mitigated;
- (b) concludes that the development is likely to cause significant adverse environmental impacts which cannot be offset to its satisfaction, shall recommend that planning permission for the development be refused; or
- (c) is uncertain whether the development is likely to cause significant environmental impacts or not, may advise that planning permission be refused, based on the precautionary principle.

(2) For the avoidance of doubt, it is declared that where the Board takes into account the Committee's conclusions and recommendations with respect to the environmental impact statement in determining an application for planning permission, the Board is deemed to be in compliance with section 32(8)(e) of the Act.

(3) Where an application for which an environmental impact assessment is required is referred to the Minister for determination pursuant to section 33 of the Act, the provisions of paragraph (1) and (2) apply, with any necessary

modifications, to the determination of the application by the Minister as they apply to the determination of an application by the Board.

(4) Where the Board or the Minister grants planning permission following an environmental impact assessment and such permission is granted subject to conditions intended to reduce, mitigate or offset the adverse impacts of the development on the environment, the Director shall make provision for supervising compliance with those conditions and for monitoring the impacts of the development on the environment after its completion, notwithstanding the provisions of any other written law.

Made by the Minister this 7th day of December, 2021.

A handwritten signature in black ink, appearing to read "Mie Jim Jim", with a long horizontal flourish extending to the right.

Minister responsible for planning and development