



EXTRAORDINARY

OFFICIAL GAZETTE

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(A)

**ENVIRONMENTAL PLANNING AND
PROTECTION (EXTENSION OF APPLICATION)
ORDER, 2020**

Arrangement of Orders

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MINISTRY OF THE ENVIRONMENT AND HOUSING

S.I. No. 149 of 2020

ENVIRONMENTAL PLANNING AND PROTECTION ACT, 2019

(NO. 40 OF 2019)

**ENVIRONMENTAL PLANNING AND PROTECTION
(EXTENSION OF APPLICATION) ORDER, 2020**

In exercise of the powers conferred on me by section 68(c) the Environmental Planning and Protection Act, 2019 **I HEREBY** make the following Order —

1. Citation.

This Order may be cited as the Environmental Planning and Protection (Extension of Application) Order, 2020.

2. Extension of application of Act.

The Environmental Planning and Protection Act, 2019 shall apply throughout the territory of The Bahamas including every island and cay.

Made this 16th day of September, 2020

Signed
ROMAULD S. FERREIRA
Minister Responsible for The Environment

ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2020

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**ENVIRONMENTAL PLANNING AND PROTECTION ACT
(NO. 40 OF 2019)**

**ENVIRONMENTAL IMPACT ASSESSMENT
REGULATIONS, 2020**

The Minister, in exercise of the powers conferred by section 12 of the Environmental Planning and Protection Act, 2019 (*No. 40 of 2019*), makes the following Regulations —

1. Citation.

These Regulations may be cited as the Environmental Impact Assessment Regulations, 2020.

2. Interpretation.

In these Regulations —

“**Act**” means the Environmental Planning and Protection Act, 2019;

“**Certificate of Environmental Clearance**” means the certificate granted pursuant to regulation 10;

“**confidential business information**” includes trade secrets, sales and marketing plans, new product plans, notes associated with patentable inventions or such other information where the harm to the project proponent is shown to outweigh substantially the value of its release to inform the public.

“**Director**” means the Director of Environmental Planning and Protection;

“**environmental clearance conditions**” means any conditions specified by the Director in a Certificate of Environmental Clearance;

“**Environmental Impact Assessment**” means a study identifying and evaluating —

(a) the likely impacts of a proposed activity on the environment;

(b) any alternatives to the proposed activity;

(c) the potential means of mitigating and accessing the likely climate related impacts of the proposed project;

“**Environmental Management Plan**” means the management of the environmental programme of an organization in

a comprehensive, systematic, planned and documented manner; and includes the organizational structure, planning and resources for developing, implementing and maintaining policy for environmental protection.

“proposed project” or “project” means any development, project, plan, program, or policy that is in the feasibility stage and includes any demolition, abandonment, decommissioning, modification, addition or expansion to an existing project.

PART II – PROCEDURES FOR PROPOSED PROJECTS

PRELIMINARY REVIEW OF PROPOSED PROJECTS

3. Prohibition against commencing proposed projects.

- (1) No person shall commence or proceed with a proposed project until a Certificate of Environmental Clearance has been granted in accordance with these Regulations.
- (2) Where a person commences a project without the grant of a Certificate of Environment Clearance, the Director may direct the person to cease and desist with all activities related thereto and may make one or more of the decisions specified in regulation 11 (2).

4. Mandatory application for preliminary review of proposed projects.

- (1) Any person who intends to carry out a proposed project (hereinafter referred to as a “project proponent”) shall make application for a preliminary review of the proposed project in the form provided for in Part A of the *First Schedule* and pay the requisite non-refundable fee.
- (2) The project proponent shall attach to the application referred to in subsection (1) the information specified in Part B of the *First Schedule*.
- (3) Upon receipt of the application, the Director shall examine or cause to be examined the documents for accuracy and completeness and shall determine whether an EIA, EMP, or further studies are required.
- (4) If the Director is not satisfied that sufficient information to make a decision has been provided, the Director may give notice in writing to the project proponent requesting such additional information as the Director considers necessary.
- (5) Where the project proponent does not agree with a decision of the

Director, the project proponent may —

- (a) appeal the decision in accordance with regulation 21; or
- (b) withdraw the application for a Certificate of Environmental Clearance.

REQUIREMENTS FOR CERTIFICATE OF ENVIRONMENTAL CLEARANCE

5. Determination of application for proposed project.

- (1) Where the Director considers it is necessary to submit an EIA or EMP, the project proponent shall prepare and submit electronically and in writing the EIA or EMP to the Director as shown in the Form in the *Second Schedule*.
- (2) The Department shall inform the project proponent of its decision within sixty days of the date of submission of the completed EIA or EMP and may require that further or additional studies be carried out.
- (3) Where the Director is satisfied that a proposed project —
 - (a) does not require an EIA or EMP, the Director may, grant a Certificate of Environmental Clearance to a project proponent in the form provided for in the *Second Schedule* specifying any environmental clearance conditions required;
 - (b) requires an EIA or EMP, the Director shall advise the project proponent of the process to be followed for the preparation and submission of an EIA or EMP in accordance with these Regulations.

6. Notice of submission of EIA or EMP.

Once the EIA or EMP has been submitted to the Director, the project proponent shall as soon as practicable give notice in any newspaper published and in general circulation in The Bahamas stating—

- (a) that the consultative process in respect of a proposed project has been completed in accordance with regulation 9;
- (b) that an EIA or EMP has been prepared in respect of the proposed project;
- (c) that the EIA or EMP has been submitted to the Department for review;
- (d) a date, place and time where a copy of the EIA or EMP may be inspected free of charge;

7. Obligation to consult.

Upon successful completion of the application for preliminary review, the project proponent shall conduct a consultative process as specified in regulation 11, the details of the outcome of which shall be provided in any form as may be prescribed by the Director.

8. Notice of public consultation.

- (1) The Department shall give to the general public and interested parties, no less than two weeks notice of a consultative process to be conducted by a project proponent regarding a proposed project.
- (2) A notice issued under subsection (1) shall —
 - (a) state the name of the project proponent and the area in which the proposed project is to be carried out;
 - (b) state the date and time of the consultative process;
 - (c) state the location of the consultative process;
 - (d) provide a description of the project;
 - (e) invite written comments from the general public and interested parties with respect thereto.
- (3) The Department shall forward all written comments received pursuant to subsection (2)(e) to the project proponent so that the project proponent may address such comments during the consultative process.

9. Conduct of consultative process.

- (1) The mode and procedure of a consultative process shall be determined by the Department.
- (2) During the consultative process, the project proponent shall —
 - (a) provide detailed information —
 - (i) concerning the proposed project and the potential environmental, social, economic and cultural affects, including adverse effects as defined in the Act;
 - (ii) on any possible impacts to adjacent properties and communities to the proposed project; and
 - (iii) on any significant impacts by the proposed project to adjacent properties and communities.
 - (b) provide an opportunity for any public concerns to be addressed
 - (c) make a written record of all concerns raised for inclusion in the EIA or EMP consultation process.

- (3) The Director shall —
 - (a) attend or nominate a representative to participate in the consultative process;
 - (b) ensure that all comments received pursuant to regulation 8(2), have been addressed by the project proponents.

CERTIFICATE OF ENVIRONMENTAL CLEARANCE

10. Grant of Certificate of Environmental Clearance.

Upon satisfying the requirements for a Certificate of Environmental Clearance (hereinafter referred to as “Certificate”), a Certificate shall be granted in the form provided for in the *Third Schedule* and shall specify any environmental clearance conditions to be complied with.

11. Failure to comply with conditions of Certificate of Environmental Clearance.

- (1) The Director shall inspect or cause to be inspected the activities being called out in respect of a project for which a Certificate of Environmental Clearance has been issued, to determine whether the project is being carried out in compliance therewith.
- (2) Where a project is not being called out in accordance with the Certificate of Environmental Clearance, the Director may —
 - (a) cause the decommissioning, demolition, and removal of any structure erected;
 - (b) direct the return to natural contours and conditions of all land terrestrial or marine areas associated with proposed projects for which construction was commenced;
 - (c) stipulate any directions to be followed in respect of the activities.

12. Continuous review by the Department.

After the Certificate of Environmental Clearance has been granted the Department will continue project oversight to include, but not limited to the designation of a case manager(s) who will —

- (a) oversee the project and ensures its compliance with the EIA or EMP, the conditions of the Certificate of Environmental Clearance, and the goals of the Act;
- (b) document the progress of the project and its compliance; and

- (c) give a final sign-off upon completion of three years of full development operations.

PART III MONITORING AND COMPLIANCE

13. Responsibility of the Project Proponent.

The Project Proponent shall faithfully implement the EMP, including the Environmental Clearance Conditions, during the construction and operational phases of the project.

14. Responsibility of the Department.

The Department shall monitor the implementation of the EMP and Environmental Clearance Conditions during the construction and operational phases of the project.

15. Lack of Compliance.

- (1) If the Department determines that the project is not in compliance with the EMP and Environmental Clearance Conditions, the Department shall notify the Project Proponent of the deficiencies identified in the project.
- (2) The Project Proponent may address the deficiencies in the project identified by the Department and request that the Department conduct a new inspection and review of the project thereafter.
- (3) Any person who having received a notice under regulation 15 fails to remedy the deficiencies identified commits an offence and is liable to a penalty stipulated under section 60 of the Act.

PAYMENT OF BOND

16. Environmental performance bond.

- (1) The project proponent shall deposit a bond pursuant to section 8 of the Ministry of the Environment Act, 2019. All such bonds will be held in security, to cover probable costs associated with environmental damage relative to the project.
- (2) The sum to be deposited pursuant to subsection (1) shall be fixed by the Director to a sum no more than five per cent of the value of the project.
- (3) The environmental performance bond may be —
 - (a) paid in cash, the sums of which must be deposited into the

Environmental Administration Fund in accordance with section 8 of the Ministry of the Environment Act, 2019;

- (b) secured by indemnity insurance, which shall be assigned to the Department until the activity to which the bond relates ceases or the development is abandoned, or decommissioned; or
 - (c) secured by a guarantor, through a reputable financial institution.
- (4) The period of the performance bond would be the period from the start of project works and three years of full development operations.
 - (5) If the bond is not used after substantial completion and three years of full development operations, and the project proponent is not in arrears with the Department, the bond will be returned to the project proponent with the interest that was accrued, if any.
 - (6) In the event that the bond or any part thereof is used during construction, the unused portion of the bond will be returned to the project proponent and the interest accrued is to be retained by the Ministry.

PART IV – MISCELLANEOUS

17. Duty to publish.

- (1) The Director shall establish a website for the department.
- (2) The Director shall publish or cause to be published on the department's website the approved EIA or EMP upon issuance of the Certificate.

18. Confidentiality.

Where a project proponent indicates that there is information that should be treated as confidential business information, the Director shall review the information and —

- (a) determine whether such information is critical for disclosure to the general public and interested parties; and
- (b) if so, notify the project proponent as to what information must be disclosed to the general public and interested parties;
- (c) if such information is determined to be confidential business information, it will be treated as such.

19. Penalty for false or misleading information.

Any person who —

- (a) provides false or misleading information under these Regulations; or

(b) is found to be in breach of any of the provisions of these Regulations,
commits an offence and is liable to a penalty to a fine stipulated under section 60 of the Act.

20. Continuance of EIA or EMP applications.

Every application made under any other law or policy that has not been determined prior to the commencement of these Regulations, shall be taken to be an application made under these Regulations and these Regulations are to apply accordingly.

21. Appeal.

A project proponent may appeal any decision of the Director to the Minister who may vary or reverse such decision.

FIRST SCHEDULE

PART A

APPLICATION FOR PRELIMINARY REVIEW OF PROPOSED PROJECT

This Form must be completed in addition to the Certificate of Environmental Clearance Application

1. Please state the Activity as well as the purpose of the project for which the Certificate of Environmental Clearance application is being submitted.

List all the Activity/Activities that apply: _____

Purpose: _____

Please select the category of the proposed project:

Category of intended activity: New Modification

Abandonment Decommissioning

2. This Application package contains: or X

(a) Completed Certificate of Environmental Clearance Application Form A (signed and dated)

PROJECT CLASSIFICATION

Activity Definition

Application requires Certificate of Environmental Clearance: Yes [] No []

Application requires EIA: Yes [] No []

A. GENERAL INFORMATION

1. Name of applicant _____

2. Postal Address _____

3. E-mail address _____

4. Telephone No. _____ Fax No. _____

5. Location of proposed activity:

(a) Island/Constituency _____

(b) Street Name and Lot No. _____

6. Do you own the property on which the activity is intended to be carried out?

Yes [] No []

If Yes, please attach certified copies of Proof of ownership. If No, what is the nature of your interest in this property? Please attach supporting documents, justifying your claim (e.g. lease).

7. Names and addresses of adjoining property owners:

8. Previous Application for Certificate of Environmental Clearance for this site? Yes [] No []

If yes, Reference No. of most recent application _____

9. Activity for which Certificate of Environmental Clearance required (state the activity and definition categories under which you are applying - refer to Certificate of Environmental Clearance Order) as well as the purpose of the project.

Activity Definition _____

Purpose: _____

10. Site Description (physical setting of the proposal, both developed and undeveloped areas)

Give an outline description of the physical features of the site to include information on:

- (a) Topography and gradient i.e. generally flat rolling/undulating terrain or hilly
- (b) Are there any springs or aquifers in or adjacent to the site? Yes []
No []
- (c) Are there any lakes or drainage within or adjacent to the project site? Yes [] No []
- (d) Are there any ponds, reservoirs or wetland areas within or contiguous to the project site? Yes [] No []
- (e) What is the predominant soil type? Clay based Sand Loan Alluvial

- (f) How far is the projected lot from the coast?

- (g) Present site land use: Residential, Agricultural Commercial, Industrial or Forestry?

11. Estimated project capital (\$)

B. DESCRIPTION OF INTENDED ACTIVITY

12. Description of the Intended Activity, which must include information on:

- (a) Total area intended for the activity (ha or m2)

- (b) Percentage of the total surface area allocated to covered space and paved areas
_____ (%)
- (c) Portable water consumption rate (m3/day) _____
- (d) Process water consumption rate (m3/day) _____
- (e) Production output rate, if different from above (metric tons per annum) _____
- (f) Intended commencement date _____

Site Preparation and Construction Phase

13. Does the project site require major earthworks such as clearing cutting excavation grading blasting dredging? Yes [] No []

If yes, state the method of disposal (and disposal site) of material generated as a result

- (a) Does the site require filling reclamation coastline stabilisation/ alteration? If yes, state the source and quantity (metric tons) of material required.

- (b) Would the project require major waterworks such as abstraction diversion of water courses creation of standing water bodies? Yes [] No []

If yes, give an estimate of the volume of water to be impounded (m3) or the rate of abstraction (m3/day) and the source of this water

- (c) Would the site require infrastructure and utility development access to:

Roads or bridges Yes [] No []

Sewage system Yes [] No []

Power generating or transmission facilities Yes [] No []

Telecommunications installation Yes [] No []

Modification of a drainage system Yes [] No [] If yes, give details

14. Will the project require relocation of people houses facilities from the site?
If yes, give details:

15. What percentage of the intended project area would be cleared of vegetation?

16. State mitigation measures for adverse impacts resulting during site preparation and the construction phase.

Operational Phase

17. State the required raw/input materials and the quantities/volumes (kg or metric tons/m³) to be kept in stock for the project as well as their respective rates of consumption (kg or metric tons per day /m³ per day).

- (a) Would the activity require any ancillary process related chemicals (e.g. catalysts, pesticides)? If yes, state the quantity (kg or metric tonnes/ m³) and rate of consumption.

- (b) State the final products to be derived and the rate of production (metric tons/m³ per year)

(c) State any intermediate products resulting from this activity indicating the rate of production(metric tons /m³ per year) and their fate.

(d) State the rate of production (metric tons per year) and method of disposal of domestic solid waste generated during the operational phase.

(e) List, characterise and quantify (metric tons per year) process related solid waste. State the method(s) and location intended for their disposal.

(f) Provide respective estimates for the rate of generation (m³ per day) of domestic waste water and sewage. State the respective treatment methods intended for domestic waste water and sewage as well as their ultimate effluent points.

(g) State the source and process water consumption rate (m³ per day)

(h) Would the activity discharge process related liquid effluent? Yes
 No
If yes, state the source, composition, discharge rate (m³ per day) and the ultimate effluent points.

(i) Would this activity utilise any hazardous (i.e. toxic, flammable, explosive, radioactive etc.) substances?

Yes [] No []

If yes, provide a listing of the substances and the quantities to be used or stored.

18. Would the project require storage of input or waste material on site?

Yes [] No []

If yes, give estimates of the quantities (kg or metric tons) for the storage of:

Waste _____ Input material _____

Describe briefly the facilities allocated for this purpose

19. Indicate the mode(s) of transport intended for materials and equipment necessary for the operational phase.

20. Will the activity generate air emissions (i.e. particulate emissions such as dust or pollutant gaseous emissions) during the operational phases?

Yes [] No []

If yes, describe types and sources and provide an estimated emission rate or loading

21. Will the activity routinely produce odours (i.e. for more than 1 hour per day)? Yes [] No []

22. Will the activity generate significant levels of noise (i.e. for more than 1 hour per day at levels exceeding 60 dB) during its operational phase?
Yes [] No []

23. Will the project have adverse effects on the aesthetics of the area where it is located (i.e. result in radical changes of the landscape, such as scarring/mass vegetation removal)?
Yes [] No []

24. State mitigation measures for adverse impacts resulting during the operational phase.

25. State the expected lifespan of this activity

C. CONFIDENTIALITY

26. (a) Do you consider any information provided here to be a trade secret or other confidential business information and that such information be omitted from the Register?
Yes [] No []
(b) Give details

27. Other relevant information

28. Please list any attachments included in the application

SECOND SCHEDULE

(regulation 5(2))

PART A

OUTLINE FOR AN ENVIRONMENTAL IMPACT ASSESSMENT

Guidelines for preparation of an Environmental Impact Assessment

Below is a outline for the layout of an EIA. The structure and content should however be tailored to the specific proposed project and the environmental issues relevant to that project and its location.

The EIA must —

- (a) focus carefully on significant environmental issues.
- (b) not contain extraneous information not directly pertinent to the analysis of significant environmental issues, and need not address any of the topics listed below that are clearly not applicable to the subject proposed project.
- (c) address all significant environmental issues associated with a proposed project.

Note that for certain projects the Department may require special analyses and studies in addition to the topics in the outline below, such as an environmental hazards analysis, emergency contingency plan, or cost/benefit analysis.

1. Executive Summary
 - (a) Description of Proposed Project and Alternatives
 - (b) Definition of the Area of Influence
 - (c) Environmental Impacts
 - (d) Agency Consultation and Public Involvement
 - (e) EMP
 - (f) Conclusions Regarding Environmental Acceptability of the Project
 - (g) Compliance with applicable environmental standards and requirements
 - (h) Comparison of unavoidable negative environmental impact to project benefits

2. Description of Proposed Project and Alternatives
 - (a) Description of Proposed Project
 - (b) Description of Alternatives
 - (i) The “ No-action” Alternative
 - (ii) Other Alternatives Considered
 - (c) Comparison of Environmental Consequences for Proposed Project and Alternatives
3. Agency Consultation and Public Involvement
 - (a) Agency consultation activities and results, including required permits
 - (b) Public involvement activities and results
4. Baseline Description of Affected Environment
 - (a) Physical Environment
 - (i) Climate
 - (ii) Topography
 - (iii) Geology
 - (iv) Water Quality
 - (v) Air Quality
 - (vi) Noise
 - (b) Natural Environment
 - (i) Terrestrial Ecosystems
 - (ii) Aquatic Ecosystems
 - (iii) Protected Habitat
 - (c) Socio-economic Aspects
 - (i) Land Use
 - (ii) Population
 - (iii) Economy
 - (iv) Transportation
 - (v) Infrastructure and Public Services
 - (d) Cultural Resources
 - (e) Archaeological and Historic Resources
 - (f) Paleontological Resources
 - (g) Tourist and Recreational Areas
 - (h) Visual Quality and Aesthetics
 - (i) Native Populations
 - (j) Community organizations
5. Anticipated Environmental Impacts of the Proposed Project
 - (a) Impacts to the Physical Environment

- (i) Erosion/Sedimentation Impacts
 - (ii) Water Quality Impacts
 - (iii) Air Quality Impacts
 - (iv) Noise Impacts
 - (v) Solid and Hazardous Waste Impacts
 - (vi) Fire and Hurricane Risks
 - (b) Impacts to the Natural Environment
 - (i) Terrestrial Ecosystem Impacts
 - (ii) Aquatic Ecosystem Impacts
 - (iii) Protected Habitat Impacts
 - (c) Socio-economic Impacts
 - (i) Land Use Impacts
 - (ii) Visual and Aesthetic Impacts
 - (iii) Impacts on Neighbourhoods and Communities
 - (iv) Relocation Impacts
 - (v) Traffic Impacts
 - (vi) Economic Impacts
 - (vii) Cultural Resource Impacts
6. Environmental Management Plan
- (a) Mitigation Measures
 - (b) Periodic Management Measures
 - (c) Implementation Plans
 - (d) Monitoring Plans
7. Conclusions Regarding Environmental Acceptability of the Proposed Project —
- (a) Compliance of the Proposed Project with Applicable Environmental Standards and Requirements
 - (b) Comparison of Unavoidable Negative Environmental Impacts to Project Benefits
8. Report of Public Hearings
- (a) Appendices
 - (b) References
 - (c) Qualifications of Personnel Involved in the Preparation of the EIA
 - (d) Impact Assessment Methodologies
 - (e) Sampling data

PART B

OUTLINE FOR AN ENVIRONMENTAL MANAGEMENT PLAN

Guidelines for preparation of an Environmental Management Plan

Below is an outline for the layout of an EMP. The structure and content should however be tailored to the specific proposed project and the environmental issues relevant to that project and its location.

The EMP must include —

1. Executive Summary
2. An overview of the project description
3. Roles and responsibilities for environmental and social management
4. Key environmental and social risks as identified from the project
5. A summary of plan contents
6. Mitigation measures for construction and operation phases
7. A framework for Environmental Supervision
8. A framework for Environmental Monitoring
9. Communication and reporting procedures
10. Training and capacity building requirements
11. Plan monitoring and review procedures
12. Additional studies
13. EMP Implementation
14. Preliminary EMP costs
15. Additional information

THIRD SCHEDULE

(regulation 6)

**DEPARTMENT OF ENVIRONMENTAL PLANNING AND
PROTECTION CERTIFICATE OF ENVIRONMENTAL
CLEARANCE**

Application Reference No.....

This is to certify that _____ of
_____ has this day been
granted a Certificate of Environmental Clearance for the following
proposed project:

This Certificate shall remain valid until revoked or suspended.
General terms and conditions and specific conditions to this Certificate
are annexed.

Dated this day of....., 20

Director

Made this 15th day of September, 2020

Signed
ROMAULD S. FERREIRA
Minister Responsible for The Environment