



EARTH DAY COMMEMORATION 2021

April 22nd, 2021

SEMINAR REPORT

Environmental Impact Assessment and the Physical Development Approval Process

Players Level 1, Grenada National Stadium

Hosted by:

Inter Agency Group of Development Organisations

in collaboration with

Friends of the Earth-Grenada

and

The Willie Redhead Foundation



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EXECUTIVE SUMMARY

In commemoration of Earth Day 2021, the *Inter Agency Group of Development Organisations* (IAGDO), in collaboration with *Friends of the Earth-Grenada* and the *Willie Redhead Foundation*, hosted a seminar on the Environmental Impact Assessment Process and the Physical Planning and Development Approval Process. The seminar targetted civil society organisations - primarily non-governmental organisations and community based organisations. Given that COVID-19 protocols were being observed, the workshop was a hybrid activity - 22 persons attended in person while 23 persons participated via Zoom Link.

The objective of the seminar was to enhance the participants' awareness, knowledge and understanding of the following:-

- The Environmental Impact Assessment (EIA) Process – the role of an EIA; key steps and standards in the conduct of an EIA, required competencies etc.;
- Role of public involvement/participation in the EIA process;
- The institutional /administrative arrangements in Grenada in respect of the EIA process;
- Steps in the Physical Planning Development Approval Process in Grenada and the role of the EIA report /statement in the approval process;
- The legislation governing the Physical Planning and Development Approval Process

The methodology comprised of presentations by individuals with expertise and/or experience in conducting or reviewing EIAs and participating in the approval process. Presentations were followed by interactive plenary sessions. There were four presenters: Independent Consultants, Ms. Joyce Thomas-Peters and Mr. Brian Samuel and public officers from the Environment Division, Ms. Aria St. Louis, Director of Environment and Mr. Christopher Joseph, Environmental Officer with responsibility for climate change mitigation. The moderator was freelance journalist, Ms. Calistra Farrier.

The opening session featured remarks by representatives of the host organisations:-

- Mr. Joseph Antoine of *Friends of the Earth-Grenada* noted that 2021 was the 31st anniversary of the first observance of *Earth Day* in Grenada and the 30th anniversary of *Friends of the Earth-Grenada*. He hoped that the activity would help citizens to understand their own responsibility for safeguarding the integrity of the environment and holding those charged with that responsibility accountable.
- Mr. James Finlay of *the Willie Redhead Foundation* noted that Earth was a resource and home for all mankind. A balance was therefore required between development and environment. In Grenada, government authorities were more concerned about development. Being a small country, Grenada had to be particularly careful in respect of the use of its natural resources. Environmental Impact Assessment was one of the available instruments to guide the government in its decision-making.
- Ms. Sandra Ferguson of the Inter Agency Group of Development Organisations welcomed participants, presented the rationale and context for holding the seminar to mark *Earth Day 2021* and introduced the moderator.

Presentation by Ms. Joyce Thomas, *The EIA Process*:

The presentation introduced participants to the purpose of the EIA; the various stages of the EIA process; the new approach of a number of international agencies and financial institutions which obligated public participation; and noted a number of gaps/deficiencies in the legislation and institutional arrangements in respect of Grenada, including access to information and the public's right to participation. She observed that while the EIA process included assessment of the social impacts, it was not explicit in Grenada. Her presentation emphasized the importance of a high calibre of technical competencies to both conduct and review an EIA. An EIA could not be conducted by an individual. The EIA process in Grenada was not documented, and this resulted in uncertainty and inconsistency in respect of the process; the inability of the affected community and stakeholders to understand and follow the process and community-developer conflict.

Her presentation concluded by encouraging participants to prepare to participate. They needed to be informed and aware of what should happen vis-à-vis what was actually happening in Grenada. They should reflect on and make recommendations to improve the EIA Process and the public's right to know.

Presentation by Mr. Brian Samuel, *Competencies Required of Team Conducting an EIA*

Mr. Samuel's presentation addressed:- what was included in the Environmental and Social Impact Assessment; what skills were required to get an EIA done and where did an EIA fit in the project preparation process. He noted that, in his work with regional and international organisations, development banks and financial institutions, the ESIA was an absolutely critical part of any loan application process. A loan application would not be considered without the presentation of a detailed, comprehensive ESIA.

The purpose of conducting an EIA was to determine how a project would affect both the environment and the stakeholders. To conduct an ESIA, a wide range of skills was required and the type of skills required would depend on the nature of the project and its location. The competencies of the reviewers of the ESIA Report was also very important and there should be standards in respect of the conduct of the review. He noted that consultations with stakeholders were a necessity since a project would have different levels of impacts on different categories of stakeholders. Prior to taking any action, one should know how a project would impact the lives and livelihoods of the various stakeholders. Therefore an ESIA must be done before any sod was turned, before the project began or before a financing commitment was made.

Presentation by Ms. Aria St. Louis, Director of Environment, Environment Division

Ms. St. Louis' presentation shared the challenges faced by the Environment Division in respect of environmental protection, the role the Division plays in the EIA process in Grenada and the gaps/lack of clarity in that regard; and current initiatives of the Division.

The Environment Division could not play the role it should play vis-à-vis environmental protection because it lacked the legislative mandate. A number of laws which would position the Division as an environment protection agency remained in draft, some for as long as ten years, e.g. *the Draft*

Environmental Act. In addition, all the parts of the legislation of Grenada relevant to environment were weak.

In respect of the Environmental Impact Assessment, the input of the Environment Division was sought in developing the Terms of Reference at the Scoping stage. With the support of the OECS Sustainable Development Unit, the Division had generated a roster of regional and local experts to which it could refer those individuals/entities requiring such expertise. A member of the Division sits on the EIA Review Committee and another on the Planning and Development Control Authority. In respect of the approval process, there were a number of areas requiring clarity.

Among the current initiatives being facilitated by the Environment Division were:- capacity building in respect of coastal zone matters and biodiversity; regulations for coastal zone legislation; support to Grenada's signing of the *Escarzu Agreement* re the public's right to environmental information and the economic valuation of Grenada's biodiversity.

Presentation by Mr. Chris Joseph, Environmental Officer wrf Mitigation, Climate Change, Environment Division

In his presentation, Mr. Joseph introduced the *Physical Development and Control Act, No. 23 of 2016*, focusing on Part IV which addresses Development Control, particularly the provisions for the conduct of an Environmental Impact Assessment. He also introduced the provisions under the *Draft Physical Planning & Development Control Regulations (2015)* re the conduct of an Environmental Impact Assessment.

Mr. Joseph observed that, while the Act provides for the Planning and Development Authority as the Competent Authority in respect of development control, including the EIA process, it was unclear who/what constitutes the Authority. While the regulations were ready since 2015, they were not brought to Parliament when the Act was passed in 2016. Thus, there were no regulations to facilitate the enforcement of the PDCA Act 23 of 2016. However, there appeared to be *selective implementation* of parts of the Draft Regulations 2015. e.g. the Membership of the EIA Review Committee. He further observed that *the devil was in the details*. It must be clear how things were done since there were "many moving parts" and many interests to be considered. The rules must be understood by all. There must be certainty, participation, transparency, practicability, credibility, cost-effectiveness and accountability.

Key Issues and Recommendations

Among the key issues and recommendations emerging from the plenary sessions were the following:-

- **Enabling the Environment Division:** The Environment Division must be enabled through legislative mandate, to play the role it should play in the protection of the environment, i.e. the urgent passage of the Draft Environmental Act - ready since 2008, updated and resubmitted in 2018. Its technical capacity should also be enhanced through the recruitment and hiring of additional staff with the required technical competencies.
- **Regulations re PDCA No. 23 of 2016:** There were no Regulations to support the implementation of the Physical Development and Control Act, No. 23 of 2016 even though the Draft Regulations were ready to be taken to Parliament since 2015. These regulations should be passed with urgency.

- **Institutional Arrangements:** There should be clear mechanisms which detail the relationships and responsibilities, actions and procedures to be taken by the various agencies which have a role to play the EIA approval process and post-approval monitoring.
- **Documentation of EIA Process for Clarity:** A clear, documented process for the conduct of an EIA, would get rid of uncertainty and inconsistency. The investors and other stakeholders would know what to expect and the other stakeholders would also be included from the beginning of the process.
- **Environmental and Social Safeguards:** The EIA process should be in alignment with international standards and the new Environmental and Social Safeguards Framework required by funding agencies such as the Caribbean Development Bank and the World Bank.
- **Public Participation:** While provisions for public consultations do exist in the legislation, they are not implemented, given that the regulations have not been legislated. The legislation and draft regulations are not clear as to which stage of the EIA process, the participation of the public should be invited. The legislation and regulations must have explicit provisions for public participation during the entire EIA process.
- **Right to Know:** The public's right to know/right to access information was not included in the legislation and mechanisms do not exist to facilitate access to information. Grenada is now a signatory to the *Escazu Agreement* which provides for the access to information on environmental matters. Legal provisions must address this and mechanisms put in place to facilitate the access to information.
- **Role of Citizens:** For whom was development being promoted/undertaken? Citizens needed to take a leadership role in respect of how they wanted to see development happen. They needed to be proactive and demand better projects by lobbying government and, if necessary, engage government agencies such as the Physical Planning Unit. Citizens must also hold their government accountable for the protection of the environment.

Outcomes

Specific outcomes of the seminar were the following:-

- **enhanced awareness/knowledge of the EIA process and the role of public involvement/participation** in an EIA process based on international standards;
- **enhanced capacity to determine what constitutes public involvement** in the process and **ability to identify the projects which require an EIA;**
- **awareness of the relevant legislation and institutional arrangements** in respect of the approval process in Grenada - there were many deficiencies/gaps and a lack of clarity.
- **recommendations to the policy-makers/law-makers** for strengthening the EIA process and the physical planning and development approval process in Grenada; the recommendations of the seminar would be sent to the relevant government agencies and authorities.

It is anticipated that these outcomes would contribute to more broad-based, proactive and informed engagement by individuals, community based organisations and civil society organisations, across Grenada, with regard to various land developments and other matters impacting the environment and stakeholders.

TABLE OF CONTENTS

	Page No.
Executive Summary	2
Table of Contents	6
List of Acronyms	9
1. Earth Day 2021	10
2. Participants	10
3. Background/Rationale	10
4. Objectives	11
5. Methodology	11
6. Expected Outcomes	12
7. Opening Session	13
8. Presentation: EIA Process	13
8.1. The EIA Process	13
8.2. Purpose	13
8.3. Steps in EIA Process	13
8.4. New Approaches to ESIA	15
8.5. Institutional Arrangements in Grenada	15
8.5.1. Conduct of an EIA	15
8.5.2. Physical Development and Control Act 23 of 2016	15
8.6. Concluding Remarks	16
9. Competencies Required of Team Conducting an EIA	17
9.1. The Environmental and Social Impact Assessment	16
9.2. Queries/Comments/Recommendations	18
9.2.1. Response of Presenter	19
10. Presentation, Environment Division	19
10.1. Role and Function of the Environment Division	19
10.2. The Environment Division and the EIA Process in Grenada	20
10.2.1. Screening	20
10.2.2. Scoping	20
10.2.3. Assessment and Mitigation	20
10.2.4. Review of EIA Report	20
10.2.4.1. Treating with Recommendations of the EIA Review Committee	20
10.2.5. Decision-making Process of the PDA Board	21
10.2.6. Monitoring	21
10.3. Initiatives of the Environmental Division	21
10.4. Queries/Comments/Recommendations	22
10.4.1. Enabling the Environmental Division	22
10.4.2. Role of the Responsible Minister	22
10.4.3. Environmental Wardens	23
10.4.4. Environmental Impact Assessment Process	23

10.4.4.1.	Recommendations	23
10.4.5.	EIA Report and Decision-making	23
10.4.6.	Capacity and Competence	24
10.4.7.	Environment and Development	24
10.4.8.	Levera	24
10.4.9.	Livelihoods, Poverty, Development and Sustainability	25
10.4.10.	The Future We Want	25
11.	Presentation, Legislative Framework re EIA Process	26
11.1.	Physical Development and Control Act, No. 23 of 2016	26
11.1.1.	Section 22: Environmental Impact Assessment	26
11.1.2.	Presenter's Observations	27
11.1.3.	Comments/Queries/Recommendations	27
11.2.	Physical Planning & Development Control Regulations (2015) Draft	28
11.2.1.	Part IV, Environmental Impact Assessment	28
11.2.2.	Public Participation	29
11.2.3.	Presenter's Observations	29
11.2.4.	Plenary Feedback/Queries/Comments	29
11.2.4.1.	Regulations/SR&Os	29
11.2.4.2.	Outline Planning Approval and Doing Business Better Ranking	30
11.2.4.3.	Competent Authority/Authorities	30
11.2.4.4.	Redress and Grievance	30
11.2.4.5.	Role of Institutions	31
11.2.4.6.	Public Participation/the Right to Know	31
11.2.4.7.	Breakwater Project in St. Patrick's	31
11.2.4.8.	Human Resource Capacity and Competence	31
11.2.4.9.	Importance of Mangroves	32
12.	Wrap-up and Closing Remarks	32
13.	Outcomes	32
14.	Summary of Key Issues and Recommendations	33
14.1.	Enabling the Environment Division	33
14.1.1.	Recommendation	33
14.2.	Environmental and Social Impact Assessment	34
14.2.1.	Purpose	34
14.2.2.	The ESIA Process	34
14.2.3.	Terms of Reference of the EIA	34
14.2.4.	Impact Assessment and Mitigation	34
14.2.5.	Impact Management/Environmental Management Plan	35
14.2.6.	Review of the ESIA Report	35
14.2.7.	Monitoring	35
14.2.8.	New Approaches to ESIA	35
14.2.9.	Recommendations	36
14.3.	Legislative Framework and Institutional Arrangements re EIA	36
14.3.1.	Environmental Impact Assessment	37
14.3.2.	Concerns/Gaps/Required Clarifications re the PDCA, No. 23 of 2016	37

14.3.3.	Physical Planning & Development Control Regulations (2015) Draft	38
14.3.4.	Recommendations	38
14.4.	Treating with Recommendations of the EIA Review Committee	38
14.4.1.	Recommendations	39
14.5.	Public Participation/Right to Know	39
14.5.1.	Recommendations	40
14.6.	Governance, Environment and Development	40
14.6.1.	Recommendations	40
14.7.	The Future We Want	40
ANNEXES		42
	Agenda	
	Daily Word Reading for Earth Day	
	Schedule III, PDCA 23 of 2016	
	Photos	
	List of Participants	
	Power Point Presentation	

LIST OF ACRONYMS

CANARI	-	Caribbean Natural Resources Institute
CDB	-	Caribbean Development Bank
EIA	-	Environmental Impact Assessment
ESIA	-	Environmental and Social Impact Assessment
FoE-G	-	Friends of the Earth-Grenada
GIDC	-	Grenada Investment Development Corporation
IAGDO	-	Inter Agency Group of Development Organisations
MEAs	-	Multi-lateral Environment Agreements
NEMS	-	National Environmental Management Strategy
NHAC	-	National Heritage Advisory Committee
OECS	-	Organisation of Eastern Caribbean States
PDA	-	Physical Development Authority
PPP	-	Public-Private Partnerships
PPU	-	Physical Planning Unit
SR&Os	-	Standing Regulations & Orders
tWRF	-	the Willie Redhead Foundation
USA	-	United States of America
wrf	-	with responsibility for

INTER AGENCY GROUP OF DEVELOPMENT ORGANISATIONS
In collaboration with Friends of the Earth-Grenada and the Willie Redhead Foundation

Seminar: EIA and the Physical Planning and Development Approval Process
Grenada National Stadium, Players Level 1: 9.00 a.m. – 1.00 p.m.

1. Earth Day 2021:

In commemoration of Earth Day 2021, the Inter Agency Group of Development Organisations, in collaboration with Friends of the Earth-Grenada and the Willie Redhead Foundation, hosted a seminar on the Environmental Impact Assessment Process and the Physical Planning and Development Approval Process.

2. Participants:

The seminar targetted civil society organisations - primarily non-governmental organisations and community based organisations. Given that COVID-19 protocols were being observed, the workshop was a hybrid activity with onsite participation restricted to 25 persons and persons participating via Zoom Link and also following via the website Facebook page of Friends of the Earth-Grenada and other interested organisations. Based on attendance records, 22 persons attended in person while 23 persons participated via Zoom Link. The *List of Participants* is annexed, *Annex 5*.

3. Background/Rationale

In 2020, members of the public put Grenada's land development approval process under the microscope. This keen interest was triggered by the road collapse at Moliniere¹ and the mega tourism development projects at La Sagesse², Levera and Mt. Hartman. Questions were asked about the conduct of the Environmental and Social Impact Assessment and the process by which planning approval was granted. The entity which conducted the EIA in respect of the La Sagesse project was in the public defending the integrity of the document it produced.

The Prime Minister of Grenada went on record stating that *"planning is a critical part of the country's development and it must be treated more seriously than it currently is"*³ and he *"underscored the importance of achieving greater compliance with planning policies, regulations and notices"*. He was quoted as saying, *"We must act quickly to provide more enforcement power with respect to physical planning. It is not acceptable that a stop notice is given and the contractor and/or owner simply ignores this and continues building. That amounts to lawlessness; people cannot be ignoring the laws of the land."*⁴ He advised of the imminent establishment of a Physical Planning and Development Authority.

¹ <https://www.thenewtodaygrenada.com/local-news/moliniere-land-slippage-area-a-sub-national-disaster-zone/>

² <https://www.nowgrenada.com/2020/03/resort-developers-deforest-mangrove-in-grenadas-third-most-diverse-birding-site>

³ <https://www.nowgrenada.com/2020/09/government-to-take-swift-action-to-improve-physical-planning/>

⁴ Ibid

As Grenada rolls out its “climate plans”, to be funded by various international mechanisms and entities, citizens and civil society organisations are expected to participate in and contribute to consultations on various projects. Significant infrastructural development was announced in the 2021 Budget Presentation as a key element of the government’s strategy re recovery from the COVID-19 pandemic. Proper physical development plans, informed by rigorous Environmental and Social Impact Assessments, are a key element of a country’s Disaster Resilience Strategy. Individual citizens and the government must contribute to its implementation.

This was the context which informed the hosting of this seminar - *Environmental Impact Assessment Process and the Physical Development Approval Process in Grenada* - to mark Earth Day 2021.

4. Objectives:

The objective of the seminar was to enhance the participants’ awareness, knowledge and understanding of the following:-

- **EIA Process:** The Environmental Impact Assessment (EIA) Process – the role of an EIA; key steps and standards in the conduct of an EIA, required competencies etc.;
- **Public Participation:** Role of public involvement/participation in the EIA process;
- **Institutional Arrangements re EIA:** The institutional /administrative arrangements in Grenada in respect of the EIA process;
- **Physical Planning Unit/Authority and Approval Process:** Steps in the Physical Planning Approval Process in Grenada and the role of the EIA report /statement in the approval process;
- **Legislation:** The legislation governing the Physical Planning and Development Approval Process

5. Methodology:

- **Presentations:** There were presentations by individuals with expertise and/or experience in conducting or reviewing EIAs and participating in the physical planning approval process.
- **Plenary Sessions:** Following presentations, there was an interactive, question and answer session with the audience and the presenters. The moderator was freelance journalist, Ms. Calistra Farrier.

The Agenda is annexed, *Annex 1*.

6. Expected Outcomes:

Among the expected outcomes of the seminar were the following:-

- Enhanced capacity of participants and by extension their organisations, in respect of the following:-
 - Awareness of the EIA process and the role of public involvement/ participation in an EIA process;
 - Capacity to determine what constitutes public involvement in the process and ability to identify the projects which require an EIA;
 - Awareness of the relevant legislation and institutional arrangements in respect of the approval process in Grenada;
 - Enhanced capacity of stakeholder organisations to make an informed input and represent community and public interests in the EIA consultation process.
- Recommendations from participants to the policy-makers/law-makers for strengthening the EIA process and the physical planning and development approval process in Grenada.

7. Opening Session:

The opening session featured remarks by:

- **Mr. Joseph Antoine Friends of the Earth- Grenada:** Instead of an invocation, Mr. Antoine shared the *Unity Daily Word* which featured a special message⁵ for the theme of Earth Day, *Protect*. Mr. Antoine also gave brief remarks on behalf of Friends of the Earth-Grenada, noting that 2021 was the 31st anniversary of the observance of Earth Day in Grenada. Earth Day celebrations started with a clean up campaign undertaken by a St. Mark's based community organisation, Grassroots Ecological Citizens Association with support from the Agency for Rural Transformation (ART). One year after, Friends of the Earth-Grenada was formed. This year, FoE-G was happy to be collaborating with the Inter Agency Group of Development Organisations and the Willie Redhead Foundation in hosting this seminar to mark Earth Day 2021. He hoped that the activity would help citizens to understand their own responsibility for safeguarding the integrity of the environment and holding those charged with that responsibility accountable. He hoped that the workshop would:-
 - help people to respect the rule of law
 - help people to understand the connectedness of things – one needs to take care of all the parts, neglect of one part will affect the others;
 - help them to have a sense of responsibility to protect Grenada's assets for future generations
- **Mr. James Finlay, the Willie Redhead Foundation:** Mr. Finlay noted as follows:-
 - His organisation focusses on heritage and conservation. Earth is a resource and home for all mankind. A balance is therefore required between development and

⁵ <http://www.dailyword.com/dailyword/protect-thursday-april-22-2021>

environment. In Grenada, government authorities are more concerned about development.

- It is the responsibility of organisations to engage government – there can be co-operation or confrontation.
- Grenada is a small country. It has to be particularly careful in respect of the use of its natural resources. There are laws and instruments at the disposal of government to guide it in its decision making. Environmental Impact Assessment is one of the available instruments.
- **Ms. Sandra Ferguson, Inter Agency Group of Development Organisations:** Ms. Ferguson welcomed participants, presented the context and rationale for the seminar and introduced the moderator.

8. **Presentation: *The EIA Process, Ms. Joyce Thomas-Peters, Independent Consultant***

Ms. Thomas' presentation addressed the following:-

- Environmental Impact Assessment Process
- Different approaches to the EIA; there were some new approaches
- Review of existing legislation and institutional arrangements and identification of some of the gaps that exist.

8.1. **The EIA Process**

An EIA is a process. The Environment Impact Statement/Report only comes at the end of the process. The process is more important than the report/statement.

8.2. **Purpose:**

- **Adverse Impacts/Mitigation Measures:** The purpose of an Environmental Impact Assessment is to clearly identify, understand and prevent/minimize the adverse impacts of a proposed project on the environment and to identify the required mitigation actions.
- **Project Approval:** The purpose of an EIA is not to decide whether the project should/should not go ahead. The decision lies with the government. The EIA is not the only factor considered in making the decision.

8.3. **Steps of EIA Process:**

The steps in the EIA Process are: - Screening, Scoping, Impact Assessment; Reviewing; Licensing; Environmental Management Plan; Monitoring

1. **Screening:**

- Screening is first stage in the EIA process. It is an assessment of the project to decide whether there will be significant impacts on the environment.
 - **EIA Laws:** EIA laws identify the types of project that will require an EIA, the size of the project and potential impacts. These laws permit investors/developers to know in advance whether a proposed project will require an EIA.

2. **Scoping:**

- **Scoping is the second step of an EIA process. The scoping step:-**
 - **will determine the important issues** to be considered during the EIA;

- Establishes the boundaries of the project area
 - Identifies what will be included in the EIA
 - Establishes how the EIA will be done
- At this stage the Terms of Reference for the EIA is prepared.
 - **Who prepares the Terms of Reference for Grenada? Who should be preparing the Terms of Reference?**
- Guidance on the development of the Terms of Reference should be in legislation. The legislation should specify what sectors should be considered and the requirement for public involvement. The legislation should/will provide for the entitlement of public participation.
 - **Does Grenada's legislation provide guidance on the Terms of Reference?**

3. Impact Assessment and Mitigation:

- **Core Aspect:** Impact assessment and mitigation is the core of the EIA. It is the detailed evaluation of the environmental and social impacts of the proposed project. It has always involved social impacts.
- **Alternatives:** The impact assessment also includes the identification of alternatives.
- **Baseline Conditions:** The impact assessment looks at baseline conditions. It is very important to establish baseline conditions since this information identifies what exists and could be lost as a result of the project.
- **Mitigation Measures:** The impact assessment will also identify/recommend the mitigation measures to be put in place. What will deter a developer/investor are the costs of the mitigation measure(s) to be put in place in order for the project to be sustainable.
- **Cultural Characteristics:** Besides the environmental and social impacts, the impact assessment will consider the impact on the cultural characteristics of the area.
- **Multi-disciplinary Team:** The Impact Assessment is conducted by a multi-disciplinary team of experts who have the qualifications and skills to assess the diverse environmental and social impacts. Impact Assessment cannot be done by an individual.

4. Impact Management/Environmental Management Plan

Impact management requires the creation of an environmental management plan. This is done after the impact assessment has identified the impacts, the risks and the mitigation measures to address the risks and negative impacts. **The plan is created to manage and monitor the mitigation measures.**

5. EIA Report:

The EIA Report is the compilation of the important components of the project including a project description and the results of the impact assessments. It should also contain the Environment Management Plan and the Monitoring Plan. It should be noted that the EIA as originally conceived has not been very strong on public consultation.

6. Review of Report:

- The review of the report **confirms the quality of information and the methods used in conducting the assessment.**
- It very important that the team of persons reviewing the report be equal to or of a higher calibre than the persons who prepared the report.

7. Monitoring:

- Once EIA is approved, the next phase is monitoring. **Monitoring ensures the fulfillment of commitments made in the approved EIA.** The implementation of the mitigation measures contained in the Environmental Management Plan has to be monitored.
- Who/what should be monitoring the implementation of the EMP?
 - Monitoring can be done by the developer /investor under the supervision of independent agencies and/or government agencies.
 - Monitoring does not necessarily have to be done by government which may not have the required competencies within its system to monitor the project. **But the government has the authority to ask competent institutions to do the monitoring.**
- **Changes to Project Design:** Depending on the mitigation measures, a change may be required in respect of the design of the project.
 - **The EIA is very important and should be done very early in the process,** before project design is completed, in order to inform completion of project design.
 - Changes cost money and may deter the developer from continuing.
- **Monitoring in Grenada:** In Grenada, who/what is responsible for monitoring the implementation of the EMP?

8.4. New Approaches to ESIA

- A new framework was prepared by a group representing multi-lateral organisations, financial organisations, regional and international organisations. Among the organisations using the new framework are the UN agencies, the World Bank and the Caribbean Development Bank.
- **Stakeholder Involvement:** An important component of the new framework is stakeholder engagement. International agencies have recognized **the importance of stakeholder involvement and stakeholder consultation very early in the process, prior to project design.**
 - **Stakeholder Engagement Plan:** Thus, projects are required to submit a stakeholder engagement plan. When an invitation to bid is put out for the design of a project, there is also an invitation to present a plan for the conduct of stakeholder consultations.
- **Social and Environmental Standards /Safeguards:** A part of the new framework is the Social and Environmental Standards/Safeguards. These set out what are the areas to covered during the conduct of an EIA. Even if the Government of Grenada has not adopted these guidelines, the guidelines will apply to any project funded by CDB, the World Bank and the UN agencies.
 - **Private Sector:** It is unclear what happens in Grenada re the private sector projects funded via private investors or public sector projects funded by the Consolidated Fund.

8.5. Institutional Arrangements in Grenada

8.5.1. Conduct of an EIA

The conduct of an EIA has been legislated since 2002. Reference Act 25 of 2002. This Act has been replaced by the *Physical Development and Control Act No. 23 of 2016*.

8.5.2. Physical Development and Control Act 23 of 2016

- **Sect. 22** of this Act provides for the EIA process in Grenada.

- **Competent Authority/Physical Development Authority:** The Act provides for a Physical Development Authority. This implies that there is to be transition from a Physical Planning Unit to the Physical Development Authority.
 - **Status: Grenada has not yet completed this transition.**
 - **EIA Required:** Section 22 empowers the Physical Development Authority “to require up front that an EIA should be conducted in respect of any application to develop land, including application for “*Approval in Principle*.....” The Physical Development Authority is empowered to decide, up front, whether or not a development will significantly affect the environment and whether an application to develop land requires an EIA to be conducted.
 - **Approval in Principle:** What does approval in principle really mean?
- **Schedule III, PDCA 2016:**
 - **Mandatory EIA:** The types of projects for which an EIA is normally mandatory is listed in Schedule III of the PDCA 2016.
 - **Exemptions:** Does Government have the authority to exempt a particular project/entity from an EIA process?
 - **Roads:** Construction of Roads is not listed in Schedule III as one of the projects requiring an EIA. Ms. Thomas-Peters noted that, based on her training, roads should require an EIA, particularly in the context of climate change. Changes are made and these changes significantly impact the physical environment. e.g. increase the speed of flow of water.
- **Public Consultation:** There are provisions for public consultation in the legislation but this provision is not supported by regulations
- **Right to Information:** The public’s right to know/right to access information is not included in the legislation.
 - **Register:** What exists currently is a register in the Physical Planning Unit which the public can access. This register lists certain information on the project.

8.6. Concluding Remarks:

Ms. Thomas-Peters concluded by noting:-

- **Public Venting:** There has been a lot of “public venting” in respect of the EIA process and the lack of public participation with regard to the conduct of the EIA of a number of projects of private investors. She emphasized that participants needed to be informed and aware of what should happen and what was happening in Grenada. She suggested that participants of the seminar should reflect on and make recommendations in respect of the following:-
 - **Improving the EIA Process:** How could the EIA process be improved?
 - **Right to Know:** What should be the public’s right to know?
- **Participation:** An individual does not have to be an environmentalist in order to participate in the process or have an opinion. Persons “without papers” should not be intimidated by those “with papers”. Those “without papers” should not be afraid to raise issues and ask questions. However, it is useful for an individual to prepare to participate, to become more informed and aware about the process/lack of process in Grenada. She hoped that her presentation would contribute to this preparation.

9. Competencies Required of Team Conducting an EIA: *Brian Samuel, Consultant/Retired Head of CDB PPP Unit*

Mr. Samuel's presentation was facilitated via Zoom. His presentation addressed:- what is included in the Environmental and Social Impact Assessment; what skills are required to get an EIA done and where does an ESIA fit in the project preparation process. The following is a summary of his presentation.

9.1. The Environmental and Social Impact Assessment

- **Social Aspects:** The EIA process has been broadened to include social aspects and it is now called an Environmental and Social Impact Assessment. In his work with the Caribbean Development Bank, the World Bank, commercial banks and many development banks, **an ESIA is an absolutely critical part of any project loan application process.** No bank would consider an application without a detailed, comprehensive ESIA that looks at all the issues.
- **Project Sustainability:** The purpose of conducting an ESIA is to assess the sustainability of the project. Would the project harm or contribute positively to the environment and/or the stakeholders? The purpose of an ESIA is to make sure that the project will do more good than harm.
- **Footprint of the Project:** An ESIA is interested in the footprint of the project. E.g. what is the footprint of the following projects currently being undertaken in Grenada - La Sagesse; Mt. Hartman; Levera? These are very large projects.
 - **If an ESIA is not properly conducted**, one “gets it wrong”; the project will have more negatives than positives and will come back to “haunt” one many times over.
 - In the absence of an ESIA, there is real danger of financing a project that will not provide the required benefits.
- **Required Skills re Conduct of ESIA:** Conducting an ESIA is challenging and it should not be done by an individual. Conducting an ESIA is not about ticking boxes.
 - **Core Technical Skills:** A wide range of skills is required and the specific skills required will depend on the nature of the project and the location. E.g. a coastal project will require skills of marine scientists, marine engineering skills etc.
 - **The St. Patrick's Breakwater Project:** This project was conducted without the benefit of an ESIA and one is seeing the adverse impact on the coast further down from the project area.
 - An ESIA is neither easy nor cheap. There is a depth of work to be done!
- **Social Aspects:**
 - **Impact on Stakeholders:** It is imperative to engage the stakeholders who will be affected by the proposed project. All projects impact stakeholders. A project will have different levels of impacts on different categories of stakeholders. **One does not want/should not rush around taking action prior to the conduct of an ESIA.** One wants to know how a project will impact the lives and livelihoods of the various stakeholders. Consultations with stakeholders are therefore a necessity.
- **Environmental Management Plan:**
 - **Prior to Project Implementation:** An Environmental Management Plan is required in advance of the implementation of the project. **A project without an Environmental Management Plan should not be considered.**
 - **Prior to Project Financing:** Institutions such as the World Bank and the Caribbean Development Bank would never even consider a project without some initial ESIA. A project would not be considered for financing without a detailed, comprehensive ESIA.

- **Standards:** Various countries and entities have different standards; some just tick that there is an ESIA Report while others are serious about reviewing the ESIA report.
- **Competencies of the Reviewers:** It is important to have persons of competence reviewing the report. They have to be at least equal in competence to those who prepared the report.
- **At the Beginning of Project Preparation:** An ESIA must be done before any sod is turned, before the project begins or before a financing commitment is made.

9.2. Queries/Comments/Recommendations

The following are the queries, comments and recommendations of the participants to the presentations of Mr. Samuel who had to leave the session early.

- **Source of Financing/Standards:** While institutions such as the World Bank and CDB require the conduct of an ESIA, the Government of Grenada is lax with regard to its standards and requirements re the projects of CBI investors.
- **Obligation of ESIA re Government's Projects:** Does government have an obligation to conduct ESIA's in respect of its projects that are funded by CBI/other private investors, other entities or sources? e.g. its road projects? the airport project being funded by China?
- **Public Participation/Monitoring:** Even when an EIA is conducted, the public is unaware of the findings and the mitigation measures recommended by the EIA and whether the recommendations are being implemented.
- **Certificate of Environmental Clearance:** References to a Certificate of Clearance in some literature has been noted. Is there an opportunity for a Certificate of Environmental Clearance to be issued in Grenada?
- **Reference to the Physical Planning and Development Control Act, No. 23 of 2016:**
 - **Broad Discretion:** A participant drew attention to Section 22 which he described as giving a "broad measure of discretion" to the Authority:-
 - Section 22 (1): The Authority **may** require an EIA to be done
 - Section 22(2): The Authority, **in its discretion**, may decide that an EIA should not be carried out.
 - Section 22: The Minister **may make regulations** so that an EIA is required; define the scope of the EIA; decide the minimum contents of the report of an EIA etc.
 - **Deficient Legislation re EIA Process:** The participant was of the opinion that the legislation was deficient in prescribing what is required of an EIA process in Grenada.
 - **Discretion of the Minister:** The law allows the Minister too much discretion.
 - **Regulations:** Had the Minister made any regulations that will make the process more rigorous?
- **Laws lacking specifications:** Another participant noted that the laws were only frameworks and they lacked specifics. Draft regulations in respect of the PDCA 2016 had remained in draft. She offered the following recommendations:-
 - **Lobby government to pass the regulations:** There was a need for citizens to bring the issue of the draft regulations to the attention of the Government of Grenada and also bring put pressure to bear on the government to ensure that the regulations are passed
 - **Existence of Various Instruments:** Various types of instruments exist. Citizens must become aware of them and begin to start using them.
 - **Citizens' Engagement with Developers:** The laws are not only about protecting the environment. The laws also protect the interests of the developers and encourage the

application of best practices. Civil society should begin approaching developers as soon as they appear on the radar and be more pro-active, solution-oriented; they could be less confrontational and more co-operative.

9.2.1. Response of Presenter

- **Legislation:** The challenge in respect of the requirement of ESIA's in some (Caribbean) countries, is that the laws are too general, lacking in specifics. The priority of these governments is development and once the project has the "numbers" attached to it in respect of finance etc. the project is approved without regard for the conduct of an ESIA or in total disregard of the ESIA.
- **Political Will:** Protection of the environment is a matter of political will and how the government values the environment. Citizens have to bring pressure on their government to strengthen the legislation for protection of the environment. Legislation without regulations has no teeth. It is ineffectual.
- **Impact on brand "Pure Grenada":** The failure to enforce legislation and environmental regulations was damaging the *Pure Grenada* brand.
- **Citizens Said No:** Mr. Samuel gave an example from Costa Rica where, during the ESIA process, citizens said no to a gold mine project. The government listened to its citizens and rejected the project.
- **Equator Principles:** Banks and financing institutions have signed up to the *Equator Principles*. They will not give any financing commitment without the conduct of a detailed and comprehensive ESIA.
- **Too Much Discretion:** The PDCA 23 of 2016 law **affords too much discretion to the Minister** and takes the teeth out of the law.
- **Inclusion of Other Stakeholders:** Good environmental law should ensure the participation of other stakeholders. E.g. Engineers Association; other civil society organisations etc.

10. Presentation: Ms. Aria St. Louis, Director of Environment

Ms. St. Louis thanked the organisers for the opportunity to be part of this Earth Day Activity 2021. She noted that the theme of Earth Day 2021 was *Restoration* and observed that there were many linkages re the theme and the discussions at the seminar. She advised that she had become a member of the Board of the Physical Development Authority over the last year and a half, an experience which has afforded her an understanding of the details of the steps re the conduct of an EIA in Grenada. Ms. St. Louis shared the following information and observations about the functioning of the Environment Division and its role vis-à-vis the institutional arrangements in respect of the ESIA process in Grenada.

10.1. Role and Function of the Environment Division

- **Draft Environmental Management Legislation:** She noted that when she joined team at the Environment Division in 2010, she had the opportunity to help review the *2008 Draft Environmental Management Act*. She noted that it was a very robust Act which positioned the Division to be a protection agency. It was updated, reviewed and sent to Cabinet in 2018, ten (10) years after the first draft was prepared and submitted to Cabinet. **It was still in draft.**
- **Co-ordination of MEAs:** The Cabinet-approved mandate of the Environment Division was the co-ordination of the multi-lateral environmental agreements (MEAs).
- **Lacking Legislative Teeth:** The Division was not an environmental protection agency since it was missing "the teeth" that comes with strong environmental management legislation. **All the**

parts of the legislation of Grenada relevant to environment were weak. The legislation required “teeth”.

- **OECS Environmental Management Act:** The OECS has an Environmental Management Act which is not mandatory legislation for Grenada but is a “moral obligation”. The Environment Division treats this regional Act as a “best practices” document.
- **National Environmental Management Strategy/Plan:** Grenada has its National Environmental Management Strategy and Plan. These connect the actions of all agencies which play a role in environmental protection and management.
- **Status of Legislation:** Thus the Environment Division uses the OECS Management Act, the NEMS and other key policy documents as moral obligations and best practices while waiting for its legislation to be passed. **Without the legislation, it is unable to do what it should be doing/wants to do.**

10.2. The Environment Division and the EIA Process in Grenada

10.2.1. Screening

- **Qualifications/Competencies:** The Environment Division has noted that the qualifications of those conducting EIAs becomes very important. Who can do an EIA needs to be considered and managed.
- **Sourcing ESIA Expertise:** The support of the regional OECS Sustainable Development Unit was sought re identifying ESIA expertise in the region. The Unit has assisted as follows:-
 - **Roster of Experts:** Provided the Environment Division with a Roster of Experts able to function regionally, from which referrals can be made to the PDA.
 - **List of Competent Grenadians:** Supported the Division re the generation of a list of competent Grenadians whom it can recommend to the PDA.

10.2.2. Scoping

- **Input into Terms of Reference:** In respect of institutional arrangements, the scoping step is one of the key areas where the Environment Division gives input. Once a request is made for its input, the Division adds to the Terms of Reference of the Scoping Exercise which helps to guide what will be in the ESIA. More recently, the Division has also asked for inclusion of the following in the Terms of Reference:-
 - Implications of climate change such as sea level rise, storm surges and heat;
 - Consideration of Climate Change scenarios specific to sea level rise, different levels of warming and Disaster Risk Reduction

10.2.3. Impact Assessment and Mitigation

Comments were not offered in respect of impact assessment.

10.2.4. Review of EIA Report

- **EIA Review Committee:** The Environment Division is part of an EIA Committee that reviews the EIA Reports and provides recommendations which go back to the Physical Planning Unit.
- **Recommendations and the PDA Board:** **However, it is unclear how well the recommendations return and reach the Board** which is responsible for the final decision-making process.

10.2.4.1. Treating with Recommendations of the EIA Review Committee

- **Board Review of EIA Committee Recommendations:** Even when the Board asks for the recommendations of the EIA Committee and reviews them; and
- **Recommendations Form Part of the Approval Process:** the Board agrees on the recommendations that should be stipulated and included as part of the of approval process, “the devil has been in the detail and follow-up”.
- **Lack of Clarity:** There is a lack of clarity in respect of the following:-
 - **Responsibility re Monitoring:** Who checks on compliance with the recommendations?
 - **Next Steps:** What happens next after the person/entity checks on the compliance with respect to the recommendations?
 - **Stop Notices:** What happens if stop notices need to be issued?
 - **Non-Compliance with Stop Notice:** What happens if there is non-compliance with the stop notice?
 - **Court Action by the Non Compliant:** What happens when someone who is stopped for non-compliance decides to go to court?
 - **Who Represents the Recommendations of the EIA in Court:** When the matter reaches court and the matter of the recommendations arise, who represents the recommendations arising from the review of the EIA and stipulated by the Board?
 - **Evidence from Physical Planning Officers:** It was understood that evidence in respect of compliance with the recommendations is given by the Physical Planning Officers. Evidence is not given by officers from the Environment Division who sit on the EIA Review Committee and are the ones making the recommendations.
 - **Reports:** All public servants have confidentiality clauses so battles are fought behind closed doors.

10.2.5. Decision-making Process of the PDA Board

- **Decision-making in the PDCA Board:** The PDA functions like Cabinet, making decisions by voting. **The majority decision carries.** Ms. St. Louis noted that this process was unlike the consensus decision-making process employed at the various international processes that she had witnessed and in which she has participated/participates on behalf of Grenada.

10.2.6. Monitoring

- The final stage of the ESIA process is the monitoring stage.
- **Stop Notices:** The Environment Division was particularly concerned **that the application of stop notices should be consistent across the board.** Was the stop notice being applied in the same manner to everyone and every entity?
- **Non-compliance:** While the public played a key role in monitoring compliance with certain standards by calling the Environment Division and reporting instances of non-compliance, the Environment Division was unable to take direct action. However, the Division does follow-up by bringing the reports to the attention of the responsible government agencies or departments.

10.3. Initiatives of the Environmental Division

Ms. St. Louis updated participants on the current significant initiatives of the Division:-

- **Capacity Building with particular relevance to Biodiversity and Coastal Matters:** The Environment Division was continuing its actions to support capacity building to promote

understanding of the implications of decisions vis-à-vis the environment. The capacity building initiatives were particularly relevant to biodiversity and coastal zone matters.

- **Coastal Zone Legislation:** The Division had pioneered coastal zone legislation which represented a powerful opportunity on the books. There was now the need to ensure that the regulations were in place to provide “teeth” to the legislation and would allow the Environment Division to “come to the table with a strong mandate” backed by legislation.
- **Public Right to Environmental Information/Principle 10 of the Rio Declaration:** The Division had supported Grenada’s signing of the *Escarzu Agreement* which provides for public access to environmental information.
- **Economic Valuation of Grenada’s Biodiversity:** The Environmental Division was also working along with CANARI, pioneering an assessment of the economic valuation of Grenada’s biodiversity. While the Environment Division is not an environmental protection agency, it can use various routes to prepare a strong framework and prepare the arguments, legislation permitting, and will have in place appropriate data to help to inform decision making.
 - **Not Only for Scientists:** Economic valuation of biodiversity was not only for scientists. It was intended that the concept of economic valuation would be demystified and would be comprehensible to everyone. Therefore, when called upon, people would be able to capture and express the non-economic value of an asset to them. e.g. the cultural and historical value of an asset such as a tree or river. This value could be converted to economic value, a denominator which would facilitate engagement with decision-makers and other stakeholders of diverse perspectives.

10.4. Queries/Comments/Recommendations

This following is a summary of the feedback – queries, comments and recommendations – and responses with regard to the presentations by Ms. Thomas⁶ and Ms. St. Louis.

10.4.1. Enabling the Environmental Division

- **Absence of Legislation and Regulations:** The Environment Division was not enabled due to the failure to pass the required legislation and regulation.
- **Compliance with Recommendations:** While recommendations are made by the EIA Review Committee, a mechanism does not exist for follow-up and feedback re treatment of the recommendations.
 - **Legal Provisions:** There should be legal provisions to close this gap.

10.4.2. Role of the Responsible Minister

- The spirit of the law is based on honesty and integrity.
- In all the legislation, the role of the responsible Minister is highlighted. As a policy-maker, it is expected that a Minister, in arriving at a decision, would be guided by the advice of the technical persons.
- In decision-making with regards to the environment, what guides the decision of the Minister? Is the Minister is guided by the spirit of the law and the sound technical advice or by political expediency/other considerations?

⁶ Discussion on Ms. Thomas’ presentation was deferred to accommodate presentations by Mr. Samuel and Ms. St. Louis, both of whom had to leave early due to other commitments.

10.4.3. Environmental Wardens

Did the Environmental Division have any role in conceptualizing this category of worker? What did the wardens do and who monitored/supervised their work?

- **Not Related to Environment Division:** Ms. St. Louis clarified that the Environmental Wardens were not connected to the Environment Division. The Division could not give them any immediate guidance but could write to the Ministry of Works to offer some guidance as to what should be done and how it should be done. In respect of work done by these Wardens, officers from the Division could only observe, note and if concerned, raise the particular matter with the Permanent Secretary in the Ministry of Works.

10.4.4. Environmental Impact Assessment Process

- **EIA Process Undocumented:** In Grenada, documentation on the EIA process does not exist. Therefore, information was unavailable and, as a result, the community and public at large experienced difficulty in understanding and following the EIA process. This absence of information and clarity also led to uncertainty and inconsistency re the process as well as investor-community conflict. In the end, everyone loses.
- **Stakeholder Involvement:** The process currently does not permit the participation of the community. This results in conflict between the community and the developer. The developer should not be put in such a situation nor is such a situation good for the country.

10.4.4.1. Recommendations

- **Documentation of EIA Process for Clarity:** A clear, documented process, in line with international standards, for the conduct of an EIA, would get rid of uncertainty and inconsistency. The investor knows what to expect and the other stakeholders would also be included from the beginning.
- **Stakeholder Engagement:** There should be engagement between the developer's team, the community and other stakeholders.
 - **Capturing Information in Baseline of the EIA:** If the community is involved, the baseline data will capture what the community is giving up and its value to them compared to what the project is promising to deliver.
- **Environment Management Plan:** The Environmental Management Plan has to be available to the public. If the EMP is not available, then the public will not have any information nor understand how the plan is intended to work.
- **Public Scrutiny:** The Report should be subject to public scrutiny in order to obtain the benefit of the indigenous knowledge of persons who live in the area and know the area much better than the transient scientists undertaking research to inform the EIA.

10.4.5. EIA Report and Decision-making

- **Mitigation Measures:** The EIA Report does not advise whether or not the project should go ahead. It lays out the mitigation measures that would have been undertaken to make the project sustainable.
- **Measuring Potential Impact of Project:** Is there an objective measurement/instrument to determine the potential of a project to negatively impact the environment? Whether or not the project should be given the green light to proceed in a transparent manner? Was there a checklist for example?

- **Scoring the Impacts/Identifying Mitigation Measures:** Ms. St. Louis advised that, as a scientist, she would say there were many instruments, captured in the EIA. However, *the devil was in the detail*. Within the EIA, there was a table where one looked at the mitigation measures and scores re the various project impacts - high, medium or low impact – and identified the mitigation measures that would be undertaken to counteract the negative impacts.
 - **Standardized Table:** At this time, some of those who conduct EIAs use a standardized table. There is not a specific table with check boxes. Everything is done on a case by case basis, related to the what is required in the ToRs.
- **Review of EIA Report:** The report therefore has to be reviewed by persons with great professional competence since there is no measuring stick but professional judgement about the report. The review is about making a judgement.

10.4.6. Capacity and Competence

- **Decision-Making:** Do the persons who have to make the decisions have the required level of competence/capacity to deal with some of the issues that come up? E.g. Breakwater Project in St. Patrick's.
- **Competencies within the PPU:** Concerns were raised that the PPU does not have all of the competences required to review an EIA. Does PPU seek external advice from regional and international agencies in respect of the review process?

10.4.7. Environment and Development

- **Sound Environmental Planning:** Sound environmental planning is good governance.
- **National Heritage Advisory Committee:** Presently, most of the concerns of the public were in respect of sites of natural and cultural significance. Section 39 of the *Physical Planning and Control Development Act 23 of 2016* states who is the responsible for the protection of these sites and gives direction to the process. It also provides for the establishment of the NHAC as a national service to address issues pertaining to physical development which affects sites of natural and cultural significance.
 - **Treatment of NHAC Recommendations:** The NHAC also experiences the challenge of follow-up and feedback in respect of its recommendations.
- **Land Development and Control:**
 - **Avoiding Community-Developer Conflict:** The key to avoiding community/development conflict is the implementation of a land development policy and zoning.
 - **Zoning/Protection of Lands:** There must be specific areas for development. Grenada depends on tourism so it has to preserve its lands. Urbanism has a role to play.

10.4.8. Levera

One of the developments which created great public concern and outcry was the development which was taking place at Levera, a sensitive ecosystem – site of turtle nesting for the endangered leatherback and the location of the local designated Ramsar site, the Levera Pond, as well as sites identified to be designated as a National Park and seascape. The representative of the St. Patrick's Environmental and Community Tourism Organisation - which is providing support to the Levera community re co-management of the nesting sites and management of the turtle tours - shared the following observations and queries:-

- **Public Engagement:** She recalled that when the communities were advised that the Levera Pond was declared an international Ramsar Site, they told the fisheries and forestry officers that they were dismayed, even offended, that they had not been consulted. Was it that the views of people living in the area, did not count?
- **Indigenous Knowledge:** The people of Levera, the fishermen in particular, were the ones who gave important information to the scientists who were doing research in the Levera area.
- **Levera and Economic Valuation:** She welcomed the initiative on economic valuation being undertaken by the Environment Division. She noted that if there had been a prior economic valuation of the area, the community would have stronger arguments to support the protection of Levera. She shared two examples of destructive actions undertaken by the first set of developers of the Levera project who eventually abandoned their project:-
 - **Golf Course:** They indiscriminately cleared an area for the proposed golf course without considering the amount of water that was coming off the Piton (the highest peak in the area). They cut down the trees on the mountain and affected the ecosystem.
 - **Draining of Levera Pond:** The Levera Pond, an area into which the water collected, was also drained using an excavator.
- **Community Response to Developers:** Because of the support of SPECTO in St. Patrick's, there has been a more organised response to the current developers and SPECTO is hopeful that the developers will take into consideration the concerns raised by SPECTO and the community – protecting the turtle nesting sites and the Ramsar site, the Levera Pond.
- **Unemployment:** People were desperate for work and were hoping that the project will deliver the promised jobs.

10.4.9. Livelihoods, Poverty, Development and Sustainability

- **Link to Local Livelihoods:** The jobs argument was being used to justify and promote these large developments. A development of the size of Levera must be linked to local fishermen and farmers.
- **Quality of Jobs:** What was the quality and sustainability of the jobs being generated and offered to locals. Tourism is seasonal. It is not a guaranteed sector. What level of payment was being offered for those jobs expected to be generated?
- **Sustainability:** Analysis is required to determine the sustainability of these proposed large developments. There is a need to come up with better ideas/solutions to utilize these resources of areas such as Levera than those proposed by the current developments.

10.4.10. The Future We Want

- **Development for Whom:** For whom was development being promoted/undertaken? A participant noted that this question was contextualized in the Preamble of the Grenada Constitution, section (e)⁷
- **Vision of the Future:** What is our vision, as citizens, for areas such as Levera? Will we the citizens leave it all to the politicians to decide? Will Grenada just allow developers with money to come in and do what they want?
- **Role of Citizens:** Citizens need to take the leadership role in how they want to see development happen. Citizens need to step up and demand better projects. They can lobby. They can also be proactive and seek meetings with developers.

⁷ “WHEREAS the people of Grenada – reiterate that the ideal of free men enjoying freedom from fear and want can be best achieved if conditions are created whereby everyone may enjoy his economic, social and political, civil and cultural rights”

11. Presentation, Legislative Framework re EIA Process, Christopher Joseph, Environmental Officer wrf Mitigation re Climate change

Mr. Joseph's presentation, Annex 6, introduced the legislative framework governing the EIA process:-

- the Physical Development and Control Act, No. 23 of 2016
- the 2015 regulations which remain in draft.

Disclaimer: Mr. Joseph clarified that, while he was presenting the *Physical Development and Control Act*, he was not speaking on behalf of the Physical Planning Unit and was unsure that he would be able to answer any questions which touched and concerned what the PPU did and how it was done.

11.1. Physical Development and Control Act, No. 23 of 2016

Mr. Joseph's presentation introduced the Act and focussed on *Part IV, Development Control*.

- **Provisions of PDCA No.23 of 2016:** Act 23 of 2016 legislation repealed and replaced Act 25 of 2002. Act 23 has eleven parts and three Schedules and makes provisions for the following:-
 - the protection of the natural and cultural heritage
 - regulation of the construction of buildings and other related matters
 - the orderly and progressive development of land and
 - preservation and improvement of the amenities
- The Act also addresses appeals, compensation, building codes
- **Part IV, Development Control:** Part IV, Sections 16-30 of the Act addresses *Development Control*. **Section 22 addresses the Environmental Impact Assessment.**
- **Part VIII** provides for appeals if someone is aggrieved, i.e. the developer or other stakeholders

11.1.1. Section 22: Environmental Impact Assessment

The presentation focussed on the following provisions of Section 22 which addresses the Environmental Impact Assessment.

1. Requirement for an EIA

Section 22(1) provides that “*The Authority may require an Environmental Impact Assessment to be carried out in respect of any application for permission to develop land, including an application for approval in principle, if the proposed development could significantly affect the environment.*”

2. Minister May Make Regulations

Section 22(4) provides for the Minister to make regulations for the following:-

- a. the **criteria and procedures for determining whether a development is likely to significantly affect the environment**, so that an Environmental Impact Assessment is required;
- b. the **procedures for settling the scope of an Environmental Impact Assessment** to be carried out by the applicant in respect of any development;
- c. the **minimum contents of a report** on an Environmental Impact Assessment;
- d. the **qualifications, skills, knowledge or experience** which a person who conducts an Environmental Impact Assessments shall possess;

- e. **the procedures for public participation in the Environmental Impact Assessment process, and public scrutiny** of any report on an Environmental Impact Assessment submitted to the Authority;
- f. the consideration by the Authority of an application in respect of which an Environmental Impact Assessment is required, including **the criteria and procedures for review of the report;**
- g. the establishment of an **Environmental Assessment Committee;** and
- h. **any other matters** that may be necessary **to give effect to this section.**

3. Access to Relevant information from Government Agencies

Section 22(5): This provision speaks to a potential role for the PPU to access information that the developer may want and which may reside in another government agency and the PPU acting as a conduit between the developer and the government agency. The developer may be required to pay for the information.

4. Influence the Action of Other Government Agencies

Section 22(6) makes provisions for the Authority to influence other government agencies. These provisions have “**checks and balances**” potential. However, “the devil is in the detail”. **Do these checks and balances work? How do they work?**

5. Penalties for Contraventions

According to Section 22(7), *‘Any person who contravenes subsection (1) or contravenes the of any regulations made under subsection (4) commits an offence, and is liable, on summary conviction, to a fine of twenty thousand dollars or three years imprisonment or to both’.*

11.1.2. Presenter’s Observations

The presenter made the following observations:-

- **The Authority:** Subsection (1) refers to the authority. It is unclear who is the authority. Is the Board, as currently constituted, the Authority?
- **Interpretation:** To whom does Subsection (7) make reference? Can members of the Authority and/or the Minister be fined or jailed for any contraventions of the legislation or regulations?
- **Regulations:**
 - **2015 Draft Regulations:** The regulations, which would provide clarity and were ready and available in 2015, were not submitted and approved along with the primary legislation which was passed in 2016, i.e. Act. 23 of 2016. The regulations remain in draft.
 - **Selective Implementation:** However, there appears to be a “picking and choosing” of certain aspects of the regulations which are implemented. The situation is unclear.

11.1.3. Comments/Queries/Recommendations

- **The Authority and Government Projects:** Was there any provision which requires the government to obtain permission from the Authority in respect of any of its projects?
 - Act 23 binds the State and Schedule III of the Act itemizes the projects/developments which require an EIA.
 - The Authority has the ability to decide whether a proposed development by a government agency requires an EIA.

- Mr. Joseph noted the definition of an EIA in Section 22:- *“Environmental Impact Assessment” means the process of collection, analysis, evaluation and review of information on the likely effects of a proposed development on the environment and the means to overcome adverse effect which enables the Authority to determine whether development permission should be granted and with what conditions;*
- **Role of EIA Reports in Decision Making:** An EIA Report is a tool for decision-making. It :-
 - equips business leaders to make informed and legally responsible investments;
 - assists regulators and competent authorities to make informed decisions to approve or deny a proposed development or approve with conditions, obligations, reservations;
 - Informs decision-makers;
- **Institutional Arrangements:** What is important is HOW things are done – the devil is in the details. There are many “moving parts” and there are many interests. There must be fair rules and a referee. **The rules must be understood by all so there are concepts such as certainty, participation, transparency, practicability, credibility, cost-effectiveness and accountability.**

11.2. Physical Planning & Development Control Regulations (2015) Draft

Mr. Joseph advised that he had the permission of the Physical Planning Unit to present these regulations, **Statutory Rules and Order of 2015**. This SRO does not yet have a number since the process has not yet been completed. His presentation focused on Part IV of the Draft Regulations (2015) which deals with Environmental Impact Assessment.

11.2.1. Part IV, Environmental Impact Assessment

Mr. Joseph introduced participants to the following sections of the Draft Regulations, the details of which are in the annexed presentation, *Annex 6*.

- **Section 39, EIA Committee:** provides for the establishment of an Environmental Impact Assessment Committee.
- **Section 40: Functions of Committee:** The Committee shall–
 - **Terms of Reference:** develop the terms of reference for the conduct of EIAs, in respect of developments for which the Authority determines that EIAs are required;
 - **Revise the Terms of Reference:** where appropriate, revise the terms of reference for the conduct of EIAs;
 - **Review EIA Reports:** review all EIA reports submitted to the Authority; and
 - **Make Recommendations to Authority:** make recommendations to the Authority on the acceptability or otherwise of each EIA report.
- **Section 41: Membership of the Committee:**
 - **Public Officers:** identifies the public officers who shall comprise the Environmental Impact Assessment Committee;
 - **The Head:** the Minister appoints the Head;
 - **Co-opt Competencies External to Government Agencies:** Permits the Committee to co-opt competencies required relative to the development from outside of government agencies.
- **Section 43, Meetings of the Committee:** It also provides for payment of allowances to Members as decided by the Minister.
- Other sections noted were the following:-
 - Section 44, Screening of Applications;
 - Section 45, Scoping

- Section 46, Approval of persons to conduct IEE or EIA
- Section 47, Public Participation
- Section 48, Minimum Contents of an EIA Report
- Section 49, Submission and review of EIA report
- Section 50, EIA Report Acceptable
- Section 51, EIA Report Deficient
- Section 52, Decision of the Authority
- Section 53, Compliance with conditions

11.2.2. Public Participation

Section 47, Public Participation provides for the following:

- An opportunity for interested members of the public to meet with the applicant, in order for the applicant to:-
 - **provide information concerning the proposed development** to the persons whose environment may be affected by the proposed development; and
 - **record the comments and concerns of the community** regarding the environmental impact of the proposed development.
- **A record of the comments and concerns of the community is to be included in the EIA report** that is submitted to the Authority by the applicant;
- **The Authority may invite written comments from the public** concerning the environmental impacts of the proposed development and **may forward these comments to the applicant;**
- **The EIA report is to respond to all pertinent questions posed by the public** in the written comments to the Authority.

11.2.3. Presenter's Observations

- **The Head:** Reference Section 41, to whom does “the Head” refer? Is “the Head” referring to the Head of Physical Planning Unit?
- **Environmental Impact Statement/Certificate of Clearance:** Though these are two concepts that are spoken about locally, they are not provided for within existing legislation. Perhaps the permission given by the Authority may be considered a certificate of clearance but this concept and language do not exist in the legislation.
- **Strategic Environmental Impact Assessment:** Some jurisdictions have moved towards a Strategic Environmental Impact Assessment. It is more comprehensive and is a process. It also considers policy documents. e.g. development of roads addresses cross-cutting issues.

11.2.4. Plenary Feedback/Queries/Comments:

The following is a summary of participants' feedback including recommendations and the response of the presenter.

11.2.4.1. Regulations/SR&Os

- **SR&Os:** The Regulations are Statutory Regulations & Orders. They have to be brought to Parliament by the responsible Minister.
- **Which Parts of the Draft Regulations in Use:** Could one suppose that since parts of the 2015 Draft Regulations were in use, the 2015 regulations were the regulations in force? For example,

the EIA Committee mirrors what is in the regulations. Which parts of the Regulations were not being used?

- **Response:** Mr. Joseph advised that the Draft Regulations could be considered a “best practices” document but the devil was in the detail. How were things to be done? In addition, the Regulations were still in draft.
- **Recommendation:**
 - The session recommended that there be some sort of engagement with the Physical Planning Unit to obtain clarity re legislation, existing gaps and plans.

11.2.4.2. Outline Planning Approval and Doing Business Better Ranking

- **Outline Planning Approval:** How could “outline planning approval” be given prior to all the studies, including an EIA, being done? What was the logic? *Doing Business Better Ranking* required a response to an application within a certain number of days. How could a response to some applications be given within a certain number of days when the studies to make a proper assessment were not undertaken?
 - **Response:** Mr. Joseph observed that in conducting EIAs, seasonality had to be considered. Therefore, it could take a year’s work in order to obtain the raw data for analysis.

11.2.4.3. Competent Authority/Authorities

- **Appeals Process and Stop Order:** How does a stop order work? If one sees questionable practices, to whom does one report?
- **Response:**
 - **Competent Authority/Authorities:** A competent authority has the legal authority to take certain action. The Environment Division does not have the legislative teeth.
 - **Physical Planning Unit and Land Development:** The Physical Planning Unit is the competent authority in respect of land development. The Physical Planning Unit issues the first and second stop order. If one does not comply, the PPU can take legal action.
 - **Other Government Agencies:** In the matter of something impacting the biodiversity, it could be the Forestry Department.
- **Heritage and Cultural Assets:** The Authority is also the Competent Authority for the protection of natural and cultural assets
 - **The National Heritage Advisory Committee:** The role of the NHAC is to provide advice to the Authority in matters pertaining to the protection of natural and cultural assets.
 - **NHAC Recommendations:** There is a lack of feedback in respect of recommendations made by the NHAC. These are some of the gaps that exist. How can these be addressed?
 - **Role of Minister:** Can the Minister overrule the recommendations of the NHAC?

11.2.4.4. Redress and Grievance

- **Approval with/without Conditions:** The reference to approval with or without conditions in the definition of EIA in *Act 23 of 2016* does not refer to approval or non-approval of application.
- **Right to Appeal:** *Part VIII, Act 23 of 2016* provides for the developer to appeal a decision which does not go in his/her favour. It also provides for someone who has standing to appeal. E.g. someone who owns property adjacent to the developer.
- **Guidance to Developers:** Who is responsible for guiding the developers and explaining to them what should happen? A number of agencies engage with developers. E.g. GIDC.
- **Central clearing house:** Is a central clearing house needed?
 - **GIDC:** A participant suggested that GIDC was a clearing house in respect of concessions granted to developers based on the amount of investment they proposed. GIDC and other organisations do not work in silos. They have representatives on each other's boards.

11.2.4.5. Role of Institutions

- There are mechanisms such as the NHAC and institutions such as the National Trust. However there appeared to be fragmentation in how these mechanisms/institutions functioned.
- **Legal Action:** If an organisation recognizes that a project is starting without appropriate permission or is not adhering to the conditions of approval, then that organisation should be willing to take legal action. e.g. seek an injunction.
- **Take Action:** People have to stand up. Institutions have to stand up on behalf of the people. Solidarity is required among people and institutions.
- **Lessons from Elsewhere:** What lessons can Grenada learn from other countries e.g. in Barbados and their Town & Country Planning Body?

11.2.4.6. Public Participation/the Right to Know

- **Public Participation:** Do the regulations specify in which part of the process the public is allowed to participate?
- **Right to Know:** The people have a right to know throughout the process.
- **Public's Access to Information:** What mechanisms exist to share information with the public? The representative of Friends of the Earth-Grenada recalled a time when the representative of a certain development brought information to his organisation and also put a document in the public library (which no longer exists) for the public to access.
 - **Information on EIA and Plans:** If one asks for information on EIA and plans, the response of the PPU would be that the information on EIA is proprietary to the developer.
- **Consultative Process:** A retired public officer of some 30 years noted that she was unhappy with the manner in which the consultative process had evolved. In order for public consultation to be meaningful, the public must have information and be educated about the issue on which they are being consulted. The consultative process must also become part and parcel of everyday life.
- **Responding to the Community:** The team doing the EIA should be responsible for answering the questions of the community. The developer should not have to face the community directly.

11.2.4.7. Breakwater Project in St. Patrick's

The following queries were offered in respect of the Breakwater Project in St. Patrick's:-

- **Private Project in Public Space:** How could there be a private project in a public area? Why was an EIA not done? Was an EIA going to be done after the fact? **Does the government ask for permission for these types of these projects?**
- **Coastal Protection Measure:** Persons in high authority have claimed that the breakwater project was undertaken to protect the property of some persons from the incursion of the sea.
- **Greater St. Patrick's Development Plan:** Before the breakwater was undertaken, there was the issue of erosion already happening in the coastal area, Mt. Rodney Bay etc. The breakwater has accelerated the coastal erosion process.

11.2.4.8. Human Resource Capacity and Competence

- **Environmental Division/Human Resource Capacity:** There is inadequate staffing re technical expertise in the Environment Division and the loss of staff in related divisions as officers retire.
- **Competencies re Coastal and Marine Issues:** Do the physical planning officers have the competencies to address coastal and marine issues?
- **EIA Review:** Given the number of things an officer has to do and the lack of competence in respect of coastal and marine issues, there can be delays in the review of the EIAs re proposed developments relative to coastal areas. How can this situation be addressed?
- **Organising the Terms of Reference for the EIA:** This is not part of the day to day functions of the government agencies. Perhaps, this could be a short term assignment to consultants who would prepare the draft that would be reviewed and finalized by government officers.
- **Approval by the Authority:** After the EIA is done and reviewed, how is the permission given by the Authority, what are the details in respect of permission? E.g. in La Sagesse did not have specific instructions
 - **There should be technical persons supervising the work and its impact on the natural environment** – e.g. technical persons to specify what to do; what should be removed; should not be touched.

11.2.4.9. Importance of Mangroves

- **Should not Be Destroyed:** Mangroves are like gold. They should not be destroyed since they are difficult to replace.
- **Privately Owned Land:** In Grenada, the majority of mangroves are on privately-owned land. Notwithstanding, there is room for the state to take action to protect mangroves, to protect the state and its people.
- **Co-management:** Perhaps a mechanism to facilitate co-management could be established so that both the private land owner and the state could enjoy the benefits that mangroves bring/could bring.
- **Illegal to Destroy Red Mangrove:** Red mangrove on the coast should not be destroyed. In Florida, USA and in St. Vincent and the Grenadines, it is illegal to destroy red mangroves. St. Vincent and the Grenadines was seeking to rehabilitate its mangroves which had been destroyed by a marina project that was not realized.

12. Wrap-up and Closing Remarks

- The moderator wrapped up the plenary session noting that poverty was a major challenge. Poverty and the dependency of the people were contributing to environmental destruction. Policy makers and the representatives of the citizens seemed to be unaware of the challenge and there

also appeared to be a lack of political will to address the challenges of development and the environment.

- Ms. Ferguson thanked the co-hosts, resource persons and the participants for their support to the activity. She hoped that participants found the session to be a worthwhile investment of their time and that everyone was now more aware and informed with regard to the EIA process in Grenada, the legislative framework and the provisions for public participation. A report would be prepared and shared with all participants. There would also be follow-up re the suggestion that the recommendations of the seminar be sent to the relevant government agencies and authorities.

13. Outcomes:

An official evaluation was not done but many participants observed that the seminar was a very informative and useful one. One individual requested that similar sessions be held in communities. Specific outcomes of the seminar were the following:-

- enhanced awareness/knowledge of the EIA process and the role of public involvement/participation in an EIA process based on international standards;
- enhanced capacity to determine what constitutes public involvement in the process and ability to identify the projects which require an EIA;
- awareness of the relevant legislation and institutional arrangements in respect of the approval process in Grenada; it was also noted that there were many deficiencies/gaps in respect of Grenada and lack of clarity in respect of institutional arrangements.
- recommendations from participants to the policy-makers/law-makers for strengthening the EIA process and the physical planning and development approval process in Grenada.

It is anticipated that these outcomes will contribute to more broad-based, proactive and informed engagement by individuals, community-based organisations and civil society organisations, across Grenada, with regard to various developments and other matters impacting the environment and stakeholders.

14. Summary of Key Issues and Recommendations

14.1. Enabling the Environment Division

- **Absence/Weak Legislation re Environmental Protection:** The Environment Division does not have the legislative mandate to enable it to function as an environmental protection agency. Its Cabinet-approved mandate is the co-ordination of the multi-lateral environmental agreements (MEAs).
 - **National Environmental Management Strategy/Plan:** Grenada has its National Environmental Management Strategy and Plan. These connect the actions of all agencies which play a role in environmental protection and management. **However, all the parts of the legislation of Grenada relevant to environment were weak.**
 - **2008 Draft Environmental Management Legislation:** The proposed draft Environmental Management Act which will position the Environment Division to be an environmental protection agency has been in draft since 2008. It was updated, reviewed and sent to Cabinet in 2018. Currently, it was still in draft.
 - **OECS Environmental Management Act:** The OECS has an Environmental Management Act which is not mandatory legislation for Grenada but is a “moral obligation”.

- **Status of Legislation:** The Environment Division is waiting on the passage of pertinent legislation to enable it to play a role as an environment protection agency. Without the legislation, it is unable to do what it should be doing/wants to do. In the meantime, it uses the *OECS Management Act*, the *NEMS* and other key policy documents as moral obligations and best practices.
- **Human Resource Capacity:** There is a low level of human resource capacity in the Environment Division given the inadequate staffing re technical staff and the loss of technical staff in related government divisions as officers retire.

14.1.1. Recommendations

- **Legislation:** As a matter of urgency, the required legislation and regulations should be passed to provide the Environment Division with the required “legislative teeth” to be an environmental protection agency.
- **Human Resource Capacity and Competence:** The human resource capacity in the Environment Division and related divisions should be strengthened – by hiring additional long term staff and succession planning in preparation for the retirement of senior officers.

14.2. Environmental and Social Impact Assessment

14.2.1. Purpose

The purpose of an Environmental and Social Impact Assessment is to:-

- **Assess Impact on the Environment/Stakeholders:** The purpose of an ESIA is to make sure that the project will do more good than harm. Would the project harm or contribute positively to the environment and/or the stakeholders?
- **Foot Print of Project:** It assesses the footprint of the project; an ESIA would clearly identify, understand impacts of proposed project on the environment/stakeholders and identify the required mitigation actions to prevent/minimize the adverse impacts.
- **Tool for Decision-Making:** An ESIA Report is a tool to aid informed and responsible decision-making. It:-
 - Equips business leaders to make informed and legally responsible investments;
 - Assist regulators and competent authorities to make informed decisions to approve or deny proposed development;

14.2.2. The ESIA Process

- An ESIA is a process. The steps in the ESIA Process are: - *Screening, Scoping, Impact Assessment; Reviewing; Licensing; Environmental Management Plan; Monitoring*. The process is more important than the Report which is the output of the process.
- **At the Beginning of Project Preparation:** The ESIA is very important and should be done very early in the process, before project design is completed, in order to inform completion of project design. Changes cost money and may deter the developer from continuing. An ESIA should be done before any sod is turned, before the project begins or before a financing commitment is made.

14.2.3. Terms of Reference of the EIA

At the Scoping step, the Terms of Reference for the ESIA is prepared. The scoping step of the EIA will determine the important issues to be considered during the ESIA; establishes the boundaries of the project area; identifies what will be included in the ESIA; how the ESIA will be done.

- **Responsibility for Preparation of the Terms of Reference:** It is unclear as to which entity or position has responsibility for preparing the Terms of Reference for an EIA to be undertaken in Grenada.
- **Legislative Framework:** Does Grenada's legislation provide guidance on the Terms of Reference?
- **Human Resource Constraints:** Given that the development of the Terms of Reference for the EIA is not the day to day function of the government agencies, should/could the development of the Terms of Reference be a short term assignment to consultants who would prepare the draft that would be reviewed and finalized by government officers.

14.2.4. Impact Assessment and Mitigation

This third step is the core of the ESIA process, the detailed evaluation of the environmental and social impacts of the proposed project.

- **Baseline Conditions:** The impact assessment looks at baseline conditions. It is very important to establish baseline conditions since this information identifies what exists and could be lost as a result of the project.
- **Alternatives:** It also includes the identification of alternatives.
- **Mitigation Measures:** The impact assessment would also identify/recommend the mitigation measures to be put in place. What would deter a developer/investor were the costs of the mitigation measure(s) to be put in place in order for the project to be sustainable.
- **Who Conducts an ESIA:** The Impact Assessment should be conducted by a multi-disciplinary team of experts who have the qualifications and skills to assess the diverse environmental and social impacts. **Impact Assessment cannot be done by an individual.**

14.2.5. Impact Management/Environmental Management Plan

Impact management requires the creation of an environmental management plan. The plan is created to manage and monitor the mitigation measures. It is done after the impact assessment has identified the impacts, the risks and the mitigation measures to address the risks and negative impacts.

14.2.6. Review of the ESIA Report

The EIA Report is the compilation of the important components of the project including a project description and the results of the impact assessments. It should also contain the Environment Management Plan and the Monitoring Plan.

- **Review of the EIA Report:** The review of the report confirms the quality of information and the methods used in conducting the assessment.
 - **Standards:** Various countries and entities have different standards; some just tick that there is an ESIA Report while others are serious about reviewing the ESIA report.
 - **Who Reviews the Report:** It is important to have persons of competence reviewing the report. They have to be at least equal in competence to those who prepared the report.

14.2.7. Monitoring

Monitoring ensures the fulfillment of commitments made in the approved EIA. **The implementation of the mitigation measures contained in the Environmental Management Plan has to be monitored.**

- **Monitoring the EMP in Grenada:** In Grenada, who/what is responsible for monitoring the implementation of the EMP? Monitoring does not necessarily have to be done by government. Government has the authority to ask competent institutions to do the monitoring or monitoring can be done by the developer /investor under the supervision of independent agencies and/or government agencies.
- **Changes to Project Design:** Depending on the mitigation measures, a change may be required in respect of the design of the project. Are the changes being executed?

14.2.8. New Approaches to ESIA

- A new framework for the ESIA has been prepared by a group representing multi-lateral organisations, financial organisations, regional and international organisations. Among the organisations using the new framework are the UN agencies, the World Bank and the Caribbean Development Bank.
- **Stakeholder Involvement:** An important component of the new framework is stakeholder engagement. **International agencies have recognized the importance of stakeholder involvement and stakeholder consultation** very early in the process, **prior to project design.**
- **Stakeholder Engagement Plan:** Thus, projects are required to submit a stakeholder engagement plan. When an invitation to bid is put out for the design of a project, there is also an invitation to present a plan for the conduct of stakeholder consultations.
- **Social and Environmental Standards /Safeguards:** A part of the new framework is the Social and Environmental Standards/Safeguards. **These set out up front what are the areas to covered during the conduct of an ESIA.** Even if the government has not adopted these guidelines, the guidelines will apply to any project funded by CDB or the World Bank.
- **New Framework and Sources of Financing:** It is unclear what happens in Grenada if there are private investors or projects are funded via the Consolidated Fund. Is/will the new framework be applied?

14.2.9. Recommendations

- **Development of the Terms of Reference:** Guidance on the development of the Terms of Reference should be in legislation. The legislation should specify what entity/entities are responsible for the development of the Terms of Reference, what sectors should be considered and the requirement for public involvement throughout the process.
 - **ToRs for Change of Use of Natural Areas⁸** : The Terms of Reference procedure with regard to conducting an ESIA for a natural area is far more complex than the ToRs for a large building construction site. There are many more issues to address. The ToRs re change-of-use for the natural area - which maybe a sensitive ecosystem and critical habitat for wildlife - must provide adequate details and guidelines specifying how the

⁸ Post seminar, the ToR recommendation was further elaborated by insertion of this detail.

natural area should/should not be impacted. If this guidance is lacking and compliance is not monitored, then there is a high risk of destruction of the natural site as exemplified by the situation at the La Sagesse, Levera and Mt. Hartman sites⁹.

- **Role of Environment Division:** The Environment Division should play a role throughout the EIA process, from the Scoping Stage. Its role should be legislated and this should include development and approval of the Terms of Reference.
- **Roster of Approved Consultants re Development of Terms of Reference:** Acknowledging the constraints of time and personnel within various government ministries/agencies, a Roster of Consultants should be developed re persons who could be recruited on short term assignment to support the development of the Terms of Reference for the EIA.
- **Consultants Conducting the EIA:** The EIA must be conducted by a multi-disciplinary team of persons approved by the Environment Division or the OECS Development Unit to conduct the EIA.
- **Public Participation:** The community and broader public must engaged during the assessment of the baseline conditions. The EIA team will benefit the local knowledge of community persons.
- **Access to Environmental Management Plan:** The Environmental Report and Environment Management Plan must be accessible for public scrutiny and comment.
- **Documentation and Standards re the EIA Process:** The EIA process in Grenada should be clearly documented and aligned with the Environmental and Social Safeguards now being applied by regional and international organisations such as the Caribbean Development Bank and the World Bank, both being significant funders of public sector projects in Grenada. This information must also be available to the public.

14.3. Legislative Framework and Institutional Arrangements re EIA

- The *Planning and Development Control Act, No. 23 of 2016* is the legislative framework providing for the conduct of the EIA.
- **Competent Authority:** Section 5(1) of the Act provides for a Planning and Development Control Authority.
 - **Who is the Authority?** It is unclear who is the authority. Is the Board, as currently constituted, the Authority?
 - **Status:** Grenada has not yet completed the transition contemplated by the PDCA.

14.3.1. The Environmental Impact Assessment

- **Section 22:** Section 22 of the *Physical and Development Control Authority Act 23 of 2016* is the legislative framework governing the conduct of an EIA.
- **Section 22(1), EIA Required:** According to Section 22(1), “*The Authority may require an Environmental Impact Assessment to be carried out in respect of any application for permission to develop land, including an application for approval in principle, if the proposed development could significantly affect the environment*”.

⁹ <https://www.birdscaribbean.org/2020/08/birdscaribbean-expresses-deep-concern-over-three-damaging-developments-in-grenada/>

- **Section 22(4), Power of Minister to Make Regulations:** Section 22(4) provides for the Minister to make regulations under the Act so that an EIA is required; define the scope of the EIA: decide the minimum contents of the report of an EIA, procedures for public participation etc.
- **Schedule III:** The Third Schedule of the Act identifies the projects/developments for which an EIA is mandatory.

14.3.2. Concerns/Gaps/Required Clarifications re the PDCA, No. 23 of 2016

The following were noted in respect of Act No. 23 of 2016:-

- **Regulations:** The regulations which will provide for the implementation and enforcement of the Act had not been passed though drafted and available since 2015.
- **Deficient Legislation:** The legislation was **deficient in prescribing what is required for an EIA process in Grenada**. It lacked specifics/ details.
- **Broad Discretion:** Section 22 gives a “broad measure of discretion” to the Authority:-
 - **Section 22 (1):** The Authority may require an EIA to be done.
 - **Section 22(2):** The Authority, in its discretion, may decide that an EIA should not be carried out.
- **Discretion of the Minister, Section 22(4):** **The law allows the Minister too much discretion.** Had the Minister made any regulations that will make the process more rigorous? Can the Minister overturn the recommendations of a competent authority or of an advisory committee responsible for advising the authority, e.g. the EIA Review Committee or the National Heritage Advisory Committee?
- **Checks and Balances:** **Section 22(6)** makes provisions for the Authority to influence other government agencies. These provisions have “checks and balances” potential. However, “the devil is in the detail”. Do these checks and balances work? How do they work?
- **Interpretation, Section 22(7)¹⁰:** To whom does Section 22(7) make reference? Can members of the Authority and/or the Minister be fined or jailed for any contraventions of the legislation or regulations?
- **Outline Planning Approval:** How could “outline planning approval” be given prior to all the studies, including an EIA, being done? How could a response to some applications be given within a certain number of days when the studies needed to make a proper assessment were not undertaken?
- **Exemptions:** Does Government have the authority to exempt a particular project/entity from an EIA process?
- **Roads:** Construction of Roads is not listed in *Schedule III* as one of the projects requiring an EIA. Roads should require an EIA, particularly in the context of climate change. Changes are made which significantly impact the physical environment. e.g. increase the speed of flow of water.

14.3.3. Physical Planning & Development Control Regulations (2015) Draft

- **SR&Os:** The Regulations are Statutory Regulations & Orders. They have to be brought to Parliament by the responsible Minister.

¹⁰ Act 23 of 2016, Sect. 22(7): ‘Any person who contravenes subsection (1) or contravenes the provisions of any regulations made under subsection (4) commits an offence, and is liable, on summary conviction, to a fine of twenty thousand dollars or three years imprisonment or to both’.

- **Not Submitted with Primary Legislation in 2016:** These regulations, which would provide clarity in respect of the Act and were ready and available in 2015, were not submitted and approved along with the primary legislation which was passed in 2016. **The regulations remain in draft.**
- **Lacking Clarity/How Were Things to Be Done:** The Draft Regulations also lacked clarity and detail on how things were to be done.
- **Selective Implementation:** There appears to be a “picking and choosing” of certain aspects of the regulations which are implemented. E.g. The EIA Committee mirrors what is in the regulations.
- **EIA Committee/The Head:** *Section 41 re Membership of the EIA Committee* makes reference to “the Head” as a member of the EIA Committee which is appointed by the Minister. **To whom does “the Head” refer?** Does “the Head” refer to the Head of the Physical Planning Unit?

14.3.4. . Recommendations

- **Passage of Regulations:** The Draft Regulations must be legislated in order to give “teeth” to the implementation of the PDCA 23 of 2016.
- **Discretion of the Minister:** The discretion of the Minister should be reduced.
- **Need for Clarifications:** The “grey” areas in the legislation and regulations need to be clarified and corrected.
- **Documentation re Institutional Arrangements:** The legislation and regulations need to be complemented by detailed documentation of the institutional arrangements for transparency, accountability and responsiveness. It must clarify the role of the various stakeholders/agencies and the processes and procedures for taking action and implementing decisions

14.4. Treating with Recommendations of the EIA Review Committee

- **Recommendations and the PDCA Board:** It is unclear how well the recommendations of the EIA Review Committee return and reach the Board which is responsible for final decision-making process.
- **Recommendations Form Part of the Approval Process:** Even when the Board agrees on the recommendations that should be stipulated and included as part of the of approval process, “the devil has been in the detail and follow-up”.
- **Institutional Arrangements:** There was a lack of clarity in respect of the following:-
 - **Approval by the Authority:** After the EIA is done and reviewed, how is the permission given by the Authority, what are the details in respect of permission? E.g. in respect of the Range Project in La Sagesse were specific instructions issued?
 - **Monitoring:** Who checks on the recommendations?
 - **Next Steps:** What happens next after this person/entity checks on the compliance with respect to the recommendations?
 - **Stop Notices:** What happens if stop notices need to be issued? Who issues stop notices?
 - **Non-Compliance:** What happens if there is non-compliance?
 - **Court Action by the Non Compliant:** What happens when someone who is stopped for non-compliance decides to go to court?
 - **Who Represents the Recommendations of the EIA Committee in Court:** When the matter reaches court and the issue of the recommendations arise, who represents the recommendations arising from the EIA Review Committee or the recommendations stipulated by the Board?

- **Evidence from Physical Planning Officers:** It is understood that evidence in respect of compliance with the recommendations is given by the Physical Planning Officers. Evidence is not given by officers from the Environment Division who sit on the EIA Review Committee and are the ones making the recommendations.
- **Stop Notices:** The Environment Division was particularly concerned that the application of stop notices should be consistent across the board. **Were the stop notices being applied in the same manner to everyone and every entity?**
- **Decision-making in the PDCA Board:** The PDCA functions like Cabinet, making decisions by voting. The majority decision carries.

14.4.1. Recommendations

- **Legal Provisions:** While recommendations are made by the EIA Review Committee, a mechanism does not exist for follow-up and feedback re treatment of the recommendations and monitoring. There should be legal provisions to close this gap.
- **Role of Environment Division:** There should also be legal provisions which formalize and strengthen the role of the Environment Division in respect of the ESIA process.
- **Institutional Arrangements:** The legal provisions should be complemented by well documented and clear institutional arrangements - the responsibilities and relationships between the various stakeholders, actions to be taken by the various stakeholders and the procedures to be followed for taking such action. This document must provide clarity, transparency and address issues of accountability and governance in respect of the process. **It must be available to all stakeholders including the general public.**
- **Human Resource Capacity, PPU:** The technical capacity of the Physical Planning Unit needs to be upgraded through additional staffing and competencies.
- **Documentation of EIA Process:** Documentation of the entire ESIA process is recommended so that the affected communities/public at large would be able to understand and follow the EIA process.
- **PDA Decision-making Process:** Is the decision-making process of the PDA, decision by majority vote, the best method of decision-making with regard to the nature of the matters under consideration? Are there alternative processes that may be more appropriate?

14.5. Public Participation/Right to Know

- **Consultation:** There are provisions for public consultation in the legislation but this provision is not supported by regulations given that the regulations have not been legislated.
 - **Act 23 of 2016, Section 22(4)(e):** The Minister may make regulations under this section providing for “ *the procedures for public participation in the Environmental Impact Assessment process, and public scrutiny of any report on an Environmental Impact Assessment submitted to the Authority*”.
 - **Draft Regulations 2015, Section 47:** Section 47 of the Draft Regulations specifies what is considered Public Participation.
- **Right to Information:** The public’s right to know/right to access information is not included in the legislation. **Mechanisms do not exist to facilitate access to information by the public.**
 - **Register:** What exists currently is a register in the Physical Planning Unit which the public can access. This register lists certain information on the project.

- **Escarzu Agreement:** Grenada is a party to the Escarzu Agreement which provides for the public right to information and participation re issues pertaining to the environment.

14.5.1. Recommendations:

- **Legal Provisions for Public Participation/Right to Know:** The legislation and regulations re PDCA No. 23 of 2016 and its regulations must have explicit provisions for public participation and the right to know during the entire EIA process.
- **Access to Information:** Grenada must fulfill its obligations under the Escarzu Agreement. There must be legislation, regulations and mechanisms which facilitate the public's access to information.

14.6. Governance, Environment and Development

- **Livelihoods and Sustainability:** The priority of regional governments including Grenada appeared to be development and once the project has the "numbers" attached to it in respect of finance etc. the project is approved without regard for the conduct of an ESIA or in total disregard of the ESIA. These mega projects being promoted by the Government of Grenada, must be evaluated on sustainability criteria and contribution to sustainable community livelihoods and the enhance quality of life of the affected communities.
- **Political Will:** Protection of the environment is a matter of political will and how the government values the environment. Citizens have to hold their governments accountable for the protection of the environment.

14.6.1. Recommendations

- **Land Development Policy and Control:** Grenada is a small island and must preserve its lands. There must be land zoning. Specific areas need to be set aside for certain types of development. This is the key to avoiding community-developer conflict. Urbanism has a role to play.
 - Sound environmental planning also reflects good governance.
- **Protection of Mangroves:** Given the role of mangroves in coastal protection, mangroves should be protected, be they situated on privately or publicly owned property. In some jurisdictions, it is illegal to destroy red mangroves.
 - **Co-management:** A mechanism to facilitate co-management could be established so that both the private land owner and the state could enjoy the benefits that mangroves bring/could bring benefits to both owners and the country at large.

14.7. The Future We Want:

- **Development for Whom:** For whom is/was development being promoted/undertaken?
- **Vision of the Future:** What is our vision, as citizens, for areas such as Levera? Will we the citizens leave all decision-making in respect of our natural resources to the politicians? Will Grenada just allow developers with money to come in and do what they want? There is a need to come up with better projects than those mega projects that the government has been promoting in key sensitive ecosystems and places of natural, cultural and heritage significance to Grenadians.
- **Role of Citizens:** Citizens need to take the leadership role in how they want to see development happen. Citizens need to proactive in demanding better projects. They can lobby government, their Members of Parliament and they can also be proactive and seek meetings with developers. They must prepare to participate and to hold their government and representatives accountable.

ANNEXES

ANNEX 1

AGENDA

TIME	SUBJECT	REMARKS
8.45 a.m.- 9.00 a.m.	Registration	
9.00 a.m. – 9.05 a.m.	Invocation	
9.05 a.m. – 9.10 a.m.	Remarks by Representative of Friends of the Earth-Grenada	
9.10 a.m.- 9.15 a.m.	Remarks by Representative of the Willie Redhead Foundation	
9.15. a.m. – 9.25 a.m.	Remarks and Overview of Day's Activity/Introduction of Moderator	
SESSION 1: The EIA Process		
9.15 a.m.- 9.35 a.m.	The EIA Process <i>Ms. Joyce Thomas – Peters</i>	
9.35 a.m. – 9.55 a.m.	<i>Competencies Required by the Team Conducting an EIA</i> <i>Mr. Brian Samuel</i>	
9.55 a.m. – 10.35 a.m.	PLENARY SESSION: QUESTIONS AND ANSWERS	
SESSION 2: Institutional/Administrative Arrangements for EIA and the Role of EIA in Planning Approval Process		
10.15 a.m. – 10.35 a.m.	<i>Introduction to Environmental Impact Assessment in the Physical Planning & Development Act 2016</i> <i>Ms. Aria St. Louis, Dept. of Environment/Focal Point for Biodiversity</i>	
10.35 a.m. – 10.55 a.m.	<i>The EIA Process in Grenada and Its Role of in the Planning and Development Approval Process in Grenada :-</i> <i>Chris Joseph, Environmental Officer, Dept. of Environment, Ministry of Climate Resilience</i>	
10.55 a.m. – 11.35.	PLENARY SESSION: QUESTIONS AND ANSWERS	
11.35 a.m. – 11.45 a.m.	INTERMISSION	
SESSION 3: Improving the EIA Process and the Physical Planning Approval Process in Grenada		
11.45 a.m.- 12.30 p.m.	<i>Moderated PLENARY SESSION: Recommendations/Actions to Improve the EIA and Physical Planning Approval Process in Grenada</i>	
12.30 p.m.- 12.45 p.m.	Participant Feedback & Wrap-up	
12.45 p.m..	L U N C H	

ANNEX 2

DAILY WORD READING

<http://www.dailyword.com/dailyword/protect-thursday-april-22-2021>

Protect

I BLESS THE EARTH WITH LOVE AND CARE.

I am a caretaker of my beloved home, planet Earth. Just as I want my living space, my body, and my loved ones cared for and protected, I pray for and work to protect the earth.

The Book of Genesis proclaims humankind was given dominion over the fish, birds, and living things of the earth. I accept this authority and use it wisely. I am mindful of steps I can take to support a healthy and vibrant planet. Recycling, opting for environmentally safe products, and working to eliminate litter and contamination help keep waterways, air, and environments safe for all life.

In my spiritual practice I bless and give thanks in honor of the earth and for all those who share the call for its protection.

As long as the earth endures, seedtime and harvest, cold and heat, summer and winter, day and night, shall not cease.—Genesis 8:22

ANNEX 3

SCHEDULE III MATTERS FOR WHICH AN ENVIRONMENTAL IMPACT ASSESSMENT IS NORMALLY REQUIRED

1. Hotels or resort complex of more than 50 rooms
2. Sub-divisions of more than 10 lots
3. Residential development of more than 25 units
4. Any industrial plant, which in the opinion of the Authority is likely to cause significant adverse environmental impact
5. Drilling, quarrying, sand mining and other mining activities
6. Marinas
7. Land reclamation, dredging and filling of ponds and swamps
8. Airports, ports and harbours
9. Dams and reservoirs
10. Hydro-electric projects
11. Desalination plants
12. Water purification plants
13. Sanitary landfill operations, solid waste disposal sites, toxic waste disposal sites and other similar sites
14. A power plant
15. An incinerator, sanitary landfill operation, solid waste disposal site, sludge disposal site or other similar site
16. Gas pipeline installations
17. Wind turbines
18. Communication towers
19. Any development projects generating or potentially generating emissions, aqueous effluent, solid waste, noise, vibration or radioactive discharges
20. Any development involving the storage and use of hazardous materials
21. Any coastal zone development
22. Any development in wetlands, marine parks, national parks, conservation areas, environmental protection areas or other sensitive environmental areas; and
23. Any other projects identified by the Authority

Source: *Act 23 Physical Planning and Development Control 2016; pp. 866-867*

ANNEX 4

EARTH DAY SEMINAR: PHOTOS



Mr. Joseph Antoine, Friends of the Earth-Grenada

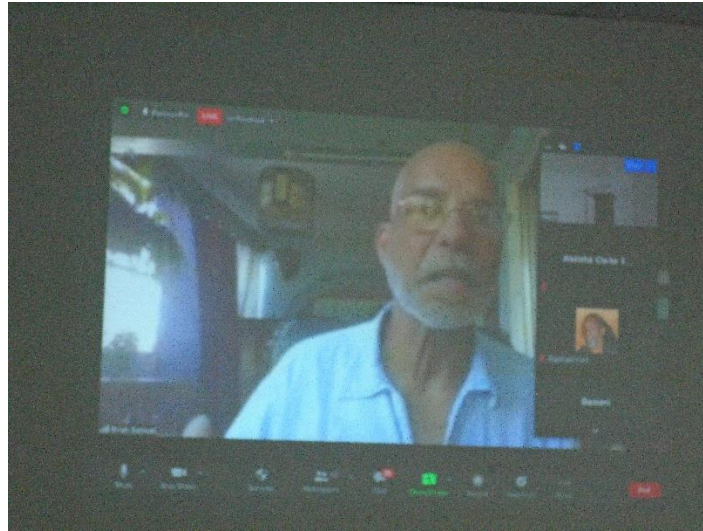


Mr. James Finlay, the Willie Redhead Foundation



Presenter, Ms. Joyce Thomas-Peters

EARTH DAY SEMINAR: PHOTOS



Presenter, Mr. Brian Samuel via Zoom



Presenter, Ms. Aria St. Louis, Director of Environment



Presenter, Mr. Christopher Joseph

EARTH DAY SEMINAR: PHOTOS



Moderator and her team



Zoom Interaction



Cross Section of Participants at Semina

ANNEX 5

EARTH DAY: Seminar on EIA Process and the Physical Planning and Development Process

Players Level 1, Grenada National Stadium, April 22nd, 2021, 9.00 a.m. – 1.00 p.m.

PARTICIPANTS' LIST

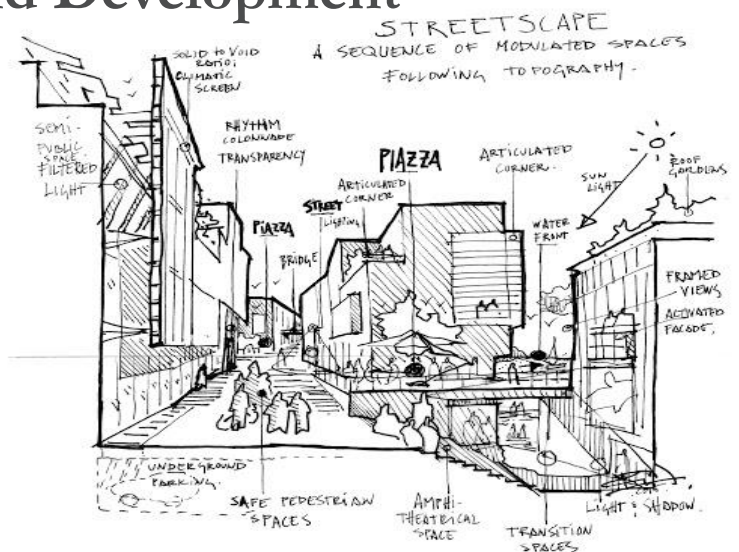
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Save the Camerhogne Park Committee	Jude Bernard	judebern53@gmail.com
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Independent Consultant	Dianne A. Roberts	dianne.roberts@gmail.com
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T. P. Smith Engineering	Terrence Smith	tsmith@tpsmithengineering.com
The Connection	Sue Brathwaite	

What is an EIA and what is the role of an EIA in the Planning and Approval Process?

Ministry of Tourism, Civil Aviation, Climate Resilience & the
Environment

Act 23 2016 Physical Planning and Development Control



STREETSCAPE QUALITIES : ANALYSIS.

PART IV – Development Control

- 15 numerical Sections (16 – 30)
- **SECTION 22. Environmental Impact Assessment**

Requirement for an EIA

22.—(1) The Authority **may require** an Environmental Impact Assessment to be carried out in respect of any application for permission to develop land, including an application for approval in principle, if the proposed development could significantly affect the environment.

(2) Unless the Authority for good cause otherwise determines, an Environmental Impact Assessment shall be carried out in respect of any application for development of a kind mentioned in the Third Schedule.

(3) The Authority shall not grant permission for the development of land pursuant to an application to which this section applies, unless it has first taken the report on the Environmental Impact Assessment into account.

(4) The Minister may make regulations under this section providing for—

- (a) the criteria and procedures for determining whether a development is likely to significantly affect the environment, so that an Environmental Impact Assessment is required;
- (b) the procedures for settling the scope of an Environmental Impact Assessment to be carried out by the applicant in respect of any development;
- (c) the minimum contents of a report on an Environmental Impact Assessment;
- (d) the qualifications, skills, knowledge or experience which a person who conducts an Environmental Impact Assessments shall possess;

(e) the procedures for public participation in the Environmental Impact Assessment process, and public scrutiny of any report on an Environmental Impact Assessment submitted to the Authority;

(f) the consideration by the Authority of an application in respect of which an Environmental Impact Assessment is required, including the criteria and procedures for review of the report;

(g) the establishment of an Environmental Assessment Committee; and

(h) any other matters that may be necessary to give effect to this section.

Potential Role of PPU re access to relevant information from Government Agencies

(5) If the Authority notifies an applicant that an Environmental Impact Assessment is required, the Physical Planning Unit and any other public agency shall, if requested by the applicant, may consult with the applicant, to determine whether that agency has in its possession any information which may be relevant to the preparation of the Environmental Impact Assessment and, if it does, the agency may make any such information available to the applicant, on payment of a reasonable cost but the agency is not required to disclose confidential information to the applicant.

Authority could influence the action of other Government agencies

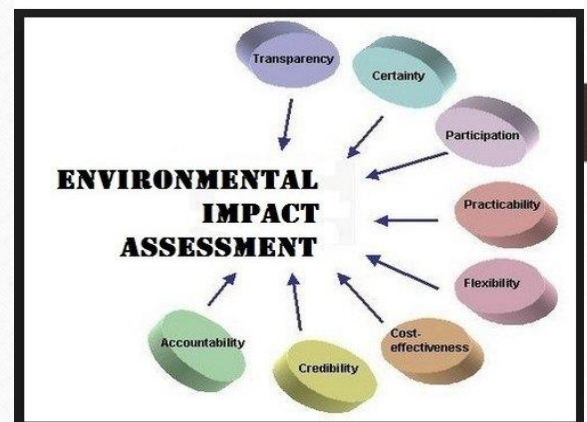
(6) Where the Authority issues a notice under subsection (1), it shall inform any public agency or department of Government having responsibility for issuing licences, permits, giving approvals, consents or any other document of authorization in connection with any matter affecting the development, such public agency or department of Government shall not grant a licence, permit, or give its approval, consent or issue any document of authorization, unless the Authority notifies the agency or department of Government that the notice was complied with and that the Authority granted permission for the proposed development.

(7) Any person who contravenes subsection (1) or contravenes the provisions of any regulations made under subsection (4) commits an offence, and is liable, on summary conviction, to a fine of twenty thousand dollars or three years imprisonment or to both.

“Environmental Impact Assessment” means the process of collection, analysis, evaluation and review of information on the likely effects of a proposed development on the environment and the means to overcome adverse effect which enables the Authority to determine whether development permission should be granted and with what conditions;

- EIA reports would equip business leaders to make informed and legally responsible investments

Assist regulators and competent authorities to make informed Decisions to **APPROVE** or **DENY** proposed development.



Part VIII

APPEALS

- 58. Appeals Tribunal
- 59. Appeals procedure
- 60. Written submissions



**Thanks for your time &
attention!!!**



Physical Planning & Development Control Regulations (2015) DRAFT



PART IV ENVIRONMENTAL IMPACT ASSESSMENT

Establishment of Committee

39. There is hereby established the Environmental Impact Assessment Committee.

Functions of Committee

40. The Committee shall—

- (a) develop the terms of reference for the conduct of EIAs, in respect of developments for which the Authority determines that EIAs are required;
- (b) where appropriate, revise the terms of reference for the conduct of EIAs;
- (c) review all EIA reports submitted to the Authority; and
- (d) make recommendations to the Authority on the acceptability or otherwise of each EIA report.

Membership of Committee

41. (1) The EIA Committee shall consist of the following public officers appointed by the Minister—

- (a) the Head;
- (b) an Environmental Protection Officer of the Ministry responsible for the **environment**;
- (c) the Chief Environmental Health Officer of the Ministry responsible for **health** or his designee;
- (d) the Chief Technical Officer in the Ministry responsible for **Works** or his designee;
- (e) the Chief **Fisheries** Officer or his designee;
- (f) the Chief **Forestry** Officer or his designee; and
- (g) the Chief **Land Use** Officer or his designee.

(2) The Head is the Chairman of the Committee.

(3) **The Committee may invite** any other person to sit at a meeting of the Committee, where it is satisfied that, that person has expert skills and knowledge that can assist the Committee in effectively discharging any of its functions.

Meeting of the Committee

43. The members of the Committee may be paid such allowances that the Minister determines.

Screening of applications

44.(1) The Authority shall, within 10 working days of the receipt of an application, conduct a screening of the application, to determine whether an EIA is required to be carried out in respect of that application.

(2) Notwithstanding sub-regulation (1), where an application is made in respect of a development specified in Schedule III of the Act, the applicant shall conduct, or cause to be conducted an EIA, except where, after the screening of the application under sub-regulation (1), the—

- (a) Authority is satisfied that any adverse impacts on the environment from the development are likely to be insignificant; and
- (b) applicant is in receipt of written notification from the Authority, informing the applicant that an EIA is not required in respect of that application.

(3) The Authority shall request an applicant to conduct an EIA, where the screening of the application indicates that the proposed development is likely to cause significant adverse impacts on the environment.

(4) Where the Authority decides that the conduct of an EIA is required in respect of a proposed development, other than a development specified in Schedule III of the Act, the Authority shall—

- (a) notify the applicant in writing, giving reasons for its decision; and
- (b) give written notification of its decision to any agency or department of Government having responsibility for the issue of any licence, permit, approval, consent, or other document of authorization in connection with any matter affecting the development.

(5) The Authority shall establish, keep under continuous review and revise from time to time, guidelines and criteria for the screening of applications

Scoping

45. (1) Where the Authority requires the conduct of EIA in respect of an application, the Authority shall—

- (a) refer the application to the Committee for the preparation of the terms of reference; and
- (b) on completion of the preparation of the terms of reference by the Committee, issue the terms of reference in writing to the applicant.

Approval of persons to conduct IEE or EIA

46. (1) The names, expertise and experience of all persons conducting an IEE or an EIA shall be submitted by an applicant to the Authority for approval.

(2) The applicant shall be in receipt of written notification of approval from the Authority in respect of sub-regulation (1), prior to any work commencing on the conduct of the EIA.

(3) The Authority shall not accept the submission of an EIA report from any applicant, unless the entire team conducting the EIA is approved by the Authority in accordance with this regulation.

Public participation

47. (1) During the course of the conduct of an EIA, the applicant shall, in consultation with the Authority, provide an opportunity for interested members of the public to meet with the applicant, in order for the applicant to–

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

(2) A record of the comments and concerns of the community under sub-regulation (1), shall be included in the EIA report that is submitted to the Authority in respect of that development.

(3) At any time during the conduct of an EIA, the Authority may invite written comments from the public concerning the environmental impacts of the proposed development.

(4) The Authority may forward to the applicant any comments that it receives under sub-regulation (3), and the applicant shall answer in the EIA report, all pertinent questions posed by the public in the written comments to the Authority.

Minimum contents of EIA report

48. An EIA report shall include at a minimum–

- (a) an executive summary;
- (b) an indication of gaps in knowledge and uncertainties that may affect the findings of the EIA;
- (c) the policy, legal and administrative issues that may impact the proposed development;
- (d) a description of the proposed development including–
 - (i) information about the site; and
 - (ii) the design, size, scale and land use patterns of the proposed development;
- (e) a description of the physical, biological, economic and socio-cultural environment of the development;
- (f) the data necessary to identify and assess the main effects which the proposed development is likely to have on the environment, including the social environment;

- (g) an assessment of the potential environmental impacts of the proposed development, including direct, indirect, cumulative, short-term and long-term impacts;
- (h) an assessment of the potential impacts of the environment on the proposed development;
- (i) an identification, description and assessment of measures available to mitigate adverse environmental impacts of the proposed development, and a description of practical alternatives, where appropriate;
- (j) a mitigation plan;
- (k) a plan to monitor the environmental impacts of the proposed development, during and post construction phases;
- (l) a non-technical summary of the information provided in the EIA report;
- (m) recommendations on whether the proposed development should be permitted by the Authority, and if so, an indication of any conditions that should be attached to the grant of planning permission; and
- (n) a list of references that informed the conduct of the EIA and the preparation of the EIA report.

Submission and review of EIA report

49. (1) An applicant who is required to conduct an EIA as part of the applicant's application to the Authority, shall submit 7 copies of the EIA report to the Authority.

(2) The Authority shall, within ten working days of the receipt of the EIA report, submit the report to the Committee for its review and recommendations.

(3) The Chairman of the Committee shall convene a meeting of the Committee within three weeks of the Authority submitting the EIA report to the Committee, under sub-regulation (2).

(4) The Committee shall review the EIA report and submit its recommendations in respect of the report to the Authority, and the Authority shall act in accordance with the provisions of regulation 50.

EIA report acceptable

50. (1) Where based on the recommendations of the Committee, the Authority is satisfied that the EIA report complies with the terms of reference issued by the Authority to the applicant and is of a satisfactory standard, the Authority shall notify the applicant in writing, that the EIA report is acceptable.

(2) For the avoidance of doubt, where the applicant receives notification from the Authority under sub-regulation (1), this notification does not imply the grant of planning permission by the Authority for the proposed development

EIA report deficient

51.(1) Where based on the recommendations of the Committee, the Authority is satisfied that the EIA report is deficient in any respect, the Authority may require the applicant to–

- (a) conduct further work; or
- (b) amend the EIA report accordingly.

(2) Where the Authority requires the applicant to conduct further work in respect of the EIA report, the Authority shall indicate in writing to the applicant, the nature of the further work that is required to stratify the terms of reference.

(3) Where the Authority refers the EIA report back for further work or amendment, consideration of the application to which the EIA relates, may be deferred by the Authority until the EIA report is resubmitted on completion of the work requested by the Authority.

Decision of the Authority

52. (1) The Authority, after taking into account the EIA report, any comments made under regulation 47 and other planning considerations shall, where the proposed development is–

- (a) not likely to cause significant adverse environmental impacts and meets all planning and other requirements, grant permission for the development subject to such conditions that the Authority considers necessary to ensure that any adverse effects of the development on the environment are mitigated; or
- (b) likely to cause significant adverse environmental impacts, even with the implementation of mitigative and other measures, refuse permission for the development.

(2) The Authority shall give written notification of its decision on an application, to any agency or department of Government notified under regulation 44.

Compliance with conditions

53. (1) Where the Authority grants permission to an application in respect of which an EIA report is submitted, and the permission is granted subject to conditions intended to mitigate the adverse effects of the development on the environment, the Authority shall notwithstanding any other law, make provision for–

- (a) supervising compliance with those conditions; and
- (b) monitoring the effects of the development on the environment.

(2) Notwithstanding sub-regulation (1), the Authority may require an applicant to provide a bond or any other instrument of guarantee of performance, in such sum as the Authority considers necessary, to give effect to the conditions of permission, including the conditions relating to the mitigation of adverse environmental impacts of the development, if any.



Act 23

2016 Physical Planning and Development Control

- AN ACT to make provision for the orderly and progressive development of land and to preserve and improve the amenities thereof;
- for the grant of permission to develop land and for other powers of control over the use of the land;
- for the regulation of the construction of buildings and other related matters;
- to confer additional powers in respect of the acquisition and development of land for planning;
- to protect the natural and cultural heritage,
- to repeal and replace the Physical Planning and Development Control Act, Cap. 241A.

SCHEDULE III

MATTERS FOR WHICH AN ENVIRONMENTAL IMPACT ASSESSMENT IS NORMALLY REQUIRED

1. Hotels or resort complex of more than 50 rooms
2. Sub-divisions of more than 10 lots
3. Residential development of more than 25 units
4. Any industrial plant, which in the opinion of the Authority is likely to cause significant adverse environmental impact
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8. Airports, ports and harbours
9. Dams and reservoirs
10. Hydro-electric projects
11. Desalination plants
12. Water purification plants

13. Sanitary landfill operations, solid waste disposal sites, toxic waste disposal sites and other similar sites
14. A power plant^{2016 Physical Planning and Development Control Act 23 867}
15. An incinerator, sanitary landfill operation, solid waste disposal site, sludge disposal site or other similar site
16. Gas pipeline installations
17. Wind turbines
18. Communication towers
19. Any development projects generating or potentially generating emissions, aqueous effluent, solid waste, noise, vibration or radioactive discharges
20. Any development involving the storage and use of hazardous materials
21. Any coastal zone development
22. Any development in wetlands, marine parks, national parks, conservation areas, environmental protection areas or other sensitive environmental areas; and
23. Any other projects identified by the Authority.