

9.0 LEGISLATIVE AND REGULATORY FRAMEWORK

Jamaica had 52 statutes that have jurisdiction over matters of the environment. They range from public health to physical planning and land use with many instances of overlap in responsibilities and were in the process of being rationalised, coordinated and strengthened.

The proposed project will be executed by the Port Authority of Jamaica on behalf of the Government of Jamaica. The Town Planning Department/KSAC had a manual which provided guidelines for development, including projects in the coastal zone. The Natural Resources Conservation Authority Act, 1991, binds Crown lands. The Fisheries Division of the Ministry of Agriculture has distinct responsibilities for fishing activities island wide. Thus, the responsibility for regulating and facilitating sound environmentally conscious development rests with several disparate authorities and different pieces of legislation. Those relevant included the following:

The Port Authority Act authorises the Port Authority to declare harbours, and establish or alter boundaries of harbours. Established the Marine Board to make rules for the regulation and control of harbour and ship channels. It allows for the prohibition of the discharge of rubbish, earth, stone, ballast, mud, oil, mixtures with oil or its residues, as well as the removal of stones and gravel from reefs, shoals, or cays. Marine Divisions of the Port Authority regulated the construction of structures on or over the water, or dredging activities. It empowers the Authority to regulate the use of all port facilities in the port including berths and stations, and accompany and removal of vessels. It also allows the Authority to make by-laws for the control and management of the wharves and premises, regulate the loading and discharging of vessels, and carry out the compulsory acquisition of lands for bringing into effect any of the provisions of the Act.

The Harbours Act allows the Marine Board to make rules for the regulation and control of any harbour in the Island and of the channels and approaches leading thereto and of persons, boats and vessels using such harbour or approaches, and for all purposes

connected with any such matters. According to the Act, the duty of the Harbour Master includes all matters relating to maintaining and protecting the harbour and shipping channels.

The NRCA Act (1990) established NRCA with primary responsibility for protection and management of the country's natural resources and control of pollution including atmospheric pollution. NRCA powers and responsibilities focus on the following:

- Establishing and enforcing pollution control and waste management standards and regulations;
- Guiding environmentally appropriate development through such tools as prescribing areas;
- Requiring environmental impact assessments, and granting permits and licences. In general, planning permission through the Permit and License System must first be sought from the NRCA. The Environmental Control Division (ECD) of the Ministry of Health and local planning authorities monitor construction work to ensure that all development restrictions and requirements are properly adhered to. The NRCA may also require implementation of an environmental monitoring plan.
- Maintaining a system of national parks and protected areas
- Promoting broad public awareness through information, environmental education, and outreach activities;
- Monitoring and enforcing environmental laws and regulations, especially those included in the NRCA, Beach Control, Watershed Protection, and Wildlife Protection Acts;
- Providing national environmental leadership, coordinate activities of other government agencies, and support local, non-government efforts at protecting and enhancing the environment.

The NRCA through the Environmental Action Programme (ENACT) and in collaboration with the Bureau of Standards and other key government and private sector agencies formed a national working group on developing guidelines and standards for Environmental Management Systems.

The Land Acquisition Act states that the Commissioner of Lands is responsible for the acquisition of all lands needed by the Government of Jamaica for public purposes. The Commissioner may acquire these lands either by way of private treaty or by compulsory acquisition (if there was no agreement).

The Town and Country Planning Act governs land use, in accordance to legal instruments known as Development Orders. Development Orders (broad based land use plans and regulations. Development Orders are to control both rural and urban land development, ensure proper sanitary conveniences, coordinate building of roads and other public services, protect public amenities (conservation areas, wetlands, mangroves). Authorized issue of Tree Preservation Orders, provides for the protection of designated trees, groups of trees and woodlands. The Act establishes area-specific standards for land use, density and zoning. At present, Development Orders cover most of the urban areas of Jamaica, as well as the entire coastline up to one mile inland and a number of parishes.

The Local Improvements Act controls the subdivision of land and requires that anyone wishing to subdivide land for building, lease, sale, or other purposes, must provide the local planning authority with a plan for approval. The act is administered by the KSAC and the Parish Councils, which have the power to approve or deny subdivision applications within their boundaries, based on the advice of their Planning and Building Subcommittee and the local Fire Superintendent.

The Wildlife Protection Act prohibits the removal, sale, or possession of protected animals and the use of dynamite, poison or other noxious material to kill or injure fish. It also prohibits the discharge of trade effluent or industrial waste into the harbour.

The Fisheries Industry Act establishes the Fisheries Division responsibility for licensing fishermen and fishing boats, protection of the fishery by establishment of closed season, creation of fish sanctuaries, and penalties for landing or sale of illegally caught fish.

Protected Areas Policy

Jamaica has a rich and diverse natural heritage created by its geographical location and its varied topography, geology and drainage. That diversity endowed the island with a scenic beauty sought after by Jamaicans and visitors. In the face of deteriorating environmental conditions, a system of protected areas provided the means to conserve and ensure the sustainable use of Jamaica's biological and cultural resources. The Palisadoes peninsula, its surrounding waters with mangroves and seagrass meadows and the adjacent Port Royal Cays and coral reefs comprised an ecological complex of significant social and economic value to Jamaica. That area was designated a protected area in September, 1998

Relevant International Treaties

- < Specially Protected Areas and Wildlife (SPA) Protocol encouraged the establishment of protected areas to conserve rare and fragile ecosystems and habitats.

- < Cartagena Convention was an international treaty signed by all Caribbean nations, obligating them to marine pollution monitoring and control of ship borne and land based sources of hydrocarbon (oil) pollution.

- < The Earth Summit Treaties signed by Jamaica at the UN Conference on Environment and Development including Agenda 21, the Biodiversity Convention, and the Framework Convention on Climate Change, the UN Conference on Small Islands Developing States, the UN Convention on the Law of the Sea, the London Convention on the Prevention of Marine Pollution, all obligate Jamaica to take wide ranging measures in environmental protection and sustainable development, including enacting over-riding legislative authority in environmental matters to the Ministry of Land and Environment.