



## **ORG Policy Statement on the Environmental Impact Assessment (Amendment) Regulations, 2026**

### **ORG Expresses Concern Regarding Proposed Changes to Public Consultation and Environmental Transparency**

The Organization for Responsible Governance (ORG) is concerned that the proposed Environmental Impact Assessment (Amendment) Regulations, 2026 may significantly reduce opportunities for public participation in environmental decision-making by shifting consultation requirements from a mandatory component of the environmental review process to a matter determined at the discretion of the Director.

Under the Environmental Impact Assessment Regulations, 2020, public consultation forms a standard part of the environmental review process. Regulation 7 currently requires that, upon successful completion of the preliminary review process, the project proponent shall conduct a consultative process, while Regulation 8 establishes requirements for public notice and participation. The proposed amendments would replace this framework with one in which the Director determines whether consultation is required for a particular project.

While ORG recognizes the importance of efficient and proportionate environmental review processes, we are concerned that this change removes an important procedural safeguard without providing sufficient transparency regarding how consultation decisions will be made. We are equally concerned that other proposed amendments may reduce access to environmental information and increase administrative discretion without corresponding transparency and accountability measures.

As a Small Island Developing State (SIDS), The Bahamas faces unique environmental, economic, and social vulnerabilities. Environmental decisions can have profound and long-lasting implications for fisheries, tourism, coastal communities, biodiversity, climate resilience, and cultural heritage. Strong environmental governance is therefore not merely an environmental issue—it is a matter of economic sustainability, public trust, and national resilience.

These concerns are heightened by The Bahamas' recent signing of the Escazú Agreement, which affirms the principles of access to environmental information, public participation in environmental decision-making, and transparency in environmental governance.

This commitment is particularly significant given The Bahamas' growing leadership role within the Escazú process. In April 2026, during the Fourth Meeting of the Conference of the Parties (COP 4) held in Nassau, The Bahamas was elected to serve as a Vice-Chair of the Conference of the Parties and joined the Presiding Officers, the governing and coordinating body



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responsible for guiding implementation of the Agreement. This appointment reflects regional confidence in The Bahamas' commitment to advancing access to information, public participation, environmental transparency, and environmental justice.

As a member of the leadership body overseeing implementation of Escazú, The Bahamas has an important opportunity to demonstrate regional leadership by ensuring that domestic environmental governance frameworks reflect and advance the principles embodied within the Agreement.

ORG therefore encourages a thorough review of the proposed amendments and recommends additional safeguards to ensure that efficiency, transparency, and meaningful public participation remain balanced within the environmental assessment process.

## **Positive Elements of the Proposed Amendments**

ORG recognizes that several aspects of the proposed amendments may strengthen environmental management and regulatory effectiveness if implemented appropriately.

### **Improved Environmental Screening and Risk Assessment**

ORG welcomes efforts to strengthen the preliminary review process through the introduction of a more structured environmental screening framework.

The proposed replacement of Regulation 4 introduces additional criteria that the Director must consider when reviewing proposed projects, including:

- The scale and nature of the project;
- Environmental sensitivity of the project location;
- Anticipated technical review requirements;
- Coastal and marine alterations;
- Hydrological modifications;
- Pollution risks and hazardous activities;
- Ecological interventions and other special features.

These considerations are broadly consistent with international environmental assessment best practice and reflect a more risk-based approach to environmental review.

For a SIDS such as The Bahamas, where environmental, economic, and social systems are highly interconnected, risk-based screening can help ensure that regulatory resources are directed toward projects with the greatest potential impacts.



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## **Recognition of Environmentally Sensitive Areas**

ORG also welcomes the continued emphasis on environmentally sensitive areas within the revised application process.

The requirement for applicants to identify whether projects are located within environmentally sensitive areas supports the objectives of the Environmental Planning and Protection Act (EPPA) and reinforces the importance of protecting vulnerable ecosystems and biodiversity.

Given the importance of coastal ecosystems, wetlands, coral reefs, and marine resources to the Bahamian economy and way of life, this represents an important safeguard that should be maintained and strengthened.

## **Strengthening Operational Environmental Management**

ORG further notes the introduction of Operational Environmental Management Plans (OEMPs) and Operational Certificates of Environmental Clearance as potentially positive developments.

Internationally, one of the most common weaknesses of environmental assessment systems is that significant attention is devoted to project approval while insufficient attention is given to environmental performance during operations.

If implemented effectively, the introduction of OEMPs could strengthen monitoring, compliance, and adaptive management throughout the life of a project rather than focusing solely on the approval stage.

This approach is consistent with the Environmental Planning and Protection Act's emphasis on ongoing environmental stewardship and management.

## **Why Public Participation Matters**

Environmental consultation is not merely a procedural requirement. It serves several important public purposes:

- Identifying local knowledge that may not be captured in technical studies;
- Improving project design and mitigation measures;
- Increasing public understanding of proposed developments;
- Reducing misinformation and conflict;
- Building trust in regulatory institutions;
- Improving long-term compliance and project sustainability.

International experience consistently demonstrates that early and meaningful engagement often improves project outcomes.



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Consultation allows concerns to be identified before positions become entrenched, helps mitigate misinformation, improves project design, and can reduce delays, disputes, and community opposition later in the process.

In The Bahamas, where public trust in institutions remains an ongoing concern and where environmental decisions can shape the long-term sustainability of communities and industries, maintaining confidence in environmental review processes is particularly important.

Participation should therefore be viewed not as a barrier to development but as an investment in better decision-making, stronger development outcomes, and increased public confidence in the institutions responsible for safeguarding the public interest.

As ORG's recent work on stakeholder engagement for Marine Protected Areas has demonstrated, meaningful participation strengthens legitimacy, trust, and long-term effectiveness by ensuring that decisions are informed by local knowledge and community priorities. Effective consultation succeeds when it is continuous, locally grounded, visibly responsive, and structured for shared influence, with trust-building and fairness treated as core requirements rather than optional additions.

## **Regional and International Best Practice**

The proposed amendments should be considered against emerging international standards and regional commitments.

The Escazú Agreement recognizes that environmental issues are best addressed when communities have meaningful opportunities to participate in environmental decision-making. The Agreement reflects internationally recognized principles of transparency, accountability, access to information, public participation, and non-regression.

Similarly, the World Bank's Environmental and Social Framework, particularly Environmental and Social Standard 10 (ESS10), emphasizes stakeholder engagement, information disclosure, and meaningful consultation throughout the project lifecycle.

The Inter-American Development Bank's environmental and social standards likewise require consultation processes proportionate to project risk and impact.

The Commonwealth's work on environmental assessment in small states similarly highlights the importance of public participation in identifying local concerns, reducing conflict, improving project outcomes, and strengthening the legitimacy of development decisions.

Importantly, these frameworks do not generally rely solely on administrative discretion. Instead, they establish risk-based approaches supported by transparent criteria, disclosure requirements, and clearly defined participation mechanisms.



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This distinction is critical because it provides predictability for project proponents, consistency for regulators, and confidence for affected communities.

## **ORG Concerns Regarding the Proposed Amendments**

### **1. Removal of Presumptive Public Consultation**

The proposed replacement of Regulation 7 shifts consultation from a mandatory process to one that occurs only if the Director determines it is necessary.

ORG is concerned that this creates uncertainty regarding when consultation will occur and may weaken public confidence in environmental review processes.

### **2. Lack of Published Criteria**

The proposed amendment does not establish objective criteria governing when consultation will be required.

Without such criteria, stakeholders may have difficulty understanding how decisions are made or determining whether similar projects are being treated consistently.

### **3. Removal of Mandatory Public Notice Following Submission of Environmental Assessments**

ORG is concerned by the proposed revocation of Regulation 6, which currently requires public notice when an Environmental Impact Assessment or Environmental Management Plan has been submitted for review.

Under the current regulations, the public is informed that:

- An EIA or EMP has been prepared;
- The document has been submitted for review;
- The public may review the document and provide input.

The proposed amendment removes this requirement.

Public participation cannot occur if the public is unaware that environmental assessments have been completed or submitted.



## **4. Increased Administrative Discretion Without Corresponding Transparency Measures**

Several amendments increase the discretionary authority of the Director with respect to:

- Environmental review requirements;
- Consultation requirements;
- Operational management plans;
- Technical review requirements;
- Fee determinations.

ORG recognizes that professional judgment and administrative flexibility are necessary components of environmental regulation. However, increased discretion should be accompanied by increased transparency.

## **5. Reduced Transparency and Access to Information**

The EPPA identifies environmental information, public awareness, dissemination of environmental information, and public participation as core components of environmental governance.

Yet several proposed amendments appear to reduce mandatory disclosure obligations while expanding administrative discretion.

## **6. Absence of Public Reporting Requirements**

The amendments introduce additional environmental review and operational oversight mechanisms but do not appear to introduce corresponding public reporting obligations regarding compliance, monitoring, enforcement actions, or operational performance.

For a tourism-dependent and environmentally sensitive SIDS such as The Bahamas, transparency after project approval is often as important as transparency during project approval.

## **7. Limited Opportunities for Independent Review**

Appeal rights continue to be available primarily to project proponents.

ORG believes consideration should be given to whether affected communities and stakeholders have sufficient mechanisms to seek review of decisions relating to:

- Consultation waivers;
- Screening determinations;



- Significant environmental approvals.

## **ORG Recommendations**

### **Recommendation 1: Revise Proposed Regulation 7 to Include Mandatory Consultation Categories**

Add a provision requiring consultation for:

- Projects requiring a full EIA;
- Projects affecting coastal or marine environments;
- Projects located within environmentally sensitive areas;
- Projects with significant social, economic, cultural, or livelihood impacts.

### **Recommendation 2: Insert Criteria for Consultation Determinations**

Where consultation remains discretionary, Regulation 7 should require consideration of:

- Environmental risk;
- Scale of development;
- Community impact;
- Public interest;
- Potential cumulative impacts;
- Sensitive ecosystems;
- Traditional uses and livelihoods.

### **Recommendation 3: Publish Reasons When Consultation Is Waived**

Insert a new subsection in Regulation 7 requiring publication of a written rationale whenever consultation is not required.

### **Recommendation 4: Amend Regulation 8 to Include Community-Initiated Requests for Consultation**

Allow consultation requests from:

- Affected community groups;
- Local government representatives;
- Civil society organizations;
- Affected residents.



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## **Recommendation 5: Retain Mandatory Public Notice of Environmental Assessments**

Rather than revoking Regulation 6, require public notice whenever:

- An EIA or EMP is submitted;
- A major project enters review;
- A Certificate of Environmental Clearance is issued;
- Significant project modifications are proposed.

## **Recommendation 6: Establish a Public Environmental Information Registry**

Create a publicly accessible online registry containing:

- Project applications;
- Screening decisions;
- EIAs and EMPs;
- Consultation notices and reports;
- Certificates and approval conditions;
- Compliance reports;
- Enforcement actions;
- Monitoring summaries.

## **Recommendation 7: Strengthen Disclosure Requirements**

Ensure that environmental assessments, management plans, supporting studies, and environmental decisions remain publicly accessible in a timely and user-friendly manner.

## **Recommendation 8: Add Consultation Feedback Requirements**

Require publication of consultation summary reports outlining:

- Issues raised;
- Responses provided;
- Project modifications resulting from feedback.

## **Recommendation 9: Publish Compliance and Monitoring Information**

Require public disclosure of:

- Compliance inspections;
- Monitoring reports;



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- Enforcement actions;
- Operational performance summaries.

## **Recommendation 10: Assess and Resource Implementation Capacity**

Given the expanded responsibilities created by the amendments, the Government should ensure that DEPP is adequately staffed, funded, and equipped to implement the revised framework effectively.

Legislation and regulations are only as effective as the institutions responsible for administering them.

## **Recommendation 11: Consult Stakeholders Before Finalizing Changes to Consultation Requirements**

Because the proposed amendments directly affect public participation rights and environmental consultation procedures, ORG recommends that the Government undertake a dedicated community-level stakeholder consultation process before finalizing the amendments.

This consultation should include:

- Environmental organizations;
- Community groups;
- Local government representatives;
- Professional associations;
- Industry stakeholders;
- Academic experts;
- Interested members of the public.

Changes to consultation requirements should themselves be informed by consultation. Applying the principles of transparency and participation to the reform process will strengthen the legitimacy, effectiveness, and public acceptance of the final regulations.

## **Conclusion**

ORG supports efficient, evidence-based, and predictable environmental review processes that facilitate sustainable development while protecting the public interest.

The Environmental Planning and Protection Act identifies among its core objectives the establishment of mechanisms for effective public participation in environmental decision-making, the promotion of public consultation, and the dissemination of environmental information. The success of the proposed amendments should therefore be measured not only by their



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administrative efficiency, but also by whether they strengthen or weaken these foundational objectives established by Parliament.

As a Small Island Developing State, The Bahamas depends on healthy ecosystems, resilient communities, and public confidence in environmental decision-making. The long-term sustainability of our economy, tourism sector, fisheries, and natural heritage is closely linked to the quality and legitimacy of the decisions we make today.

At a time when The Bahamas has publicly signaled its commitment to greater transparency and participation through the signing of the Escazú Agreement, and has assumed a leadership role as a Vice-Chair of the Agreement's Conference of the Parties, environmental decision-making processes should continue moving toward greater openness, accountability, and public trust.

By establishing clear consultation thresholds, strengthening transparency requirements, maintaining meaningful opportunities for participation, ensuring adequate institutional capacity, and consulting stakeholders on proposed reforms, The Bahamas can build an environmental assessment framework that supports both sustainable development and democratic governance while demonstrating regional leadership in environmental governance and public participation.



## ORG Recommendations

#	Recommendation	Proposed Location / Action	Purpose
1	<b>Revise Proposed Regulation 7 to Include Mandatory Consultation Categories</b>	Amend proposed <b>Regulation 7</b>	Ensure consultation is mandatory for projects requiring a full EIA, affecting coastal or marine environments, located in environmentally sensitive areas, or likely to have significant social, economic, cultural, or livelihood impacts.
2	<b>Insert Criteria for Consultation Determinations</b>	Add subsection to <b>Regulation 7</b>	Require the Director to consider environmental risk, scale of development, community impact, public interest, cumulative impacts, sensitive ecosystems, and traditional uses or livelihoods.
3	<b>Publish Reasons When Consultation Is Waived</b>	Add subsection to <b>Regulation 7</b>	Require a written public rationale whenever consultation is not required.
4	<b>Amend Regulation 8 to Include Community-Initiated Requests for Consultation</b>	Amend <b>Regulation 8</b>	Allow affected communities, local government representatives, civil society organizations, and residents to request consultation.
5	<b>Retain Mandatory Public Notice of Environmental Assessments</b>	Retain and strengthen existing <b>Regulation 6</b>	Require notice when an EIA or EMP is submitted, a major project enters review, a Certificate of Environmental Clearance is issued, or significant modifications are proposed.
6	<b>Establish a Public Environmental Information Registry</b>	New regulation or administrative requirement	Create an online registry with applications, screening decisions, EIAs, EMPs, consultation notices and reports, certificates, approval conditions, compliance reports,



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			enforcement actions, and monitoring summaries.
<b>7</b>	<b>Strengthen Disclosure Requirements</b>	Amend Regulations <b>6, 7, and 8</b> and related procedures	Ensure environmental assessments, management plans, supporting studies, and environmental decisions are publicly accessible in a timely and user-friendly format.
<b>8</b>	<b>Add Consultation Feedback Requirements</b>	New regulation following consultation provisions	Require public consultation summary reports outlining issues raised, responses provided, and any project modifications resulting from feedback.
<b>9</b>	<b>Publish Compliance and Monitoring Information</b>	Add requirements connected to OEMP's and Operational Certificates	Require public disclosure of compliance inspections, monitoring reports, enforcement actions, and operational performance summaries.
<b>10</b>	<b>Assess and Resource Implementation Capacity</b>	Government implementation measure	Ensure DEPP has adequate staffing, funding, technical expertise, monitoring capacity, and enforcement resources to implement the revised framework.
<b>11</b>	<b>Consult Stakeholders Before Finalizing Changes to Consultation Requirements</b>	Before final adoption of amendments	Conduct dedicated consultation with environmental organizations, communities, local government, industry, professional associations, academics, and the public before finalizing reforms that affect consultation rights.