

For information on
13 December 2001

Legislative Council Panel on Environmental Affairs

Environmental Impact Assessment Mechanism

PURPOSE

This paper briefs Members on the existing environmental impact assessment (EIA) mechanism and provide information on –

- (a) the measures being taken to facilitate project proponents to comply with the requirements under the EIA Ordinance;
- (b) the improvements that the Administration has made recently to strengthen inter-departmental coordination in respect of the EIA process (the Administration undertook to provide a brief paper on these at the Panel meeting on 29 October 2001); and
- (c) consideration of alternatives during the EIA process.

BACKGROUND

2. The mechanism prescribed in the EIA Ordinance was modeled on the administrative arrangements that the Administration had followed since 1983 for the conduct of EIAs. Between the coming into operation of the Ordinance in April 1998 and 30 November 2001, the Director of Environmental Protection (DEP) has received some 71 EIA reports, of which he has approved 46 covering projects worth more than \$200 billion, ruled five not suitable for public inspection and rejected only one EIA report, i.e. KCRC's Sheung Shui to Lok Ma Chau Spur Line (Viaduct Version) EIA report. Excluding those that have been withdrawn by the proponents, 12 reports are now under DEP's consideration. The Sheung Shui to Lok Ma Chau Spur Line Viaduct Version EIA report has aroused concerns about the coordination within Government, the operation of the EIA mechanism and the impact of EIA on

development projects. To improve the operation of the EIA mechanism, the Administration has reviewed the existing process in light of the determination of the Spur Line Appeal Case and implemented a number of measures aimed at improving the operation of the EIA mechanism.

EIA MECHANISM

3. The existing EIA mechanism plays a significant role in balancing the need to protect the environment and development needs. It aims to encourage project proponents to integrate environmental concerns into the planning process. Under the EIA Ordinance, proponent of a designated project is required to obtain an environmental permit from DEP before construction and operation of the project is allowed to commence. He is required to avoid any adverse environmental impact that will arise from the project as far as practicable. If avoidance is not possible, he is required to mitigate the impact to an acceptable level. Not all projects are subject to controls under the EIA Ordinance. Only those that are likely to have a significant impact on the environment are classified as designated projects under the EIA Ordinance and subject to its control. For example, in respect of residential developments, only those that are located in ecologically sensitive areas and those with more than 2 000 flats each in unsewered areas are designated projects under the Ordinance and subject to its controls. Of all the EIA reports that have been submitted to DEP since the coming into operation of the EIA Ordinance, about 83% are for government/public sector projects and the rest private sector projects.

4. For designated projects which will cause a limited impact on the environment, their proponents can apply to DEP direct for an environmental permit. Proponents of other designated projects are required under the EIA Ordinance to provide DEP with a description of the project profile for applying to him for an EIA study brief. DEP will set out in the study brief the issues that the project proponent is required to address in the EIA report. The project proponent will prepare an EIA report in accordance with the study brief and the related Technical Memorandum (TM) issued under the EIA Ordinance. Subject to approval of the EIA report, the project proponent can then apply for an environmental permit from DEP. Statutory time limits are set for each step of the EIA process, including the maximum time DEP has in making a decision on whether or not to approve an EIA report such that the EIA process would be completed within a reasonable time.

5. The EIA process is open and transparent, and encourages public participation at different stages. Firstly, a project profile will be exhibited for comments by the public and the Advisory Council on the Environment (ACE). DEP will take into account their comments on the project profile when drawing up the study brief. Once DEP is satisfied that an EIA report meets the requirements set out in the study brief and the TM, the report will be exhibited for public inspection. The public and ACE can provide their comments to DEP within the periods specified under the EIA Ordinance. DEP will take into account their comments on the EIA report in making a decision on whether or not to approve the EIA report.

MEASURES TO FACILITATE COMPLIANCE WITH EIA ORDINANCE

6. To promote better understanding of the EIA process among project proponents in both the public and private sectors, the Environmental Protection Department (EPD) has issued guidance materials and conducted seminars and talks on the EIA mechanism over the past three years. In addition, Environmental Study Management Group (ESMG) meetings are convened by EPD with project proponents and the other relevant authorities under the EIA Ordinance to examine possible environmental problems the designated projects are likely to give rise to and to draw up effective mitigation measures. Through ESGM, EPD and the other relevant authorities under the EIAO will provide project proponents with advice that will facilitate their compilation of the EIA report. Starting from early 2000, EPD has also set up Users Liaison Groups to provide a forum for Government and private sector project proponents, public corporations, consultants and contractors to enhance communication, share experience in the implementation of the EIA process and discuss how the process can be further improved to better meet their needs.

7. In addition, EPD has reviewed the implications of the determination of the Spur Line Appeal Case for the operation of the EIA mechanism and has taken steps to further enhance communication with project proponents at various stages of the EIA process through the ESGMs or other means. EPD will now particularize in the EIA study brief the concerns and matters that require to be studied, and will be as specific as possible when seeking further information from project proponents. On the other hand, EPD will now in dealing with project proponents encourage them to start informal dialogues with the Department, the other authorities under the EIA Ordinance, ACE and/or its EIA Sub-committee at the early planning stage even before the statutory EIA process begins to exchange views on environmental issues that are likely to arise from the proposed projects. This will help project proponents greatly in

compiling the EIA report.

MEASURES TO IMPROVE INTER-DEPARTMENTAL COORDINATION IN THE EIA PROCESS

8. To improve the EIA process for government projects, EPD, without compromising its statutory functions under the EIA Ordinance, will strengthen its advisory role throughout the EIA process by providing advice to works departments/agencies (e.g. KCRC and MTRC) in a proactive manner. The purpose is to help them identify potential environmental impacts and work out effective mitigation measures to avoid, or if it is not possible, to mitigate the impacts to acceptable levels at an early stage. In this regard, early communication between the works departments/agencies and EPD (and other relevant authorities under the EIA Ordinance), and ACE when appropriate, is encouraged. To avoid deadlocks at the working level, EPD and works departments/agencies staff are required to escalate issues that could not be satisfactorily resolved to their senior management at the earliest possible stage. In addition, EPD will organize training sessions, seminars and liaison meetings to familiarize works departments/agencies with the EIA procedures and requirements, and to share experience. With these improvement measures, it is expected that critical environmental problems can be identified and resolved at an earlier stage and hence all major capital works projects can be implemented in an environmentally friendly and efficient way.

CONSIDERATION OF ALTERNATIVES DURING THE EIA PROCESS

9. Assessment of alternatives is an important element of the planning process and the subsequent EIA process of a designated project. In formulating strategies or proposals for a designated project, the responsible policy bureau, government department or agency will at the early planning stage examine, in consultation with all concerned parties, a range of development options and possible alternatives against economic, environmental, social, engineering and other relevant considerations, before arriving at the most practicable options for detailed examination under the EIA study. During this planning process, the project proponents may conduct public consultation on the proposed options and refine them where appropriate.

10. Under the existing EIA mechanism, when a designated project is likely to result in adverse environmental impacts, there are provisions in the TM requiring assessment of alternative alignments, siting, layouts, programmes, construction

methods, land use and designs. A proactive approach has been adopted to identify and assess alternatives during the EIA process. For designated projects that may result in adverse environmental impacts, the need for consideration of alternatives is now specified in the study brief.

11. In addition, the public inspection period of the project profile and the EIA report stipulated under the EIA Ordinance will provide opportunities for the public and the ACE to comment on alternative proposals. DEP will consider these comments when preparing the study brief and making a decision on whether or not to approve the EIA report. Alternatives will also be discussed at ESMG meetings between the project proponent and relevant departments. Project proponents are also encouraged to consult ACE or its EIA Sub-committee through the informal dialogues mentioned in para. 7 above to exchange views on preparation of EIA reports, including possible alternatives.

CONCLUSION

12. With the improvements introduced as mentioned above, it is expected that the EIA mechanism will operate more smoothly to continue to strike a balance between our development needs and the need to protect the environment which is essential to the sustainable development of Hong Kong. We welcome any views Members may have on how the operation of the mechanism could be further improved.