

**Submission to by The Conservancy Association To
Legco Panel on Environmental Affairs**

Making EIA a More Effective Process in
Achieving Sustainable Development in Hong Kong

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After the Lok Ma Chau Railway Spur Line /Long Valley case, a clear community consensus that environment, conservation and quality of life is worth paying for has been shown. Hong Kong people has demonstrated a clear preference of “sustainable development” over “growth in quantity but not quality”. In fact it is also the starting point of all our future public policies.

The Lok Ma Chau Railway Spur Line appeal case reveals the following:

1. The current EIA requirement for major development project is effective.
2. The guidance for preparing the EIA provided both in the Technical Memorandum and the Study Brief may be too vague to follow (referring verdict of the Appeal case).
3. Some fear that the EIA process may hinder Hong Kong’s development.
4. Some people even cast doubts over the quality of EIA because (a) there has been little participation from certain stakeholders such as the green groups; (b)
5. EIA study is dictated by project consultants and the Environmental Department officers; (c) there is limited resources and time available for EIA study and (d) detailed construction methods are unknown at the time of EIA preparation.
6. Furthermore, there is no mechanism of reconciliation. There is no provision in EIAO for direct dialogues between the project proponent and the opponents when disputes arise. (Note: reconciliation through direct dialogues have been shown achievable, e.g., North-south Lantau Link project. Negotiation and mediation to arrive at reconciliation have also been adopted successfully in construction industry).
7. Independence of EIA report is also questionable. It is doubtful whether EIA study is conducted independently when the consultant has to primarily satisfy the requirements of the project proponent. The current system of consultant selection and monitoring does not reward consultants for quality and independence.
8. The role of EPD is ambiguous. EPD has been taking up conflicting roles as EIAO administrator as well as giving guidance of project proponents. It is also one of the many Government departments which advises Government projects.

The CA is of strong opinion that the current EIA process should be maintained and strengthened: We suggest the following:

1. A clear conservation policy and conservation sites should be formulated at the earliest possible.
2. Qualified team to conduct EIA studies (with reasonable resources commitment and safeguard for independence) is required.
3. Proper channel of reconciliation should be set up. Early involvement of community in the preparation of EIA, arbitration, mediation, adjudication will help avoid unnecessary cost in appeals.
4. EIA should be commissioned by an independent EIA Commission with warrant resources collected from project proponents.
5. EPD should take a clearer role as EIAO regulator and umpire.

We would like to emphasize a further and important point. The EIAO is now belaboured with important considerations for which there is no corresponding policy. EIAO is now being resorted to as the legal tool for conserving the sensitive ecological and historical sites because there is an absence of legal tools in the corresponding policies. This is unsatisfactory because EPD is not an expert in these areas, whereas the expert departments (AFCD and AMO) do not have enough legal tools of their own and they lack a strong policy to support. If this continues, it will undermine the integrity of EIAO. That is why the Association has been pushing for a comprehensive conservation policy for over ten years.

Given the above demerits to be fine-tuned, one can hardly deny the function and merits of the existing EIA process. It has streamlined many un-environmentally friendly projects and safeguarded our sustainable future. We earnestly urge the government to take further steps to improve the system.