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## **WWF's Submission for the Legislative Council Panel on Environmental Affairs Meeting on 23 May 2011**

### **I. Introduction**

WWF has been actively participating in the Environmental Impact Assessment Ordinance (EIAO) process since its implementation in April 1998. WWF has reviewed virtually all "Project Profiles" and "Environmental Impact Assessment Reports" of designated projects which may potentially affect areas of nature conservation interests under the EIAO, since its implementation. The EIAO process is one of the most important tools to avoid, minimize and compensate adverse impacts on the environment from designated projects in Hong Kong.

WWF considers EIAs should be based on science and conducted by experienced professionals. At the same time, it is essential to protect the public right to critically review and comment, or even challenge EIAs to provide appropriate checks and balances, and ultimately to prevent inadequate EIAs being approved by the Authority.

WWF views that the recent judgement of the Hong Kong-Zhuhai-Macau Bridge Judicial Review<sup>1</sup> does provide an interpretation illustrating the essential spirit of the Environmental Impact Assessment (EIA) in addressing development projects' cumulative impact to our environment. By requesting the project proponent, in this case the Government, to present the project's "footprint" in the EIA reports for accurate evaluation of its actual impact to the environment, the ruling has highlighted the urgent need to treat the environment as a whole, and to ensure the footprint of individual projects is assessed against the broader environment for the sake of environmental protection.

WWF firmly believes that in principle development projects should be carefully designed to have minimal impact to the environment, as opposed to "acceptable" levels of impact. In recent years WWF has strenuously objected to some projects that have had their EIAs approved by the Authority, but where our professional judgement

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<sup>1</sup> Full judgement can be accessed at: [http://www.epd.gov.hk/eia/english/content/files/HCAL\\_9\\_2010.pdf](http://www.epd.gov.hk/eia/english/content/files/HCAL_9_2010.pdf)

has been that they would impose unacceptably high impacts to the environment.

WWF has identified some areas for improvement as follows. As we are still studying the findings of the Judicial Review and reviewing our experience with the EIAO process in recent years, these should be considered preliminary comments

## **II. Enhancing the public consultation process**

According to Section 6 of the LegCo paper (CB(1) 2193/10-11(06) "Review of Environmental Impact Assessment Mechanism", it is stated that "*When considering whether to approve an EIA reports, EPD will consider whether relevant environmental issues raised by the public and the ACE have been addressed*". Under the current mechanism, members of the public are invited to comment on every EIA report during the consultation period. However, apart from releasing the number of public comments received after the EIA report is approved, the EPD does not publicize what the comments are, whether they will be addressed and why, whether during and after the public inspection period. WWF believes more transparency in this area would be invaluable for enhancing the public consultation process.

Continuing public involvement before and during the commencement of the statutory process, as a concept idealized in the EIAO, should be enhanced to reduce conflicts between the public and project proponents. Moreover, other mechanisms, such as public hearings on major developments to enhance public involvement, should be explored for the EIAO process.

## **III. Issues on conflict of interest**

While being the approval authority, EPD is also the project proponent of certain designated projects, such as the recent proposal to construct an incinerator at Shek Kwu Chau, which is an area of waters of high ecological value. We consider it is important to ensure the professional judgment of EIA approval will not be influenced due to the potential conflict of interest.

## **IV. Mitigation measures lagging behind development impacts**

There have been some significant recent development projects where key mitigation measures are proposed to be implemented well after (in time) the period of most disturbance to the environment i.e. during construction. These include compensation

for habitat loss in the form of new Marine Parks for the Hong Kong-Zhuhai-Macao Bridge and the Integrated Waste Management Facilities. WWF has previously voiced its concerns where mitigation lags behind impacts to the environment, and would like to see far more emphasis on mitigation measures being timed to offset the most intensive periods of disturbance. In addition, since the mitigation measures are implemented after the completion of works, it can be difficult for the public to monitor whether the mitigation measure can fully address the environmental impacts due to the project.

## **V. Improvements to Technical Memorandum (TM) for the EIA Process**

We also recommend the following guidelines to be incorporated and/or adopted in the Technical Memorandum for the EIA Process with regards to mitigation:

- a. Clear guidelines for evaluation of the appropriateness and effectiveness of the proposed ecological mitigation measures should be formulated so that the risk of failure of the proposed mitigation measures would be minimized. Such guidelines should be available to public.
- b. Mitigation proposals should have clear and quantifiable objectives for management performance criteria, and in the case of compensation for ecologically-valuable habitats, the objectives should adhere to the goal of “no net loss” in habitat size AND function.
- c. Sufficient information on the function of the habitat, from a comprehensive literature review and detailed assessment, should be provided in the EIA, and demonstration of the feasibility of the proposed ecological mitigation measures should be required.
- d. The project proponents of nearby and concurrent projects should take a more coordinated approach to integrate the planning, design and management of the mitigation areas under different works projects. Such an integrated approach would certainly enhance the mitigation works to make them more effective and achieve a greater conservation value of the mitigation habitats.

Yours sincerely,



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