

TOWN PLANNING BILL

*Comments submitted by WWF Hong Kong
To the Legislative Council Bills Committee on Town Planning Bill*

April 2000

Abstract

- i. WWF Hong Kong is in broad support of the proposals outlined in the Town Planning Bill. The legislation will create a more open and publicly accountable planning system, facilitate better decision-making, give net planning and financial gains, and remedy deficiencies of the current system.
- ii. WWF Hong Kong recommends wider application of the Environmental Impact Assessment (EIA) system to ensure protection of environment through better planning.
- iii. WWF Hong Kong welcomes initiatives of the Bill to strengthen planning control and enforcement in environmental sensitive areas, hence help ensuring conservation of Hong Kong's natural heritage.

An Open and Accountable Planning System

- 1 WWF Hong Kong welcomes initiatives set forth in the Bill to develop a more open and accountable planning process.**
 - 1.2 The public reaction towards the proposed developments at South-East Kowloon Reclamation and the International Theme Park at Penny's Bay, Lantau, are recent examples which underscore the huge demand for public participation in town planning. Public inputs, if appropriately managed and facilitated, could allow more comprehensive deliberation and consideration in the planning process, achieve better-informed decisions, and engage public support for the development. **WWF Hong Kong therefore supports public involvement throughout the planning process as provided for by the Bill: the public will be able to comment on the planning studies (Section 12), draft and approved plans (Section 17, 29), other representers' views (Section 19), and planning applications (Section 35).**
- 2 WWF Hong Kong further recommends that ALL planning applications made under Section 32 should be made available for public inspection and comment.** Otherwise it could be abused to withhold information about development construed to be "commercially sensitive".



- 2.2 The industry would probably contend that increased public consultation would invite vexatious objections and incur undue delays and expenses. However, the rights to consultation of the public, particularly those likely to be affected by the development, should not be denied. Delays should have been effectively avoided with clear, defined statutory time limits (Clause 34(1) refers). Further, the declared interest and description of the manner in which the representor/ commenter alleges that (s)he will be affected by a plan or development proposal, such as that required by Clause 17(2)(a) could well serve as a reference "weighing" factor for the deliberation of the Town Planning Board and the Chief Executive in Council. In addition, on grounds of justified and genuine cause, the Board could withhold publication of the application.
- 2.3 Similar concerns about delays caused by public participation were also raised when the Environmental Impact Assessment (EIA) Bill was studied. Since the enactment of the EIA Ordinance in April 1998 however, implementation has not only been smooth but the "time taken for the EIA process has been shortened by at least 3 to 4 months" (EPD 1999). Overseas experience has also shown that **net financial benefits** resulted from public participation in the planning and EIA processes, as the costs of delays were more than covered by the savings accruing from modifications to individual projects identified by public input (EPA 1980; Cook 1981; Caldwell *et al.* 1982).

Use of Environmental Impact Assessment as a Planning Tool

- 3 WWF Hong Kong recommends wider application of EIA to ensure protection of environment through better planning.**
- 3.2 EIA is "a planning tool ... and not merely a means for identifying measures to reduce unacceptable environmental impacts" (PELB 1992). The EIAO however is focused on the most spectacular decision point, authorisation. Conversely, strategic environmental assessment (SEA) will allow identification of key environmental issues at the higher levels, reducing adverse impacts before proposals come through to the authorisation phase (Wood 1988). **As land-use plans frequently form the context for project authorisation, plan making is the logical first higher level to which an EIA should be extended. This could be incorporated into the planning study prepared for outline zoning plans (Section 11).**
- 3.3 WWF Hong Kong is pleased to note the requirements for Environmental Statement (ES) for planning applications requiring publication. Whilst not duplicating the efforts of the EIAO, it is important to ensure the quality of the ES such that the scope of issue coverage is adequate. It would thus be useful to use the Technical Memorandum for the EIA Process promulgated under Section 16 of EIAO as the template for review.



Planning Control and Enforcement

- 4 WWF Hong Kong welcomes the proposals in the Bill to effect better planning control through new designations such as "Environmental Sensitive Areas" and "Designated Development".** Whilst these terms have yet to be defined in detail, the requirement for such applications to be accompanied by a report on key planning and environmental issues will force developers to include environmental impact in their planning, thereby ensuring protection of the environment and natural resources.
- 4.2 The proposed designations should also help provide interim control of developments in areas not yet covered by any statutory plans. We appreciate that extending development permission area plans for the whole territory, apart from the Country Parks, would have financial and resource implications. But the destruction of the ecologically valuable wetlands at Sham Chung (Three Fathoms Cove) highlights the urgency to impose development controls on "pockets" of unprotected land. As an interim measure, "Designated Development" (Section 9(2)-(3)) should include "bad neighbour uses" in rural areas, such as residential and resort developments, and golf courses/ driving ranges, such that these would need to apply for planning permission from the Town Planning Board.
- 4.3 It is also important that no new development should be granted permission on a site which is the subject of an adverse representation (Clause 32(4)(b)), so that the decision would not be pre-empted.
- 4.4 The provisions to strengthen deterrent and enforcement against unauthorised development (Section 51) are also welcome. Whilst government's prompt actions to reinstate the illegally filled Shuen Wan (Ting Kok, Tai Po) marsh are to be commended, the magnitude of the illegal filling in the first place illustrates the need for strengthened deterrent and enforcement powers against unauthorised development.

Conclusions

- 5 WWF Hong Kong supports the Bill to develop a more open, accountable and effective planning process in Hong Kong. Meanwhile we call for expansion of the scope of applying EIA in planning, and facilitation of greater public participation, so as to afford better decision making in planning and development.**

References

- Caldwell, L. K., Barlett, R. V., Parker, D. E. & Keys, D. L. 1982. *A study of ways to improve the scientific content and methodology of environmental impact analysis*. Advanced Studies in Science, Technology and Public Affairs. School of Public and Environmental Affairs, Indiana University, Bloomington.



- Cook, P. L. 1981. Costs of Environmental Impact Statements and the Benefits they Yield in Improvements to Projects and the Opportunities for Public Involvement. In *Environmental Impact Assessment*, United Nations Economic Commission for Europe, Pergamon, Oxford.
- Environmental Protection Agency 1980. *Evaluation of EPA's EIA program for wastewater treatment facilities*. Washington, D. C.: Environmental Protection Agency.
- EPD 1999. Review of the Operation of Environmental Impact Assessment (EIA) Ordinance and Continuous Improvement Measures. Environmental Protection Department, Hong Kong Government.
- PELB 1992. Environmental Impact Assessment of Major Development Projects. *PELB Technical Circular No. 2/92*. Planning, Environment and Lands Branch, Hong Kong Government.
- Wood, C. 1988. EIA in Plan Making. In Wathern, P. (ed.) *Environmental Impact Assessment Theory and Practice*. p. 98-114. Routledge, London.