

PART FIVE – IMPROVING THE EIA PROCESS

5. IMPROVING THE EIA PROCESS

5.1 RESOLVING MATTERS THROUGH THE ENVIRONMENTAL STUDY MANAGEMENT GROUP (ESMG)

The EIAO Guidance Note No. 2/2002 sets out ground rules of an ESGM. Project Proponents are encouraged to have dialogues at the early planning stages to exchange views on preparation of EIA reports.

Purpose of the ESGM

Purpose of an ESGM is stated in the GN 2/2002 in the Cyber EIA Help Bench on our webpage.

In a very broad term, an ESGM is a liaison forum that brings proponent, consultants, and relevant government authorities under the EIAO together to:

- assist members to clarify requirements under the EIAO;
- facilitate early identification of potential differences in views amongst different parties;
- provide a forum to resolve such issues; and
- serve as basis, on unresolved issue(s), to trigger the conflict resolution procedures under the EIAO.

Who attends an ESGM?

- Principal Environmental Protection Officer or above of EPD as chairperson
- Proponent for the EIA, supporting teams and consultants
- Relevant EIAO authorities
- Relevant EPD officers and specialists

Common items discussed in an ESGM

- Particular project
- Specific provisions of the Technical Memorandum
- Assumptions, methodology, models, baseline collection in EIA
- EIA Report findings, recommendations and Implementation Schedule of Mitigation Measures
- Specific topics raised by ESGM members



ESMG meeting facilitates early identification of any potential differences in views among members of the ESGM and provides a forum to resolve the issues. To make a best use of the ESGM in exchange of view, a proponent should prepare the discussion items. Proponents are encouraged to have frank and open dialogues at the early stages to exchange views on preparation of EIA reports, especially about the considerations of possible alternatives, any major environmental concerns, the assumptions adopted in modelling, and the likely environmentally friendly designs.

Examples of key issues in EIA being found out during discussion process among all parties involved:

- Operation hours of facility being wrongly assumed;
- Construction works areas, especially for spoil storage, being under-provided; and
- Under-estimation of construction programme to meet progress. These include insufficient plants, unrealistically low dredging rate, and different assumptions of working into restricted hours.

5.1.1

How to Carry Out an EIA with Focus and Prepare an EIA Report Efficiently?



For effective EIA report preparation, a project proponent and his consultants shall get hold of a variety of information. Some of the suggestions that might be useful are as follow:

Understand the Study Brief and environmental issues

- Get a thorough understanding of the study brief issued under the EIAO;
- Critically examine requirements for considerations of alternatives, if any; and any specific environmental concerns as listed down in the Study Brief; and
- Critically review any public comments received, particularly during the public exhibition of project profile.

Understand the Public Concerns

- Take proper account of public comments and opinions on environmental implications of the project;
- Get views from key stakeholders and green groups as early as possible;
- Understand the environmental issues - think from the perspective of the general public and those to be affected; and

- Present issues in layman terms.

Understand project history, the project justification and options available

- Identify and understand the issues, available options and solutions before deciding on whether detailed modelling or assessment is required;
- Critically examine the need and justification for a project. Collect background information from strategic, planning or feasibility studies; and
- Proactively look for environmentally-friendly alternative schemes or options to meet project need - avoidance versus mitigation or compensation. Laying down clearly the considerations being made to show the effort being given.



Understand assumptions made in an EIA, scenarios development, input parameters in impact prediction

- Know assumptions in EIA, especially basic information (e.g. traffic forecast & composition, pollution load, loss rate in dredging and etc.);
- Know assumptions made in identifying sensitive receivers, such as planned land uses, changing development programs, concurrent projects in the vicinity;
- Know spatial and temporal assumptions in construction methods and sequence, together with plant schedule. A project proponent shall critically review whether it is an engineering realistic construction program. Critical matters include, among others, whether a 24 hour operation is required for the works; adequacy of works areas; location of temporary haul road, concrete batching plant, rock crushing plant, jetty, mug-out portals, conveyor belts and etc.;
- Review practicality and programming of EIA recommendations and proposal of mitigation measures;
- Rigorously review the Implementation Schedule of Mitigation Measures in the EIA report and the EM&A Program;
- Review permanent structure/fixtures that are essential in operation phase such as location of ventilation shafts, passenger connections, overflow bypasses. Clarify roles of maintenance and implementation;
- Find out concurrent projects for cumulative impacts.

5.2

GOOD PRACTICES FOR PUBLIC CONSULTATION



Public Consultation - When?

The public and ACE have two occasions to provide comments during the statutory EIAO process. They are:

- during exhibition of a project profile; and
- during public inspection of EIA report.

Notwithstanding the statutory provision, a project proponent is encouraged to proactively get public comments or involvement during the project life cycle. Not only will this improve transparency and acceptance of a project, it can also gauge and gather public concerns for a project proponent to address in an EIA report.

Early dialogue with the locals and seeking comments from different stakeholders helps:

- Promote good public relationship;
- Avoid 'surprises' and find out concerns in the early stages of a project; and
- Gain public acceptance of a project.

5.2.1 *What to Expect during Public Consultation of an EIA Report?*

In preparation of the public consultation, a proponent should get conversant with his EIA report, especially the implementation schedule of mitigation measures. Some of the common questions raised over an EIA report are matters relating to:

- Quality and Completeness of the EIA Report;
- Accuracy - the margin of error and the environmental risk;
- Consistency with other similar EIA Reports;
- Cumulative impacts;
- Considerations given to options/alternatives; and
- Delivery of promises - the practicality and cost-effectiveness of mitigations.

All approved EIA reports and their approval conditions are put on the EIAO register office and the EIAO Website. A proponent can search similar EIA reports for reference.

Minutes of EIA Subcommittee Meeting and ACE Papers are posted on http://www.info.gov.hk/etwb-e/board/board2_1.html. A proponent can get useful information from the web page.



The Executive Summary of an EIA report is an useful tool in presenting findings of a project. It should set down all useful materials in a concise way in a manner readily understandable by general public.



Get Ready for Public Consultation...

- Understand EIA process and recommendations
- Review, understand, and get conversant with environmental impacts from a project and the public comments and opinions gathered
- Think from the perspective of the general public and those to be affected. Understand their stance and expectations
- Present issues in layman terms
- Know need and justification for projects
- Know alternatives being considered and gone through in the project lifecycle
- Know assumptions used in the EIA – planning horizon, traffic forecast, reference to past studies, changing development programs, concurrent projects in the vicinity: cumulative impact
- Know and ready to implement EIA recommendations including:
 - Implementation Schedule in the EIA report
 - EM&A Program
- Know whether there are residual impacts predicted in EIA reports and their effects
- Make a frank and open dialogue

HOW TO HANDLE VARIATION IN THE EIA PROCESS

A variation or change is not uncommon in a project life cycle. As the EIA process is a proactive planning tool that starts in the early stage of a project, it is reasonably envisaged that variation will occur during the development process.

The EIA process indeed can flexibly handle some of these variations. They are illustrated in the EIAO Guidance Note No. 3/2002 entitled “Flexibility and Enforceability of Mitigation Measures Proposed in an Environmental Impact Assessment Report”. For instance, scenario development, situational description of mitigation measures, and design audit are general means available to flexibly implement the EIA process. Part Six of this Manual will discuss in detail and provide more hand-on tips on how to maximize the flexibility of implementing mitigation measures. Some general illustrations over their uses are:

At Project Profile Stage

Alternative alignments, route corridors and different development scenarios are the most common approaches used in project profile in the application of

Study Brief, when a project is under planning. An example is the project profile for the North Island Line where alternative alignments were proposed.

At EIA Stage

If it is uncertain over the final development, an alternative development scenario approach can be used in an EIA to assess the environmental impacts under different situation. A situational description of mitigation measures under “if-then” scenario is often a handy tool to build in flexibility in an EIA.

Implementation Stage

Design audit through Environmental Team and Independent Environmental Checker is a useful tool to handle minor environmental changes during implementation. In case where variation to an environmental permit is needed, an applicant can apply for variation of environmental permit under the EIAO.

5.4

ENVIRONMENTAL PERMIT

An environmental permit would be issued based on Part III, “Environmental Permit” of the EIAO and Section 7, “Issuing Environmental Permit” of the TM., and other relevant sections in the EIAO and TM. Schedule 4 of the EIAO lays down the matters that may be specified in Environmental Permit

Section 7.2 of the TM says

“The Director will use the following criteria in determining the conditions to be imposed in an environmental permit:

- (a) the mitigation measures set out in the project profile or the findings and conclusions of the approved EIA report, whichever is applicable;*
- (b) the conditions of approval of the EIA report;*
- (c) the conditions of approval of proceeding directly with the application for environmental permit;*
- (d) the advice given to him by other relevant authorities on matters within their jurisdiction as listed in Section 9 of this technical memorandum, or*
- (e) the measures that are necessary to meet the guidelines, standards or criteria laid down in this technical memorandum, and ...”*

Since mitigation measures set out in project profile or the findings and conclusions of EIA reports are essential, a project proponent is advised to critically review them in his/her submission.

5.5

MATERIAL CHANGE

Please note that material change refers to significant change only.

The guiding principles are well presented in Section 6 of the EIAO TM. If in doubt, an applicant should seek early advice from EPD to avoid putting the matters on the critical path of programme development.