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(ACE 55/95)
for information

REVIEW OF THE WORK OF THE ACE-EIA SUBCOMMITTEE 1994 - 1995

1. Purpose Of The Review

This paper reviews the work of the Subcommittee since its inception in early 1994 and attempts to:

- (1) highlight policy areas which warrant the administration's consideration;
- (2) highlight areas which need to be addressed in the proposed EIA legislation; and
- (3) make suggestions which can enhance the effectiveness of the work of the Subcommittee and the EIA process in Hong Kong.

2. Remit Of The Subcommittee

- 2.1 It is understood that the Subcommittee would report to ACE on the conclusion of the Subcommittee's review of the EIA reports and for the ACE to advise the Government on the environmental implications of the project. It would be for the administration to take this advice into account along with other inputs on non-environmental implications when forming a view on the overall acceptability of the project. The Subcommittee also agreed that economic factors can be taken into account in choosing different options of mitigation measures.
- 2.2 Some members opine that the above remit is too narrow, particularly because environmental degradation and ecological loss identified in many EIA reports are inevitably considered by members of the Subcommittee and the main Council against the overall benefits which the projects may bring to the society as a whole. The administration may like to review the remit of ACE and its Subcommittee in the light of future discussions and experience.

3. Summary Of Work Undertaken

- 3.1 Up till now, the Subcommittee has selected and reviewed a total of 36 EIA reports and one project progress summary. All of these were project-based.
- 3.2 Of these projects, the Subcommittee recommended only not to endorse one. 20 projects were endorsed on one or more conditions and the rest without any condition.

- 3.3 The following is a breakdown of conditions imposed:

	<i>Number of Projects</i>
- additional information/justification of site or option	8
- off-site ecological compensation measures	8
- undertaking of detailed EIA or EA of specific issues	6
- additional ecological study	6
- enhanced implementation program	5
- consideration of planning issues/cumulative impacts	5
- enhanced monitoring program	4
- independent environmental monitoring/audit team	3
- additional mitigation measures	3

- 3.4 The Subcommittee has also requested some proponents to report back to either the Subcommittee or the main council on the progress of the project, mitigation measures undertaken and results of the environmental audit.

4. Achievements

4.1 The achievement of the Subcommittee cannot simply be assessed by the number of projects rejected or endorsed but rather whether the Subcommittee has influenced the EIA process to render it more effective in pre-empting environmental problems. From this perspective, the Subcommittee is pleased to report that:

- (a) in meeting with project proponents and their consultants, we have sensitized them to take EIA seriously and to consider mitigation measures carefully;
- (b) in imposing conditions, we have helped prevent problems which would otherwise be difficult and costly to remedy;
- (c) in asking proponents to report back, we have reinforced that ACE is interested in results as much as in promises; and
- (d) in formalizing the procedures, we have upheld accountability of the system, increased the transparency of decision-making and set clearer goal posts for proponents.

5. Areas of Concern

5.1 The Subcommittee recognizes that the EIA process in Hong Kong is gradually evolving and we are all on the learning curve. In the quest for greater effectiveness, members have highlighted the following areas for the administration's attention:

- (a) the failure of some EIAs to give sufficient information on and justification for the choice of a particular site, route or option;
- (b) the project-by-project approach which does not adequately address long-term and cumulative impacts;
- (c) the timing of the study which is often undertaken at a stage when project planning has gained so much momentum that it could hardly be reversed;
- (d) the subdivision of a project into different phases which fails to provide a comprehensive picture;
- (e) the lack of explicit standards and guidelines for assessing ecological impacts and determining its acceptability;
- (f) the lack of policy directive on off-site compensation measures;
- (g) the insufficient time given to the Subcommittee to study the reports;
- (h) the non-attainment of environmental goals in some projects because of the failure of the proponent to deliver promises and comply with the conditions; and
- (i) the lack of information on the error margins of the commonly used models which makes decision-making difficult.

5.2 The Subcommittee has seen significant improvements in areas (a) and (g) recently and would like to see the trend continue. Members are however very disappointed with the performance of some proponents in area (h). While many of the problems highlighted in 5.1 are common to other countries, both action and policy responses are needed so as not let EIA degenerate from a proactive planning tool to a reactive mitigation exercise.

6. Recommendations for the Administration

To resolve the above problems, the Subcommittee recommends that:

6.1 The selection of sites, routes and options should be part of the environmental assessment

exercise, the findings of which should be incorporated into the EIA report and highlighted in the discussion paper. (5.1(a))

- 6.2 Strategic environmental assessment, such as the TDS review, Southeast Kowloon Feasibility Study and other large scale development involving multiple projects, should be considered by ACE, or alternatively any of its *ad hoc* committee. (5.1(b) and 5.1(c))
- 6.3 Full justification must be given for projects that are subdivided and the subcommittee reserves the right not to consider any study which does not provide all the information required for a reasoned discussion. (5.1(d))
- 6.4 To resolve point 5.1(e & f), there is a need for:
- a territorial-wide ecological profile study and evaluation of various habitats;
 - establishment of some guidelines on the approach to be adopted as well as the focus for conducting ecological survey and impact assessment, such as the duration or appropriate timing of ecological survey based on ecological profile of the habitat, its conservation value, sensitivity to perturbation and ability to reconciliation;
 - establishment of some guidelines on which site/area or habitat which must be protected at all costs, which should be compensated if disturbed, and for which disturbance could be tolerated but kept to the minimum;
 - the accord of priority and provision of resources to get the above studies and guidelines in place in the shortest possible time; and
 - mitigation measures including off-site compensation to be borne by the project proponent in accordance with the "polluters pay principle".
- 6.5 Mechanisms are needed to make proponents deliver promises (5.1(h)), and
- the Subcommittee will continue to ask some proponents to report back periodically;
 - the Subcommittee requests that provisions be incorporated into the EIA Bill to impose sanctions on project proponents who do not comply and to bring the EIA Ordinance in as quickly as possible.
- 6.6 Information should be given in the reports regarding the error margin and validity of prediction models used. (5.1(i))

7. Recommendations for Future Subcommittees

- 7.1 Members agree that the Subcommittee can continue to play a useful role in the EIA process in Hong Kong and recommend that:
- (a) The work of the Subcommittee should be further streamlined so as not to overburden its members and duplicate existing efforts; and
 - (b) Conditions for endorsement should be spelled out in explicit and tangible terms to facilitate audit and enforcement.

8. Advice Sought

Members of ACE are asked to note the content of this paper and to endorse recommendations outlined in paragraphs 6 and 7.