



Engineering Forum Limited  
9/F Island Beverley  
No 1 Great George Street  
Causeway Bay, Hong Kong

## Press Release

### **The Engineering Forum speaks out: Hong Kong engineers always adopt the best practice to reduce pollutants**

(26 May 2011, Hong Kong) In response to the judgment handed down by the High Court on a judicial review in respect of the Environmental Impact Assessment (EIA) reports of Hong Kong-Zhuhai-Macao (HZM) Bridge, the Engineering Forum Limited (EFL) supports the Environmental Protection Department's appeal against the ruling.

The Chairperson of the EFL, Ir Prof Reuben P K Chu at the EFL's inauguration ceremony held on 16 May 2011 said, "The EFL provides a platform to foster general awareness and understanding of the engineering profession for the benefit of the general public." Against this backdrop, the EFL wishes to express its views on this important subject of HZM Bridge, affecting the general public of Hong Kong.

The EFL considers that the commissioning of the HZM Bridge signifies an important connection between Hong Kong and the Pearl River Delta Economic Zone (PRDEZ) in terms of economic integration and development. Also, ample opportunities will be brought to various key sectors in Hong Kong with the commencement of such massive intercity bridge. The delay in constructing this critical infrastructure project would have a knock-on effect, which in turn affecting the general public economically and socially and prolonging the economic integration of PRDEZ and Hong Kong jeopardising the long-term development of our city.

The Court held the Environmental Protection Department (EPD) in approving the EIA report failed to ensure the project profile complied with the Technical Memorandum (TM) in reference to the Environment Impact Assessment Ordinance (EIAO), Cap. 499, viz., that an assessment of comparing a stand alone analysis against the project in place was necessary to ascertain the validity of an EIA report.

The Court also held only by establishing a base line the environmental footprint of a project can be ascertained, and without this it is not possible to gauge whether adequate or proper mitigation measures should be or were put in place.

The EFL notes the question of the EIA Reports meeting the requirements of the TM and Study Briefs (SB) of projects is for the court to determine. The EFL also notes the definition of the legal effect of the TM and the SB is necessarily a matter of law.



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Equally the EFL notes the Court held it is also necessary to appreciate any special or technical meaning which experts may attribute to particular terms. It follows the technicality of the TM and the SB is to be examined by relevant expertise or in fact it is a question for engineers. With respect to the Court's decision, the engineering profession has been holding a different view on the need and methodology in examining the terms and hence requirements of the TM and SB.

In this connection, the EFL opines the Court of First Instance erred in law by construing the requirements of TM for EPD assessing EIA reports would apply indifferently to a project within defined geographical parameters for single purpose as well as one that is, albeit still confined within the same geographical limitation, is actually serving an extensive and/or regional function. As if so construed in the judgment delivered, it would not be possible to assess, say a sewage installation or a wind farm, pinning down the ultimate benefit or burden brought onto the environment as a whole that the EIAO aims to protect. The overall permissible limits are therefore the line that the EPD has to guard, irrespective the nature or imminence of project(s). These limits were laid down to serve protecting the environment as a whole as well as risks brought to locality by project(s) proposed. Accepting a two-pronged approach promulgated by the Court was correct except on occasions they must be mutually exclusive.

With regret the EFL also wishes to point out the argument from the Plaintiff that without a base for comparison, engineers responsible for projects could be less dedicated and might abuse their responsibility within the permissible limits. The engineering judgment practiced by engineers in Hong Kong the EFL opines, is that the best measures available to reduce pollutants would be always put in place for a designated project.

The EFL therefore opines the scope of the residual footprint of a particular project is immaterial for the EPD to approve an EIA report as long as the prescribed limits are observed. As if otherwise, the EPD would have to examine options of various constructions and together with them, each associated EIA report as well as details of SB and variants of project proposals. It is submitted EPD is to assess the one report as put forth, no more and no less.



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The EFL looks forward to the opportunity that the Court could clarify whether the practice adopted by the engineering profession is lawful, genuine and correct.

Nevertheless, the EFL believes the present environmental impact during and after the completion of the bridge project would all be within acceptable limits under appropriate measures. The previous decision of EPD was therefore considered reasonable.

The EFL highly respects the judicial system we have in place in HKSAR but doubts the constructiveness of the initiation of judicial review that would bring to the community for this particular project. The Court ruling that quashed the bridge section permit would have impacts on many other projects in the pipeline, including the Shatin Central Link and waste incinerators possibly impeding an otherwise recovering labour market of the construction industry and a surge in the construction cost is anticipated. More importantly, Hong Kong would ultimately become disconnected and marginalised.

#### **About Engineering Forum Limited**

Engineering Forum Limited (EFL) was incorporated in Hong Kong on 30 March 2011 as a limited company with Ir Prof Reuben PK Chu as the Chairperson, Ir Dr Chan Fuk-cheung as the First Vice Chairperson and Ir Choy Kin-kuen as the Second Vice Chairperson. The EFL aims at providing a platform to foster general awareness and understanding of the engineering profession for the benefit of the general public. The EFL promotes and advances to the Hong Kong community and overseas the development and betterment of the engineers and engineering profession of Hong Kong, through participating in or hosting functions with or of the Hong Kong Government and any other organisations. It also aims at gauging and advancing any views concerning the engineering profession and the Hong Kong community.

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