

## **ISSUES PAPER**

### **PUMA AND ENVIRONMENTAL IMPACT ASSESSMENTS**

#### **Background**

The SIAM – Component 4 project presents an opportunity to resolve institutional and legislative arrangements relating to development controls in Samoa.

Consultants are tasked under this project to draft amended EIA regulations. However there are some significant threshold issues to determine before this work can be usefully done.

#### **Existing Development Controls**

There are a number of agencies which currently have, or are permitted to implement development controls under current laws in Samoa. These are –

#### ***PUMA***

The law is the Planning and Urban Management Act 2004 (as amended in 2005).

The area of responsibility is wide ranging –

- (a) the preparation of sustainable management plans “at national, regional, district or site specific” levels (section 12-33).
- (b) Development consents “for all development...unless a sustainable management plan or regulations provide otherwise” (section 34-63).

The agencies are –

- (a) a Planning and Urban Management Board (Minister as Chairperson and 5 government and 5 community representatives).
- (b) the Planning and Urban Management Agency as a Division of the MNREM (after some appropriate amendments are made to the Act).

#### ***MWTI (BUILDING SECTION)***

The relevant laws are –

- The Ministry of Works Act
- The National Building Code
- The draft Building Regulations to be made under the MOW Act.

The area of responsibility is limited to controls over buildings but the involvement of public health, fire service and land authorities is required in the approval processes.

The proposed Building Committee under the Building Regulations will have final powers of approval for building consents.

### ***MNREM***

The relevant law is the current but outdated Lands, Surveys and Environment Act. More useful provision is proposed in the draft MNRE Bill but this does not alter relevant matters in any significant way.

The area of responsibility in the context of EIA is likely to be restricted to assessing environmental impacts arising from major developments.

### **The Key Threshold Issues**

1. Is the vision for PUMA to be the primary development regulator exercising powers to –
  - (a) determine planning requirements
  - (b) assess and approve all “developments” – new and existing
  - (c) independently enforce planning requirements and development controls?
2. The alternative is for PUMA to focus on its planning function and in its capacity as an agency of MNREM to develop sustainable management plans. These can be applied in the context of approvals made for building consents. i.e. PUMA will certify that a building development is in compliance with a relevant plan before a building permit can issue.

In this way the development control processes applying to both building and planning issues can be harmonised, and regulated through a Board which will be common to both building and planning procedures.

3. Is there still a role to be played by the Division of Environment of MNREM in the assessment of environmental impacts for “major” developments. The DoE has capacities in the fields of coastal and fisheries management, waste management, wildlife and habitat protection, POPS and hazardous substances etc. All of these should be brought into the development control framework. This can be done by applying EIA requirements only to major developments and to be considered in the context of the harmonised arrangements noted in 2. above. i.e. in those few cases an approved EIA statement and plan could be a pre-condition to a building/planning/development approval being given.

### **The Other Issues to consider**

- A. Is there a real need for the relatively large, and apparently “stand-alone” PUMA Board? Can this not be the same entity as the proposed Building Committee, with perhaps some additional co-opted members?
- B. Is it realistic and acceptable for PUMA’s jurisdiction to extend to “national, regional, district and site specific” levels - as it does at present? Is it not better for its activities to be focused on urban areas and other specific sites determined by the Minister to require specific planning attention.
- C. Is it realistic and acceptable for PUMA to have jurisdiction over all developments, when the Building Board, public health, fire authorities and other agencies all have a role to play which can be coordinated under the proposed Building Regulations

### **Legislative Considerations**

#### ***Option 1***

If PUMA to be the principal regulatory body as is currently provided for in the PUMA Act, then there is no immediate need for major legislative change.

#### ***Option 2***

If PUMA is to focus on the planning functions then amendments can be made to the PUMA Act to retain the functions relating to developing and approving sustainable management plans and deleting the development consent and enforcement provisions.

The draft Building Regulations can be altered slightly to make specific reference to compliance with the approved PUMA plans, and also to EIA in the few cases where this might be applied (either under the PUMA Act or the MNREM Bill).

#### ***Option 3***

If the responsibility for EIA in cases of major developments is to be shifted to DoE then regulations to this effect can be devised – either under the PUMA Act (as amended) or under the MNREM Bill. These can be referred to in the Building Regulations as noted above.