

**Confirmed Minutes of the 153rd Meeting of
the Advisory Council on the Environment
held on 18 June 2008 at 2:30 pm**

Present:

Prof LAM Kin-che, SBS, JP (Chairman)
Dr Dorothy CHAN, BBS
Mr James GRAHAM
Ms Betty HO
Mr Edwin LAU
Dr MAN Chi-sum, JP
Dr NG Cho-nam, BBS
Prof POON Chi-sun
Mr Markus SHAW
Mr TSANG Kam-lam
Mr Eddie WONG
Mr Simon WONG
Mr Carlson K S CHAN (Secretary)

Absent with Apologies:

Prof WONG Yuk-shan, BBS, JP
Prof Howard HUANG
Prof Paul LAM
Ms Goretti LAU
Prof WONG Tze-wai
Dr YAU Wing-kwong

In Attendance:

Ms Anissa WONG, JP	Permanent Secretary for the Environment
Mr CHAN Jee-keung	Acting Assistant Director (Conservation), Agriculture, Fisheries and Conservation Department (AFCD)
Mr P Y TAM	Assistant Director/Technical Services, Planning Department
Ms Monica KO	Principal Information Officer, Environmental Protection Department (EPD)
Ms Josephine CHEUNG	Chief Executive Officer (CBD), EPD
Mr KWAN Chung-kit	Office Manager (CBD), EPD
Ms Loletta LAU	Executive Officer (CBD), EPD

In Attendance for Agenda Item 3

Mr Raymond LEE	Chief Town Planner/Studies and Research, Planning Department (PlanD)
Mr Davis LEE	Project Manager, Ove Arup & Partners Hong Kong Ltd. (Arup)
Mr Eric CHAN	Engineering Manager, Arup
Mr Sam TSOI	Environmental Team Leader, Arup
Ms Fanny WONG	Environmental Consultant, Arup
Dr Joseph CHEUNG	Environmental Consultant, Arup
Ms Theresa YEUNG	Planning Team Leader, Townland Consultants Ltd.
Dr Michael LEVEN	Ecologist, Asia Ecological Consultants Ltd.
Ms Ellen CAMERON	Archaeologist, Archaeological Assessments Ltd.

In Attendance for Agenda Item 4:

Mr TSE Chin-wan, JP	Assistant Director (Environmental Assessment), EPD
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In Attendance for Agenda Item 5:

Mr Alfred LEE	Assistant Director (Waste Management), EPD
Mr K F TANG	Assistant Director (Environmental Compliance), EPD

Action

Agenda Item 1 : Confirmation of the draft minutes of the 152nd meeting held on 16 May 2008

The draft minutes were confirmed subject to a Member's proposed amendments to paragraph 22 which were tabled at the meeting.

Agenda Item 2 : Matters arising from the minutes of the 152nd meeting held on 16 May 2008

2. There were no matters arising from the minutes of the last meeting.

Agenda Item 3 : Study on Land Use Planning for the Closed Area - Draft Concept Plan ***(ACE Paper 18/2008)***

3. Mr Raymond Lee introduced the draft Concept Plan proposed in the consultancy study entitled “Land Use Planning for the Closed Area”. He highlighted that the study would adopt a two-stage community engagement programme – the first stage on the draft Concept Plan (the Plan) and the second stage on the draft Development Plan. In October 2006, the Planning Department (PlanD) had sought the Council’s views on the scope of the Strategic Environmental Assessment (SEA) Study and planning study of the Frontier Closed Area (FCA). Ms Theresa Yeung briefed Members on the land use conceptual proposals of the Plan under the three themes of strengthening nature conservation, conserving cultural heritage resources and promoting sustainable uses.

4. In reply to the Chairman’s enquiry about the difference between a concept plan and a development plan, Mr Raymond Lee explained that proposals in a concept plan were relatively more conceptual in nature while a development plan contained more detailed and refined proposals incorporating findings of more in-depth studies and assessments with a view to providing inputs for the preparation of statutory town plans.

5. The Chairman noted that the FCA coverage area was reduced from 2,800 ha to about 800 ha as announced in September 2006 but was later further reduced to 400 ha as announced in early 2008. He asked the reason for such a reduction in the FCA coverage area. Mr Raymond Lee said that the Security Bureau (SB) decided to further reduce the FCA area after taking account of the comments received during the consultation exercise conducted in late 2006 as well as the phased approach in constructing the new primary boundary control road and control fence for the new FCA.

6. The Chairman enquired about the progress of the SEA and how individual project-based Environmental Impact Assessment (EIA) would integrate with the SEA. Mr Davis Lee said that baseline surveys, including ecological studies, as well as literature reviews of landscape features of the existing site had been conducted. A preliminary assessment had been completed with survey data to support the Plan. Mr Sam Tsoi added that the SEA would be conducted in two stages. In the stage of draft Concept Plan, a broad assessment was conducted to provide an overview of environmental conditions to allow the development of the Plan in line with the environmental constraints and opportunities. Environmental assessments on different aspects,

including air, noise and ecology, would be conducted to confirm the feasibility and acceptability of the conceptual proposals in terms of environmental impacts. Under this framework, individual projects requiring statutory EIA process would be identified before proceeding with the SEA under the next planning stage.

7. On examples of project-based EIA, Mr Raymond Lee explained that specific designated projects had not been identified under the current stage of SEA. Nonetheless, they were aware of some possible EIA projects, such as the proposed secondary boundary fence, development at Lok Ma Chau Loop and new Liantang/Heung Yuen Wai Boundary Control Point.

8. The Chairman and a Member asked how the Council could provide inputs during the process of the SEA. Mr Raymond Lee said that the SEA would be conducted in parallel with the planning study. So far, two working papers had been prepared and summaries of which were available in the PlanD's website. If required, they could seek the Council's views during the course of the SEA study, including the draft SEA report before it was finalized.

9. A Member considered that there were a number of good planning concepts in the Plan. As these were only conceptual proposals at this stage, he would expect more concrete details in the next stage of draft Development Plan.

10. A Member supported the conceptual proposals in the Plan, especially preservation of the Robin's Nest which served as a linkage between the Wutongshan National Forest Park and Pak Sin Leng Country Park. Nonetheless, he queried the need for developing ecological farming, given that most of the farmlands were abandoned. Mr Raymond Lee explained that based on the baseline study, it was considered that landscape features of existing or abandoned farmlands would fit-in well with the environment. To make better use of the existing and abandoned farmlands, the conceptual proposals included the encouragement of horticulture and environmentally-friendly farming to promote living in a sustainable manner.

11. A Member considered that the Plan was a good attempt to formulate a land use framework for the Closed Area. She considered that particular attention should be paid to the implementation of these planning concepts, such as how the ecological link between Pat Sin Leng Country Park in Hong Kong and Wutongshan National Forest Park in Shenzhen could be

implemented and how bicycle routes could be built to facilitate appreciation of the natural landscape without bringing about adverse impacts on the natural environment. Mr Raymond Lee agreed that implementation of the planning concepts would require further attention. On the bicycle routes, the preliminary idea was to make use of the existing boundary control roads. Further study would be conducted to explore the possibility of linking up these bicycle routes with other parts of the Study Area.

12. A Member considered that some innovative concepts, such as building holiday camps, village life experience centres, retirement villages, under the theme of conserving cultural heritage resources might overlap with similar concepts, such as building Eco-Lodge, village life experience, retirement villages and environmentally-friendly farming, under the theme of promoting sustainable uses. Mr Raymond Lee explained that the rationale behind these concepts was to make better use of the existing unused village schools or vacant houses by converting them to holiday camps or retirement villages which would be compatible with the proposed rehabilitation of abandoned agricultural land. Some of the proposals would match both themes of conserving cultural heritage resources and promoting sustainable uses.

13. A Member enquired about the concrete ideas under the theme of promoting sustainable uses and the investment opportunities referred to under the theme. Mr Raymond Lee explained that under the theme of promoting sustainable uses, the main idea was to capitalize on the boundary location as well as the natural and cultural heritage resources. The opportunity would be taken to enhance integration between the Mainland and Hong Kong. As over 50% of the study area was hilly terrain, areas suitable for development was limited. Based on the initial findings, there might be possibilities for provision of land for high value-added or hi-tech production activities at the Lok Ma Chau Loop as well as for capitalizing urban or commercial developments at locations along major roads linking the boundary control points. Moreover, some low density residential development could be considered in areas near the proposed New Development Areas at Kwu Tung North and Fanling North (most of the area stretched outside the Study Area).

14. In reply to a Member's enquiry about archaeological study, Ms Ellen Cameron said that detailed archaeological survey on specific sites was not conducted at this stage. Nonetheless, some sites of archaeological interest

and potential had been identified and further evaluation would be conducted under the stage of EIA. Mr Raymond Lee added that an archaeological survey to assess the archaeological potential of the proposed development areas would be conducted before firming up the proposal at the next planning stage.

15. A Member considered that the Plan was in principle a bad one. He was dismayed that the Government decided to open up the unique piece of land preserved by an accident of history even under no pressure of population growth. He said that there was increasing number of cases of illegal dumping and site formation as well as deliberate environmental degradation near the Closed Area. There was an urgent need for the Government to control the situation and step up enforcement actions. Moreover, the level of penalty on convicted cases was not severe enough to impose sufficient deterrent effect. He was extremely worried about the development pressure on the area to be released. No matter what green visions were proposed, the existing problems would be extended to the Closed Area after the opening up. The good intention of conservation and preservation would be compromised.

16. Mr Raymond Lee explained that the SB decided to open up some of the FCA subsequent to a review of the coverage of the FCA mainly on security considerations. Before the new FCA boundary came into effect, the PlanD considered that it was important to formulate a planning framework to guide the conservation and development of the large area to be released with a view to preparing statutory town plans. Mr Davis Lee added that on the basis that part of the FCA would eventually be opened up, the Plan was prepared to provide guidance for protection of the natural environment. There was strong pressure from local villagers and rural area committees for more development. In the absence of a planning framework as well as statutory plans to guide conservation and development of the area, there would be pressure for alternative proposals demanding more substantial development. A Member said that he noted that the PlanD was under immense pressure for substantial development and it was not easy for them to defend the protection of the Closed Area as a “Green buffer” between the two cities.

17. On the concern about illegal dumping, Mr Raymond Lee said that based on the information of the Police, there was no major increase in the number of Closed Area Permits issued over the past three years. During regular patrols, small-scale dumping activities in the FCA were observed. The

situation would be monitored. Continuous co-operation and liaison would be maintained with relevant departments.

18. A Member agreed with the other Member that opening up the area would lead to great pressure for development. The problems of illegal dumping and landfilling which were already serious in the Northern New Territories would be extended to the Closed Area. As revealed in recent cases of illegal dumping, the Government could not do much to address the problems. Mr Raymond Lee said that the control of illegal dumping in areas outside the Closed Area mainly relied on provisions under the Town Planning Ordinance (TPO) which was applied to the New Territories in 1990. The limitation of the TPO was that enforcement actions could be taken only when the developments had already taken place and environmental damages had been done. For the area to be released from the FCA, the intention was to ensure that it would be covered by statutory town plans before the new FCA boundary came into effect.

19. The Chairman considered that it was important to look beyond individual components of the whole project and assess the consequences being brought about. During a recent site visit to the New Territories by the Council, it was observed that the problems of illegal dumping and site formation were very serious. With the opening up of the FCA, the Council was concerned that the problems would spoil the natural environment of the Closed Area.

20. A Member supported the proposal of making use of some areas in the New Development Area at Ping Che/Ta Kwu Ling as reception area for displaced open storage uses. Nonetheless, he was worried about the proliferation of the existing widespread problem of unauthorized open storage to the Closed Area. Mr Raymond Lee said that they were mindful of the problem. Actions were being taken to formulate a planning framework for preparation of statutory town plans to ensure that the area to be released would be subject to statutory planning control.

21. A Member said that she understood that it was the SB's decision to open up the FCA and the PlanD tried to control the land use of the area by means of statutory plans. Nonetheless, she expressed concern about the effectiveness of the statutory plans as a mechanism to tackle the problems. She considered that enforcement actions would be important to closely monitor the area.

22. A Member recalled that one of the options proposed by the Council in 2006 was the option of no development. While the use of the area for agricultural or residential uses had greatly changed over time, the fauna and flora had thrived due to its undisturbed rural character for decades. If the Government decided to choose the option of development, it would give rise to a chain of problems and environmental degradation. It would be a move from a position of no interference to the path of accelerated development. While the piece of land would not be required for inclusion in the FCA from the security point of view, it did not mean that development had to take place. There were other options to meet the Government's liabilities and obligations for the people living in the area. It was necessary to assess critically the need for individual enhancement project or development item.

23. Mr Raymond Lee said that the Council's views on the planning study in 2006 had been taken into account in developing the current Plan. Development in the Plan referred only to small-scale enhancement works, such as upgrading of infrastructural facilities to meet the villagers' needs, touch-up improvement of the existing environment and preservation of conservation areas for public enjoyment, such as country parks, hiking trails, heritage trails and bicycle routes. While relatively more intensive development was proposed for Lok Ma Chau Loop and areas along the major roads linking the boundary control points, no massive urban type development was proposed in the Plan. The SEA would provide inputs during the whole planning process to ensure no adverse environmental impacts would be brought about by the proposals. They were mindful of the adverse impacts of over-planning in the pristine area.

24. A Member considered that the opening up of the area and building of access roads would unleash a huge pressure for village house development under the Small House Policy. This problem would not be in line with the principle of sustainable development. Mr Raymond Lee said that the Plan was made in accordance with the prevailing policy and thus suitable sites would be identified to promote more orderly village house development. They would work closely with the Lands Department on the demand of village house development under the Small House Policy and more concrete plans would be developed at the next planning stage. The Member reiterated that the problems brought about by the pressure for small house development should not be underestimated.

25. A Member was concerned about possible environmental impacts of infrastructural development, such as access roads and sewerage systems in the proposed residential development at Kong Nga Po. Mr Eric Chan explained that preliminary environmental assessments had been conducted on the conceptual proposals, including the possibility and opportunity of upgrading existing access roads or constructing new ones with a view to improving the area. Detailed design of the access roads would be prepared at the next planning stage. As regards the proposed residential development at Kong Nga Po, it would be a low density development. There was an existing access road and technical studies would be conducted on the possibility of upgrading the road. The provision of other infrastructural facilities would be subject to technical assessments.

26. A Member enquired about the projected population in the Closed Area and target residents for the proposed residential development at Kong Nga Po. Mr Raymond Lee said that the Kong Nga Po site was an area with formation of platforms and some access roads. Detailed proposal on the scale of development and target population would be further examined in the next planning stage. The general plot ratio standard of low-density development in the fringe of rural new towns was about 0.4.

27. A Member considered that it was important to have assessment of the population projection in the area. A Member agreed that assessment of population projection brought about by village house development and residential development was necessary for planning of infrastructural facilities. Mr Raymond Lee said that the current population in the Study Area was about 3,000. As no major development was proposed within the Study Area, no substantial increase in population was anticipated. More concrete data on population projection would be available in the next planning stage.

28. A Member said that while the Plan contained various elements of nature conservation, he would highlight the need for protection and strengthening of ecological links to maintain biodiversity of the ecologically important site. He suggested maximizing the proposed country park area around the Robin's Nest, designating the ecologically important site of Lin Ma Hang Lead Mines and Lin Ma Hang Stream as a country park instead of zoning it as a Site of Special Scientific Interest and allocating adequate resources for

active management of the two areas. In considering development at Lok Ma Chau Loop, attention should be paid to preserving the ecological corridor of Hoo Hok Wai and Deep Bay which was frequented by wetland birds. Disturbance to the village zone near the Lin Ma Hang Stream should be avoided. Mr Raymond Lee said that the suggestions would be taken into full consideration.

29. The Chairman considered that the preservation of the Lin Ma Hang Stream should involve also preservation of its catchment area. Mr Eric Chan said that the catchment area of Lin Ma Hang Stream was in Robin's Nest/Hung Fa Leng. As Robin's Nest was proposed for designation as a country park, the catchment area of the stream would be well protected.

30. In reply to the Chairman's enquiry about designation of the country park at Robin's Nest, Mr Raymond Lee said that the comments received so far were supportive of the proposal. More detailed examination of the site boundary of the country park would be carried out with a view to taking forward the proposal with the Country Parks Authority.

31. The Chairman summarized Members' views as follows –

- (a) the Council was in general supportive of the basic principles in the draft Concept Plan, including strengthening nature conservation, conserving cultural heritage resources and promoting sustainable uses;
- (b) the Council considered that Hong Kong was at its defining moment in developing the New Territories as a whole. If the planning was properly done, the opening up of the FCA, which was strategically located at the boundary between Hong Kong and Shenzhen, could help put the development of the New Territories on a sustainable path. However, it could also cause irreversible degradation of the pristine natural environment;
- (c) in view of the unique nature of the area in terms of its ecological value and landscape, the Council considered that a strategic approach should be adopted for planning, including the option of no development. If there were good reasons for a certain

small-scale development, it should be justified and spelt out clearly. On top of security grounds for the opening up of the FCA, other considerations such as ecology and quality of life should also be taken into account. Information on population projection and its justification would be important as a basis for assessment of strategic options;

- (d) the Council suggested adopting a proactive and holistic view on the assessment of the Study Area by going beyond individual project or component. With the opening up of the area and construction of access roads, there would be development pressure, demand for village house development and other related environmental problems, such as illegal dumping and landfilling. Effective and enforceable mechanisms, including legislative means, should be put in place to tackle the potential problems;
- (e) the Council welcomed conservation initiatives, including the designation of country park and maintaining integrity of the ecologic corridors. A broad approach should be adopted in considering the preservation of a site, such as the coverage of the catchment area in preserving a stream. To implement conservation initiatives, the right tool had to be used, such as the land exchange mechanism under the Nature Conservation Policy; and
- (f) the Council looked forward to opportunities of exchanging views and providing inputs in the next planning stage as well as in the process of the SEA, including the integration of individual projects in the context of the SEA.

Agenda Item 4 : Report on the 103rd Environmental Impact Assessment Subcommittee meeting
(ACE Paper 19/2008)

32. The Chairman declared interest as the Centre for Environmental Policy and Resource Management of the Chinese University of Hong Kong, in which he served as the Director, had received sponsorship from the parent company of the project proponent to organize an international conference in

2007. Members agreed that the Chairman could stay and continue to chair the meeting in view of the indirect relationship with the project proponent. A Member declared interest as the Green Power, in which he served as the Chief Executive Officer, had received sponsorship from the parent company of the project proponent for organizing some activities. Two Members declared interest as the Conservancy Association, in which they served as the Chairman and Director respectively, had received sponsorship from the parent company of the project proponent for some projects. The meeting agreed that all the three Members could stay and continue to take part in the discussion in view of the indirect relationship with the project proponent.

33. The Chairman of EIA Subcommittee reported on the recommendations of the Subcommittee on the EIA report on “Proposed Comprehensive Development at Wo Shang Wai, Yuen Long”. He said that the Subcommittee recommended the endorsement of the EIA report with some proposed conditions. The Subcommittee would also like to draw the attention of the Council on the issue raised by a non-Subcommittee member, before the Subcommittee meeting about the need for the Government to develop a conservation plan for the Deep Bay area in view of the cumulative impact of development projects around the Deep Bay area. The Subcommittee considered that the issue was outside the scope of the current EIA report and should be considered by the full Council as a general issue.

34. In response to a Member’s enquiry about the conservation plan for the Deep Bay area, Mr J K Chan explained that Hong Kong was obliged under the Ramsar Convention on Wetlands to promote the conservation of Mai Po and Inner Deep Bay Site as well as the wise use of wetlands. In order to preserve the ecologically important fishponds and wetlands in the Deep Bay area, the Town Planning Board (TPB) had promulgated the “Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the TPO (TPB PG-No. 12B)” under the TPO to put land use and planning in the Deep Bay area under control. Under the guidelines, the area was divided into the Wetland Conservation Area (WCA) and Wetland Buffer Area (WBA). The WCA mainly consisted of contiguous fishponds for conservation purpose while the WBA was a belt some 500 m away from the boundary of WCA consisted of more degraded areas. Development proposals in WBA would be considered if the project proponents could put in place enhancement/restoration works for the wetlands. This would give incentives to

landowners/developers to enhance and upgrade the ecological value of the degraded sites. On top of planning control, residential developments within WBA were designated projects under the EIA Ordinance. Project proponents had to follow the requirements under the Technical Memorandum under the EIA Ordinance to conduct EIA and implement mitigation measures to ensure that the proposed development would not result in any significant residual impacts. The Government would adhere to the principles of “no-net-loss in wetland” and “wise use of wetlands” through the planning control and active management of Mai Po and Inner Deep Bay Ramsar Site. For the proposed residential development at Wo Shang Wai, the project proponent had conducted EIA study and would go through the statutory town planning process.

35. Mr P Y Tam informed Members that the project proponent had submitted an application for the project to the Town Planning Board in April but had recently submitted a request for deferral of the application in order to sort out some issues related to the proposed alignment of the express railway near the development site. He said that the precautionary principle was adopted for the planning control of the Deep Bay area in order to exercise stringent control on development in the core area of Mai Po and Inner Deep Bay Ramsar Site. The belt of WBA mainly consisted of degraded land and mostly in private ownership. To give incentives to landowners/developers for early implementation of works to upgrade the ecological value of the area, low density residential development was allowed with the conditions of putting in place enhancement/restoration works for the wetlands. In view of the stringent requirements, no proposal had been approved and implemented so far.

36. A Member pointed out that the proposed residential development at Wo Shang Wai was located at the WBA, and not the WCA. In the WBA, there were three target sites identified for development including the one at Wo Shang Wai. Most of the sites were degraded areas and some had been used as open storage space. Through the proposed development, there was an opportunity to improve the quality of the site, in particular by the provision of proper wetland management. In the core area of WCA, the requirements of development would be much more stringent, including the planning principle of “no net-loss of wetlands”. Though this planning principle did not apply to the WBA, the project proponent of Wo Shang Wai project had tried to adopt this principle on a voluntary basis.

37. A Member agreed to the recommendation of the EIA Subcommittee. He said that he was aware of other proposed development projects around the Deep Bay area and was concerned about the cumulative impacts brought about by the projects. He suggested that the issue of conservation plan for the Deep Bay area be discussed at a future meeting from a more holistic point of view.

38. The Chairman concluded that the Council endorsed the EIA report with the conditions proposed in paragraph 40 of the paper. Given the ecological importance of the Deep Bay area, the Council would discuss the general issue of conservation plan for the Deep Bay area at a future meeting in order to have an overview of the current situation, cumulative impacts of development projects in the area as well as control mechanisms in place and their effectiveness in maintaining the integrity of the area.

(Post-meeting note: The relevant departments would brief Members on the subject in due course.)

Agenda Item 5 : Any other business

Invitation from the Legislative Council Panel on Environmental Affairs for a written submission

39. The Chairman informed Members that the Legislative Council Panel on Environmental Affairs (EA Panel) invited the Council, among other deputations, to provide a written submission regarding the depositing of inert construction and demolition (C&D) materials on private land. The Panel would hold a special meeting on 30 June 2008 to receive deputations and discuss the issue. The Waste Management Subcommittee had discussed the issue at its meeting on 2 June 2008 and had prepared a draft note which was tabled for Members' reference.

40. The Chairman of Waste Management Subcommittee reported the views of the Subcommittee as summarized in the draft note. He highlighted that Members were concerned about the seriousness of the problem and difficulties encountered to tackle the problem.

41. Mr P Y Tam referred to bullet point 4 of the draft note regarding

the suggestion of amending the TPO to enhance planning and land use controls in both urban areas and rural areas, and pointed out that the TPO was not an effective tool to control landfilling, including the filling of land by C&D waste, and that the planning enforcement power was not applicable to urban areas. He advised that he was aware that concerned bureaux and departments had recently been considering the mechanisms of controlling landfilling although he could not advise ACE at this moment what the coordinated views would be. However, he pointed out that apart from any possible amendment to the Ordinances which would take a long time, consideration should, as an immediate remedy, be given to instigating and stepping up administrative measures, such as through the issuance of relevant practice notes and operational guidelines and to seek the cooperation of developers and trade operators.

42. In response to a Member's enquiry about the trip-ticketing system, a Member said that the system was a mandatory requirement for public works projects. Under the system, producers of C&D materials were required to monitor the depositing of C&D materials generated. The Subcommittee considered that the system should be extended to major private works projects. A Member said that the system mainly monitored the depositing of C&D materials to the final public fill reception facilities or landfills.

43. Ms Anissa Wong explained that the Development Bureau operated the trip-ticketing system to ensure the C&D materials from public works projects were properly disposed of at designated disposal facilities. The system relied heavily on conscientious efforts of the site supervisory staff to issue a trip ticket to every truck leaving the site, and to compare regularly site delivery records against the reception records at the designated facilities. There was no existing mechanism to check the whereabouts of the loads of C&D materials leaving the construction sites. Extending the system to private projects would require the cooperation of developers to assume the responsibility of monitoring the depositing of the materials. If the system was to be introduced on a mandatory basis to private projects, it would require legislative back up and additional resources to police and enforce the operation. For fly-tipping at Government land, EPD and relevant authorities would take vigorous enforcement actions. The major difficulty for enforcement actions was that the offenders had to be caught red-handed. The enforcement of depositing C&D materials on private land was a more complicated issue. The problem cut across different areas, such as planning, land use, environmental protection,

drainage and public hygiene, which required different control mechanisms to tackle the problem. As far as the Waste Disposal Ordinance (WDO) was concerned, there was no provision to tackle the situation where the depositing of C&D materials on private land had the consent of the land owners and no environmental problems were involved.

44. A Member considered that any proposed legislative amendment should not affect the legitimate use of C&D waste such as landfilling for site formation. He noted that most fly-tipping cases were not related to large-scale projects but mainly small-scale construction or renovation works involving domestic or industrial waste. He considered that extending the trip-ticketing system to major private works would not help much. Whatever proposal it would be, a formal consultation process with stakeholders would be necessary to collect their views before finalizing the proposal.

45. A Member suggested promoting public awareness of the trip-ticketing system to encourage parties generating the C&D materials and paying for the cost of dumping to exercise due diligence in monitoring the proper depositing of the materials at designated facilities. The system would be particularly effective for large private projects because developers would not put their reputations at risk. In some cases, the contractor or truck driver would receive money from the developer for the cost of dumping but at the same time also receive money from the landowner of private land for landfilling activities.

46. A Member was concerned about the imminence of the problem. In view of the long time required for legislative amendments, he supported extending the trip-ticketing system to major private projects on a voluntary basis. He suggested that EPD could seek the views of the construction industry and impress upon them about the seriousness of the problem in order to secure their support by means of, say, signing a charter.

47. Ms Anissa Wong highlighted that fly-tipping referred to depositing of C&D materials on Government land. The focus of recent community concern and discussion of the EA Panel was on the problem of depositing of C&D materials on private land. In the situation where the consent of the landowner was obtained and such activities did not cause adverse environmental and hygiene problems or violation of land use control, the relevant Government departments did not have authority under the existing legislation to enforce

against such activities. Nevertheless, there were circumstances that such depositing of inert C&D materials became an eyesore and was found incompatible with the surrounding natural environment.

48. A Member supported the views of the Waste Management Subcommittee. He suggested reviewing the definition of waste under the WDO as C&D materials were not considered as waste and thus limited enforcement actions could be taken. A Member agreed that the amendments to WDO should not be ruled out for consideration of long-term measures.

49. In reply to a Member's enquiry about overseas practices in handling such kind of problem, Mr K F Tang said that some government such as New South Wales Government of Australia would require landowners to make formal applications as a planning requirement for landfilling activities. The Member said that the Council could also suggest that reference be made to overseas regulatory frameworks and practices in handling the problem.

50. In reply to a Member's enquiry about statistics on prosecution of fly-tipping cases, Mr K F Tang said that when the amount of C&D materials involved was relatively large, Section 16A of the WDO would be invoked by way of summons requiring the offenders to appear in court. When the amount of materials was relatively small, a fixed penalty ticket for a fine of \$1,500 would be issued. In 2007, 16 summonses were issued under the WDO. The maximum fine for any first offence upon conviction was \$200,000 and an imprisonment of six months, and the average fine for the convicted cases was less than \$5,000. He highlighted that most of the cases involved relatively small amount of C&D materials. A Member considered that the level of penalty was far too low to impose any deterrent effect. The Chairman recalled that the Council had expressed views to the Judiciary few years ago that the level of fines imposed on fly-tipping offenders was too lenient.

51. The Chairman suggested that additional views expressed by Members at the meeting be included in the written submission to the EA Panel and the revised draft be circulated to Members.

(Posting meeting note: The revised written submission was circulated to Members for agreement before issue.)

Level of penalty for a case of illegal damming of a stream in Tai Po

52. A Member referred to a case of illegal construction of a bridge traversing a natural stream in Tai Po involving a 25 m long road and evacuation of about 250 m² of a section of the stream. He noted that the offender was fined only \$6,500 and the court ordered him to pay restoration costs of \$9,588 to the Lands Department. He highlighted that the maximum fine for such kind of offence was \$50,000 and six-month imprisonment. He considered that the level of penalty on the case and similar convicted cases was too low to impose any sufficient deterrent effect. The level of penalty was not commensurate with the efforts and resources taken on the prosecution as well as the cost of restoration. He suggested the Council making a public statement to express the concern. The Chairman suggested and Members agreed that a letter be also sent to the Judiciary to express the Council's concern.

(Post-meeting note: The Chairman expressed the Council's concern at the press briefing after the meeting and a letter has been sent to the Judiciary to express the concern.)

Tentative items for discussion at the next meeting

53. The agenda was being compiled. Members would be informed in due course.

Agenda Item 6 : Date of next meeting

54. The next meeting was scheduled on 14 July 2008.