

**Confirmed Minutes of the 108th Meeting of
the Advisory Council on the Environment
held on 10 September 2003 at 2:30 p.m.**

Present:

Prof. LAM Kin-che, J.P. (Chairman)
Prof. HO Kin-chung
Mr. LIN Chaan-ming
Dr. NG Cho-nam
Mrs. Mei NG, B.B.S
Mr. Otto L. T. POON, B.B.S.
Mr. Michael J. D. RUSHWORTH
Ms. Iris TAM, J.P.
Ms. Jessie WONG (Secretary)

Absent with Apologies:

Prof. Peter HILLS
Mr. Peter Y. C. LEE
Prof. LUNG Ping-yee, David, S.B.S., J.P.
Prof. WONG Tze-wai
Prof. WONG Yuk-shan, J.P.

In Attendance:

Dr. Sarah LIAO, J.P.	Secretary for the Environment, Transport and Works
Mrs. Rita LAU, J.P.	Permanent Secretary for the Environment, Transport and Works (Environment and Transport)
Ms. Doris CHEUNG	Deputy Secretary (E)1, Environment, Transport and Works Bureau (ETWB)
Mr. Thomas CHOW	Deputy Secretary (E)2, ETWB
Mr. Rob LAW, J.P.	Director of Environmental Protection
Mr. C C LAY	Assistant Director (Conservation), Agriculture, Fisheries and Conservation Department (AFCD)
Dr. Amy CHIU	Assistant Director (Health Administration and Planning), Department of Health
Miss CHU Hing-yin	Chief Town Planner/Technical Services, Planning Department
Mr. Matthew LEUNG	Secretariat Press Officer (Environment, Transport and Works), ETWB
Ms. Polly LEUNG	Principal Information Officer, Environmental Protection Department (EPD)
Miss Petula POON	Chief Executive Officer (E), ETWB
Mr. Eddie CHENG	Executive Officer (E), ETWB

Action

The Chairman welcomed Dr. Sarah Liao, Secretary for the Environment, Transport and Works to the meeting. He also welcomed Dr. Amy Chiu who had replaced Dr. Constance Chan as Assistant Director (Health Administration and Planning) of the Department of Health.

Agenda Item 1 : Confirmation of Minutes of the 107th Meeting held on 14 July 2003

2. The draft minutes were confirmed subject to the following amendments proposed by a Member -

(a) The second, third and fourth sentences of paragraph 32 should be amended to read “She pointed out that in the old urban areas, land lots were generally small in size, which made it relatively easier to improve local area ventilation. In the new development areas, land lots were very large and without large site reduction factor, the resultant gross floor areas were enormous. Coupled with stringent planning controls, the resultant built forms might work against good ventilation.”

(b) The first sentence of paragraph 35 should be amended to read “A Member proposed that where stringent building height control was imposed due to visual concern, the plot ratio for the site should be reduced (particularly for the land sales sites) in order to avoid poor building design which might result in poor ventilation.”

Agenda Item 2 : Matters Arising

Para. 6: To submit a further report to the EIA Subcommittee upon completion of the post remediation monitoring in Kai Tak Airport North Apron

3. The Chairman informed Members that the Secretariat had passed the above request to the Territory Development Department.

Para. 12: To provide information on waste oil recovery

4. The Chairman said that an information paper prepared by EPD on Free Lube Oil Collection Scheme (ACE Paper 23/2003) was distributed to Members on 12 August 2003.

Para. 18: To brief a Member on arrangements adopted in appointing the agent for transporting dioxin residue

5. The Chairman informed Members that the Secretariat had reminded the Civil Engineering Department of the follow-up action required.

Para. 25: To arrange a site visit to the desorption plant in To Kau Wan

6. The Chairman said that the Secretariat would follow up with the Civil Engineering Department on the site visit and would inform Members of the details in due course.

Para. 30: Workshop on building index organized by the University of Hong Kong

7. The Chairman reported that the information on the above workshop was distributed to Members on 22 July 2003.

Para. 40: To send Members' views on the brain-storming session on SARS to the relevant authorities for reference

8. The Chairman said that the Secretariat would follow up the matter after Members had confirmed the draft minutes of the last meeting.

Agenda Item 3 : Public Consultation on the Review of Nature Conservation Policy
(ACE Paper 24/2003)

9. The Chairman welcomed the opportunity to discuss the nature conservation policy review at the meeting. He informed Members that three Members and he himself held an informal meeting on 30 August 2003 to exchange views on the consultation document with the Administration and three academics from the University of Hong Kong and the Hong Kong City University. Besides, a Member who could not attend the present meeting, had submitted his views on the policy review and his letter had been circulated to Members for information. The Chairman then invited Dr. Sarah Liao and Mr. Thomas Chow to introduce the background of the policy review and brief Members on the consultation document respectively.

General issues

10. While agreeing that the conservation of ecologically important sites under private ownership was the crux of the debates over the past few years, a Member suggested that the Government should also address other outstanding environmental issues, such as the conservation of

habitats that were not adequately protected at present; formulation of conservation plans for certain habitats/important species, e.g. Romer's Tree Frogs; the restoration of lost species which were important for the ecosystem; and international obligations in respect of the control over trade on wild birds and coral reef fish. He agreed that the improvement proposals set out in the consultation document had addressed the need for conserving ecologically important sites under private ownership. Other outstanding issues mentioned could be achieved by stepping up conservation efforts under the existing mechanisms. In response, Mr. Thomas Chow assured Members that the Government was firmly committed to protecting the natural heritage and would continue its efforts under the existing systems and explore ways to enhance those efforts.

11. A Member supported the proposals in the consultation document. He asked about the priority of nature conservation in the Government's overall policy agenda and whether an inter-departmental committee would be formed to oversee the matter. In response, Mr. Thomas Chow pointed out that the nature conservation policy review was included in the 2003 Policy Agenda and that showed the high priority the Government attached to nature conservation. Once a new nature conservation policy had been formulated, the relevant government departments would take the necessary action to implement it.

12. In response to a Member's concern about the protection of country and marine parks, Mr. Thomas Chow said that country and marine parks were already under the protection of the Country and Marine Parks Ordinance and other conservation related legislation and mechanisms. The Administration reviewed the effectiveness of the existing systems and measures from time to time and would make improvements where necessary.

13. In reply to a Member's question on whether there would be an ecological database that could be used as baseline information for future environmental impact assessment studies, Mr. Thomas Chow said that AFCD was conducting ecological surveys for the purpose of setting up a comprehensive ecological database for Hong Kong in phases by 2005. The database would be updated from time to time to incorporate new information available.

14. A Member appreciated the good efforts of the Bureau in arranging various consultation sessions and working meetings with the stakeholders. She remarked that land preservation involved consensus building and hence it was important to help the public to better understand the value of nature conservation. Appreciating the need to manage the

public's expectations, the Member agreed that the discussion should not focus on specific sites and that the policy review should adopt a holistic approach. In response to the Member's concerns, Mr. Thomas Chow said that nature conservation and land use planning were closely related and hence the policy review was conducted in collaboration with the Housing, Planning and Lands Bureau (HPLB), the Planning Department and the Lands Department. He agreed that it was necessary to educate the public on the need for nature conservation so as to gain their support. In that connection, roving exhibitions on the review and meetings with various organizations including District Councils were arranged. Mr. Chow further explained that if there was clear public support, the Administration would implement the proposed measures by means of a few pilot schemes to start with. It was believed that success of the pilot schemes would help encourage more stakeholders to take part in the new landowners' agreement or the public-private partnership (PPP) schemes later on.

15. A Member pointed out that non governmental organizations (NGOs) would need funding support from the Government in order to make the proposed programmes sustainable. In response, Mr. Thomas Chow said that the Bureau would bid for resources if there was clear support for the management agreement option. However, the size of the subsidy would be dependent upon the Government's financial position. In that respect, the proposed PPP option would be more sustainable because the schemes would not be dependent on government subsidy, and the developer concerned would be responsible for conserving the more ecologically important sites in exchange for approval to develop the less ecologically sensitive part of the site.

16. In reply to a Member's suggestion of introducing conservation credit trading to provide incentives for the landowners, Mr. Thomas Chow said that setting up such a system would take a long time, as the issues involved were highly complex. As regards the Member's comments on the Government's role on the improvement proposals, Mr. Thomas Chow said that if the proposed options were widely supported by the public and the key stakeholders, the Government would play an active role in coordinating the efforts of the various parties concerned.

17. A Member pointed out that nature conservation was closely related to land use and population density. He considered that the nature conservation policy should be reviewed in conjunction with the latter two policy areas. In particular, the amount of land required for meeting the development needs of the community should be considered when designing the scoring system.

18. The Chairman commended the Administration for its past

conservation efforts. He pointed out that the nature conservation policy was very important, as it would affect the quality of life of people in Hong Kong. Hence, clearly defined missions and objectives were needed in formulating the policy. In response, Mr. Thomas Chow said that comments had been made that the policy statement on nature conservation published some years ago did not set out the objectives clearly. During the course of the consultation exercise, the Bureau had received suggestions on how the policy statement should be refined and would take them into account.

The scoring system

19. Members at the meeting in general supported the proposed scoring system. A Member agreed that the scoring system should be habitat-based rather than biodiversity-based because according to statistics, over 80% of the loss in biodiversity over the world was due to habitat damages. He was curious whether some known sites of high ecological value would get high scores under the proposed scoring system. In response, Dr. Sarah Liao confirmed that AFCD had conducted a trial run for the scoring system and the result was reasonable.

20. A Member supported the scoring system, as it would facilitate a more transparent decision-making process. However, she said that the range of the score for each criterion should be set carefully so that a decision based on the difference in scores would not look unreasonable. She pointed out that at present lots of areas were zoned as conservation areas (CAs) and some of them did not have high ecological value. She therefore asked whether the existing CA zonings could be reviewed by applying the proposed scoring system. In response, Dr. Sarah Liao clarified that the objective of the proposed scoring system was not to review the existing conservation designations including CAs, Sites of Special Scientific Interest (SSSIs) or country parks because those areas were designated for different purposes. For instance, country parks were designated mainly for recreation and education purposes and CAs might not be conserved solely for ecological reasons.

21. A Member agreed that many CAs were not conserved for ecological reasons but it was not clear to the public. In response, Dr. Sarah Liao agreed that it would facilitate the planning process if the zoning of SSSIs, CAs, etc could be clearly defined but in reality it was very difficult as the authorities had to consider many factors when deciding a land use zoning. She reiterated that the objective of the proposed scoring system was to identify private sites for enhanced conservation. Mrs. Rita Lau agreed that there could be confusion over the zoning of CAs and that Lands Department and Planning Department should clarify CA zoning

proposals where necessary.

22. A Member expressed concern that the scoring system might be used to justify development rather than to identify priority sites for enhanced conservation as it was originally designed for. Hence, the objective of the scoring system should be spelt out clearly when the revised policy was promulgated later.

23. A Member considered that sites where new or rare species was found should be protected properly. As under the scoring system only 20% weighting was assigned to species rarity/endemism, he was concerned that the habitats of rare or new species would not be put under proper protection and that the species concerned would be lost as a result. He proposed that a higher weighting should be accorded to species rarity/endemism. In response, Dr. Sarah Liao explained that the habitat rather than species approach was adopted because, unless the habitat concerned could not be easily re-created or difficult to find in other parts of Hong Kong, rare species could be transferred to other suitable habitats. Hence, there was no point in conserving a whole area solely for the protection of a rare species found there.

24. The Chairman agreed that an objective system was necessary to conduct a systematic analysis and identify target sites. Since the weighting reflected the relative priority of different values and objectives, it should be refined when the policy objectives were determined.

Proposed measures

25. A Member pointed out that “demo” projects would be useful to show how the proposed options would work in practice. The PPP option was a good way forward but required clear operational guidelines and monitoring systems. The Fung Lok Wai project was similar to the PPP option, but it had not materialized yet. Hence, quoting it as a successful example of the PPP option might not be appropriate. Besides, NGOs had difficulties in planning ahead if there was no dedicated funding for them. She therefore suggested setting up a trust fund for NGOs to implement the pilot projects. In response, Dr. Sarah Liao said that the Bureau would look into the issue of funding if there was a clear support for the proposals and after the new policy had been formulated. A project would be sustainable only if it could generate certain income to support its continued operation. It could not rely solely on government funding.

26. A Member agreed that, given limited government resources, the partnership approach would be an effective and sustainable approach and it was in fact quite popular in other parts of the world. In his view, if

land resumption were accepted as one of the feasible options, the partnership approach would not work because landowners would not find it attractive and would simply wait for land resumption. Furthermore, unless there were adequate resources to acquire all the sites concerned, the land resumption option would generate disputes on whether and which sites should be resumed. In Mei Po Reserve where land was resumed, partnership with local fish farmers was still required because the management of the site was an issue that needed to be taken care of. It was more cost effective if partnership was established in the first place. In response, Dr. Sarah Liao clarified that Mai Po was designated as a Ramsar site under the Convention on Wetlands of International Importance Especially as a Waterfowl Habitat and the Government had an obligation to properly manage it. The Government resumed part of the site, and a large part of it was purchased by private companies and donated to the Government afterwards. Hence, the cost of resuming Mai Po at that time was not high. As regards the land resumption option, Dr. Liao stressed that landowners in the New Territories were fully aware that the Government would not resume land for nature conservation purpose, and any plan to change the usage of the land for development purposes would not be approved by the Town Planning Board lightly.

27. A Member pointed out that there was only a limited number of NGOs in the field of environmental protection. He was worried that it might be beyond their capability if many sites were identified for enhanced conservation under the proposed scoring system. In response, Dr. Sarah Liao said that the proposed improvement options, if adopted as part of the policy, would be implemented gradually and a few pilot schemes would be set up first. In addition, the Government would provide technical advice and support to the NGOs.

28. A Member was concerned that there might be conflicts between the NGOs and the landowners if the former would like to stop the activities allowed under the land lease, e.g. agricultural activities, and aim for enhancing the value of the site.

29. The Chairman agreed that it would be sensible to kick off with a few pilot schemes first to demonstrate the effectiveness of the proposed measures. In response to the Chairman's question, Mr. Thomas Chow confirmed that the Government always welcomed new ideas and proposals and would consider adopting them if they were practicable.

The way forward

30. A Member said that the conservation credit trading system should be considered in greater detail in future, as it would provide more

incentives for conserving or even enhancing the ecological value of a site. He believed that the PPP option would work. On the other hand, more incentives would be needed for the management option to be successful.

31. A Member said that the Council should review its role as far as the implementation of the new nature conservation policy was concerned. In addition, it would be helpful if environmental experts could be invited to provide advice and assistance to the implementation of the PPP and management agreement options. In her view, it was also time to start the work on capability building so that the potential partners would be ready when funding for the pilot schemes was made available.

32. In reply to a Member's enquiry, Dr. Sarah Liao confirmed that the Bureau was working on a proposal to extend the Convention of Biodiversity to Hong Kong but as far as she was aware, there were no clear biodiversity standards to follow at the moment. The Member pointed out that the nature conservation policy should include restoration of lost important habitats. In addition, conservation plans for rare species were required. Furthermore, there should be more integration within the Government and among the Government, NGOs and the private sector in the pursuit of nature conservation objectives. He also proposed that given the remarkable achievement of conservation efforts in the past, Hong Kong should aim to become a world-class eco-city. In response, Dr. Sarah Liao said that the vision of Hong Kong was to be a world-class city, and ecology was one of the areas that the Government was working on. In that regard, Hong Kong already had a high percentage of land put under conservation protection by statute, and it would be very difficult to increase the percentage substantially given its small area. The task at hand was to better conserve ecologically important sites under private ownership.

33. A Member pointed out that at present there were several advisory committees on nature conservation matters. The Bureau should review the advisory structure and consider consolidating those committees as far as possible. She also proposed that ETWB should form a taskforce to co-ordinate the relevant bureaux and departments in the implementation of the nature conservation policy.

34. In response to a Member's enquiry, Mr. Thomas Chow said that the public consultation would end on 18 October 2003. The Bureau would carefully consider the comments received when deciding the way forward.

35. The Chairman concluded that the Council appreciated the Government for what it had done for nature conservation, and Members

were in general supportive of the policy review, the proposed scoring system and the proposed improvement measures. He said that conservation was a long-term job and it was hoped that policy missions and objectives could be more clearly defined. Members noted the constraints faced by the Government, and that practicable measures would be needed to deal with issues relating to the conservation of ecologically important sites under private ownership.

Agenda Item 4 : Report on the 80th meeting of the Environmental Impact Assessment Subcommittee
(ACE Paper 25/2003)

36. Since the Chairman of the Environmental Impact Assessment (EIA) Subcommittee had already left the meeting and the Deputy Chairman was absent from the 80th meeting of the Subcommittee, a Subcommittee Member was invited to present the report of the Subcommittee.

Public Transport Interchange (PTI) at Lok Ma Chau Terminus of the Sheung Shui to Lok Ma Chau Spur Line

37. In response to the Chairman's enquiry on whether the project would involve a variation of the approved Environmental Permit (EP) or an application for a new EP and who would make the application, Mr. Rob Law said that the project was a designated project under the EIA Ordinance and hence either a new EP or variation to the EP issued for the Spur Line would be required. As far as he was aware, the project proponent might seek permission to apply for an EP directly instead of performing a full EIA study. Whether permission would be given would depend on whether the environmental impact arising from the proposed PTI was insignificant and could be controlled to within acceptable levels. He had not yet received any application for the project. He further explained that if the project proponent would seek permission to apply for an EP directly, the project profile would be made available for comments by Members as well as the public. If the project proponent would apply for a variation of the approved EP for the Spur Line project instead, the application would not be published for public inspection under the EIA Ordinance. The Secretary supplemented that as far as she was aware, the Transport Sub-branch was still liaising with KCRC to see whether the project should proceed by means of a variation of the approved EP for the Spur Line project or an application for permission to apply directly for an EP. In the former case, the applicant would have to be KCRC while for the latter, the applicant might be the Highways Department. For permission to apply for an EP directly, the project profile would be exhibited for 14 days in accordance with the EIA Ordinance. EPD would consult the relevant authorities and consider

the comments submitted by the public and Members, if any, before deciding whether a full EIA study would be required.

38. A Member pointed out that the proposed PTI was being pushed by politicians at the LegCo and that it was not being pursued for real transport planning reasons. He expressed dissatisfaction as much effort had been made over the years to make the Spur Line environmentally friendly. Now the proposed PTI would seriously compromise those efforts. He said that the message had been conveyed to the Government representatives at the Subcommittee meeting. In response, Mr. Rob Law explained that the additional traffic arising from the proposed PTI would not be so great as to cause significant environmental problems. The Member was concerned that while the traffic volume would be restricted at the initial stage, the restriction would eventually be lifted due to public demand if many commuters used the PTI. The rail system would become redundant then.

39. The Chairman noted the Subcommittee's reservation on the proposed PTI as it might undermine the effectiveness of the proposed ecological measures of the Spur Line. Furthermore, road-based transport was not considered an environmentally friendly transport mode. After further discussion, Members agreed to ask the Secretariat to write to the Transport Sub-branch of ETWB to reflect Members' reservation and copy the letter to the Secretary for the Environment, Transport and Works (SETW) for information. The Chairman requested and Mr. Rob Law agreed to keep the Council informed when the application for the project was received.

Secretariat

EPD

Tung Chung to Ngong Ping Cable Car – Ngong Ping Stream Diversion

40. In response to the Chairman's enquiry, Mr. Rob Law confirmed that EPD had received MTRC's application for permission to apply for an EP directly. The project profile was exhibited for public inspection and after considering public comments received, SETW had given consent after holding a lengthy meeting with departments concerned on the application and he had granted the permission with conditions. The permission was sent to MTRC on 4 September 2003 and put on EPD's web site. A copy could be circulated to Members for information.

Secretariat

41. A Member pointed out that the EIA report of the Cable Car project was examined by the Subcommittee in April 2003 and at that time the stream diversion was not mentioned. It was after the Council's endorsement of the EIA report that MTRC raised the stream diversion issue. Although MTRC had explained the reasons for the stream diversion, and the environmental impact was acceptable, he was concerned

that in future project proponents might adopt a similar approach to avoid dealing with sensitive issues of the project in the EIA report.

42. In response to a Member's question on the criteria for approving a variation of the EP, Mr. Rob Law explained that in general a variation to the EP would be approved if the environmental impact of the change was considered insignificant and that there were suitable mitigation measures. The existing mechanism under the EIA Ordinance allowed such kind of variation because major projects were usually very complex and changes in design were not uncommon during the detailed design stage. Appreciating the need for flexibility, the Chairman said that he was confident that SETW and DEP had carefully examined the application and had taken into account the concerns of the EIA Subcommittee. Mr. Rob Law assured Members that the views of the Subcommittee had been taken on board and in order to safeguard the mechanism, applications or such variations were always considered with caution.

43. In response to the Chairman's enquiry, a Subcommittee Member said that the project proponent had explained the reason for not anticipating the problem earlier. It was noted that the Drainage Services Department informed the project proponent in March 2003 that the stream should be improved to be capable of withstanding the 1-in-50 year rainfall event, which effectively made the original design of keeping the stream in the theme village impossible. As a result, the stream had to be diverted and those changes could not be reflected in the EIA report in time.

44. The Chairman concluded that he was confident that SETW and DEP had studied the proposed project carefully and the Council would take a closer look at similar cases in future.

Agenda Item 5 : Any Other Business

Visit to the Environmental Protection Bureau of the Guangdong Province on 26 September 2003

45. The Chairman reported that only three Members and he himself had signed up for the visit. As there were too few Members, he appealed to other Members for support, or else the visit would have to be postponed.

(Post meeting note : The visit on 26 September was cancelled and another date was being identified with the Mainland side.)

Tentative items for discussion at the next meeting

46. The Chairman informed the meeting that two items were tentatively scheduled for the next meeting, namely the report of the EIA Subcommittee and briefing on green management and handling of clinical waste by the Hospital Authority. In response to the Chairman's enquiry, the Secretary said that the paper on the updated position of the Third Comprehensive Transport Study was being prepared by the Transport Sub-branch and would be presented to Members once available.

Agenda Item 6 : Date of Next Meeting

47. The next meeting would be held on 13 October 2003.

**ACE Secretariat
September 2003**