

**Advisory Council on the Environment
Nature Conservation Subcommittee**

**Minutes of the meeting held on 14 August 2008
at 2:30 pm in Room 4690, 46/F., Revenue Tower, Wanchai**

Present:

Prof WONG Yuk-shan, B.B.S., J.P. (Subcommittee Chairman)
Prof LAM Kwan-sing, Paul
Mr. Markus SHAW
Dr YAU Wing-kwong
Dr MAN Chi-sum, J.P.
Ms Betty HO
Prof LAM Kin-che, S.B.S., J.P. (ACE Chairman)

Absent with apologies:

Ms Goretti LAU
Dr NG Cho-nam, B.B.S.

In Attendance :

Mr. Vincent TANG	Assistant Director (Conservation and Infrastructure), EPD
Mr. C C LAY	Assistant Director (Conservation), Agriculture, Fisheries and Conservation Department (AFCD)
Dr P M SO	Senior Conservation Officer (Biodiversity), AFCD
Miss Florence CHAN	Senior Administrative Officer (Nature Conservation), EPD (Secretary)

In Attendance for Agenda Item 3 :

Presentation Team

Dr Eric Tsang	Chairman, Green Power
Dr Man Chi Sum	Chief Executive Officer, Green Power
Dr LK Cheng	Director, Green Power
Mr Phill Black	Director, ProPlan Asia Ltd
Mr Kenneth To	Director, Kenneth To & Associates Ltd
Ms Meeling Yau	Director, Eco-System Ltd
Mr Joe Fong	Director, Sha Lo Tung Development Company Ltd

In Attendance for Agenda Item 4 :

Mr Cary Ho Senior Nature Conservation Officer (South), AFCD

In Attendance for Agenda Item 5 :

Mr JK Chan Senior Wetland and Fauna Conservation Officer, AFCD

Action

The Chairman welcomed Members to the meeting of the Nature Conservation Subcommittee (Subcommittee).

Agenda Item 1: Confirmation on Minutes of the Last Meeting held on 9 April 2008

2. The draft minutes were confirmed without any amendments.

Agenda Item 2: Matters arising

3. The Chairman reminded members to declare potential conflict of interest. A member declared potential conflict of interest as he was involved in the Sha Lo Tung project. The Chairman said that the member should not attend in the capacity of member for agenda item 3. Another member also declared potential conflict as she was involved in another Public-private Partnership (PPP) project. The Chairman noted that agenda item 3 would only discuss Sha Lo Tung project and said that the concerned member could continue to attend the meeting.

Agenda Item 3: Sha Lo Tung Public-private Partnership Pilot Project - Conservation Management Plan for the proposed Ecological Reserve (NCSC Paper 2/08)

4. The Chairman invited Dr P M So to brief members on the background of the Sha Lo Tung PPP project. The Chairman then

invited Mr Phill Black to present the Conservation Management Plan of the Sha Lo Tung project.

5. In response to a member's enquiry, Mr Black illustrated the flow direction of the stream. Mr Phill Black said the development components had been carefully designed to avoid surface run-off to the stream, taking into account natural topography of the site.

6. The member emphasized the importance of monitoring during implementation of the project. Ms Mee-ling Yau said baseline monitoring would be conducted such as water quality and butterfly diversity monitoring. Ongoing monitoring would also be carried out.

7. In response to the member's question, Mr Vincent Tang said the majority of members of the Sha Lo Tung Conservation Management Board (SLTCMB) would be appointed by the Government. It might be comprised of representatives from relevant government departments, green groups, project proponent and representatives from Tai Po district.

8. In response to a member's enquiries, Mr Joe Fong said that burning of effigies and paper offerings would not be allowed at the development. He also said that no construction work of stone plates for niches would be carried out on site. Ms Mee-ling Yau also confirmed that no watering would be done for cultivation purpose. A member noted that the Conservation Management Plan would be endorsed by the SLTCMB. He asked whom would be responsible for monitoring the implementation of the Conservation Management Plan. Mr Phill Black said Green Power would conduct monitoring. In response to the member's question, Ms Mee-ling Yau clarified that the Conservation Management Plan was designed for the first five years and would be updated later on, taking into account the future conditions of the Ecological Reserve.

9. A member asked about (i) how to control access to Sha Lo

Tung; (ii) potential impact arising from the unpurchased lots and (iii) conservation plan for heritage buildings in Sha Lo Tung. Mr Phill Black replied that free access to Sha Lo Tung would be maintained and they would place barrier near ecologically sensitive area to discourage people from disturbing the site. As regards the unpurchased lots, most of them are zoned as ‘Site of Special Scientific Interest’ and only limited activity was allowed. He also added that Sha Lo Tung Development Company had acquired partial ownership for some unpurchased lots. Hence, the development threat in those areas was not apparent. In respect of heritage conservation, Mr Phill Black said the current proposal focused on nature conservation and the project proponent had yet to develop plan for conserving heritage buildings.

10. The Chairman said the number of niches provided (60,000) was large and asked if the project proponent had any contingency plan if there was massive flow of people. Mr Phill Black said only visitors of Class A niches (20,000 in number) were allowed to enter Sha Lo Tung during Ching Ming and Chung Yeung festivals and prior booking would be required. Shuttle buses would also be provided. People without prior booking would not be allowed to enter the columbarium. Mr Vincent Tang added that no private cars were allowed to enter Sha Lo Tung Valley during festive periods and the project proponent would deploy at least 50 staff to manage the site.

11. Members had no further comments on the Conservation Management Plan.

Agenda Item 4: Unauthorized Developments in Ecologically Sensitive Sites / Rural Areas – the Sai Kung Cases
(NCSC Paper 3/08)

12. The Chairman invited Mr Cary Ho to introduce the paper and briefed members on the five cases of unauthorized development / activities in Sai Kung.

13. A member commented that the level of fines imposed on culprits of unauthorized developments / activities was low and had limited deterrent effect. Mr C C Lay said the level of fines was determined by the Judiciary. He said that AFCD had organized workshops on endangered species which were attended by judges. Such workshops might help judges understand the seriousness of environmental crimes. Mr Cary Ho said, that under the Forest and Countryside Ordinance (Cap 96), it was difficult to catch the culprits and collect sufficient evidence. A successful case was the illegal tree felling in Wong Keng Tai, in which the culprit was convicted and fined for \$12,000. Mr Cary Ho said that illegal access was not uncommon for small house development without vehicular access.

14. The member said that offenders might generate huge profits by creating illegal access to village houses. The fines imposed was disproportionate to the potential gains.

15. The Chairman said that there was a need to increase the fine. The Chairman suggested and members agreed that ACE should write a letter to the Judiciary to express members' concern about the low level of fine imposed for unauthorized development / activities in rural area.

16. The Chairman asked if ACE should also write to the Lands Department to express members' concerns about illegal access associated with small house development without vehicular access. A member said the indigenous villagers' right to build small houses should be respected. A member agreed with that member. A member was more concerned about the effectiveness of enforcement. Another member opined that small house development issues were not so straightforward and supported issuing a letter to the Judiciary only. Members agreed to his suggestions.

17. A member noted that 'circumstantial evidence' was usually insufficient for prosecution and opined that it was difficult to catch the culprit red-handed. Mr Cary Ho clarified that catching

the culprit red-handed was not a prerequisite for prosecution and witness could serve as evidence. A member asked if Police had to be on site during prosecutions. Mr Cary Ho said enforcement was normally done by AFCD staff. Sometimes, the public referred the case to the Police direct.

18. A member noted that a central database for depositing of inert construction and demolition material was being developed. He asked if other options had been considered for tackling the problem. Mr Vincent Tang said the Government was considering amending the relevant legislation such as the Waste Disposal Ordinance.

Agenda Item 5: Nature Conservation in the Deep Bay Area
(NCSC Paper 4/08)

19. The Chairman invited Mr J K Chan to introduce the paper.

20. Mr J K Chan briefly explained the conservation and management plan being implemented in the Mai Po and Inner Deep Bay Ramsar site and the development control mechanisms in Wetland Conservation Area (WCA) and Wetland Buffer Area (WBA).

21. A member noted that the Ramsar site was protected by active conservation. He asked if development was allowed in the surrounding area of the Ramsar site (i.e. WCA and WBA). Mr J K Chan said limited development might be allowed subject to stringent control, such as control under the Environmental Impact Assessment Ordinance (EIAO), Town Planning Ordinance and the ‘no-net-loss in wetland’ principle set out in the Town Planning Board (TPB) guidelines. He said that the zoning of Nam Sang Wai was approved before promulgation of TPB guidelines. Even so, developer had to go through the EIAO process before development could take place.

22. The Chairman noted that Wo Shang Wai development was

within WBA and development in WCA was more difficult due to more stringent zoning control. Mr C C Lay added that the majority of land in WCA was zoned as Conservation Area and development threat to this area was considered low.

23. The member understood that it was difficult to have development in the Deep Bay area. He, however, asked the rationale for allowing limited development in the area, instead of prohibiting all types of developments.

24. Dr P M So explained that there were private land in the Deep Bay and some private land in WBA had been converted to other uses and became degraded wetland. Limited development provided incentives for landowners to enhance or restore the wetland.

25. In response to a member's enquiry, Mr J K Chan clarified that TPB guidelines are a separate instrument other than the Outline Zoning Plan (OZP). Developments had to fulfill the 'no-net-loss in wetland' principle in addition to compliance with the OZP.

26. Members were generally satisfied with the protection mechanism in place.

27. The meeting adjourned at 6:05 pm.

**Secretariat, Nature Conservation Subcommittee
September 2008**