

立法會
Legislative Council

LC Paper No. CB(1)2143/01-02
(These minutes have been seen
by the Administration)

Ref : CB1/PL/PLW/1

Legislative Council
Panel on Planning, Lands and Works

Minutes of meeting
held on Friday, 12 April 2002 at 8:30 am
in Conference Room A of the Legislative Council Building

Members present : Dr Hon TANG Siu-tong, JP (Chairman)
Hon LAU Ping-cheung (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon WONG Yung-kan
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP

Member absent : Hon LAU Wong-fat, GBS, JP

Public officers : **Agenda Item IV**
attending

Mr W S CHAN
Deputy Secretary (Works Policy)
Works Bureau

Mr H I KWONG
Chief Assistant Secretary (Technical Services)
Works Bureau

Mr H W CHEUNG
Acting Project Manager/NT North
Territory Development Department

Mr C Y CHAN
Senior Engineer/Tai Po and North
Territory Development Department

Agenda Item V

Mr W K TAM
Deputy Director (Special Duties)
Civil Engineering Department

Miss Winnie HO
Assistant Commissioner
Tourism Commission

Mr K K CHAN
Chief Engineer/Special Duties (Co-ordination)
Civil Engineering Department

Mr P D MORGAN
Chief Engineer/Special Duties (Works)
Civil Engineering Department

Mr C L NG
Chief Assistant Secretary (Programme Management)
Works Bureau

Mrs Marigold LAU
Project Director 2
Architectural Services Department

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Mrs Queenie YU
Senior Assistant Secretary (1)6

I. Confirmation of minutes of meeting

- (LC Paper No. CB(1)1410/01-02 — Minutes of the special meeting held on 12 December 2001
- LC Paper No. CB(1)1257/01-02 — Minutes of the special meeting held on 15 January 2002
- LC Paper No. CB(1)1270/01-02 — Minutes of the joint meeting of the Panel on Environmental Affairs, the Panel on Transport and the Panel on Planning, Lands and Works held on 15 January 2002
- LC Paper No. CB(1)1372/01-02 — Minutes of the meeting held on 1 February 2002
- LC Paper No. CB(1)1442/01-02 — Minutes of the special meeting held on 8 February 2002
- LC Paper No. CB(1)1454/01-02 — Minutes of the meeting held on 1 March 2002)

The minutes of the following meetings were confirmed -

- (a) Special meeting on 12 December 2001;
- (b) Special meeting on 15 January 2002;
- (c) Joint meeting of the Panel on Environmental Affairs (EA Panel), Panel on Transport and Panel on Planning, Lands and Works (PLW Panel) on 15 January 2002;
- (d) Meeting on 1 February 2002;
- (e) Special meeting on 8 February 2002; and
- (f) Meeting on 1 March 2002.

II. Information papers issued since last meeting

- (LC Paper No. CB(1)1231/01-02 — Information note on “Land Sale and Development Programmes for 2002/03 to 2006/07”
- LC Paper No. CB(1)1255/01-02 — Information notes on concern over the use of land zoned for “Hotel” purpose raised by LegCo Members at the case conference with the Administration on 26 November 2001

- LC Paper No. CB(1)1393/01-02 — Information notes on policy issues relating to planning and conversion of land use raised by LegCo Members at the meeting between LegCo Members and representatives of the Owners' Committee of Villa Rhapsody of Symphony Bay on 15 January 2002
- LC Paper No. CB(1)1456/01-02 — Information paper on "354CL — West Kowloon Reclamation — Consultants' fees and site investigation")

2. Members noted the following information papers issued since the last meeting -

- (a) Information note on land sale and development programmes for 2002/03 to 2006/07;
- (b) Information notes on concern over the use of land zoned for "Hotel" purpose raised by LegCo Members at the case conference with the Administration on 26 November 2001;
- (c) Information notes on policy issues relating to planning and conversion of land use raised by LegCo Members at the meeting between LegCo Members and representatives of the Owners' Committee of Villa Rhapsody of Symphony Bay on 15 January 2002; and
- (d) Information paper on "354CL — West Kowloon Reclamation — Consultants' fees and site investigation".

3. Members noted that the Administration would submit the proposal mentioned in paragraph 2(d) above to the Public Works Subcommittee (PWSC) for consideration at its meeting on 17 April 2002.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)1409/01-02(01) — List of outstanding items for discussion

LC Paper No. CB(1)1409/01-02(02) — List of follow-up actions)

Joint meeting on 16 April 2002

4. Members noted that a joint meeting of the PLW Panel and the Panel on Housing would be held on Tuesday, 16 April 2002 at 8:30 am for the Administration to brief the two Panels on the restructuring studies on Ngau Tau Kok, Shek Kip Mei, Cheung Sha Wan and Homantin areas.

Special meeting on 26 April 2002

5. Members noted that the following items would be discussed at the special meeting scheduled for Friday, 26 April 2002 at 8:30am -

- (a) Pedestrian Planning Study; and
- (b) "Comprehensive Development Area" zoning.

Regular meeting on 3 May 2002

6. Members agreed that the following items be discussed at the next regular Panel meeting scheduled for Friday, 3 May 2002 at 8:30am -

- (a) Land Sale and Development Programme for 2002/03 to 2006/07; and
- (b) Review of the Pilot Coordinated Maintenance of Buildings Scheme.

Special meeting on 6 June 2002

7. Referring to item 6(a), (b) and (c) on the list of outstanding items for discussion of the Panel, the Chairman pointed out that following the LegCo Members' meeting with Councillors of Heung Yee Kuk on 29 January 2002, three issues had been referred to the Panel for consideration. Members agreed that a special meeting be scheduled for Thursday, 6 June 2002 at 10:45 am to discuss the following two issues -

- (a) Review of the ex-gratia zonal compensation system for land resumption in the New Territories; and
- (b) Issues relating to the suspension of the village expansion area projects.

8. As regards the remaining issue, i.e. "Relationship between planning, environmental protection, conservation policies and safeguarding the right of private ownership of property", the Chairman drew members' attention that according to the progress report on the motion debate on "Conservation Policy" provided by the Secretary for the Environment and Food on 1 March 2002 (LC Paper No. CB(3)467/01-02), an inter-departmental working group comprising representatives of relevant bureaux and departments had been formed to examine the issues involved in the review of the conservation policy. The Administration aimed to consult the public on the review later this year. Members considered that a joint

meeting with the EA Panel might be convened to discuss the above subject after the Administration had completed its review of the conservation policy.

Proposed overseas duty visit

9. Responding to Mr LAU Ping-cheung, the Clerk advised that the Research and Library Services Division of the LegCo Secretariat had conducted background research on the ten places identified by the Panel for the proposed overseas duty visit. The drafting of the relevant information notes was in its final stage. The information notes and a paper prepared by the Clerk would be forwarded to members for consideration at a meeting of the Panel in May.

(Post-meeting note: The proposed overseas duty visit was discussed at the special meeting on Thursday, 16 May 2002.)

IV. River training works for the Upper River Indus

(LC Paper No. CB(1)1409/01-02(03) — Paper provided by the Administration)

10. The Chairman drew members' attention that the Finance Committee (FC) had approved on 11 June 1999 the upgrading of the project 53CD — "River training works for the Upper River Indus" to Category A at an estimated cost of \$587.6 million in money-of-the-day prices. The works were to ameliorate the flooding problems on the low-lying flood plains of Fanling, Sheung Shui and their hinterland. The river training works started in August 1999 and was originally scheduled for completion in mid-2002. Due to the delay in the training works, the Administration proposed that the approved project estimate (APE) be increased by \$168.7 million to \$ 756.3 million. It also planned to submit the proposal to PWSC for consideration at its meeting on 8 May 2002.

11. With visual aid equipment, the Acting Project Manager/New Territories North of Territory Development Department (PM/TDD(Atg)) briefed members that the Administration had commenced a few large-scale river training works projects to ameliorate the flooding problems in the low-lying flood plain areas of Fanling and Sheung Shui. Three of those projects, which had already been completed, were as follows -

- (a) Training works for the section of the Shenzhen River at the downstream of the Lower River Indus completed in 2000;
- (b) Training works for Lower River Indus and River Beas completed in early 2001; and

- (c) Training works for the midstream of the River Indus completed in February 2002.

PM/TDD(Atg) pointed out that as a result of these training works, some parts of the low-lying flood plains in Sheung Shui areas were able to withstand rainstorms with a return period of one in fifty years.

12. As regards project 53CD — "River training works for the Upper River Indus", PM/TDD(Atg) advised that due to the unsatisfactory performance of the contractor, Guangdong Water Conservancy and Hydro-power Engineering Development Company Limited (GWCH-PRC), the Government had excised about 30% of the works from the original contract in September 2001 and employed another contractor for the excised works. As the GWCH-PRC's performance further deteriorated in the period that followed, the Government expelled GWCH-PRC from the site and re-entered the contract on 20 December 2001. In order to bring an early relief to the residents in the flooding blackspots at Tin Ping Shan Tsuen and Shek Wu San Tsuen areas, and to provide these areas with a flow capacity which could withstand rainstorms with a return period of one in ten years at the beginning of the 2002 wet season, the Government executed a Supplemental Agreement on 21 December 2001 with the contractor for the excised works to employ the latter to undertake the critical bridge and channel works in the re-entered contract. Moreover, another new contract was being drafted for the rest of the uncompleted works.

13. PM/TDD(Atg) pointed out that as the APE of 53CD was insufficient to fund the three contracts, namely, the original contract, the second contract for the works excised from the original contract, and the third contract for the rest of the uncompleted works, the Administration proposed that the APE be increased by \$168.7 million to \$756.3 million. The target was to complete the channel works before the rainy season of 2003 and all the works by early 2004.

Original contract with GWCH-PRC

Monitoring and supervision of the original contract

14. Mr WONG Sing-chi considered that the current funding proposal had put LegCo Members in a dilemma. While Members might consider the substantial increase in the APE by \$168.7 million unjustified, they had no choice but to support the funding proposal as further delay in the completion of the river training works would have adverse impact on the livelihood of the residents along River Indus. Mr WONG pointed out that \$168.7 million was a huge amount which could otherwise be used for construction of at least 1 000 public housing units, and that this substantial additional expenditure could have been avoided if the Government had closely monitored and supervised the works of GWCH-PRC. Mr WONG said as far as he knew, the performance of GWCH-PRC had been very poor and no worker had been found on site since March 2001. However, the Works Bureau (WB) and Territory

Development Department (TDD) had not taken any effective action to rectify the situation, e.g. to re-enter the contract at an earlier stage. As a result of the delay in the river training works, the drainage capacity of the Upper River Indus remained inadequate to cope with the heavy rainstorm with a return period of one in ten years, and a number of places in North New Territories including Tin Ping Shan Tsuen and Shek Wu San Tsuen were flooded in June 2001. Mr WONG considered that the Government should be held accountable for the flooding incidents.

15. Mr WONG Yung-kan referred members to paragraph 8 of the paper provided by the Administration, where it was stated that in response to the LegCo motion passed on 4 July 2001 and to provide an early relief to the flooding problem in the North New Territories, the Director of Territory Development (DTD) had decided to excise part of the river training contract for the Upper River Indus and to employ a new contractor to carry out the works under a new contract. In Mr WONG's view, it seemed that the Government had only become aware of the seriousness of the problem after the flooding incidents in June 2001 and the passage of the LegCo motion in July 2001. He considered that the Government should have taken prompt action earlier on to rectify the situation.

16. Mr Albert CHAN Wai-yip considered that the Upper River Indus project fully demonstrated the incompetence of the Administration in supervising large-scale public works contracts. He considered it unfair to use public moneys to fund the proposed increase in the APE.

17. The Deputy Secretary (Works Policy) of Works Bureau (DS/WB) clarified that the delay in the training works for Upper River Indus was due to the fact that the contractor had run into financial difficulties. He pointed out that prior to the award of the original contract to the contractor in 1999, the Government had critically examined its financial status and confirmed that it was financially capable to undertake the contract. The subsequent change in the contractor's financial status was unexpected and beyond the control of the Government. Nevertheless, the Government had been closely monitoring the progress of the works. It had interviewed the senior management of the contractor and repeatedly urged the latter to increase the level of resources to mitigate the delay. The Government had also considered a number of other options. In June 2001, DTD had asked the Engineer the possibility of re-entering the contract. The Engineer did not consider it feasible to do so at that time, as there was no clear evidence that the contractor had failed to proceed with the works with due diligence. The Administration then obtained the contractor's consent on 7 September 2001 to excise from the original contract part of the critical works downstream. In November 2001, the Engineer considered that the contractors' performance had further deteriorated and the necessary conditions for re-entering the contract were reached. The Government therefore expelled the contractor from the site and re-entered the contract on 20 December 2001.

18. Mr WONG Sing-chi was not convinced that the delay in the river training works was solely caused by the financial problems of the contractor. He considered that both WB and TDD had failed to monitor the performance of the contractor effectively. Mr LAU Ping-cheung and Mr WONG Yung-kan also questioned the Engineer's judgement made in June 2001 that there was no clear evidence that the contractor had failed to proceed with the works with due diligence.

19. DS/WB reiterated that the delay in the river training works was caused by the financial problems of the contractor, not by the Government or the Engineer. All along, the Government and the Engineer had been closely monitoring the performance of the contractor and had conducted regular site inspections. The Government had also followed the standard criteria and procedures for determining a public works contract as provided in the General Conditions of Contract for Civil Engineering Works and an internal Technical Circular of WB. Under the current contractual provisions, the Government, as the employer, was empowered to determine a contractor's employment only when the contractor was persistently in breach of contract or in irrevocable breach. Such practice was widely adopted internationally. A less-than-satisfactory performance or progress did not warrant a re-entry action. It was only when the Engineer was satisfied that the contractor concerned was seriously in breach of contract and the contractor was unlikely capable to perform, the employer might determine the contract upon the certification of the Engineer. The Engineer must act cautiously, as the contractor might dispute with the employer against the Engineer's certification. The employer might be liable to damages if subsequently the dispute was referred to arbitration, and the arbitration ruled that the Engineer's certification was improper and it was wrong to determine the contractor's employment.

20. Mr LAU Ping-cheung considered that the interest of the public should be accorded priority over the concern for claims from contractors. DS/WB agreed and confirmed that the interest of the public was of paramount importance, and the concern for claim from contractors was also a public interest.

Status of GWCH-PRC and GWCH-HK, and legal action to be taken against them

21. Responding to Mr Albert CHAN, DS/WB advised that GWCH-PRC had authorized Guangdong Water Conservancy and Hydro-power Engineering Development Company Limited (GWCH-HK) as its agent to enter into contract with the Government for Contract No. FL23/99 - Main Drainage Channels for Fanling, Sheung Shui and Hinterland River Training Works for Upper River Indus. Similar authorization was also applicable to other public works contracts and was legally acceptable. The Government would take legal action to recover from both GWCH-PRC and GWCH-HK the additional costs arising from the re-entry of the contract.

22. Mr Albert CHAN queried whether there was formal authorization document for GWCH-PRC to authorize GWCH-HK as its agent to enter into public works contracts with the Government. DS/WB advised that for each authorization, formal

authorization document, which was signed by the top management of GWCH-PRC and verified by a registered lawyer in the Mainland, was available. Government Counsels had examined the authorization documents and considered them legally acceptable.

23. While GWCH-PRC had been admitted onto the List of Approved Contractors for Public Works (the Approved List) for over 20 years, Mr Albert CHAN requested the Administration to clarify the status of GWCH-HK. He said that as far as he knew, it was stated in GWCH-HK's annual reports that it had been granted five categories of authorized building licences/permits in Hong Kong. On this basis, many sub-contractors had signed works contracts with GWCH-HK. Mr CHAN requested the Administration to provide the Panel with the following information before submitting this item to PWSC -

- (a) whether GWCH-HK had obtained the five necessary building licences/permits to qualify for submitting bids for public works contracts;
- (b) the original schedule of payment to GWCH-PRC in respect of works performed under the original contract and the actual payment made to GWCH-PRC so far; and
- (c) the progress of lodging claims against GWCH-PRC and the way forward.

24. DS/WB said that as legal action would be taken against both GWCH-PRC and GWCH-HK, it was not appropriate for the Administration to disclose details of the case at this stage. Nevertheless, he would seek legal advice on which part of the information could be disclosed at this stage. DS/WB also undertook to report the outcome of the case to the Panel in due course.

Admin

Size of the original contract and tender sum

25. Referring to the APE of \$587.6 million, Ir Dr Raymond HO Chung-tai asked whether the size of the original contract was too large to be undertaken by a single contractor. DS/WB pointed out that ten contractors had submitted bids for the original contract. The keen competition demonstrated the fact that there were sufficient contractors on the Approved List capable of undertaking the original contract.

26. Referring to Enclosure 2 of the paper, Mr Abraham SHEK Lai-him pointed out that a sum of \$156.6 million, which was about 93% of the proposed increase in APE (\$168.7 million), was for construction works. He was concerned whether the Government had awarded the original contract to the lowest bid at an unrealistic price. DS/WB replied that while the original contract had been awarded to the lowest bid

submitted by GWCH-PRC, the tender sums of the lowest five bids were very close. In fact, the difference between the lowest bid and the second bid was less than 10%.

27. Responding further to Mr Abraham SHEK, PM/TDD(Atg) informed members that the lowest bid was slightly above the price estimated by the Government. Mr SHEK considered that the price estimated by the Government might be too low for such a large-scale project. He queried whether the Government had critically assessed the works involved in the project before estimating the price. In response, DS/WB confirmed that TDD had made such an assessment. He also pointed out that the slight difference between the lowest bid and the price estimated by the Government reflected that the latter was at the market level.

Two new contracts

Second contract for the excised works from the original contract

28. Referring to paragraph 11 of the paper, Ir Dr Raymond HO noted that the Government had invited restricted tenders on 20 July 2001 for the excised works from the original contract. He was concerned whether this was against the principle of conducting open and fair tendering exercises. DS/WB advised that restricted tendering, which fell under "limited tendering" specified in the World Trade Organization Agreement on Government Procurement, was only used when circumstances did not permit open tendering, for example, on grounds of urgency or security. In the present case, restricted tendering was used mainly because of the limited time available for completing the works involved to upgrade the section of the Upper River Indus downstream of Man Kam To Road Bridge to withstand a rainstorm with a return period of one in ten years before the rainy season of 2002. DS/WB assured members that open tendering would be used for the third contract to be awarded in August 2002.

Cost of construction works

29. Responding to Mr LAU Ping-cheung, DS/WB advised that the cost of construction works of the second and third contracts was higher than that of the original contract due to the reasons set out in Enclosure 2 of the paper. In brief, the programme of works under the two new contracts was much more compressed than that of the original contract. To meet the tight programme, the contractors had to work simultaneously at more locations and overtime.

Consultants' fees

30. Mr LAU Ping-cheung and Mr WONG Yung-kan queried whether it was appropriate to commission the same consultant for the new contracts at an additional fee of \$3.8 million. DS/WB reiterated that it was the contractor, not the consultant, who should be held accountable for the delay in the river training works. The increase

of \$3.8 million was needed for the preparation of the Supplemental Agreement, tender documents for the two new contracts and other additional services relating to the re-entry of the original contract. DS/WB considered it costly and unnecessary to commission another consultant to take over the project at this stage.

31. Mr WONG Yung-kan was concerned that the consultant for a public works project might collude with the contractor concerned and deliberately cause delay in the project so that he might ask for additional consultant's fees. DS/WB advised that to reduce the possibility of such collusion, it was a standard practice that the consultant and the contractor for the same contract should not come from the same group of companies.

Funds reserved for contingencies

32. Mr LAU Ping-cheung queried the need for reserving a sum of \$42 million as contingencies. PM/TDD(Atg) advised that as over 40% of the works under the original contract had not been completed, it was considered necessary to reserve the sum to cater for unforeseen circumstances under the two new contracts. The Chairman requested the Administration to provide a breakdown of the item on contingencies with cost under the revised project estimate.

Impact of the training works on farmers

33. Responding to Mr WONG Yung-kan's enquiry on paragraph 4(d) of the paper, PM/TDD(Atg) clarified that the proposed wetland at the river meanders referred to landscaping works, but not creation of additional wetland by land resumption. As such, farmers in the vicinity of the project areas would not be affected.

34. Mr WONG Sing-chi said that farmers in Tin Ping Shan Tsuen and Shek Wu Shan Tsuen had complained that since the commencement of the training works for Upper River Indus, the wells in the vicinity had dried up, causing great difficulties in pumping water from the wells. PM/TDD(Atg) responded that while the cause of the problem was being investigated, the Administration had put in place interim measures to assist the farmers. It was expected that upon completion of the construction of a dam at the downstream of River Indus, water could be provided for the farmland in the vicinity. Responding to Mr WONG Yung-kan, PM/TDD(Atg) said that if the problem remained unsolved by then, deeper wells would be installed to assist the farmers.

Improvement measures

35. To avoid recurrence of similar incidents in future, members urged the Administration to put in place concrete improvement measures to ensure smooth and timely implementation of public works contracts. DS/WB advised that following a comprehensive review aiming at tightening up the administrative control of public works contractors, the Administration had implemented a series of improvement

measures. The financial criteria for admission and retention on the Approved List and tendering public works contracts had been tightened to ensure that the contractors were financially capable to undertake the contracts. For large-scale contracts, additional security such as performance bond could be imposed. On the other hand, a marking scheme would be introduced later this year to improve the current tendering system by systematically giving weight to both the tender price and the quality of tender in the evaluation. It aimed to establish that a tenderer's past performance was an important attribute in assessing the quality of tender and that a good performer would have a better chance of winning a contract. Moreover, contractors would be suspended from tendering public works contracts when they had received two, instead of the previous three, consecutive adverse reports on performance under the same contract. Mr Albert CHAN requested the Administration to advise the Panel of the improvement measures in writing.

36. Mr IP Kwok-him supported the imposition of performance bonds to reduce the risk of uncompleted works by contractors. Responding to Mr IP, DS/WB responded that there should be no problem in including the requirement in the new contract.

37. Ir Dr Raymond HO suggested that milestones should be set to better monitor the performance of contractors. DS/WB said that the Administration was actively considering the suggestion.

(Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. CB(1) 1581/01-02 on 23 April 2002.)

V. Infrastructure for Penny's Bay Development, Package 3 and Penny's Bay Reclamation Stage 2
(LC Paper No. CB(1)1409/01-02(04) — Paper provided by the Administration)

Deadline for provision of discussion paper by the Administration

38. The Chairman pointed out that pursuant to the decision of the House Committee on 18 January 2002, the Administration was required to submit discussion papers to the Panel at least five clear days before the relevant Panel meeting. If papers were not received by the deadline, the Chairman of the Panel would decide whether or not the relevant item should be deleted from the agenda. The Chairman reminded the Administration to observe this requirement to enable members to have sufficient time to consult relevant parties before the meeting.

Briefing

39. The Chairman briefed members that the Administration proposed to upgrade the works for infrastructure for Penny's Bay Development, Package 3 and Penny's Bay Reclamation Stage 2 to Category A at an estimated cost of \$2,375.9 million in money-of-the-day prices. The Administration planned to submit the proposal to PWSC on 8 May 2002.

40. The Deputy Director (Special Duties) of Civil Engineering Department (DD/CED) briefed members on the scope of the works under the current proposal, and environmental implications as well as public consultation as detailed in the draft paper to PWSC (Annex to the paper provided by the Administration). On the proposed decommissioning of the former Cheoy Lee Shipyard (CLS), DD/CED pointed out that the environmental and financial impact of the decommissioning works had been discussed by the Panel on Environmental Affairs and Panel on Economic Services respectively. The Administration would treat and dispose of the 87 000 cubic metres of contaminated soil, including 30 000 cubic metres of dioxin-contaminated soil, found at the CLS site in an environmentally-acceptable manner in accordance with the Environmental Impact Assessment (EIA) report. As regards the proposed reclamation works for the formation of about 60 hectares of land at Penny's Bay, the Administration had consulted the District Councils concerned, Advisory Committee on Agriculture and Fisheries and Ma Wan Rural Committee. They had not expressed objection to the proposed reclamation works.

Progress of settlement of the mariculturists' claims against fish loss

41. Mr Albert CHAN expressed concern about the progress of settlement of the mariculturists' claims against fish loss caused by the reclamation works during Penny's Bay Reclamation Stage 1 (PBR1). He pointed out that as the report by the Independent Review Panel had confirmed that fish kills at the Ma Wan and Cheung Sha Wan fish culture zones were attributable to the reclamation works, the Administration should expedite action in negotiating with the mariculturists concerned on compensation issues. He requested the Administration to advise the Panel in writing on the progress of the settlement of compensation claims, and to settle all the claims before submitting this item to PWSC. Mr WONG Yung-kan supported his view.

Environmental impact of the reclamation works

42. Mr WONG Yung-kan pointed out that while the mariculturists concerned had not expressed objection to the proposed reclamation works under Penny's Bay Reclamation Stage 2 (PBR2), they were very concerned about the impact of the works on water quality. Mr WONG urged the Administration to put in place effective measures to prevent the recurrence of fish kill incidents.

43. DD/CED advised that the scope of reclamation works and dredging works under PBR2 would be substantially reduced. Moreover, about five years would be allowed for the completion of PBR2 while only about two years were allowed for

PBR1. The Chief Engineer/Special Duties (Co-ordination) of Civil Engineering Department (CE/CED) advised that a number of measures would be implemented to reduce contamination of the surrounding waters by dredging works, including the installation of framed type silt curtains, use of specially-designed dredging grabs and closed barges.

Admin

44. Responding to Mr WONG Yung-kan, CE/CED clarified that the purpose of using closed barges was to prevent sediments being leaked away from the bottom of the barges. Mr WONG and Mr IP Kwok-him doubted whether the purpose could be achieved by the use of closed barges. To minimize contamination, they urged the Administration to closely monitor the transportation of sea-mud from the dredging areas to its destination. DD/CED said that the Environmental Protection Department had put in place a monitoring mechanism for the purpose. Mr IP suggested the Administration to evaluate the effectiveness of the monitoring mechanism.

Financial implications of the decommissioning of CLS

45. Mr Albert CHAN expressed grave concern about the substantial increase in the decommissioning cost from \$22 million quoted in November 1999 to \$450 million under the current proposal. He considered that the situation could have been avoided if the Administration had conducted an EIA study on the decommissioning at an earlier stage. DD/CED said that substantial increase in the decommissioning cost was mainly attributable to the presence of dioxins in the soil, the effective and thorough treatment of which was very expensive. The presence of dioxin-contaminated soil in the shipyard site was unusual and unknown to the Administration until April 2001 when the Administration was permitted entry to the CLS site.

Admin

46. Mr IP Kwok-him asked whether the Administration would seek legal remedies from CLS. DD/CED responded that as the Administration was seeking legal advice on the issue, it was not appropriate for him to provide further details. Members would be informed of the Administration's decision in due course.

Use and disposal of public fill

47. Responding to Mr IP Kwok-him, DD/CED advised that the existing policy was to maximize the use of inert construction and demolition material (also referred to as public fill) and minimize disposal at landfills. Given that about 6 million cubic metres of public fill were produced annually, the actual usage would depend on the market demand.

Seawall design

48. Responding to Mr WONG Yung-kan, DD/CED advised that there were two types of design for seawall, namely, vertical concrete seawall and sloping rubble

seawall. The latter type of design, which had been used in PBR1, would be adopted for the proposed 1.6 kilometres of permanent seawall in PBR2.

Fire station

49. Mr Albert CHAN considered it more appropriate to set up a fire station in Siu Ho Wan than in the Hong Kong Disneyland (HKD), having regard to the future development of the whole area. He was of the view that planning should be considered on a regional rather than project basis. DD/CED and the Assistant Commissioner of Tourism Commission pointed out that in view of the substantial estimated number of visitors, it was important for HKD to have adequate fire service protection and emergency medical service. The proposed fire station with ambulance depot at Penny's Bay was strategically located to enable the Fire Services Department to meet its prevailing performance targets for such services for HKD. Mr CHAN was not convinced and requested the Administration to provide a written response to his views.

50. Mr James To Kun-sun asked whether the provision of a fire station was included in the contract between the Government with the Hongkong International Theme Parks Limited (HKITP). He requested the Administration to provide a copy of the relevant section(s) of the contract.

Project cost

51. While supporting Penny's Bay Phase 2 development, Ir Dr Raymond HO enquired about the approved estimate, forecast estimate after award of tender and latest forecast estimate for HKD Phase 1 development. DD/CED undertook to provide the information after the meeting.

52. Referring to the estimated cost of \$164.6 million for employment of consultants for construction supervision and completion certification stated in Enclosure 2 to the draft PWSC paper, Ir Dr Raymond HO sought clarification on the parties responsible for completion certification. DD/CED advised that apart from the consultants' Engineer, completion certification by an Independent Checking Engineer was also required. As regards the estimated man-months of resident site staff employed by the consultants, Ir Dr HO considered that the figures were on the high side when compared with other projects. DD/CED explained that a number of staff would be required for the monitoring of the decommissioning of CLS and the treatment of dioxin-contaminated soil. However, the total estimated cost for resident site staff was about 7.5% of the cost for the whole project, which was comparable to other works projects.

Impact on Yam O Log Pond

53. Responding to Mr Albert CHAN, DD/CED explained that for HKD development there were two items of works being carried out in Yam O, namely,

dredging and reclamation works for the formation of about 10 hectares of land at Yam O and construction of an at-grade public transport interchange at Yam O. He confirmed that these works had no impact on the Yam O Log Pond.

(Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. CB(1)1648/01-02 on 3 May 2002.)

VI. Any other business

54. There being no other business, the meeting ended at 10:30 am.

Legislative Council Secretariat

28 June 2002