

立法會
Legislative Council

LC Paper No. CB (1)380/02-03

(These minutes have been seen
by the Administration)

Ref : CB1/PL/PLW/1

Panel on Planning, Lands and Works

**Minutes of meeting
held on Friday, 8 November 2002 at 8:30 am
in the Chamber of the Legislative Council Building**

Members present : Dr Hon TANG Siu-tong, JP (Chairman)
Hon LAU Ping-cheung (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon WONG Yung-kan
Hon LAU Wong-fat, GBS, JP
Hon CHOY So-yuk
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

Members attending : Hon Margaret NG
Hon Andrew WONG Wang-fat, JP

Member absent : Hon Timothy FOK Tsun-ting, SBS, JP

**Public officers
attending** : **Agenda Item IV**

Mr Parrish NG
Principal Assistant Secretary (Planning and Lands)
Housing, Planning and Lands Bureau

Mr Kim SALKELD, JP
Land Registrar

Ms May LEE
Deputy Principal Solicitor
Land Registry

Mr Geoffrey FOX
Senior Assistant Law Draftsman
Department of Justice

Agenda Item V

Dr Sarah LIAO, JP
Secretary for the Environment, Transport and Works

Mr Y C LO, JP
Permanent Secretary for the Environment, Transport and
Works (Transport and Works)

Mr Keith KWOK, JP
Deputy Secretary for the Environment, Transport and Works
(Transport and Works) W1

Mr W S CHAN, JP
Deputy Secretary for the Environment, Transport and Works
(Transport and Works) W2

Mr Clement CHEUNG, JP
Deputy Secretary for the Environment, Transport and Works
(Transport and Works) W3

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

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Ms Bernice WONG
Assistant Legal Adviser 1

Mrs Queenie YU
Senior Assistant Secretary (1)6

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)165/02-03 — Minutes of the meeting held on 10 October 2002)

The minutes of the meeting held on 10 October 2002 were confirmed.

II. Information papers issued since last meeting

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

- (a) Information paper on "Staffing Proposal for Implementation of Tamar Development Project" (LC Paper No. CB(1)144/02-03); and
- (b) Information paper on "236CL - Tai O Development, Package 4, Stage II engineering works" (LC Paper No. CB(1)193/02-03).

3. On the information paper mentioned in paragraph 2(a) above, the Chairman pointed out that the Administration planned to submit the relevant proposal to the Establishment Subcommittee for consideration at its meeting on 20 November 2002.

4. On the information paper mentioned in paragraph 2(b) above, the Chairman pointed out that while the Administration planned to submit the relevant proposal to the Public Works Subcommittee (PWSC) for consideration in November 2002, Mr Albert CHAN Wai-yip had proposed that the information paper be discussed at a meeting of the Panel before the relevant proposal was submitted to PWSC. Mr CHAN's proposal would be considered by the Panel under Agenda Item III.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)192/02-03(01) — List of outstanding items for discussion

LC Paper No. CB(1)192/02-03(02) — List of follow-up actions

LC Paper No. CB(1)225/02-03(01) — Letter dated 30 October 2002 from the Clerk to Panel to the Secretary for the Environment, Transport and Works

LC Paper No. CB(1)225/02-03(02) — Reply dated 5 November 2002 from the Secretary for the Environment, Transport and Works to the Clerk to Panel

LC Paper No. CB(1)225/02-03(03) — LegCo Brief on "《保護古老、特殊及大型樹木條例草案》"
provided by Hon CHOY So-yuk)

Regular meeting on 6 December 2002

5. Members noted that the following items were proposed by the Administration for discussion at the next regular Panel meeting scheduled for Friday, 6 December 2002 at 8:30 am -

- (a) Town Planning (Amendment) Bill; and
- (b) Speeding up of public works projects — Foreshore, Sea-bed and Roads (Amendment) Bill.

6. On paragraph 5(b) above, the Chairman pointed out that the Environment, Transport and Works Bureau (ETWB) proposed to discuss with members on its legislative proposals to amend the Roads (Works, Use and Compensation) Ordinance (Cap. 370) and the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) to shorten the period for the lodging of objections and the objection resolution period in order to expedite the delivery of public works. As the legislative proposals had been discussed by the Panel at its meeting on 16 May 2002 and were not supported by the Members who had attended that meeting, the Clerk had requested the Administration to provide justifications for presenting the proposals to the Panel again. The Chairman referred members to the correspondence between the Clerk and the Secretary for the Environment, Transport and Works (SETW) (LC Paper Nos. CB(1)225/02-03(01) and (02)). Having considered the SETW's reply, members agreed that the legislative proposals be discussed at the Panel meeting on 6 December 2002.

7. Members also agreed that the legislative proposal mentioned in paragraph 5(a) above be discussed at the Panel meeting on 6 December 2002.

8. The Chairman drew members' attention that Mr Albert CHAN had proposed that the information paper on "236CL - Tai O Development, Package 4, Stage II engineering work" mentioned in paragraph 2(b) above be discussed at a meeting of the Panel before the relevant proposal was submitted to PWSC. Members agreed that the subject be discussed at the Panel meeting on 6 December 2002.

Item proposed for discussion at future meeting

9. Members noted that Ms CHOY So-yuk intended to present a Member's Bill on conservation of trees and proposed that the Bill be discussed at a meeting of the Panel as soon as possible. In view of the ETWB's advice that its Works Branch would take over the overall greening policy for Hong Kong (including the issues raised in the

proposed Bill) fully in January 2003, members agreed that the Bill be discussed at the Panel meeting on or after 3 January 2003.

IV. Removal of Stopped Deeds - proposed amendments to Land Registration Regulations

- (LC Paper No. CB(1)192/02-03(03) — Paper provided by the Administration
- LC Paper No. CB(1)2115/01-02 — Report of the Bills Committee on Land Registration (Amendment) Bill 2000 presented to the Legislative Council on 3 July 2002
- LC Paper No. CB(1)225/02-03(04) — Letter dated 4 November 2002 from the Clerk to Panel to the Secretary for Housing, Planning and Lands
- LC Paper No. CB(1)225/02-03(05) — Reply dated 6 November 2002 from the Secretary for Housing, Planning and Lands to the Clerk to Panel
- LC Paper No. CB(1)225/02-03(06) — Section 28 of the Land Registration Ordinance (Cap. 128)
- LC Paper No. CB(1)225/02-03(07) — Section 3 of the Land Registration Ordinance (Cap. 128))

Briefing by the Chairman

10. The Chairman briefed members that the Bills Committee on the Land Registration (Amendment) Bill 2000 (the Bills Committee), in the scrutiny of the Bill, had agreed that the Land Registrar (LR) should be empowered to remove the entry that had become stopped deeds six months after the delivery of the instrument for registration into the land register. However, concern had been raised that the removal might affect the priority of the stopped deed which had been subsequently reinstated on the land register. The Bills Committee had therefore requested the Administration to consult the Hong Kong Bar Association (the Bar Association) and the Law Society of Hong Kong (the Law Society) on the proposed amendments on priority as well as the propriety of the Administration's proposal to amend the Land Registration Regulations instead of the principal ordinance which dealt with priority between registered instruments and effect of non-registration. In order not to delay the passage of the Bill, the provisions on the removal of stopped deeds had been deleted from the Bill. The Bill was then passed on 3 July 2002. Following consultation with the Bar Association and the Law Society, the Administration put forward its proposed amendments to the Land Registration Regulations for the Panel's consideration at this meeting.

11. Referring to paragraphs 7 and 8 of the paper provided by the Administration, the Chairman drew members' attention that while the Bar Association considered that the legislative proposal should be effected through amendments to the principal ordinance because the removal of stopped deeds was outside the scope of section 28 of the Land Registration Ordinance (LRO) (Cap.128) and substantive property rights would be affected, the Department of Justice (D of J) held different views. To facilitate the Panel's consideration, the Clerk had requested the Administration to provide more detailed information on the views of the two sides, including the justifications put forward by the two sides to substantiate their views. The Chairman referred members to the correspondence between the Clerk and the Secretary for Housing, Planning and Lands.

Briefing by the Administration

12. LR advised that as the proposed removal of stopped deeds from the land register had been accepted by the Bills Committee and the legal profession, the Administration had developed the procedures to implement the proposal, as set out in the draft Land Registration (Amendment) Regulations 2002 in the Annex to the paper provided by the Administration. While the proposed procedures were quite intricate, the Administration believed that that was necessary in order to protect the interests of the affected parties. In fact, the Administration had considered whether simpler procedures should be made but decided against the idea because of the following three points:

- (a) First of all, the practice of stopped deeds was unique to Hong Kong and very much appreciated by customers. It allowed minor issues to be dealt with quickly with little expense and without loss of priority. There had been no call at all that the practice should be abolished.
- (b) Since the introduction of the practice of stopped deeds in the 1960s, no regulations had been issued setting out how the practice should be operated. People turned to administrative procedures to draw conclusions on how stopped deeds should be handled. All along, the practice of not removing the stopped deeds unless the relevant persons came forward to withdraw them voluntarily had created the legitimate expectation that the stopped deeds would remain on the land register. If the practice was to be changed, clear rules and procedures would be needed, and opportunity for review and appeal should be provided for any party who was aggrieved by the removal.

- (c) The Administration had taken into account the human rights conventions and Basic Law considerations. These reinforced the argument that provisions for review and appeal were needed.

13. LR pointed out that the only point of controversy was whether the power to remove stopped deeds should be provided in the principal ordinance or in the regulations. The Bar Association was of the view that anything that might affect substantive property rights should as a matter of principle be treated in the principal ordinance and not in the regulations. In considering the issue, the Administration had taken account of the following points -

- (a) The Administration was not aware of legal doctrines that required matters affecting substantive property rights to be set out in primary legislation only. The protection that was given to any person affected by the removal of stopped deeds would not be increased if the relevant provisions were set out in the principal ordinance, nor be diminished if set out in the regulations. The review and appeal procedures set out in the regulations were equally binding.
- (b) Section 28(1)(a) of LRO provided that LR might make regulations for the manner in which entry and registration of deeds and other instruments should be effected, and the withdrawal of deeds or other instruments from registration. This implied that LR might make regulations for the manner in which removal of stopped deeds should be effected.
- (c) The only real effect that the proposed removal of stopped deeds could have was on the priority of registered instruments provided in section 3(1) of LRO. The section explicitly stated that priority was "Subject to this Ordinance". As the definition of "Ordinance" in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) stated that "Ordinance" included any Ordinance enacted by the Legislative Council (LegCo) and any subsidiary legislation made under any such Ordinance, the qualification in section 3(1) of LRO meant that it was legally permissible to enact subsidiary legislation to provide for an order of priority which might be different from that set out in section 3(1).

14. On the possible effect of the removal of stopped deeds, LR advised that the number of stopped deeds was small and the concern was mostly technical in nature. In this connection, 70% of the 2 000 outstanding stopped deeds had been stopped for minor problems, such as incorrect spelling of names and supporting documents not attached. In most cases, the problems could be cleared within 28 days. As regards the remaining 30%, the vast majority of them had been stopped because the documents

submitted did not appear to convey any interest in land. They therefore should not be registered. LR also pointed out that the proposed procedures would provide sufficient safeguards to protect the substantive property rights of affected parties. The removal of stopped deeds would not be automatic. For example, LR would not remove an entry that had been stopped for six months without giving notice and allowing for objections.

15. LR added that if the Bar Association's view were to be adopted, the legislative proposal would have to be effected through amendments to the principal ordinance, i.e. by means of a new bill. LR said that it would be very difficult for him to ask for priority for the new bill, as the D of J did not consider it necessary to have the bill in the first place. It would inevitably take much longer time to effect the legislative proposal. In this connection, the Law Society had called for the early implementation of the proposal.

Discussion

16. Miss Margaret NG said that as a member of the Bills Committee, she was fully aware of the outstanding issues on the removal of stopped deeds. Having read paragraphs 7 and 8 of the paper provided by the Administration, she noted that the Bar Association and D of J had different views on whether the legislative proposal on the removal of stopped deeds should be effected through amendments to the principal ordinance or the regulations. In view of the limited information provided in paragraphs 7 and 8 of the paper, she had then contacted the Bar Association to ascertain their views. Miss NG pointed out that the Bar Association believed that as a matter of principle, provisions affecting substantive property rights as opposed to merely procedural matters ought not be included in subsidiary legislation. The Bar Association was unable to accede to the Administration's view that the qualification of section 3 of LRO allowed changes to substantive property rights to be made under the Land Registration Regulations. In this connection, the Bar Association considered it important not to overlook that the Land Registration Regulations were subsidiary legislation made under the power conferred upon the LR under section 28 of LRO. Given that the removal of stopped deeds did not come within any of the matters listed in section 28, LR would have acted ultra vires if he had sought to introduce into the Regulations the provisions dealing with the removal of stopped deeds. Miss NG further pointed out that the Bar Association considered the proposed mechanism for the removal of stopped deeds unnecessarily cumbersome and had therefore put forward an alternative approach which provided for the automatic removal of stopped deeds upon the expiry of a fixed period of time. Miss NG expressed disappointment that the views of the Bar Association had not been fully presented in the paper provided by the Administration. She would like to know why the Administration had not taken on board the Bar Association's views, and whether the Administration had further discussed with the Bar Association on the issues it raised. Whilst appreciating the need for the early implementation of the legislative proposal on the removal of

stopped deeds, Miss NG considered that the proposal should be thoroughly discussed between the Administration and the legal profession before it was presented to LegCo.

17. LR advised that the Administration had discussed the proposal extensively with the Law Society and the Bar Association. The Law Society, being aware of the Bar Association's views, had affirmed its views that the Administration should proceed with the introduction of the Land Registration (Amendment) Regulations for the early implementation of the proposal. As regards the Bar Association, LR said that it had not responded to his reply issued in August 2002 to its submission. Miss Margaret NG asked whether LR had, in his reply issued in August 2002, invited the Bar Association to give further response. The Deputy Principal Solicitor of the Land Registry (DPS/LR) advised that the Administration had contacted the Bar Association by phone and was informed that it did not intend to give any further response. Miss NG considered that this did not mean that the Bar Association had accepted the Administration's views.

18. Miss Margaret NG shared the Bar Association's view that provisions affecting substantive property rights ought not be included in subsidiary legislation. The Principal Assistant Secretary (Planning and Lands) of the Housing, Planning and Lands Bureau (PAS(PL)/HPLB) pointed out that as stated in paragraph 8 of the paper, the D of J had advised that it was not aware of legal doctrines that required matters affecting substantive property rights to be set out in primary legislation only. LR also pointed out that there was no evidence of there being any bar on having regulations that might, in the course of their operations, have some effects on property rights. There had been many cases in English laws where regulations had affected property rights. The major issue was whether adequate safeguards would be provided. For the current proposal, the likelihood of having any effect on property was very low. Notwithstanding that, the Administration had put in adequate safeguards. This was the reason why the proposed procedures were considered cumbersome by the Bar Association. LR said that because of the considerations mentioned in paragraph 12 above, the Administration considered it necessary to set out the procedures in detail. Referring to the point mentioned in paragraph 12(b) above, Miss NG considered that the issue of legitimate expectations could be dealt with by other means, such as the provision of a transitional period after the implementation of the arrangement of removal of stopped deeds.

19. Referring to paragraphs 7(a) and 8 of the paper provided by the Administration, Mr LAU Ping-cheung noted that while the Bar Association considered that the removal of stopped deeds was outside the scope of section 28 of LRO, the D of J considered that it was within the scope of the section. Responding to Mr LAU, the Senior Assistant Law Draftsman of the Department of Justice said that the Bar Association had not provided anything, such as legal principle or case law, to back up its argument.

20. Responding to Mr LAU Ping-cheung, DPS/LR advised that under the proposed arrangement, LR had the power to remove the entry of stopped deeds outstanding for more than six months. The lodging party and affected persons should be notified of the proposed removal and be given a period of 28 days to make written submissions to LR for a decision on the matter. A person aggrieved by the LR's decision might have the decision reviewed by making an application to the court not later than 60 days after the notice of the decision had been issued. The stopped deed would not be removed before the deadline for application for review or before the court had made its decision. Meanwhile, if there was any property transaction involving the stopped deed, the solicitors concerned would have to consider whether the stopped deed would have any effect on the transaction. As regards the proposal to empower LR to remove the entry that had become stopped deed six months after the delivery of the instrument, the six-month period would be counted for the instrument involved in each property transaction on its own.

21. Mr IP Kwok-him said that in his view, provisions affecting substantive property rights could be included in subsidiary legislation. The issue that needed to be resolved was whether the removal of stopped deeds was within or outside the scope of section 28 of LRO. Members noted that this issue would have significant bearing on whether the legislative proposal should be effected through amendments to the principal ordinance or amendments to the subsidiary legislation. In reply to Mr LAU Ping-cheung's enquiry, Assistant Legal Adviser 1 (ALA1) advised that the two approaches would have the same legal effect. However, the scrutiny of subsidiary legislation by LegCo was subject to a prescribed period set out in the Interpretation and General Clauses Ordinance (Cap. 1) while the scrutiny of a bill was not subject to any prescribed period.

22. To facilitate the Panel's consideration, members requested the Administration to provide its correspondence with the Bar Association and the Law Society on the subject. PAS(PL)/HPLB undertook to provide the information after the meeting. At members' request, ALA1 agreed to provide the Panel with written advice on the subject, after studying the correspondence to be provided by the Administration.

(Post-meeting note: The English and Chinese versions of the correspondence provided by the Administration were issued to members vide LC Paper No. CB(1)285/02-03 on 13 November 2002 and LC Paper No. CB(1)343/02-03 on 21 November 2002 respectively. The English and Chinese versions of the Legal Service Division's report were issued to Members vide LC Paper No. CB(1)388/02-03 on 27 November 2002 and LC Paper No. CB(1)406/02-03 on 29 November 2002 respectively.)

V. Briefing by the Secretary for the Environment, Transport and Works

(LC Paper No. CB(1)192/02-03(04) — Paper provided by the Administration

LC Paper No. CB(1)192/02-03(05) — Curriculum Vitae of Dr Sarah LIAO, Secretary for the Environment, Transport and Works

LC Paper No. CB(1)225/02-03(08) — Letter dated 4 November 2002 from the Clerk to Panel to the Secretary for the Environment, Transport and Works

LC Paper No. CB(1)225/02-03(09) — Reply dated 6 November 2002 from the Secretary for the Environment, Transport and Works to the Clerk to Panel)

23. The Chairman welcomed Dr Sarah LIAO, SETW, to the meeting. He invited SETW, the Principal Official in charge of the public works programme, to brief members on her work plans.

Briefing by the Secretary

24. SETW briefed members that the Government's Capital Works Programme (CWP) was to serve the community's need for infrastructure and to sustain Hong Kong's position as a world city in Asia. To this end, ETWB set out the policies on the delivery of public works projects and ensured that the projects were implemented safely, timely and cost-effectively. First of all, ETWB had reviewed the relevant procedures to ensure that the works departments delivered the projects efficiently. As a result, the pre-construction lead time for an average medium-sized civil engineering project had been reduced from six years to less than four years. To meet the public expectation to further expedite the delivery of public works projects, ETWB proposed to amend the Roads (Works, Use and Compensation) Ordinance and the Foreshore and Sea-bed (Reclamations) Ordinance to shorten the period for the lodging of objections and the objection resolution period. The relevant legislative proposals had been discussed by the Panel at its meeting in May 2002 and would be further discussed at its meeting in December 2002. Apart from the works departments, ETWB worked hand in hand with the construction industry and took the lead in the setting of works standards as well as good practices for the industry. It would also implement the construction workers registration system.

25. Whilst appreciating members' concern about the possible impact of the budget deficit on the pace of the delivery of approved public works items, SETW pointed out that the Financial Secretary (FS) had, on a number of occasions, clearly stated that the Government would invest, as it originally planned, around \$147 billion on CWP in the coming five years, i.e. an average of more than \$29 billion per year, which was more than the average of about \$27 billion per year in the past five years. Under a

deflationary trend in construction prices in recent years, the increased investment would imply that the Government could implement more projects. The investment would also create employment opportunities. It was estimated that the requirement of about 40 000 man-years of manual labour in the current financial year would be progressively increased to 44 000 man-years in 2004-05. Apart from manual labour, about 4 000 man-years of professional and technical staff would be required per year for the planning, design and supervision of the projects.

26. As regards members' concern about the requirement for the Directors of Bureaux to achieve a saving of 1.8% in the operating expenditure on the existing and new or improved services as planned in 2003-04, and an additional saving of 1% each year from 2004-05 to 2006-07, SETW advised that ETWB and the departments under its purview would try to meet the target without compromising the quality of their services. The measures under consideration included re-engineering of work processes and re-prioritizing of works items, outsourcing of the planning, design and supervision of public works items, review of the operation and maintenance of facilities, and upgrading and replacement of information systems. These measures aimed to enhance efficiency and allow redeployment of staff for the provision of new and/or additional services under the purview of ETWB.

Government's investment in public works projects and creation of employment opportunities

27. In view of the budget deficit and the requirement for Government departments to achieve savings, Ir Dr Raymond HO Chung-tai was concerned whether the Government's targets of investing around \$147 billion on CWP in the coming five years and creating more job opportunities could be achieved. While the Financial Secretary had, in his reply dated 17 October 2002 to Chairman of PWSC, stated that the Government had no plan to reduce its expenditure on public works projects from the present to 2006-07, Ir Dr HO noted that relatively few works items had been submitted to PWSC for consideration since the commencement of the 2002-03 session as compared with the same period in previous sessions. Moreover, he noted from media reports that the Secretary for Financial Services and the Treasury had issued a circular to Directors of Bureaux in September 2002 informing them that the bureau or department responsible for a project under CWP would be required to absorb the recurrent expenses for the maintenance of the project after its implementation. Ir Dr HO was concerned that such a requirement would hinder the implementation of public works projects, as the bureau or department concerned might not have the financial resources to meet the recurrent expenses.

28. Whilst appreciating Ir Dr Raymond HO's concern, SETW assured members that the investment of around \$147 billion on CWP in the coming five years was a commitment of the Government. As the timing for the Chief Executive to deliver his Policy Address had been changed, the number of works items submitted to PWSC before the delivery of the Policy Address in January 2003 might be relatively few.

29. Responding to Mr WONG Yung-kan, SETW advised that in order to make the best use of available resources, the Government, as a routine internal exercise, reviewed project priorities having regard to justification, economic efficiency, technical feasibility, Government's affordability, etc. However, the review would not affect the delivery of projects already approved by the Finance Committee or approved under delegated authority.

30. On the creation of employment opportunities, Ir Dr Raymond HO pointed out that the construction industry, being very concerned about the issue, was eager to meet with SETW to reflect their views. Ir Dr HO was disappointed that SETW had so far not acceded to the request for a meeting made by him on behalf of two other Members, Mr LAU Ping-cheung and Mr Abraham SHEK, and 12 associations/unions in the construction industry, including the Hong Kong Construction Industry Employees General Union (HKCIEGU). SETW pointed out that she had on various occasions met with members of the industry, such as Hong Kong Institute of Engineers, Hong Kong Institute of Architects and HKCIEGU. She was fully aware of the difficulties faced by the industry during the present economic downturn and their concerns. Ir Dr HO urged SETW to meet with the Members and associations concerned to enable a focus discussion.

List of capital works projects

31. To enable Members to monitor the Government's investment in public works projects and assess the potential employment opportunities arising from the projects, Ir Dr Raymond HO considered it essential for the Administration to provide the list of capital works projects which had been accorded Category B status. He was disappointed that despite the request of the Panel, the Administration had not provided such information. SETW advised that it was not the practice of the Administration to publish the list, as the projects were subject to changes in terms of scope, programming and cost. The Permanent Secretary for the Environment, Transport and Works (Transport and Works) (PS/ETW(T&W)) added that among the 1 600 or so CWP projects, about 1 200 had been accorded Category A status while about 400 Category B status. As the projects accorded Category B status were at preliminary planning stage and their implementation would be subject to a number of factors, such as feasibility study, site investigation and viability of land resumption, it was not meaningful to disclose the list at an early stage. However, in line with usual practice, the Administration would brief and consult the relevant Panels as necessary on individual project items at the appropriate time. The Administration would also provide details on individual project items that were forecast to require expenditure in the coming financial year, including those in Category B, in the context of the Capital Works Reserve Fund draft estimates.

32. Ir Dr Raymond HO clarified that what he asked for was only a list of Category B items. If the Administration considered it inappropriate to disclose the estimated cost of the projects at this stage, it might provide the list without the cost figures.

33. Mr Andrew WONG recalled that prior to the early 1990s, PWSC had conducted an annual review to note the Government's five-year CWP and to recommend to the Finance Committee the list of new projects scheduled to commence in the coming financial year. In the context of the review, PWSC also reviewed generally the progress of projects in the Public Works Programme, including the lists of Category A and Category B items. He considered the annual review exercise important, as it provided members of PWSC with an opportunity to comment on the priority of projects at an early stage. Mr WONG therefore proposed that the practice of conducting the annual review exercised be resumed. To facilitate PWSC's consideration of the matter, he requested the Administration to provide background information on the origin of the review exercise, how it was conducted and why it had ceased since the early 1990s. The Chairman invited the Administration to provide the information to PWSC for its consideration.

Admin

Proposed amendments to the Roads (Works, Use and Compensation) Ordinance and the Foreshore and Sea-bed (Reclamations) Ordinance

34. Referring to the Administration's proposal to speed up public works projects by shortening the period for the lodging of objections, Mr Albert CHAN indicated his objection to the proposal.

Proposed decking of Kai Tak Nullah

35. Referring to the Government's commitment to invest an average of more than \$29 billion on CWP per year, Mr IP Kwok-him said that it would give rise to public expectation for improvement to the environment at the district level. Referring to paragraph 14 of the paper provided by the Administration, Mr IP noted that while the Kai Tak Transfer scheme was scheduled for completion in 2004, the decking of Kai Tak Nullah proposed by the local community was not mentioned. Responding to Mr IP, PS/ETW(T&W) assured members that in prioritizing public works projects, the Administration had taken account of the views of the local community, such as the District Councils. He also pointed out that the Kai Tak Transfer scheme was part of the West Kowloon drainage improvement project, which aimed to enhance flood protection in the district. The decking of Kai Tak Nullah was however not proposed for flood protection, but for resolving the environmental problems caused by the Nullah.

Noise barriers along Tolo Highway

36. Referring to the noise barriers erected along parts of the Tolo Highway, Mr WONG Yung-kan queried the need for the erection of noise barriers for the section of the Highway facing the sea. He also pointed out that the noise barriers, in the form of vertical panels and in different colours, had blocked the sea view and were very unattractive. Mr James TIEN Pei-chun shared Mr WONG's view. He also urged the Administration to consider the aesthetic and visual impact of noise barriers.

Admin

37. SETW advised that the noise barriers were erected to mitigate traffic noise arising from the increase in traffic flow after the widening of Tolo Highway, which was a statutory requirement under the Environmental Impact Assessment Ordinance (Cap.499). However, the Administration would review the planning, design and consultation process for improvement in future. The Administration would also consider other measures, such as the planting of more trees, for the abatement of traffic noise.

Admin

38. Mr WONG Sing-chi recalled that in 1994, the Administration had undertaken that noise barriers would be provided along Tolo Highway and Fanling Highway after the widening of the two Highways to mitigate traffic noise. However, the Administration had changed its plan and decided not to provide noise barriers at the section of the Highways adjacent to residential areas. Pointing out that the residents concerned had suffered from noise nuisance for more than 10 years, Mr WONG urged SETW to review the case, in particular, the need for the provision of noise barriers near residential areas such as, Wang Tau Tong Estate, Kwong Fuk Estate, Tai Ping Estate, Ka Fuk Estate and Fanling Centre. SETW said that the Administration would follow up and review the situation.

Aesthetic and visual design of bridges and associated structures

39. Referring to the poor and costly design of bridges (including footbridges) and associated structures, Mr Albert CHAN called for improvements in the aesthetic and visual aspects. SETW advised that the Advisory Committee on the Appearance of Bridges and Associated Structures (ACABAS) provided advice to the Director of Highways from the aesthetic and visual impact points of view on the acceptability of design proposals for bridges and associated structures. To improve the standard of aesthetic and visual design, the Administration was considering the need for consultation and involvement of professional bodies, such as the Institute of Architects and the Institute of Landscape Architects. PS/ETW(T&W) added that the Highways Department had completed the review of the standard designs for bridges and other structures associated with the public highway system, and put forward some recommendations for improvement. For example, the design should highlight the land use feature of the area in question, such as tourist, residential or commercial area. The relevant professional bodies and the trade were being consulted on the recommendations.

40. Referring to the design of the bridge involved in Shenzhen Western Corridor and Deep Bay Link projects, Mr Albert CHAN pointed out that the design proposed by the Mainland was adopted. This demonstrated the need for the Hong Kong side to seek improvement in the aesthetic and visual aspects. PS/ETW(T&W) clarified that the design was not proposed by the Mainland but a joint effort made by the Shenzhen authorities and the HKSAR Government. Among the several design options jointly considered, the option of a Single-tower Cable-stay bridge was accepted by both sides as the most suitable design for the bridge in question.

Greening policy

41. Mr LAU Ping-cheung was pleased to note that EWTB would take over the overall greening policy for Hong Kong fully in January 2003. In this connection, he pointed out that he had moved a motion on "Landscaped development and greening policy" at the Council meeting on 9 May 2001, urging the Government to formulate an overall greening policy for Hong Kong. Mr LAU hoped that EWTB would prepare a draft proposal on the greening policy in 2003 for Members' consideration.

42. Citing a few tree-felling incidents, Ms CHOY So-yuk considered it essential for the Administration to formulate the policy on conservation of trees. SETW advised that as a first step, ETWB would consider requiring all works departments to seek its approval for tree-felling. Ms CHOY suggested the Administration to put in place a mechanism for consultation with the residents in the vicinity.

Re-engineering of Architectural Services Department

43. Referring to the re-engineering of the Architectural Services Department (Arch SD), Mr LAU Ping-cheung pointed out that the staff concerned had expressed grave concern about the impact of the outsourcing plan on them and the timetable for implementing the plan. The Deputy Secretary for the Environment, Transport and Works (Transport and Works) W1 advised that following a business review of Arch SD, the Government had decided that Arch SD should focus on its new strategic roles. Arch SD would strengthen its professional role in working with the industry to improve its services and concentrate more on the project management and supervisory functions. The proposed outsourcing of 90% of the services provided by Arch SD was a long-term target and no fixed timetable had been set for reaching the target. In implementing the proposal, the Administration would adopt a flexible approach, taking into account the response of the industry and the impact of the arrangement on the staff concerned. The Administration would hold regular meetings to keep the staff informed of the development. In this regard, the management had assured the staff that there would be no compulsory redundancy.

Production of prefabricated parts

44. As regards the trend for the production of prefabricated parts of individual items involved in construction projects to take place outside Hong Kong, Mr LAU Ping-cheung asked whether the Administration would put in place effective measures to encourage production in Hong Kong. SETW pointed out that while the production of prefabricated parts in the Mainland might save labour cost, the cost involved in transporting the finished product back to Hong Kong was substantial. To encourage the production of prefabricated parts in Hong Kong to enhance local employment opportunities, the Administration was considering to provide, as a financial incentive, reduction in land premium for the industrial land required for the purpose.

Road excavation works

45. Referring to the long-standing problems caused by road excavation works, Mr James TIEN sought SETW's view on how the problems could be addressed. SETW pointed out that the objective of the charging and penalty system proposed under the Land (Miscellaneous Provisions) (Amendment) Bill 2002 was to enable a better control on road excavation works and reduce unnecessary delay in the completion of such works for the overall benefit of the community. Moreover, ETWB was making conscious effort to enhance coordination among various Government departments in carrying out road excavation works. As a long-term measure to reduce the number of road excavation works, the Administration was considering the feasibility of implementing common utility enclosures in new development areas.

46. Mr James TIEN was concerned whether the Administration would adopt a more flexible arrangement to allow road excavation works to be carried out at night as in the case of some densely populated cities overseas, such as Tokyo. SETW said that road excavation works might be carried out at night, subject to the compliance with the requirements of the Noise Control Ordinance (Cap. 400). In considering whether a permit should be issued for the purpose, the Administration would consider the justifications of the case and consult the relevant District Council.

VI. Any other business

47. There being no other business, the meeting ended at 10:45 am.