

立法會
Legislative Council

LC Paper No. CB(1)1936/06-07
(These minutes have been seen
by the Administration)

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Panel on Planning, Lands and Works

Minutes of meeting
held on Tuesday, 24 April 2007 at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon LAU Wong-fat, GBM, GBS, JP (Chairman)
Prof Hon Patrick LAU Sau-shing, SBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon LUI Ming-wah, SBS, JP
Hon James TO Kun-sun
Hon Bernard CHAN, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon CHOY So-yuk, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Vincent FANG Kang, JP
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Hon CHEUNG Hok-ming, SBS, JP

Members attending : Hon LEE Cheuk-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon KWONG Chi-kin

Members absent : Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon WONG Yung-kan, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP

Public officers attending : **Agenda item IV**

Mr Enoch T S LAM
Deputy Secretary for the Environment, Transport and Works (Works)

Mr Ambrose S Y CHEONG
Chief Assistant Secretary for the Environment, Transport and Works (Works)

Agenda item V

Miss WONG Yuet-wah
Principal Assistant Secretary for Housing, Planning and Lands (Planning and Lands) 2

Mr NG Wah-keung, Augustine
Assistant Director of Planning/New Territories

Mr SO Ying-leung, Wilson
District Planning Officer/Tuen Mun & Yuen Long
Planning Department

Mr LEE Yan-ming
Chief Engineer/Traffic Engineering
(New Territories West)
Transport Department

Attendance by invitation : **Agenda item IV**

Construction Workers Registration Authority

Ir Dr Joseph M K CHOW
Chairman

Mr Jimmy L L TSE
Member

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (1)4

Staff in attendance : Mr WONG Siu-yee
Senior Council Secretary (1)7

Ms Christina SHIU
Legislative Assistant (1)7

Action

I Confirmation of minutes

(LC Paper No. CB(1)1377/06-07 -- Minutes of meeting on
27 February 2007)

The minutes of the meeting held on 27 February 2007 were confirmed.

II Information paper issued since last meeting

(LC Paper No. CB(1)1387/06-07(01) -- Paper entitled "Work plan of
the Subcommittee to Review
the Planning for the Central
Waterfront (including the
Tamar Site)")

2. Members noted the information paper issued since last meeting.

III Items for discussion at the next meeting

(LC Paper No. CB(1)1410/06-07(01) -- List of outstanding items for
discussion

LC Paper No. CB(1)1410/06-07(02) -- List of follow-up actions)

3. To allow sufficient time for discussion, members agreed that the following items would be discussed at the next regular meeting scheduled for 22 May 2007 and a special meeting to be arranged in due course –

- (a) Proposed retention of four supernumerary directorate posts in the Land Registry;
- (b) Amendments to Outline Zoning Plans made by the Town Planning Board to impose development restrictions;
- (c) PWP Item 657CL "Demolition of buildings, structures and chimneys at Kwai Chung Incineration Plant";

- (d) Wan Chai Development Phase II Review - Recommended Outline Development Plan and proposed amendments to relevant Outline Zoning Plans; and
- (e) The Revised Concept Plan for Lantau.

IV Latest progress of registration and the proposed implementation programme for phased commencement of prohibitions and the expiry of provisional registration applications under the Construction Workers Registration Ordinance

- (LC Paper No. CB(1)1410/06-07(03) -- Information paper provided by the Administration
- LC Paper No. CB(1)1410/06-07(04) -- Submission dated 17 April 2007 from 建造業工人註冊關注組
- LC Paper No. CB(1)1422/06-07(01) -- Submission dated 20 April 2007 from Hong Kong General Union of Lift and Escalator Employees)

4. The Deputy Secretary for the Environment, Transport and Works (Works) (DS/W) briefed members on the details of the Administration's paper (LC Paper No. CB(1)1410/06-07(03)), including the progress of implementation of provisions of the Construction Workers Registration Ordinance (Cap. 583) (CWRO), latest position of registration of construction workers, proposal to bring into effect Phase One Prohibition, and the way forward in the implementation of the remaining phase of prohibition. The Administration planned to gazette the relevant commencement notice for Phase One Prohibition on 18 May 2007 and table it in the Legislative Council on 23 May 2007 for negative vetting.

5. Mr Abraham SHEK supported the Administration's proposal because it would enhance safety and discipline in the construction industry. He urged the Administration to put the CWRO into full force as soon as possible and commended the Construction Workers Registration Authority (CWRA) for its work. He however expressed concern that some experienced workers working in the Kowloon-Canton Railway Corporation (KCRC) had difficulty in registering as skilled workers under the CWRO as their training and experience in KCRC were not recognized as equivalent qualifications for registration.

6. In response, DS/W said that while the Administration would strive to implement all the provisions as soon as possible, more time would be needed for discussion with stakeholders before the implementation of the remaining phase of prohibition. As regards registration of KCRC workers, discussion on ways to address the concerns of KCRC workers who found difficulty in registration was already in progress.

7. Ms LI Fung-ying supported the Administration's proposal provided that it would not affect the employment of construction workers. She queried whether the registration figure of some 144 000 workers could accurately reflect the registration progress of construction workers because some of the registered workers might belong to the electrical and mechanical industry rather than the construction industry. She asked whether there would be any contingency measures to handle a possible surge of last-minute registration applications. She also expressed concern about the difficulty in registration faced by some KCRC workers, because if they left KCRC, their qualifications might not be recognized elsewhere. She hoped that the Administration would take into consideration the psychological and financial effects on those workers who possessed the necessary skills but could only register as registered general workers. Furthermore, even if workers were willing to attend relevant courses to obtain the requisite qualification for registration, no such courses were available for some trades.

8. In response, DS/W said that the Administration had a detailed discussion with 建造業工人註冊關注組 on 20 April 2007 and explained to them that Phase One Prohibition would not affect the employment of workers because only a valid "Green Card" was required for obtaining the necessary registration. The issues involved were mainly related to the remaining phase of prohibition, which would require more time to discuss and resolve. CWRA had taken measures to inform the ethnic minority workers and workers currently working in Macau about the registration requirements and arrangements, and there would be wide publicity work before the implementation of Phase One Prohibition on 1 September 2007. A contingency plan would also be initiated if there was a surge of last-minute applications. As for KCRC workers, CWRA and KCRC were discussing possible solutions relating to the recognition of their internal training and assessment as equivalent qualification for registration purpose.

9. Ir Dr Joseph M K CHOW, Chairman of CWRA, added that the target registration figure of 160 000 was based on estimates provided by the Administration. KCRC workers could also register as a registered general worker provided that they possessed a valid "Green Card". The classification of workers within KCRC would be a matter for it to decide. The registration system should be fair and it had to strike a balance between all stakeholders concerned. CWRA would be able to handle a possible surge of last-minute registration applications because holders of readily verifiable "Green Cards" could complete the registration process within three days while more complicated cases could be processed within about two weeks.

10. Mr KWONG Chi-kin said that while workers unions recognized the merits of the registration system and would not object to the commencement of Phase One Prohibition on 1 September 2007, there were concerns about the remaining phase of prohibition that had not been fully dealt with. One major concern was on workers who had all along been involved in a single works procedure under the fine division of labour in the construction industry. They

might not possess the comprehensive skills required for registration under the relevant designated trade in the CRWO. The Administration should consider splitting some of the designated trades. He further pointed out that the experience of some veteran masters might not be recognized, and expressed concern on the format of the trade tests for registration. He urged the Administration to introduce amendments to the CWRO as appropriate to address the concerns of workers.

11. In response, DS/W said that the Administration and CWRA would expedite discussion with workers in certain trades of special concern on introducing measures, such as top-up courses or appropriate tests to assess their skills, to facilitate them in applying for registration. He emphasized that CWRO would help ensure the standards of workers. Ir Dr Joseph M K CHOW, Chairman of CWRA, added that workers had contrasting views on whether certain trades should be split or combined. Splitting or combining certain trades would have merits and demerits and some trades under the CWRO were split while some were combined. Many senior workers had already acquired the requisite qualifications and been registered as registered skilled worker. As for those who had proof of their experience but had not yet acquired the requisite qualifications for registration, they could register as registered skilled worker (provisional) first and then attain the status of registered skilled worker through attending and completing the specified training courses or passing trade tests within 3 years from the date of registration. The design of most of those training courses was already complete. As CWRA considered that the requirements for registration as registered skilled worker (provisional) had already been relaxed, the need for practical assessment of the skills of the workers in the specified training courses by requiring them to perform the tasks after seeing demonstration would be appropriate.

12. Ir Dr Raymond HO pointed out that engineering professionals were worried about the legal implications, such as the possible effects on insurance claims, of their working on sites after the implementation of Phase One Prohibition. He had previously suggested that subsidiary legislation should be introduced to expressly specify that engineering professionals were exempted from the CWRO but the Administration considered that administrative guidelines should suffice. As such, engineering professionals' concern was not yet fully addressed. The Administration should resolve the matter before tabling the relevant legislation.

13. In response, DS/W said that the Administration and CWRA had explained the details to The Hong Kong Institution of Engineers that the legislative intent of the CWRO was only targeted at construction workers, not engineering professional and technical personnel who worked on sites. As such, engineering professional and technical personnel who carried out their duties within their professions or expertise fields did not have to register under the CWRO. CWRA would formulate administrative guidelines with them and try to arrive at mutually acceptable arrangements in this regard. Ir Dr Joseph M K CHOW, Chairman of CWRA, added that other professionals, such as architects and surveyors, also did

not have to register under the CWRO. As regards granting of exemptions, he clarified that under the CWRO, CWRA had no such powers. Employers of professionals who had to work on sites should make proper insurance arrangements for their employees.

14. Mr LEE Cheuk-yan noted the merits of the Administration's proposal but pointed out that workers were worried about the implementation of the remaining phase of prohibition. Issues such as the criteria for differentiating skilled workers from semi-skilled workers would have to be addressed. He urged the Administration to pledge to resolve such issues before the implementation of the remaining phase of prohibition. Otherwise, there might be rage among workers. In relation to registration cards, he asked whether there would be any measures to guard against the use of fake registration cards.

15. In response, Mr Jimmy L L TSE, Member of CWRA, said that there were no foolproof systems as such. While there were no counter-fake measures for "Green Cards" issued by different authorities, chipsets containing the necessary information were embedded in the registration cards for security purposes and CWRA was the only authority for issuing registration cards. As regards the issues which had to be addressed before the implementation of the remaining phase of prohibition, DS/W said that as those issues were related to the whole construction industry, more time would be needed to resolve those issues.

16. In relation to the installation of card reading devices, Prof Patrick LAU asked whether they had to be installed on all works sites regardless of the number of workers and how attendance of workers could be monitored and checked. He enquired about the timeframe for the implementation of the remaining phase of prohibition and sought the Administration's response on the concerns expressed by the Hong Kong General Union of Lift and Escalator Employees (LC Paper No. CB(1)1422/06-07(01)).

17. In response, DS/W said that the construction sites as defined under the CWRO were places where primarily construction, reconstruction or alteration of specified structures and maintenance work under term maintenance contract of specified structures owned by public/specified bodies were carried out. The target date for the implementation of the remaining phase of prohibition was mid-2008 and the exact date would depend on the progress of the discussion on resolving the concerns from various parties. The concerns expressed by the Hong Kong General Union of Lift and Escalator Employees were related to the Lifts and Escalators (Safety) Ordinance (Cap. 327) which was under the purview of the Housing, Planning and Lands Bureau. The Administration was exploring possible solutions, such as providing top-up courses for workers who could provide evidence that they had sufficient previous working experience with registered contractors to facilitate them to become competent lift/escalator workers under Cap. 327, and hence obtaining the necessary registration under the CWRO. In relation to monitoring and checking, Ir Dr Joseph M K CHOW, Chairman of

CWRA, said that as there were some 900 major construction sites, the two inspectors of CWRA could visit each site at least about once in a year.

18. Mr CHAN Kam-lam said that the Democratic Alliance for the Betterment and Progress of Hong Kong supported the implementation of Phase One Prohibition because it could help combat illegal workers. As regards registration cards, he commented that electronic cards would be preferable because they would be more durable. He asked whether changes to registration status, trades and qualifications of workers could be made to the registration cards and whether the registration card could replace the "Green Card", the latter of which was only a paper card easily subject to wear and tear.

19. In response, Mr Jimmy L L TSE, Member of CWRA, said that the registration cards could store the necessary information, such as registration number, identity card number and trades, as well as information contained in the "Green Cards". The information stored in the registration cards could also be updated when there were changes. However, the registration card could not replace cards issued under other Ordinances, such as the "Green Card", issued previously. The "Green Card" was also a basis for the Labour Department in taking enforcement actions. Ir Dr Joseph M K CHOW, Chairman of CWRA, added that the registration card had been tested for durability and replacing other cards by the registration card would involve other Ordinances.

20. In response to the Chairman's question, members expressed support for the Administration's proposal to introduce into the Legislative Council the relevant legislation for implementing Phase One Prohibition of the CWRO.

V Designation of land lots in rural areas for use as container back-up areas and open storage space for containers

(LC Paper No. CB(1)1410/06-07(05) -- Information paper provided by the Administration

LC Paper No. CB(1)974/06-07(01) -- Letter dated 8 February 2007 from Hon LEE Wing-tat)

21. The Assistant Director of Planning/New Territories (AD of Plan) highlighted the main points of the Administration's paper (LC Paper No. CB(1)1410/06-07(05)), including the designation of suitable sites for open storage (OS) and port back-up (PBU) uses, guidelines for granting planning permission for OS and PBU uses on a temporary basis, enforcement against unauthorized OS and PBU uses, and the planning for future demand for additional OS and PBU land.

22. Although the total area occupied by unauthorized developments had decreased from 185 hectares (ha) in 1995 to 125 ha in 2006, Dr KWOK Ka-ki considered that a total area of 125 ha of unauthorized developments was still an unacceptable situation. He said that unauthorized developments near Fairview Park Boulevard would have adverse effects on the environment and might lead to

conflicts between residents and the industry. For the vicinity near Fairview Park Boulevard, he asked how long it would take before prosecutions were taken on unauthorized developments and how many temporary leases for OS and PBU had been terminated.

23. Expressing a similar concern, Mr LEE Wing-tat was worried that the industry could continue to maintain unauthorized OS and PBU uses by making repeated applications for planning permission to the Town Planning Board (TPB).

24. In response, AD of Plan said that in the past, users of unauthorized developments were allowed to continue their operation while making applications for planning permissions from TPB. However, at present, prosecutions by the Administration could be taken in parallel with applications for planning permission by the applicants. Furthermore, TPB would not automatically approve every application for renewal of planning permission granted for temporary OS and PBU uses. The public could also raise objections when such applications for renewal were made to TPB. The area in the vicinity of Fairview Park Boulevard was mainly planned for low-density residential developments. Most of the OS and PBU uses in the area were "Existing Use". As they were not unauthorized developments and were tolerated under the Town Planning Ordinance (Cap. 131) (TPO), no prosecutions could be made.

25. Mr LEE Wing-tat expressed concern that although OS and PBU uses were tolerated under the TPO, they would still affect nearby residents as the Administration could not make prosecutions for such uses. He requested the Administration to provide the area of land for OS and PBU uses under the category of "Existing Use" and further information to substantiate its claim that the situation in relation to unauthorized developments had improved. He pointed out that the Administration could introduce traffic control measures to alleviate the problems caused by OS and PBU uses and enquired about the existing traffic arrangements for the Fairview Park Boulevard.

26. In response, AD of Plan explained that there was a clear legal basis that OS and PBU uses existing before the gazettal of the first relevant statutory town plan covering the site would be tolerated and regulation of OS and PBU uses would not have retrospective effect. However, the Administration could still have control over such OS and PBU uses because any material change or intensification of these uses would be subject to planning control under the relevant statutory town plan and/or application for waivers from the Lands Department. The time for making prosecutions on users of unauthorized developments had been shortened because there was no need to wait for the outcome of planning applications. As at 30 September 2006, the area of "Existing Use" was 328.56 ha, with 206.63 ha in Northwest New Territories and 121.93 ha in Northeast New Territories. However, the figure included the area of land for other uses, such as warehouses and garages, in addition to OS and PBU uses. He undertook to provide the overall area and distribution of land lots in rural areas used as container back-up areas and open storage space for containers under the category of "Existing Use".

27. In relation to the traffic arrangements for the Fairview Park Boulevard, the Chief Engineer/Traffic Engineering (New Territories West) of the Transport Department (CE/TE(NTW)) said that as the relevant court case would commence within the next few months, it would not be appropriate for him to disclose the details of the matter. However, the Administration had discussed with the industry, which had encouraged heavy goods vehicle drivers to make more use of Kam Pok Road as far as possible during peak hours from 7 am to 9 am on a temporary basis. The long-term arrangements would be decided after the outcome of the litigation was available.

28. Mr CHEUNG Hok-ming commented that the Administration had erred because it did not have any long-term strategy to cater for the development of the logistics industry. Although the Administration had conducted transport and environmental impact assessments in planning, there were insufficient infrastructure and ancillary facilities for the industry. He was worried that Hong Kong's logistics industry would lose its competitive edge. He asked what measures the Administration had taken in the past five years and what measures it would take in the next five years to enhance the transport facilities for the industry.

29. In response, AD of Plan said that most areas zoned for OS and PBU uses were located near trunk roads, such as Castle Peak Road, Kam Tin Road and Sha Tau Kok Road, taken into consideration of transport requirements for such uses. Whether users would use the zoned areas for OS and PBU uses was a separate matter based on their own considerations. The Administration had devoted a lot of resources in the past to expand and enhance those roads to further improve transport facilities for residents and the industry. The crux of the problem was related to local access roads constructed by the operators themselves on OS and PBU sites operated on short-term basis. CE/TE(NTW) added that in the past, enhancement works had been carried out at junctions along Ping Ha Road and parts of it had been widened. Projects such as Kam Tin Road widening, Kam Tin Bypass and Yuen Long Highway widening had also been completed. In the future, the section of Ping Ha Road near Ha Tsuen would be widened. Tin Ha Road would also be widened. These enhancement works would meet the traffic demand in the vicinity of Ha Tsuen.

30. Mr CHAN Kam-lam commented that the Administration's planning process was deficient because economic development was not taken into account during the planning process. More and enhanced ancillary and transport facilities were required and the Administration should conduct research on the matter. As some land had been used as OS and PBU areas before nearby areas were developed into residential areas, the Administration should have put in place measures to harmonize the relationship between residents and the industry. Putting land to the most appropriate uses would be beneficial for the whole society. The need to renew temporary permission would exert pressure on the industry and it might be difficult to find alternative locations for OS and PBU uses if those temporary leases were terminated.

31. In response, AD of Plan said that he had taken note of Mr CHAN's views. He clarified that renewal of planning permission was required only for sites granted with temporary planning permission. If an area was zoned for OS and PBU uses under the relevant Outline Zoning Plan, no renewal for general OS and PBU uses would be required.

32. Mr Daniel LAM considered that the Administration should further enhance the guidelines which set out the criteria in assessing planning applications for temporary OS and PBU uses in areas outside the zones specifically designated for such a purpose. He pointed out that the Administration should have measures on how to rationalize the existing situation where land lots for OS and PBU uses and residential use were located in close proximity.

33. In response, AD of Plan said that the review on the TPB guidelines which set out the criteria in assessing planning applications for temporary OS and PBU uses was already in progress. For planning applications approved by TPB, conditions would be attached to the planning permission specifying requirements in areas such as drainage, transport, fire safety and environmental protection so as to enhance the overall environment of the land for temporary OS and PBU uses and minimise nuisances to nearby residents.

34. Mr LI Kwok-ying asked whether there were any objective criteria in determining if any material change or intensification of "Existing Use" had taken place, and how the Administration would take enforcement action under such circumstances. He also asked whether the Administration would review the provision of ancillary facilities for the industry.

35. In response, AD of Plan explained that the Administration would compare the actual extent of OS and PBU uses with the records at the time of gazettal of the relevant statutory town plan to determine whether the extent of uses had changed. The court would decide whether a particular change in the extent of uses would constitute a breach of the TPO based on the fact and degree of the particular cases. The Administration had conducted research on the provision of land for OS and PBU uses and found that the overall supply could meet the demand of the industry. The Administration would continue to monitor the situation and consult the industry for making recommendation to the TPB on the general guidelines for the provision of land for OS and PBU uses.

36. Mr Albert CHAN pointed out that there was a mismatch in the designation of land for OS and PBU uses. Some designated zones might not be used because the locations were inconvenient or the infrastructures were inadequate. There were loopholes in the legislation and the use of agricultural land for OS and PBU uses could not be controlled, thus causing nuisances to nearby residents. The Administration lacked the determination to take resolute enforcement action. He suggested that consideration could be given to relaxing the change of zoning from OS and PBU uses to Comprehensive Development Area use or low density

residential use. The financial benefits arising from such changes would serve as an incentive for facilitating the rationalization of land use by the Administration. He further suggested that container trucks should only be allowed to use certain designated roads so as to avoid traffic problems associated with container trucks.

37. In response, AD of Plan reiterated that pursuant to the provision of the TPO, OS and PBU uses under the category of "Existing Use" were tolerated even though they might be near to residential districts. At present, TPB would not approve new applications for such uses for land located near residential districts. Some sites had already been zoned for Comprehensive Development Area use or low density residential use to provide incentives for phasing out those non-conforming OS and PBU uses. In relation to traffic measures, CE/TE(NTW) said that due to the geographical constraints in Hong Kong, limiting the right of use of roads by container trucks would need in-depth consultation with the industry.

Admin 38. Mr James TO asked why there were still unauthorized developments if the supply of land for OS and PBU uses was adequate, and whether it was due to uneven distribution of land for such OS and PBU uses. He considered that the Administration should take strict enforcement action against unauthorized developments and queried whether the lack of prompt enforcement action was due to shortage in manpower. He requested the Administration to provide the prosecution and conviction figures on illegal container back-up areas and open storage space for containers in rural areas since the implementation of the Town Planning (Amendment) Ordinance in mid 2005, and examples of recent court cases to demonstrate how the implementation of the Town Planning (Amendment) Ordinance had improved the enforcement capability of the Planning Department, with information on the fines imposed and the time required for making prosecutions.

39. In response, AD of Plan said that in designating the areas zoned for OS and PBU uses, the Administration had taken into consideration the geographical proximity of the zoned areas to container ports and cross-boundary facilities. Whether the industry would use a certain designated zone would depend on a number of factors including commercial considerations. There could be cases where some designated zones were underutilized while some areas were used for OS and PBU uses without prior approval from TPB. He considered that the figures for unauthorized developments in 1995 and 2006 should not be compared directly because the area in the New Territories covered by the relevant statutory town plan had increased by more than 2 400 ha during the period. Enforcement action had been very effective since 2005 and there was a substantial reduction in land occupied by unauthorized developments despite the fact that the area under regulation had been increased. He undertook to provide the information requested by Mr James TO after the meeting.

VI Any other business

40. There being no other business, the meeting ended at 4:55 pm.

Council Business Division 1
Legislative Council Secretariat
20 June 2007