

立法會
Legislative Council

LC Paper No. CB(1) 2288/07-08
(These minutes have been seen
by the Administration)

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Panel on Environmental Affairs

**Minutes of special meeting
held on Monday, 30 June 2008, at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Hon SIN Chung-kai, SBS, JP
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon CHOY So-yuk, JP
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon CHEUNG Hok-ming, SBS, JP
Hon Mrs Anson CHAN, GBM, JP
- Member attending** : Hon Daniel LAM Wai-keung, SBS, JP
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Martin LEE Chu-ming, SC, JP
Hon WONG Yung-kan, SBS, JP
Hon Howard YOUNG, SBS, JP
- Public officers attending** : **For item II**
Environment Bureau

Ms Anissa WONG
Permanent Secretary for the Environment

Development Bureau

Mr CHAN Yun-cheung
Principal Assistant Secretary (Works) 3

Environmental Protection Department

Mr TANG Kin-fai
Assistant Director (Environmental Compliance)

Mr Alfred LEE
Assistant Director (Waste Management Policy)

Lands Department

Mr Christopher MILLS
Assistant Director (NT)

Food and Environmental Hygiene Department

Mr CHEUNG Wai-ying
Senior Superintendent (Cleansing & Pest Control)

Planning Department

Ms Phyllis LI
Acting Assistant Director of Planning/Special Duties

Mr Kelvin CHAN
Acting Chief Town Planner/Central Enforcement and
Prosecution

For item III

Environment Bureau

Mr Edward YAU, JP
Secretary for the Environment

Mr Roy TANG, JP
Deputy Secretary for the Environment

Environmental Protection Department

Mr Elvis AU, JP
Assistant Director (Water Policy)

Attendance by invitation : For Item II

Civic Party

Mr TSANG Kwok-fung
Exco Member, NTE Branch

Tai Po District Council

Dr YAU Wing-kwong
Member

Islands District Council

Ms LEE Kwai-chun, MH
Member, Chairman of Tourism, Agriculture, Fisheries
and Environmental Hygiene Committee

Kowloon City District Council

Mr LEUNG Ying-piu, BBS, MH
Member

Advisory Council on the Environment

Professor POON Chi-sun
Chairman of Waste Management Subcommittee

Hong Kong Waste Disposal Industry Association

Mr Thomas TAM
Chairman

WWF Hong Kong

Mr Michael LEE
Assistant Conservation Officer

Heung Yee Kuk New Territories

Mr Kingsley SIT
Co-opted Councillor

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Mrs Mary TANG
Senior Council Secretary (1)2

Miss Mandy POON
Legislative Assistant (1)4

Action

I. Confirmation of minutes

(LC Paper No. CB(1) 2042/07-08 — Minutes of the special meeting held on 16 May 2008)

The minutes of the meeting held on 16 May 2008 were confirmed.

II. Measures to tackle fly-tipping

Meeting with Civic Party

(LC Paper No. CB(1) 2043/07-08(01))

2. Mr TSANG Kwok-fung said that the Civic Party was concerned about the increase in the number of complaints about depositing of inert construction and demolition (C&D) waste on private land, which had demonstrated the inadequacy of the existing legislation in controlling fly-tipping under the disguise of land filling activities. The Civic Party would support the introduction of a licensing system to regulate the depositing of inert C&D waste on private land.

Meeting with Tai Po District Council

3. Referring to the Ting Kok Road incident where truckloads of C&D waste were deposited on private land without the consent of landowners concerned, Dr YAU Wing-kwong said that while assistance from the Police had been called for, no immediate action could be taken as the case was considered a land dispute. It had been days after the incident when the Planning Department (PlanD) took enforcement action on this case. To ensure that prompt actions could be taken as appropriate, there was a need to set up an inter-departmental working group to deal with depositing activities.

Meeting with Islands District Council

4. Ms LEE Kwai-chun expressed concern about the environmental problems associated with the depositing of both C&D and domestic waste on private and government land. She supported that government departments should be empowered to take enforcement actions against these activities.

Meeting with Kowloon City District Council

5. Mr LEUNG Ying-piu expressed concern about the lack of co-ordination on the part of the Government in regulating the depositing of inert C&D waste on private land. He held the view that the Government's complaint hotline (1823) was not effective in deterring depositing activities because the culprits would flee from the scene right after depositing the waste. District Councils would support that more manpower resources should be deployed to enforce against depositing activities. There was also a need to review the existing legislation to increase the deterrence against such activities.

Meeting with Advisory Council on the Environment
(LC Paper No. CB(1) 2043/07-08(02))

6. Professor POON Chi-sun said that the Advisory Council on the Environment (ACE) shared the public's concern about the depositing of inert C&D waste on private land. It therefore supported the inter-departmental approach in addressing the potential problems arising from depositing activities, as well as the setting up of a database to share information among relevant bureaux/departments. On the suggestion of amending the Waste Disposal Ordinance (Cap.354) (WDO) to address the problem associated with depositing activities, Professor POON pointed out the need to clearly define "waste" because C&D materials were not necessarily wastes, and that depositing of inert C&D materials might not create environmental problems. As an alternative, ACE would suggest to amend the Town Planning Ordinance (Cap.131) (TPO) to enhance planning and land use controls both in urban areas and rural areas, particularly in green belts and conservation areas where existing controls were often found to be inadequate. ACE also considered that the existing trip-ticketing system for public works projects should be extended to major private works projects, such as construction and demolition works, to track the movement of inert C&D materials and ensure their proper disposal. Meanwhile, the level of penalty on convicted cases should be increased in order to achieve sufficient deterrent effect.

Meeting with Hong Kong Waste Disposal Industry Association
(LC Paper No. CB(1) 2043/07-08(03))

7. Mr Thomas TAM said that the problem of fly-tipping had become more rampant following the implementation of the charging scheme on disposal of C&D waste. Some construction contractors tried to evade the disposal charges by dumping the waste on government and private land, or along the roadside. Consideration should be given to providing temporary disposal facilities at more convenient locations to allow contractors to store the waste before final disposal in landfills.

Meeting with WWF Hong Kong (WWF)

(LC Paper Nos. CB(1) 1246/07-08(01), 1568/07-08(01) and 2043/07-08(04))

8. Mr Michael LEE said that to resolve the problem of fly-tipping at source, WWF would call on the Government to -

- (a) amend TPO to empower PlanD to have statutory control over Outline Zoning Plan (OZP) areas which were not previously covered by Development Permission Area (DPA) Plans. This would enable PlanD to enforce against unauthorized land filling or land excavation activities which violated planning intentions of areas under conservation zoning in non-DPA, such as "Green Belt" and "Conservation Area";
- (b) increase the penalty level and empower the court to confiscate vehicles/machines used in such environmental crimes, as in the case of the United Kingdom, to deter unauthorized land filling and land excavation; and
- (c) incorporate a new clause in the existing Town Planning Board (TPB) guidelines and inform the public that any unauthorized development or environmental degradation activity in the hope to rezone conservation zonings to development zonings would not gain sympathetic consideration from TPB.

Meeting with Heung Yee Kuk New Territories

(LC Paper No. CB(1) 2043/07-08(05))

9. Mr Kingsley SIT pointed out the need to differentiate between lawful land filling activities and illegal depositing of C&D waste. He said that the rights of individuals and legal persons in the acquisition, use, disposal and inheritance of property were protected under Article 105 of the Basic Law. Therefore, in regulating the depositing of C&D materials on private land, care should be taken to avoid infringing the property rights of landowners.

10. The Chairman also drew members' attention to the following submissions from deputations which had not attended the meeting -

LC Paper No. CB(1) 2043/07-08(07) — Submission from The Conservancy Association

LC Paper No. CB(1) 2059/07-08(01) — Further submission from Friends of the Earth (HK)

Meeting with the Administration

- (LC Paper No. CB(1) 2043/07-08(08) — Administration's paper on depositing of inert construction and demolition materials on private land
- LC Paper No. CB(1) 1968/07-08(01) — Administration's paper on the list of cases of depositing of inert construction and demolition materials on private and Government land
- LC Paper No. CB(1) 1199/07-08(01) — Administration's paper on land filling activities on Government land and private land using construction and demolition materials - the Shing Mun Road incident
- LC Paper No. CB(1) 1199/07-08(02) — Paper on fly-tipping and land filling activities on private land prepared by the Legislative Council Secretariat (Background brief)
- LC Paper No. CB(1) 1224/07-08(01) — Submission from Friends of the Earth (HK) (Chinese version only)
- LC Paper No. CB(1) 1247/07-08(01) — Wording of the motion passed at the meeting on 11 April 2008
- LC Paper No. CB(1) 1538/07-08(01) — Administration's paper on the latest development of the proposed "clean record system" to facilitate the Town Planning Board to consider planning applications
- LC Paper No. CB(1) 1557/07-08(01) — Administration's paper on depositing of inert construction and demolition materials on private land
- LC Paper No. CB(1) 2107/03-04 — Report of the Bills Committee on Waste Disposal (Amendment) (No. 2) Bill 2003 to the House Committee meeting on 18 June 2004
- LC Paper No. CB(1) 2019/03-04(02) — Administration's paper on "A possible option to address the issue of land filling activities on private land" for the Bills Committee meeting on 3 June 2004)

11. The Permanent Secretary for the Environment (PS(Env)) said that the Administration had provided supplementary papers on the preliminary assessment of the options to regulate depositing of inert C&D materials on private land, and the 152 cases of depositing incidents on private land. To enhance inter-departmental co-ordination of actions under the existing legislation, the Environmental Protection Department (EPD) had collated the database for reference and updating by all concerned departments, and if necessary, EPD would initiate joint enforcement actions as well. She added that while depositing of inert C&D materials might cause some adverse visual and landscaping impacts, these were not environmental issues under the

purview of WDO. On the other hand, cases involving the stockpiling of C&D materials of a sizeable area usually caused the greatest public concern, and there might be questions as to whether the sites concerned were actually used as private fill banks. As such, consideration could be given to including depositing activities of a certain scale under the control of WDO. Consultation with stakeholders would need to be held on the proposed amendments to WDO.

Amendments to WDO

12. Mr Jeffrey LAM sought Heung Yee Kuk (HYK)'s view on what should be regarded as illegal disposal of waste. Through the Chair, Mr Kingsley SIT/HYK said that illegal disposal of waste should refer to depositing activities which would give rise to environmental degradation. HYK also found these activities not acceptable. However, it was unfair for the Administration to hold landowners liable for depositing activities which were carried out without their consent.

13. As land filling activities on private land might give rise to flooding, Mr LEE Wing-tat opined that actions should be taken against such activities, albeit these might have the consent of landowners. He further asked if there was a need to re-define "waste" under WDO to facilitate regulation of depositing of C&D materials on private land. PS(Env) advised that under WDO and its subsidiary legislation, "waste" was defined as any substance or article which was abandoned, whereas "construction waste" referred to any substance, matter or thing that was generated from construction work and abandoned. C&D materials were not regarded as "waste" under WDO as these could be used for land formation activities or recycled for other uses. To introduce a new control mechanism under WDO to regulate the depositing of C&D materials on private land for a purpose which might affect the landowners' right would require careful examination on the balance of public interest.

14. Given the limited number of prosecution cases against depositing activities, Mr Jeffrey LAM enquired if there was a need to step up enforcement against such activities. PS(Env) explained that the existing regulatory regime had already provided relevant control over environmental pollution and hygiene impacts arising from depositing inert C&D materials on private land. In addition, EPD had clear authority under WDO to take enforcement actions if the depositing activities took place on private land without the permission of landowners or lawful occupiers. However, if such activities were carried out with the consent of owners and had not created environmental problems, these were arguably not covered by the existing WDO and other environmental legislation.

Planning control on the depositing of inert C&D materials

15. Miss CHOY So-yuk requested the Administration to respond to WWF's concern on the need for amending TPO to give PlanD statutory enforcement power over OZP areas that were not previously covered by DPA plans. The amendment would provide PlanD with statutory power to enforce against unauthorized land filling

or land excavation activities in non-DPAs. The Acting Assistant Director of Planning/Special Duties (AD of Plan(SD)(Ag)) explained that the legislative intent of TPO was to regulate land use and development through the preparation of statutory town plans and operation of the planning permission systems. TPO was not an effective means to tackle the problem of depositing of C&D materials in the rural New Territories since planning enforcement and prosecution actions could only be instigated after the damage to the natural environment had already taken place. Besides, the depositing of C&D materials, which was defined as a land filling operation under the planning regime, was part of the development process that was incidental to the land uses and developments that were permitted as of right. Thus, TPO was not the right tool to regulate the depositing of C&D materials, which should be tackled at source to prevent the degradation of the natural environment.

16. On the suggestion of extending the planning enforcement power to the urban areas and New Towns, AD of Plan(SD)(Ag) said that OZPs prepared for these areas were intended primarily to regulate development and land uses. Most of the land use zonings were development-related to optimize the utilization of the transport and utility infrastructure already in place. Development control in these areas had all along been exercised by way of TPO, Buildings Ordinance (Cap. 123) and lease control. There was no policy intention to extend the planning enforcement power of the Planning Authority to the urban areas and the New Towns. As regards the rural OZPs, AD of Plan(SD)(Ag) said that about 67% of the total area covered by the rural OZPs, including areas zoned for conservation-related uses, “Green Belt”, or “Agriculture” zone, were already subject to the land/pond filling control regime. Regarding the concern on the enforcement against depositing of C&D materials in the fringe of the urban areas and new towns, AD of Plan(SD)(Ag) said that most of these areas were zoned “Green Belt” to define the limits of urban and sub-urban development, of which about 95% were government land comprising mostly hill slopes. Any unauthorized depositing activities on the government land would be subject to enforcement actions by the Lands Department. For rural areas, such as the Frontier Closed Area and Lantau South Coast, access was constrained by the restricted road/Closed Road Permit system.

17. Ms Emily LAU sought WWF's elaboration on its proposal to amend the TPB guidelines on the vetting of development applications. Through the Chair, Mr Michael LEE/WWF said that given the strong demand for development on conservation zonings, such as for open storage and Small Houses, TPB might exercise discretion to approve planning applications although these might not be in line with planning intentions. WWF considered that such discretion should not be exercised if these applications would result in environmental degradation. To this end, consideration should be given to incorporating a new clause in TPB guidelines such that any unauthorized development or environmental degradation activity in the hope to change the conservation zone to development zone would not gain sympathetic consideration from TPB. AD of Plan(SD)(Ag) said that in assessing planning applications, TPB would also make reference to the site history, which might include, among others, the existing use of the site and whether unauthorized developments

were found. Through the publication of planning applications, members of the public could submit their views to TPB on the application for development. TPB would take into account all relevant factors, including possible environmental degradation, in considering the planning applications.

Admin

18. Miss CHOY So-yuk asked whether transfer of plot ratio could be considered for landowners whose land was not allowed for development on account of its high ecological importance. She held the view that the Ting Kok Road incident would not have occurred had transfer of plot ratio been allowed. She hoped that the Development Bureau and the Environment Bureau would give due consideration to the said proposal. AD of Plan(SD)(Ag) said that as the proposed transfer of plot ratio would have significant impact on TPO, this should be considered on a case-by-case basis. She further said that the Secretary for the Development would provide a written reply to the LegCo Question raised by Miss Choy regarding the proposed amendment to TPO to extend planning enforcement power to area covered by OZPs that were not previously designated as DPAs. PS(Env) said that the transfer of plot ratio proposal would give rise to significant implications. According to the new nature conservation policy, 12 priority sites had been identified for enhanced conservation. Developments at an agreed scale were allowed at the less ecologically sensitive portion of these sites provided that the developer undertook to conserve the rest of the site that was more sensitive on a long-term basis. This would help resolve the conflict between nature conservation and development rights of private landowners. Miss CHOY requested that the following issues should be referred to the Panel on Development for further discussion -

- (a) amending TPO to give PlanD statutory enforcement power over areas covered by OZPs that were not previously designated as DPAs; and
- (b) transfer of plot ratio for landowners whose land was not allowed for development on account of its high ecological importance.

Trip-ticketing system

19. Mr LEE Wing-tat concurred with ACE on the need to extend the existing trip-ticketing system for public works projects to major private works projects to track the movement of inert C&D materials. He said that the Hong Kong Construction Association (HKCA) should be requested to issue guidelines on the use of the trip-ticketing system to contractors. Miss CHOY So-yuk agreed that the proposal should be actively pursued. The Principal Assistant Secretary (Works)3 (PAS(W)3) said that the trip-ticketing system had been effective in ensuring that C&D materials from public works projects were properly disposed of at designated disposal facilities. The system would require conscientious efforts on the part of Government as the landowner and project proponent. If the system were to be extended to private projects, the same commitment would have to be demonstrated by private contractors. Consultation with the relevant trades, including HKCA, on the proposed extension of the system to private works projects would be required.

Admin

20. Mr LEE Wing-tat was disappointed that his previous proposal of requesting trade bodies to take on the trip-ticketing system voluntarily had not been taken forward since the proposal was last raised at the Panel meeting on 16 May 2008. PAS(W)3 said that he did not have information on the latest position in this aspect, and would consult the Environment Bureau on how to take the proposal forward to the trades after the meeting.

Update on the 152 cases in the database

21. Ms Emily LAU enquired about the progress of the 152 cases in the database. The Acting Chief Town Planner/Central Enforcement and Prosecution (CTP/CEP(Ag)) said that the current cases within DPAs were subject to on-going planning enforcement and prosecution actions. From 2005 to 2008, a total of 431 reinstatement notices had been issued to the responsible persons, requiring them to reinstate the damaged land to its original condition.

22. Ms Emily LAU noted with concern that of the 152 cases, EPD was only able to confirm in one case that the landowners had not granted consent, which enabled prosecution action to be taken under section 16A of WDO against the party responsible for the depositing activity. There was also one case currently under investigation which would likely lead to prosecution action. In the other cases, landowners either declined to confirm whether consent had been given or could not be identified, resulting in non-substantiation of violations under WDO in most circumstances. The Assistant Director of Environmental Protection (Environmental Compliance) (ADEP(EC)) said that upon receipt of complaint about depositing activities, EPD would endeavour to identify the landowners to see if consent had been obtained for the activities. Some landowners would tend to decline even though they had indeed given consent. Under such circumstances, EPD would serve legal notices to the landowners requesting them to confirm whether consent had been given for the depositing activities.

23. Mr Daniel LAM reiterated HYK's stance that land filling activities on private land with the consent of landowners were lawful and should not be regarded as illegal depositing activities. There was however a need to strengthen enforcement against depositing activities which did not have the consent of landowners. There should be co-ordination among relevant bureaux/departments in tackling illegal depositing activities, and landowners should not be held liable for these activities which were carried out without their consent. PS(Env) said that under environmental legislation, EPD would take enforcement actions against the parties responsible for depositing the waste, but landowners were also responsible to protect their land from illegal depositing activities. The database on cases of depositing of C&D materials set up by EPD would facilitate information sharing with relevant departments which would take enforcement actions within their respective purviews. EPD would assume a co-ordinating role and joint enforcement actions with relevant departments would be taken as necessary. AD of Plan(SD)(Ag) said that in addition to the enforcement

notices issued to the concerned landowners under TPO, subject to obtaining evidence, the same would also be issued to the responsible persons.

Ting Kok Road incident

24. Mrs Anson CHAN asked why immediate enforcement actions could not be taken to stop the depositing activities at Ting Kok Road. She also enquired if the Government had provided adequate disposal facilities to enable proper disposal of C&D materials. CTP/CEP(Ag) said that PlanD received a complaint from the local residents on 16 April 2008 afternoon regarding depositing activities at a site at Ting Kok Road. PlanD staff visited the site on 18 April 2008 and put up a warning letter and poster at the site to warn against further depositing activities. The truck drivers delivering the C&D materials were apparently not aware that the depositing activities were illegal. They were then advised to stop the activities. After collection of evidences, Stop Notice was issued to the concerned landowners and the responsible person on 14 May 2008 requiring them to discontinue with the land filling activities and to remove the filled materials. He further explained that under TPO, prosecution would be taken in the event of non-compliance with the Stop Notice. PS(Env) added that C&D waste and inert C&D materials could be disposed of at the designated landfills, sorting facilities and public fill reception facilities at a charge respectively. On the Hong Kong Waste Disposal Industry Association's request for the provision of more disposal facilities at more convenient locations to allow temporary disposal of waste, PS(Env) said that this could be further explored with the trades.

25. Mr CHEUNG Hok-ming enquired about the measures to prevent the recurrence of the Ting Kok incident where depositing activities were carried out without the consent of landowners. He also opined that consideration could be given to re-connecting the water supply for agricultural land to enable landowners to resume farming activities. CTP/CEP(Ag) said that under TPO, the Planning Authority was empowered to take enforcement action against unauthorized land filling activities and serve statutory notices to the persons responsible for the depositing activities as well as the landowners as the latter should be responsible for activities occurring on their land. Those who were served with the statutory notices could submit the steps that they had taken to comply with the notice to the PlanD for consideration or prove to the courts their innocence. He however could not comment on the Ting Kok case as the investigation was on-going.

26. Mr LEE Wing-tat said that the Administration had not been effective in protecting private land from illegal depositing activities as demonstrated by the Ting Kok Road incident. There was a need for enforcement guidelines and concerted efforts from relevant departments in dealing with the problem. CTP/CEP(Ag) assured members that actions would be taken to identify the persons responsible for depositing activities, where possible, and that prosecution action would be taken as appropriate. As for the Ting Kok Road incident, it was found that the person who was responsible for the depositing activities was also one of the landowners of the land to which the C&D materials had been deposited. Enforcement actions had since been

taken against the landowner concerned.

27. Ms Emily LAU noted with concern that an average of about 21 tonnes of fly-tipped inert C&D materials were cleared by government departments every day in 2006 and 2007, and that there were 48 black spots with recurrent fly-tipping problems. ADEP(EC) said that most of the complaints about fly-tipping involved small-scale dumping activities, and these were being followed up by the Highways Department, Lands Department, Food and Environmental Hygiene Department (FEHD) as well as EPD. In the cases where the parties responsible for fly-tipping could not be identified, the waste would be cleared by the government departments concerned. The Administration would step up enforcement against fly-tipping. As regards the black spots identified, ADEP(EC) said that these had been put under close surveillance and monitoring by the departments concerned. The list of black spots would be sent to the relevant District Councils for information and support in deterring fly-tipping activities.

Way forward

28. The Chairman requested representatives of bureaux/departments to explain their respective roles in dealing with the land filling problem. PS(Env) said that EPD would share information on depositing activities with other departments through the database and regular meetings would be held to follow up on these activities. While EPD had identified possible legislative options to regulate depositing activities through amending WDO and the Environmental Impact Assessment Ordinance (Cap.499) (EIAO), a balance would need to be struck between respecting the rights of landowners and protecting public interest. Legal advice would be sought on these legislative amendments and consultation would be held with stakeholders. AD of Plan(SD)(Ag) reiterated that there was no policy intention to extend the planning enforcement power of the Planning Authority to the urban areas and the New Towns, hence amendment to TPO was considered not necessary. PAS(W)3 said that the Development Bureau would share its experience in operating the trip-ticketing system and would explore how to seek the trades' view on the proposed extension of the trip-ticketing system for public works projects to major private works projects in consultation with EPD. The Assistant Director of Lands (NT) said that the restrictive role of Lands Department under the lease conditions governing agricultural land had been set out clearly in the Administration's papers and he had nothing particular to add. The Senior Superintendent, (Cleansing & Pest Control) said that FEHD staff would take actions under the Public Health and Municipal Services Ordinance (Cap. 132) if the filling or dumping of waste had given rise to nuisances or mosquito breeding.

29. The Chairman also invited further views from deputations before concluding the discussion. Dr YAU Wing-kwong/Tai Po District Council thanked members for their assistance in the Ting Kok Road incident. However, not much had been done to restore the site despite repeated requests from landowners concerned. He pointed out that landowners were quite helpless in preventing depositing activities, and that immediate action, including assistance from the Police, should be taken to halt these

activities. Mr Kingsley SIT/HYK said that the Government should take proactive measures to deter fly-tipping. Professor POON Chi-sun/ACE expressed disappointment that the existing planning control was not effective in preventing large-scale depositing activities which ran contrary to the planning intentions.

Admin

30. Before concluding, the Administration was requested to provide the progress of the database on depositing activities, a flowchart on the course of actions to be taken following receipt of complaints on depositing activities, and a paper on the measures, including installation of cameras at black spots, to reduce fly-tipped inert C&D materials. The Administration was also requested to advise the Panel in due course on the outcome of consultation on legislative changes to WDO and EIAO.

III. Liquefied Natural Gas Receiving Terminal at South Soko Island

(LC Paper No. CB(1) 2059/07-08(02) — Administration's paper on Liquefied Natural Gas Receiving Terminal at South Soko Island)

31. The Chairman said that the request for inclusion of the subject in the agenda for the current meeting was put forward by the Administration on 27 June 2008. After consultation with some members, it was agreed that about 15 to 30 minutes would be allocated for discussion of the subject.

32. The Secretary for the Environment (SEN) apologized for the short notice for inclusion of an additional item at the current meeting. As this was the last Panel meeting within the current legislative term and a Member had submitted a LegCo Question on the issue, opportunity was taken to brief members on the current status of the Liquefied Natural Gas (LNG) Terminal. He then highlighted the salient points in the information paper tabled at the meeting.

33. Noting that the LNG Terminal was a gas infrastructure which did not necessarily have to be included as assets under the Scheme of Control Agreement (SCA) for the power generation business, Mr LEE Wing-tat enquired about the proposed regulatory framework for the LNG Terminal, including the rate of return which in his view should be lower than that under SCA. He also asked how other users could have access to the LNG Terminal. SEN explained that a separate regime, independent of SCA for the electricity business, might be introduced for the LNG Terminal to provide for greater accountability and transparency in its operations, cost allocation and tariff setting. It would also provide for ease of access to the LNG Terminal by other users. Given that the proposed LNG Terminal had yet to be approved, the Administration was not in a position to assess the rate of return at this stage.

34. Mr SIN Chung-kai was not convinced of SEN's response. He held the view that the Administration should give an assurance that the rate of return for the LNG Terminal should be lower than 9.99% as provided under SCA. If not, he failed to see

why the LNG Terminal should be excluded from SCA. SEN said that the Administration could not at the present stage determine the rate of return as this would be subject to commercial negotiation.

35. Mrs Anson CHAN expressed appreciation for the Administration's efforts to brief members on the latest development of the LNG Terminal. She enquired if public interest would be the overriding factor in deciding whether LNG Terminal should be included as assets under SCA. SEN said that the setting up of a separate regime independent of SCA for the LNG Terminal was considered a possible option by the Administration. Issues such as greater accountability and transparency, which were matters of public interest, would be taken into consideration. At members' request, the Administration undertook to provide regular updates on the latest development of the LNG Terminal to the Panel.

36. Ms Emily LAU noted that according to the Administration's paper, CLP Power Hong Kong Limited (CLP) anticipated that the existing Yacheng 13-1 natural gas field (YNGF) would be depleted by early 2010. However, a replacement gas supply was required by end 2013. She sought clarification on the time-frame within which the LNG terminal should be made available. She also stressed the need to ensure reliability of natural gas supply and compliance with emission caps. SEN said that about 30% of CLP's installed capacity was gas-fired using mainly the supply of natural gas from YNGF. There were earlier concerns that YNGF would be depleted by 2010. Based on the latest findings, the supply from YNGF would likely be unstable by 2013. Therefore, a replacement gas supply must be in place by end 2013 to ensure reliability of gas supply to meet the increasing demand for power generation in future.

37. Miss CHOY So-yuk expressed dissatisfaction that the Administration had only provided a brief paper and allowed a short discussion on the LNG Terminal, which was an important project with significant implications on electricity generation, marine ecology as well as air quality in Hong Kong. Besides, the way in which the Administration's paper was presented, including the commencement of the statutory planning and land processes, would appear to her that a decision had already been made on the provision of the LNG Terminal. She said that the discussion at the current meeting should not be taken as a formal consultation with the Panel or the Panel's support for the project. A more thorough discussion on the subject should be allowed in the new legislative term. SEN reiterated the Administration's intention to update members on the current status of LNG Terminal before the end of the current legislative term. The project was still under consideration and a decision to build a LNG Terminal in Hong Kong had yet to be made. To ensure that no time was lost in the event that the proposal to build a LNG Terminal was proved to be the best option for Hong Kong, similar to the environmental impact assessment process, the Administration would need to make forward planning work by initiating statutory planning and land processes.

38. Mr Daniel LAM said that the Administration should consult HYK and relevant District Councils on the outcome on site search for the LNG Terminal. He said that the choice of site should not be confined to Tuen Mun and outlying islands, and that the feasibility of alternative sites should be explored. He was also concerned that the forward planning would be abortive if it was subsequently decided that the LNG Terminal would not be built in South Soko Island. SEN said that consultation on the provision of the LNG Terminal would be held with relevant District Councils as part of the statutory planning process. He said that CLP had concluded that constructing a LNG Terminal at South Soko Island would be the best option and the Tuen Mun site was not chosen.

IV. Any other business

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