

立法會
Legislative Council

LC Paper No. CB(1)1365/12-13
(These minutes have been seen
by the Administration)

Ref : CB1/PS/2/12/1

Panel on Environmental Affairs

Subcommittee on Issues Relating to Air, Noise and Light Pollution

Minutes of the meeting
held on Monday, 25 February 2013, at 8:45 am
in Conference Room 2A of the Legislative Council Complex

Members present : Hon Cyd HO Sau-lan(Chairman)
Hon Claudia MO
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon KWOK Wai-keung
Hon Dennis KWOK
Dr Hon Elizabeth QUAT, JP
Hon Tony TSE Wai-chuen

Members absent : Dr Hon Helena WONG Pik-wan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers attending : **For item II**
Ms Christine LOH
Under Secretary for the Environment

Mr TANG Kin-fai, JP
Assistant Director (Environmental Assessment)
Environmental Protection Department

Mr MOK Wai-chuen, JP
Assistant Director (Air Policy)
Environmental Protection Department

Clerk in attendance : Ms Miranda HON
Chief Council Secretary (1)1

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Miss Lilian MOK
Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

Action

I. Confirmation of minutes

(LC Paper No. CB(1)566/12-13 — Minutes of the meeting held on
11 January 2013)

The minutes of the meeting held on 11 January 2013 were confirmed.

**II. Interface between the Environmental Impact Assessment Ordinance
(Cap. 499) and the Air Pollution Control Ordinance (Cap. 311)**

(LC Paper No. CB(1)567/12-13(01) — Administration's paper on
"Interface between the
Environmental Impact
Assessment Ordinance (Cap.
499) and the Air Pollution
Control Ordinance (Cap. 311)")

2. The Subcommittee deliberated (index of proceedings attached at the
Annex).

Action

3. The Subcommittee requested the Administration to provide the following information for members' reference –

- (a) an explanation of the circumstances under which the testing of toxic air pollutants not established under the Air Pollution Control Ordinance (Cap. 311) ("APCO") would/would not be required during the environmental impact assessment ("EIA") process (paragraph 1.1(d) of Annex 4 of the "Technical Memorandum on Environmental Impact Assessment Process" referred);
- (b) an elaboration of the interaction between the Transport Department and the Environment Protection Department in the conduct of EIA studies on road projects;
- (c) the factors that had been taken into consideration in deciding to demolish the Yau Ma Tei Multi-storey Carpark Building and the environmental impact of the demolition; and
- (d) whether the Administration would make available on the internet the EIA reports that were found not suitable for inspection by the public and the Advisory Council on the Environment ("ACE") as well as the EIA reports that were rejected, so as to further enhance the transparency of the EIA process.

4. The Subcommittee also requested the Administration to arrange a suitable forum to explain to members the Pollutants in the Atmosphere and their Transport over Hong Kong (commonly named as "PATH") model and the assumptions used.

5. Regarding the Air Pollution Control (Amendment) Bill 2013, the Administration was requested –

- (a) to provide a list of the designated projects to which the new Air Quality Objectives would not apply given the transitional period, and the number of EIA study briefs that were being processed, so as to enable members to understand the implications of providing a transitional period of 36 months; and
- (b) in respect of the proposed new section 7A of APCO, to consider providing some clear ground rules on "public interest" as the term was rather vague and lacked clarity and to consider enhancing the role of ACE in the EIA process.

Action

(Post-meeting note: The Administration's response to the requests set out in paragraphs 3 to 5 above was circulated to members on 9 April 2013 vide LC Paper No. CB(1)820/12-13(02).)

III. Date of next meeting and item(s) for discussion

(LC Paper No. CB(1)567/12-13(02) —List of outstanding items for discussion)

6. Members agreed that the next meeting would be held on Friday, 22 March 2013, at 4:00 pm or immediately after House Committee meeting, whichever was later, to discuss the "Current legislation and administrative measures on the control of air pollution and the associated public expenditure in the following areas –

- (a) Power sector, including the implementation of the Buildings Energy Efficiency Ordinance (Cap. 610) and the Mandatory Energy Efficiency Labelling Scheme; and
- (b) Vehicles."

(Post-meeting note: The meeting on 22 March 2013 was subsequently cancelled and discussion on the above item was deferred to the meeting scheduled for 16 April 2013.)

IV. Any other business

7. There being no other business, the meeting ended at 10:43 am.

Council Business Division 1
Legislative Council Secretariat
26 June 2013

Panel on Environmental Affairs

Subcommittee on Issues Relating to Air, Noise and Light Pollution

**Proceedings of the meeting
on Monday, 25 February 2013, at 8:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000638 - 000709	Chairman	The minutes of the meeting held on 11 January 2013 (LC Paper No. CB(1)566/12-13) were confirmed.	
<i>Agenda Item II - Interface between the Environmental Impact Assessment Ordinance (Cap. 499) and the Air Pollution Control Ordinance (Cap. 311)</i>			
000710 - 000815	Chairman	The Chairman advised that following the release of the new Air Quality Guidelines ("AQGs") by the World Health Organization ("WHO"), the Government announced in 2012 that it would tighten the Air Quality Objectives ("AQOs") of Hong Kong with effect from early 2014 subject to the passage of the Air Pollution Control (Amendment) Bill 2013 ("the APCO Amendment Bill"), which was gazetted on 15 February 2013 and introduced into the Legislative Council ("LegCo") on 20 March 2013. A LegCo Brief on the APCO Amendment Bill was issued to Members on 6 February 2013.	
000816 - 002226	Chairman Administration	<p>The Administration briefed members on –</p> <ul style="list-style-type: none"> (a) the interface between the Environmental Impact Assessment Ordinance (Cap. 499) ("EIAO") and the Air Pollution Control Ordinance (Cap. 311) ("APCO") before and after the commencement of the new AQOs with regard to the protection of public health; (b) the environmental impact assessment ("EIA") process; and (c) the issuance of environmental permits ("EPs") for designated projects. 	

Time marker	Speaker	Subject(s)	Action required
		<p>Members noted that the proposed new AQOs were drawn up with reference to the new WHO AQGs and other air quality standards being adopted by advanced countries. The APCO Amendment Bill would provide for a review mechanism to regularly ascertain the extent to which the new AQOs had been achieved. The Administration proposed that the frequency of review should be no less than once every five years.</p> <p>The Administration further explained that –</p> <ul style="list-style-type: none">(a) not all development projects were subject to the control under EIAO. Only those projects which were likely to have a significant impact on the environment were classified as designated projects and subject to EIAO control;(b) the Director of Environmental Protection ("DEP") would draw up an EIA study brief setting out the issues that the project proponent was required to address in an EIA study. Detailed assessment methodologies and criteria for the EIA study were set out in the "Technical Memorandum on Environmental Impact Assessment Process" ("EIAO-TM") issued under section 16 of EIAO. DEP would also decide whether or not to approve the EIA report. The proponent of a designated project was required to obtain an EP from DEP before commencement of construction or operation of the project; and(c) given that achieving the prevailing AQOs under APCO was a key benchmark requirement for deciding whether an EIA report might be approved under EIAO, the proposed new AQOs would be taken as the benchmark for conducting air quality impact assessment under EIA studies	

Time marker	Speaker	Subject(s)	Action required
		as and when they came into effect.	
002227 - 004024	Chairman Mr Dennis KWOK Administration	<p>Referring to paragraph 1.1(d) of Annex 4 of EIAO-TM, Mr Dennis KWOK requested for an explanation of the circumstances under which the testing of toxic air pollutants ("TAPs") not established under APCO would be or would not be required during the EIA process.</p> <p>The Administration responded that –</p> <p>(a) an air pollutant arising from a designated project might be required for assessment in the EIA process if it would have significant potential adverse impacts on sensitive receivers; and</p> <p>(b) since different projects would lead to emissions of different air pollutants, major factors, including the nature of a project, would be taken into account in deciding whether an air pollutant arising from a project was significant and should be assessed. In short, all relevant and project specific factors would be considered on a case by case basis during the EIA study scoping process.</p> <p>As it was suspected that TAPs might cause cancer or pose other serious health risks and TAP assessment was mandatory in some overseas countries, Mr KWOK urged the Administration to make the testing of TAPs mandatory for designated projects and explicitly specify the standards/criteria for evaluating TAPs not established under APCO. Likewise, the Administration should also clearly set out the criteria for evaluating "hazard to human life" under Annex 4 of EIAO-TM.</p> <p>The Administration –</p> <p>(a) assured members that it would closely keep in view of relevant developments and overseas practices in air quality impact assessment; and</p>	The Administration to provide information as requested in paragraph 3(a) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>(b) advised that nitrogen dioxide ("NO₂"), instead of TAPs, was the major air pollutant in Hong Kong, particularly for road projects. The Administration had been implementing various measures targeting at the emission of NO₂ from motor vehicles to improve roadside air quality.</p> <p>The Chairman remarked that members' views and concerns would be incorporated into the report of the Subcommittee to assist the Administration in addressing the inadequacies of the existing legislation in dealing with different kinds of pollution.</p>	
004025 - 004915	Chairman Ms Claudia MO Administration	<p>Noting that the level of NO₂ at the roadside in Mong Kok had continued to rise in recent years, Ms Claudia MO expressed concern about the environmental impacts of the demolition of the Yau Ma Tei Multi-storey Carpark Building ("YMTMCB"). She enquired whether the demolition of YMTMCB was subject to control under EIAO, and likewise the rezoning of some portions of the site currently occupied by the Middle Road Multi-storey Carpark Building ("MRMCB") from "Government, Institution or Community" to "Commercial". She pointed out that the reduction in parking spaces would result in vehicles having to circle around for a longer time in order to find parking spaces, thus increasing vehicle emissions.</p> <p>The Administration responded that –</p> <p>(a) the demolition of YMTMCB was part of the proposed Central Kowloon Route ("CKR") project which was a designated project under EIAO. In this connection, the environmental impacts of the demolition of YMTMCB had been considered in the EIA of CKR. Other factors including the parking demand in the vicinity and the provision of public parking spaces</p>	

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		<p>had also been taken into consideration in deciding to demolish the entire building; and</p> <p>(b) as regards the rezoning of the site of MRMCB, it was not a designated project under EIAO control. However, the Town Planning Board had put in place a mechanism under which applications for rezoning were available for public inspection. Meanwhile, relevant government departments, such as the Transport Department ("TD") and the Highways Department, would monitor the impacts of the rezoning on local traffic and nearby residents.</p> <p>On the role of TD in the conduct of EIA studies on road projects, the Administration explained that advice would be sought from TD on traffic and transport matters. The Environmental Protection Department ("EPD") and TD would have interactive communication in deciding whether or not to approve an EIA report of a road project.</p> <p>The Administration undertook to check with TD the factors that had been taken into consideration in deciding to demolish YMTMCB and the environmental impact of the demolition.</p>	<p>The Administration to provide information as requested in paragraph 3(b) and (c) of the minutes.</p>
004916 - 011201	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai commented that the 36-month transitional period provided by the APCO Amendment Bill was too long, given the pressing need of the community for clean air. He enquired whether the Administration would advance the application of the new AQOs, such as by incorporating in EIAO-TM a criterion requiring designated projects to meet the new AQOs.</p> <p>The Administration responded that –</p> <p>(a) there were some designated projects which had already been granted EPs based on the existing AQOs. In the event that amendments to the scope</p>	

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		<p>of such projects should warrant an application for variation of the EPs granted and a new EIA report to support the variations sought was required, the application of the new AQOs in vetting those new EIA reports might cause substantial changes to the original design of the projects and had major cost and programming implications; and</p> <p>(b) in view of the foregoing, the APCO Amendment Bill provided for a transitional period of 36 months within which the new AQOs would not apply to an application for variation of an EP of a designated project which had already been approved under EIAO prior to the coming into effect of the new AQOs in order to preserve the integrity of the EIA system as an ongoing mechanism.</p> <p>In response to Mr WU's further enquiry, the Administration explained that –</p> <p>(a) private project proponents had already been notified of the commencement date of the new AQOs (i.e. 1 January 2014). Since it normally took about six months for DEP to vet an EIA report and issue an EP, private project proponents were aware that it was unlikely for their projects to obtain EPs if the EIA reports of their projects were submitted to DEP in less than six months' time before the proposed new AQOs took effect;</p> <p>(b) under the above circumstances, some private project proponents had already adopted the proposed new AQOs as the benchmark for conducting air quality impact assessment under EIA studies so as to align with the more stringent requirements on air quality at the earliest opportunity; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) for public works projects with EIA studies not yet commenced, they would adopt the proposed new AQOs as the yardstick for air quality assessments to demonstrate the Government's commitment and to take the lead in applying the new AQOs.</p> <p>As requested by Mr WU, the Administration would provide a list of the designated projects to which the new AQOs would not apply given the transitional period, and the number of EIA study briefs that were being processed, so as to enable members to understand the implications of providing a transitional period of 36 months.</p>	<p>The Administration to provide information as requested in paragraph 5(a) of the minutes.</p>
011201 - 012139	Chairman Dr Elizabeth QUAT Administration	<p>Dr Elizabeth QUAT commented that the Administration should ensure that the provision of a 36-month transitional period in the APCO Amendment Bill would not create any loophole allowing project proponents to not to comply with the more stringent requirements under the new AQOs. She also enquired about the possible impacts of the tightening of AQOs on the enforcement of EIAO and whether more frequent reviews of AQOs could be carried out.</p> <p>The Administration responded that –</p> <p>(a) the AQOs reviews would serve as an opportunity to take stock of the progress of the air management strategy, as well as the latest technological developments, guidelines of WHO, international experiences and the prevailing local circumstances. It was therefore necessary to allow reasonable time for the relevant air quality improvement measures to take effect before reviewing the implementation of AQOs; and</p> <p>(b) a similar review frequency had been adopted by overseas countries. As such, the proposed review frequency</p>	

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		<p>was considered appropriate. However, it might not be necessary to provide a transitional period of 36 months after every updating of AQOs in future.</p> <p>On the possible impacts of the tightening of AQOs, the Administration reiterated that the new AQOs would be taken as the benchmark requirement for conducting air quality impact assessment under EIA studies as and when they came into effect. In this connection, any changes to AQOs would have implications for the designated projects which would generate significant pollutant emission, such as the construction of incinerators. The Administration would take into account all relevant factors including protection of public health, practicability, etc. in future reviews of AQOs.</p>	
012140 - 013056	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE enquired whether those EIA reports that were found not suitable for inspection by the public or were rejected would be uploaded onto the EIAO website for the information of the public.</p> <p>The Administration explained that –</p> <p>(a) according to EIAO, a designated project proponent was required to provide a project profile which would be exhibited for public comments. DEP would take into account the comments on the project profile and draw up an EIA study brief setting out the issues that the project proponent was required to address in the EIA study;</p> <p>(b) if DEP was satisfied that the EIA report met the requirements set out in the study brief and EIAO-TM, the report would be exhibited for public inspection. In other words, only those EIA reports meeting the requirements in the study brief and EIAO-TM would be made available for public inspection. EIA reports</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>that were found not suitable for public inspection would not be uploaded onto the EIAO website; and</p> <p>(c) for EIA reports that were not approved, DEP would advise the project proponents concerned of the reasons for rejection. However, EIAO did not require DEP to disclose the reasons for rejection on the EIAO website.</p> <p>To enhance transparency of the EIA process, the Administration was requested to consider publishing those EIA reports that were not suitable for public inspection and/or rejected by EPD, as well as the reasons for rejection at the EIAO website for public viewing.</p>	<p>The Administration to provide information as requested in paragraph 3(d) of the minutes.</p>
013057 - 014729	Chairman Dr Kenneth CHAN Administration	<p>Dr Kenneth CHAN enquired about –</p> <p>(a) the possible implications if the transitional period of 36 months was not provided after the commencement of the new AQOs; and</p> <p>(b) whether the Administration would consider engaging green groups and/or non-profit-making organizations with relevant knowledge and expertise in conducting EIA studies so as to enhance the credibility of the studies.</p> <p>The Administration responded that –</p> <p>(a) the 36-month transitional period would not apply to all designated projects. It would only apply to those designated projects which had already been granted EPs based on the existing AQOs. In the event that amendments to the scope of such projects should warrant an application for variation of their granted EPs and a new EIA report was required to support the variations sought, the application of the new AQOs in</p>	

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		<p>vetting the new EIA reports might cause substantial changes to the original design of the projects and had major cost and programming implications. As such, the APCO Amendment Bill provided for a transitional period of 36 months within which the new AQOs would not apply to an application for variation of an EP of a designated project which had already been approved under EIAO prior to the implementation of the new AQOs;</p> <p>(b) the existing EIA mechanism had been designed to enable and promote active public participation throughout the entire EIA process. Under EIAO, project profiles and EIA reports would be exhibited for public and the Advisory Council on the Environment ("ACE")'s inspection. Project proponents should take into account comments by the public and ACE in the conduct of EIA studies. Also, project proponents were required to address the requirements set out in study briefs and EIAO-TMs in order to obtain EPs. In this way, the EIA mechanism had already required project proponents to take into account public concerns during the project planning stage. It was therefore considered not necessary to engage green groups and/or non-profit-making organizations in conducting EIA studies; and</p> <p>(c) notwithstanding the above, green groups and non-profit-making organizations were welcome to give their views on different designated projects. By way of illustration, green groups had been proactively expressing their views and concerns on the construction of the third runway for consideration of the Government and the project proponent.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Dr CHAN urged the Administration to ensure that there were sufficient channels for the public to voice their opinions and monitor the EIA process. The Chairman also remarked that the Administration should take heed of public views in the implementation of large-scale development projects.</p>	
014730 - 015739	Chairman Mr Dennis KWOK Administration	<p>Mr Dennis KWOK requested the Administration to provide a list of the designated projects to which the proposed new AQOs would not apply given the transitional period, and the number of EIA study briefs that were being processed, so as to enable members to understand the implications of providing a transitional period of 36 months.</p> <p>In respect of the proposed new section 7A of APCO, Mr KWOK requested the Administration to consider providing some clear ground rules on "public interest" as the term was rather vague and lacked clarity. He also requested the Administration to consider enhancing the role of ACE in the EIA process.</p> <p>In response, the Administration explained that public involvement was and would remain to be an important part of the AQOs review and further discussion on the review mechanism could be pursued later when a bills committee was formed to examine the APCO Amendment Bill.</p> <p>As requested by Mr KWOK, the Administration agreed to arrange a suitable forum to explain to members the Pollutants in the Atmosphere and their Transport over Hong Kong (commonly named as "PATH") model and its assumptions.</p>	<p>The Administration to provide information as requested in paragraph 5 of the minutes.</p> <p>The Administration to follow up on the request in paragraph 4 of the minutes.</p>
<i>Agenda Item III – Date of next meeting and item(s) for discussion</i>			
015740 - 015848	Chairman	Members agreed that the next meeting would be held on Friday, 22 March 2013, at 4:00 pm or immediately after House Committee meeting, whichever was later	

Time marker	Speaker	Subject(s)	Action required
		to discuss the "Current legislation and administrative measures on the control of air pollution and the associated public expenditure in the following areas – (a) Power sector, including the implementation of the Buildings Energy Efficiency Ordinance (Cap. 610) and the Mandatory Energy Efficiency Labelling Scheme; and (b) Vehicles."	