

立法會
Legislative Council

LC Paper No. CB(1) 844/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/PL/EA/1

Panel on Environmental Affairs

Minutes of meeting held on
Monday, 22 December 2003, at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon CHOY So-yuk (Chairman)
Hon Cyd HO Sau-lan (Deputy Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon WONG Yung-kan
Hon Emily LAU Wai-hing, JP
Dr Hon LAW Chi-kwong, JP
Dr Hon LO Wing-lok, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Dr Hon David CHU Yu-lin, JP
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-yee, JP
Hon Henry WU King-cheong, BBS, JP

Public officers : **For item IV**
attending

Environment, Transport and Works Bureau

Mr Raistlin LAU
Principal Assistant Secretary (Environment and Transport)E1

Drainage Services Department

Mr C K HON
Chief Engineer/Project Management

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Mr IP Wing-cheung
Senior Engineer/Project Management

Environmental Protection Department

Mr Barry CHOW Kim-kau
Senior Environmental Protection Officer
(Sewage Infrastructure Planning)

For Item V

Environment, Transport and Works Bureau

Mr Thomas CHOW
Deputy Secretary (Environment and Transport) E2

Ms Jessie WONG
Principal Assistant Secretary (Environment and Transport)E4

Agriculture, Fisheries and Conservation Department

Mr C C LAY
Assistant Director (Conservation)

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 4

I. Confirmation of minutes

(LC Paper No. CB(1) 390/03-04

— Minutes of the joint meeting with the Panel on Planning, Lands and Works held on 13 October 2003)

LC Paper No. CB(1) 547/03-04

— Minutes of the meeting held on 24 November 2003

The minutes of the joint meeting with the Panel on Planning, Lands and Works held on 13 October 2003 and that of the regular meeting held on 24 November 2003 were confirmed.

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II. Information paper issued since last meeting

2. Members noted that no information paper had been issued since last meeting.

III. Items for discussion at the next meeting

(LC Paper No. CB(1) 611/03-04(01) — List of follow-up actions

LC Paper No. CB(1) 611/03-04(02) — List of outstanding items for discussion)

3. Members agreed to discuss the following items at the next regular meeting scheduled for Thursday, 29 January 2004, at 2:30 pm -

- (a) PWP Item 162 DR – Restoration of five urban landfills - post-completion environmental monitoring work; and
- (b) Management of marine parks

IV. Central, Western and Wan Chai West Sewerage, Stage 2 Phase 2B Works (4313DS)

(LC Paper No. CB(1) 611/03-04(03) — Paper provided by the Administration)

4. The Chief Engineer/Project Management, Drainage Services Department (CE/PM) briefed members on the proposal to submit the remainder of Public Works Item 4143DS, re-titled “Central, Western and Wan Chai West sewerage – stage 2 phase 2B works” (the Project), to the Public Works Subcommittee (PWSC) for consideration.

5. Referring to paragraph 6 of the Administration’s paper, Ms Cyd HO noted that only information on population in new developments within the Central and Western areas was provided. To ascertain the need for the proposed works under the Project, the Administration was requested to include in its submission to PWSC the overall population projection within the new developments, including the number of residents who would be moving out of the area. In response to Mr Martin LEE’s question on the upgrading works for sewers serving the residential developments at Kwun Lung Lau, the Senior Engineer/Project Management, Drainage Services Department (SE/PM) advised that the works would be implemented in two phases with the first phase to be completed in 2005 and the other in 2010.

6. On night-works, Mr Martin LEE opined that construction works carried out at around 11 pm or 12 midnight had caused much inconvenience to the public since traffic was still heavy at that time. To minimize disruption to traffic, consideration should be given to postponing night-works to say around 2 am, as in the case of some overseas countries, when there was not much traffic. He asked if the Transport

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Department (TD) had been consulted on when night-works should commence. CE/PM explained that at present, night-works would normally mean works carried out between 7 pm to 7 am. However, construction works would seldom start at 7 pm since TD would unlikely approve such works when traffic was at its peak. As a result, night-works would usually start after 9 pm. Besides, before works could start on site, the contractor was required to submit an acceptable traffic management plan setting out the temporary traffic arrangements as well as statistics on traffic flow in order to proceed with road works. At the Chairman's request, the Administration undertook to include in its submission to PWSC the proposed temporary traffic management measures relating to the Project.

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7. Ms Emily LAU agreed that overnight works could be carried out in the Central commercial areas where there were no residential developments. She also supported the use of trenchless method which was less obstructive to the public albeit at a higher cost, which was considered justified having regard to the economic and environmental costs, including traffic delay and nuisance to the public, incurred from using the less expensive but more disruptive conventional open cut method. CE/PM advised that overnight works could be 30% to 40% more expensive and would be carried out in road sections of Des Voeux Road Central, Chater Road, Pedder Street and Connaught Road Central. The width of the excavation works would be the size of the pipe plus some working space on both sides such that only one of the carriage lanes would be closed during construction at night. Road openings would be covered during day time to ensure that traffic at busy commercial areas, including the one along Pedder Street and Pottinger Street referred to by Dr LO Wing-lok, would not be affected by construction works. As for the trenchless method, CE/PM said that while it was four times more expensive than the conventional open cut method, it was more preferable for works at busy road sections since it would greatly reduce the need for road opening thus minimizing disruption to traffic during the construction phase. However, the feasibility of this method was constrained by the depth of the sewers and the need for making branch connections.

8. Ms Cyd HO noted that the two road openings for construction by trenchless method at Belcher Street were of much concern to the Central and Western District Council (CWDC). As the road openings had unduly affected the business of nearby retail shops, the Administration should explain to CWDC the measures which it would adopt to help these shop owners and whether compensation would be made available to them. In future, care should be taken to choose locations which were least obstructive to business as road openings for construction by trenchless method. The Chairman also emphasized the need for the Administration to consult the affected shop owners on the choice of locations for the road openings.

9. CE/PM said that the Administration would endeavour to expedite the road works in order to reduce the inconvenience caused to the public. It would also liaise with the affected retail shop owners on the implementation of measures, such as improvement of lighting and installation of notices and signboards, to mitigate the impact of road works on their business. SE/PM added that the excavation at Belcher Road was part of an earlier phase of the sewerage project. The Administration was

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well aware of the inconvenience caused and would endeavour to expedite the excavation works such that the works east of Sands Street were expected to complete by end of February 2004 despite the unforeseen ground conditions. Ms Cyd HO and Ms Emily LAU urged the Administration to render the necessary assistance, such as provision of advertisement signboards and electricity connection, to tide over the difficulties encountered by the affected shop owners during the construction phase.

10. As regards the construction plan for the Project, CE/PM said that contractors would be requested to complete one road section at a time within a specific period, the duration of which would depend on the complexity of works. Where there was any unreasonable delay in the works, liquidated damages would be imposed on the contractors in accordance with the contractual terms. The provisions in the Land (Miscellaneous Provisions) Ordinance (Cap. 28) in relation to excavation works would also be applicable to the Project upon its coming into effect.

11. Ms Cyd HO pointed out that inaccurate information on underground utility network might delay excavation works. To this end, consideration should be given to providing contractors with updated plans on underground utility network. CE/PM advised that contractors were required to perform exploratory works on the underground utility network before proceeding with excavation works, and that some allowance would be given for any unforeseen delay due to inaccurate underground plans. On the liability of utility companies for giving inaccurate information on underground utility network, CE/PM said that it would be difficult to hold them liable given the complexity of the network system. Nevertheless, efforts would be made to compile accurate plans for underground utility network as far as possible.

12. Ms Emily LAU noted with concern that some contractors who had secured a number of works contracts through lower bids might not have sufficient resources to complete the construction on schedule. Mr Martin LEE suggested that contractors should be required to include both the original completion date and the revised completion date on the notice board for every construction works project. In this way, the public would know whether the works had progressed on schedule. CE/PM said that contractors were required to complete the works on schedule or else they would be held accountable for any delay.

13. Noting that the cost of implementing environmental mitigation measures for the Project was about \$2 million, Mr WONG Yung-kan enquired if this would effectively reduce the noise impact on the neighbourhood. CE/PM advised that contractors were required to comply with the requirements set out in the Noise Control Ordinance (Cap. 400) during construction. For night-works, contractors would need to apply to the Environmental Protection Department for Construction Noise Permits and to restrict the use of plant type to minimize noise levels. Night-works would not normally be allowed near residential districts and could only be carried out in the Central commercial areas along the waterfront.

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14. Mr WONG Yung-kan asked if the relevant District Councils of the new term had been consulted on the Project. CE/PM confirmed that CWDC would be updated on the implementation of the Project on 15 January 2004. As to whether the Project was related to the reclamation projects in Central and Wan Chai or the works proceeding along the Central harbour, CE/PM confirmed that there was no relationship. He said that the prime objective of the Project was to replace or upgrade those sewers in the developed areas of Central, Western and Wan Chai which had insufficient capacity or become decayed.

15. In concluding, the Chairman said that while members did not object to the proposal, the concerns raised at the meeting would need to be addressed.

V. Application of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety to HKSAR

(LC Paper No. CB(1) 611/03-04(04) — Fact sheet on Convention on Biological Diversity and the Cartagena Protocol on Biosafety prepared by the Research & Library Services Division

LC Paper No. CB(1) 611/03-04(05) — Paper provided by the Administration)

16. The Deputy Secretary for the Environment, Transport and Works (Environment and Transport) E2 (DS/ETW(ET)E2) gave a power-point presentation on the proposal to extend the application of the Convention on Biological Diversity (“the Convention”) and its Cartagena Protocol on Biosafety (“the Protocol”) to Hong Kong for better protection of biological diversity in Hong Kong.

17. Mr Martin LEE considered it necessary for the Administration to enhance publicity on the implications of extending the Convention and the Protocol to Hong Kong so that the public would know how they would be affected. DS/ETW(ET)E2 agreed to make available more information on the Convention and its Protocol to facilitate public understanding.

18. Ms Cyd HO asked whether the Government of Hong Kong Special Administrative Region (HKSAR) was consulted on the proposed extension of the Convention and Protocol to Hong Kong. DS/ETW(ET)E2 confirmed in response that according to Article 153 of the Basic Law, the application to HKSAR of international agreements to which the People’s Republic of China was or became a party should be decided by Central People’s Government (CPG) in accordance with the circumstances and needs of HKSAR, after seeking the views of the Government of HKSAR. In the present case, the Government of HKSAR had taken the initiative of obtaining the agreement-in-principle of CPG to extend the application of both the Convention and the Protocol to Hong Kong. Mr Martin LEE queried why the Legislative Council (LegCo) was not consulted before the agreement-in-principle of CPG to extend the application of both the Convention and the Protocol to Hong Kong was sought.

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DS/ETW(ET)E2 explained that as the implementation of the Protocol required enactment of a new legislation and hence had to go through the legislative process, LegCo would have the ultimate authority in approving the application of the Protocol to Hong Kong.

19. Ms Cyd HO noted that according to her previous experience in dealing with international conventions, such as those relating to anti-terrorism and chemical weapons, to which CPG was a party, the Government of HKSAR had to accept without choice the extension of application of these agreements to Hong Kong. The terms of such agreements were also not known to Hong Kong. It was the first time that she was made aware that the Government of HKSAR did have a choice over the extension of an international agreement. In this connection, the Administration was requested to advise the criteria in deciding whether the extension of an international agreement to Hong Kong should be obligatory as well as the means through which such an agreement would be implemented. Given the different nature of international conventions, DS/ETW(ET)E2 said that it would be better for the responsible policy bureaux to take up the subject with the respective Panels.

20. On “living modified organism” (LMO), Dr LAW Chi-kwong sought clarification on the term “living” and asked whether a bean would be regarded as a LMO. The Assistant Director of Agriculture, Fisheries and Conservation Department (Conservation) (AD/AFCD(C)) explained that whether an organism would be regarded as “living” would depend on its ability to grow. By way of illustration, a seed would be regarded as a LMO while a dried plant would not. The term “LMO” would be clearly defined in the legislation to be introduced.

21. The Chairman noted that apart from the quarantine measures and the restriction on endangered species, there was at present no other control over imports of living organisms. She enquired about the measures which the Administration would adopt in protecting local biological diversity from possible adverse effects of imported LMOs upon the extension of the Convention and the Protocol to Hong Kong. DS/ETW(ET)E2 said that at present, no approval had to be sought for the import of LMOs to Hong Kong. With the extension of the Convention and the Protocol to Hong Kong, the Director of Agriculture, Fisheries and Conservation would be empowered to control the import and export of LMOs. AD/AFCD(C) added that to implement the regulatory controls over the trans-boundary movement of LMOs stipulated under the Protocol, a new legislation would be introduced to establish a licensing system for the Agriculture, Fisheries and Conservation Department (AFCD) to process applications for first imports of LMOs into Hong Kong for intentional introduction into the environment. It would also require an exporter in Hong Kong to send a notification enclosing the risk assessment report to the competent authority of the importing party and obtain its prior consent for the export of LMO for first intentional introduction into the environment at the importing end.

22. As regards the regulatory control on import of LMOs from a non-party to the Protocol, AD/AFCD(C) explained that importers of LMOs from both parties or non-parties to the Protocol would have to comply with the legislative requirements in Hong

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Kong. Penalties would be imposed on violations of the import, export or documentation requirements.

23. The Chairman expressed concern that importers/exporters might try to evade control by declaring their LMOs as food or feed. She asked whether the proposed regulatory regime was a passive control based on declarations by importers/exporters or a more active control requiring all imports and exports of living organisms to be checked against the LMO standards. DS/ETW(ET)E2 advised that apart from requiring importers/exporters to declare their LMOs, failing which they would be liable to prosecution, spot checks would also be conducted on imports and exports. The Customs and Excise Department and AFCD would join forces in the control over import and export of LMOs.

24. Mr WONG Yung-kan noted that while agricultural activities and researches on biotechnology were limited in Hong Kong, there had been some trading with the Mainland on genetically modified agricultural products. He enquired if the affected trades would be consulted on the proposed control over import and export of LMOs. DS/ETW(ET)E2 confirmed that agricultural associations would be consulted on the proposal. He however stressed that the proposed control would only apply to LMOs that involved modification of genetic materials through the use of modern biotechnology and not to agricultural products generated through cross-breeding. It was to his understanding that there had not been trading of agricultural products in Hong Kong that were LMOs.

25. In response to Ms Emily LAU's enquiry on the consultation process, DS/ETW(ET)E2 advised that the information on the proposal would be uploaded onto the Internet for public comments. The Administration would also solicit views from food trade associations, relevant importers/traders, environmental groups and academics, as well as relevant advisory committees which included the Advisory Council on the Environment, the Advisory Council on Food and Environmental Hygiene and the Advisory Committee on Agricultural and Fisheries. Members would be briefed on the outcome of the consultation when being consulted on the way forward. AFCD would attend the first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP-MOP) to be held in Malaysia in February 2004 as part of China's delegation to keep track of the latest development and decisions made under the Protocol which came into force on 11 September 2003. The Administration would take into account developments at the meeting as well as views collected during the public consultation when drawing up the detailed regulatory framework for implementing the Protocol in Hong Kong.

26. Ms Cyd HO enquired about the standards for identifying LMOs and how these should apply to tertiary institutions conducting genetic studies. She also asked whether import and export of LMOs from the Mainland would be subject to the same control given that Hong Kong was part of China. DS/ETW(ET)E2 advised that the standards for identifying LMOs would be worked out with reference to overseas experience gained through COP-MOP meetings. The more stringent Advance Informed Agreement procedure requiring risk assessment of LMOs would not apply to

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tertiary institutions which usually conducted their experiments on LMOs in a contained environment. They would only be required to fulfill the documentation requirements and make a statement in this respect. Dr LAW Chi-kwong however pointed out that it would be difficult to identify genetically modified organisms since genetic materials would mutate over time and it would not be easy to differentiate between genetically modified or genetically mutated organisms. Expressing similar concern, Ms Cyd HO said that there would be practical difficulties in establishing whether a living organism was a LMO as genetic materials might change through a natural process.

27. On behalf of the green groups, Ms Cyd HO said that she would like to urge the Administration to expedite the labeling of genetically modified food given the unknown consequence which might arise from its consumption. While acknowledging that the subject of food labeling was under the purview of the Food and Environmental Hygiene Bureau rather than the Environment, Transport and Works Bureau, she considered it necessary for better coordination between the bureaux so that genetically modified substances, be it in the form of processed food or LMOs, could be placed under control.

VI. Any other business

28. There being no other business, the meeting ended at 4:15 pm.