

立法會
Legislative Council

LC Paper No. CB(1)1574/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/PL/PLW/1

Panel on Planning, Lands and Works

**Minutes of special meeting
held on Tuesday, 23 March 2004, at 4:45 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Dr Hon TANG Siu-tong, JP (Chairman)
Hon LAU Ping-cheung (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon TAM Yiu-chung, GBS, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP
- Members attending** : Hon LAU Kong-wah, JP
Hon CHOY So-yuk
Dr Hon LO Wing-lok, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon James TIEN Pei-chun, GBS, JP
Dr Hon David CHU Yu-lin, JP
Hon WONG Yung-kan
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Abraham SHEK Lai-him, JP
- Public officers attending** : Mr Thomas CHOW Tat-ming
Deputy Secretary for the Environment, Transport and
Works (Environment and Transport) E2

Mr WAI Chi-sing
Deputy Secretary for the Environment, Transport and
Works (Works) 2

Ms Jessie WONG Hok-ling
Principal Assistant Secretary for the Environment,
Transport and Works (Environment and Transport) E4

Mr Thomas TSO Man-tai
Deputy Secretary for Housing, Planning and Lands
(Planning and Lands) 1

Mr LAY Chik-chuen
Assistant Director (Conservation)
Agriculture, Fisheries and Conservation Department

Mr MO Kim-ming
Assistant Director/New Buildings 1
Buildings Department

Mr Raymond CHEUNG Tat-kwing
Director of Drainage Services

Mr SHIU Wing-yu
Assistant Director/Operations and Maintenance
Drainage Services Department

Mr Jimmy WOO Sai-cheong
Assistant Director (Estate Management)
Lands Department

Mr CHAN Pun-chung
Deputy Director/District
Planning Department

Clerk in attendance : Ms Anita SIT
Chief Assistant Secretary (1)6

Staff in attendance : Ms Rosalind MA
Senior Assistant Secretary (1)8

Ms Christina SHIU
Legislative Assistant

I. Impact of construction works on rivers in Hong Kong

- (LC Paper No. CB(1)1323/03-04(01) -- Paper provided by the Administration
- LC Paper No. CB(1)1035/03-04(07) -- Paper provided by the Administration
- LC Paper No. CB(1)1035/03-04(01) -- Submission from the Friends of the Earth (HK)
- LC Paper No. CB(1)1035/03-04(02) -- Submission from the World Wide Fund for Nature Hong Kong
- LC Paper No. CB(1)1035/03-04(03) -- Submission from the Green Lantau Association
- LC Paper No. CB(1)1035/03-04(04) -- Submission from the Conservancy Association
- LC Paper No. CB(1)1035/03-04(05) -- Submission from the Kadoorie Farm & Botanic Garden
- LC Paper No. CB(1)1035/03-04(06) -- Submission from the Hong Kong Institution of Engineers
- LC Paper No. CB(1)1071/03-04(01) -- Submission from Green Power
- LC Paper No. CB(1)1304/03-04 -- Minutes of the joint meeting with the Panel on Environmental Affairs on 23 February 2004)

At 4:45 pm, Dr TANG Siu-tong, the Chairman of PLW Panel, called the meeting to order and advised members that this meeting was originally scheduled to start at 4:30 pm and be held as a joint meeting of Panel on Planning, Lands and Works (PLW Panel) and Panel on Environmental Affairs (EA Panel). As a quorum was present for a meeting of PLW Panel but not for a joint Panel meeting, this meeting would be held as a meeting of PLW Panel.

2. The Chairman said that the purpose of this meeting was to continue the discussion of issues relating to the protection of rivers and streams in Hong Kong against the impact of construction works and development projects.

3. At the Chairman's invitation, the Deputy Secretary for the Environment, Transport and Works (Environment and Transport) E2 (DSETW(E2)) briefed members on the Administration's responses to the concerns raised by members and deputations attending the joint Panel meeting on 23 February 2004. DSETW(E2) said that all rivers in the territory were originally on Government land. Due to natural alteration of river courses over time, it was estimated that around 1% of the rivers in Hong Kong were now on private land. Departments concerned would reinforce enforcement actions against illegal acts that caused damage to rivers. The public would also be encouraged to report activities which might cause irreversible damages to the natural environment. DSETW(E2) further said that the existing Environmental Impact Assessment (EIA) mechanism played a significant role in striking a balance between the need to protect the environment and

development needs. The Administration had also put in place administrative measures to ensure that environmental concerns were duly taken in account throughout the implementation and operation stages of public projects. A more environmentally conscious approach would be adopted to enhance environmental awareness among departments when dealing with projects involving environmentally sensitive areas. Contractors and project officers would also be reminded to observe the pertinent environmental guidelines. Furthermore, subject to the approval of the Town Planning Board (TPB), ecologically important sites including those involving rivers would be identified for designation as "protected areas" such as "country parks", "conservation areas" and "sites of special scientific interest".

Flood control measures

4. While appreciating the Administration's efforts to reduce the risk of flooding in Hong Kong, especially in low-lying areas in the Northern New Territories, Dr Raymond HO enquired about the relevant policy regarding the adoption of different flood protection standards for the design of flood control measures for river channels. He also enquired about the cost difference between the measures of different flood protection standards. In response, the Director of Drainage Services (DDS) advised that a 1-in-50-years storm and a 1-in-200-years storm represented rainfall levels of 132 mm per hour and 156 mm per hour respectively. Major river channels were normally designed for a 1-in-50-years storm. A lower flood protection standard might be adopted for some sections in remote and uninhabited areas such as farmlands, while the passage of a 200-year flood storm would be allowed for some critical sections such as sections bypassing developed areas. As flood control measures were designed based on the characteristics of the area concerned, it was not possible to provide a simple cost comparison for different flood protection standards. However, the Administration would conduct cost-benefit analyses to ensure that the adopted flood control measures were cost-effective. DDS also pointed out that more land would normally be required for flood control measures designed for a 1-in-200-years storm.

5. Noting that the Drainage Services Department (DSD) was evaluating the feasibility of building short floodwalls in the San Tin Western Main Drainage Channel instead of excavating the river channel for flood protection, Dr Raymond HO enquired about the effectiveness of short floodwalls for flood protection. DDS said that short floodwalls might only be used in limited locations where a low flood protection standard was required. For the San Tin Western Main Drainage Channel, as there were many fishponds nearby, a lower flood protection standard would suffice. Short floodwalls, however, were not a feasible option for flood prone areas such as the Kam Tin Main Drainage Channel and River Indus.

6. On Dr Raymond HO's concern about claims arising from variation in construction programmes when flood protection works were carried out during the rainy season, DDS concurred that rainy weather conditions could seriously affect

flood protection works. He said that the Administration would try to schedule flood protection works to minimize such constraints. He also advised that provisions governing the construction arrangements during rainy days had already been included in Government's works contracts to avoid claims from contractors.

7. Mr WONG Sing-chi considered that the River Indus had demonstrated an example that many flood prevention measures had resulted in channelization of rivers or streams and hence affected the ecological environment of the rivers/streams and their vicinities. He urged that the Administration should adopt a very cautious approach in taking the channelization option for flood protection. Mr Albert CHAN echoed this view and said that the public should be well informed of the impact of flood control measures on the ecological environment during public consultation.

8. In response, DDS pointed out that DSD would follow the internal guideline set out in DSD's Technical Circular No. 4/2002 in planning and executing maintenance/desilting works at river courses. DSD had included the 17 streams identified by the University of Hong Kong (HKU) as ecologically sensitive watercourses in the circular, and the divisions concerned were required to follow good practices for planning and execution of drainage maintenance works on these streams. As regards ecological protection, DDS said that it was inevitable that the ecological environment would be affected by flood prevention measures to different extents, but where feasible various measures would be taken to remedy and compensate for the damages caused to the environment. For example, the Administration had replanted a mangrove to compensate for the loss of mangrove due to the implementation of flood protection measures at the Shenzhen River.

9. In response to Mr WONG Sing-chi's enquiry on whether the 17 streams identified by HKU were under statutory protection, the Deputy Secretary for the Environment, Transport and Works (Works)² advised that these streams were included in DSD's Technical Circular for the purpose of planning and execution of drainage desilting and maintenance works. Some of them such as the streams in Sheung Wo Hang had been designated as "conservation areas" under the Town Planning Ordinance. At the request of the Chairman, DSETW(E) undertook to provide members with a copy of DSD's Technical Circular No. 4/2002 and details of the 17 streams identified by HKU with updated information on the current status of the 17 streams.

(Post-meeting note: Information provided by the Administration was circulated to members vide LC Paper No. CB(1)1595/03-04(01) on 22 April 2004.)

10. In response to Mr Albert CHAN's suggestion that more natural methods and materials such as planting of grass should be used for flood prevention, DDS pointed out that the average annual rainfall in Hong Kong was about 2 000 mm which was much higher than the average annual rainfall of 600 mm in European countries such as the United Kingdom. Frequent and torrential rainfalls during the rainy season in Hong Kong could result in fast moving surface runoffs, which could cause severe erosion and damage to riverbanks and riverbeds. Natural materials such as grass were not suitable for flooding prevention in Hong Kong. Furthermore, more land might be required if natural materials instead of concrete linings were used.

Inter-bureaux/departmental working group

11. Miss CHOY So-yuk considered that similar to the protection of trees, the Administration should identify a bureau or department to take up the responsibility for overall coordination of river protection in Hong Kong. She urged the Administration to set up the inter-bureaux/departmental working group as soon as possible. In response, DSETW(E2) said that the purpose of setting up the inter-bureaux/departmental working group was to enhance coordination and environmental awareness among bureaux/departments in dealing with issues relating to protection of rivers and streams in Hong Kong. As a number of bureaux and departments were involved, the Administration had not yet decided which bureau or department would take the lead in the working group. He undertook to report to the Panels on the setting up of the working group in due course.

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Protection of rivers and streams through legislative and administrative measures

12. Miss CHOY So-yuk expressed concern on whether the need to protect rivers and streams was duly taken into account in projects which were not designated projects under the Environmental Impact Assessment Ordinance (Cap. 449) (EIAO). In response, the Deputy Director/District, Planning Department pointed out that when considering planning applications or proposals for change of land use, TPB and the Administration would take into account various factors including the planning intention and the impacts of the developments on the environment. Any application that might impact on natural rivers or streams would be circulated to the Agricultural, Fisheries and Conservation Department (AFCD), Environmental Protection Department and other relevant departments for comments.

13. On Miss CHOY So-yuk's suggestion that all rivers in the territory should be designated as "protected areas" in order to impose a stringent control over any development on and near rivers, DSETW(E2) advised that TPB had put some ecological sensitive watercourses under conservation zonings to better conserve them for the purposes of conserving their ecological and/or landscape value. The Administration was also conducting a baseline study to compile an ecological database for Hong Kong. The Assistant Director (Conservation), AFCD (AD(C),

AFCD) supplemented that among the 200 sites under the current study, around 40 sites covered rivers and streams. It was expected that more rivers and streams would be identified as ecologically important sites and proposed for appropriate conservation zonings when more data were available. In response to Miss CHOY's enquiry, AD(C), AFCD advised that the first batch of sites recommended for conservation zonings to be submitted to TPB should be available within six months.

14. DSETW(E2) further said that it was the Administration's policy to strike a sensible balance between development needs and environmental protection, and there was no intention to impose a general presumption against development on or near rivers in Hong Kong through legislative measures. He also pointed out that it was difficult to draw up legal definitions of rivers and streams because some small rivers might only appear during the wet season. Such definitions were also not available in other jurisdictions.

15. In response to Miss CHOY So-yuk's enquiry about the land ownership of riverside areas, the Assistant Director (Estate Management) of the Lands Department (AD/EM, Lands D) advised that the Administration had not carried out any survey on the ownership of riverside areas but he believed that most of these areas were private land because most riverbank areas had been used as farmlands by inhabitants.

16. DSETW(E2) said that as most of the rivers in the territory were on government land, development proposals on or near rivers were/would be mainly government projects. Where the projects were likely to have a significant impact on the environment, they were designated projects under the EIAO and thus were subject to the statutory EIA process. For government projects not covered by the EIAO, the Environment, Transport and Works Bureau had issued a technical circular to provide updated guidelines and procedures to ensure that environmental concerns were duly taken into account throughout the implementation and operation stages of the projects. Private development proposals which were likely to have a significant impact on the environment were also subject to the EIA process. The Building Department, in processing development plans submitted by private developers, would consult all interested government departments. As such, AFCD would be consulted for all building development applications that might affect natural rivers and streams.

17. Noting that more than 99% of rivers were on government land, Mr Albert CHAN suggested that the Administration might resume the remaining 1% private land to facilitate better conservation of rivers in the territory. DSETW(E2) noted Mr CHAN's view and reiterated that the Administration would closely monitor the situation and identify ecological sensitive sites, including rivers, for appropriate conservation zonings.

Tung Chung Stream and penalties for related offences

18. Mr WONG Sing-chi noted that for cases like the incident of the Tung Chung Stream, a person who removed earth, turf or stone from unleased land was only liable to a fine of \$5,000 and imprisonment of six months under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). He considered that the penalties had limited deterrent effect. The Deputy Secretary for Housing, Planning and Lands (Planning and Lands)1 noted Mr WONG's concern and advised that the Administration was reviewing the penalties for offences involving unauthorised activities on government land. The Assistant Director (Estate Management) of the Lands Department supplemented that with effect from 1 April 2004, the penalties under the Land (Miscellaneous Provisions) Ordinance (Cap. 28) would be revised. A person who made an excavation in unleased land without an excavation permit would be liable to a fine of \$50,000 and imprisonment of six months.

19. On Mr WONG Sing-chi's enquiry about the legal responsibilities of the parties involved in the incident of the Tung Chung Stream, DSETW(E&T)E2 advised that Hong Kong Police Force and Lands Department were liaising with the Department of Justice on the prosecution action in respect of the Tung Chung Stream incident, and hence it was not appropriate to comment on the responsibilities of the parties involved at this stage.

Stream diversion works at Ngong Ping

20. Regarding the cable car project and related flood prevention measures at Ngong Ping, Mr WONG Sing-chi enquired whether the construction works of the cable car terminal had increased the flooding risk of the area. Miss CHOY So-yuk also expressed grave concern about the impact of the cable car project on the environment. In response, AD/O&M, DSD pointed out that the Ngong Ping Cable Car Terminal and the associated theme village project were implemented by the Mass Transit Railway Corporation Limited. The whole project, including the diversion of an existing stream, had gone through all necessary procedures under EIAO. DSETW(E2) added that the project was supported by the stakeholders including the Advisory Council on the Environment and the Green Lantau Association. Ecological enhancement features such as gabion, rip rap and natural rocks would be incorporated into the design for construction to improve the habitat environment. The stream diversion works would also improve the water quality of the polluted streams at Ngong Ping. Mr WONG Sing-chi enquired whether the streams at Ngong Ping would be diverted to country park areas and hence affected the ecological environment of the country park. DSETW(E2) said that he did not have specific information on this. At the request of Mr WONG and Miss CHOY, DSETW(E&T)E2 undertook to provide details of the EIA for the stream diversion project at Ngong Ping.

Pollution of river at Silver Mine Bay

21. In response to Mr TAM Yiu-chung's concern about the pollution of a river at Silver Mine Bay, Lantau Island, DSETW(E2) said that the river might be polluted by discharges from septic tanks of village houses in the vicinity of the river. He undertook to follow up Mr TAM's concern and take necessary enforcement actions if the source of pollution could be identified.

Rivers at Cheung Sha

22. Mr Albert CHAN was concerned about the management of natural rivers in Hong Kong. He quoted Cheung Sha as an example and pointed out that some privately constructed water pipes were straddling across rivers at Cheung Sha, and some shops and restaurants had embarked rivers for commercial purposes. Some rock-climbers also fixed nails onto rocks. He said that he had referred these cases to various departments but no action had been taken against these illegal activities. DSETW(E2) undertook to follow up these cases. Apart from enforcement action, he stressed the importance of enhancing public awareness of environmental protection through public education. AD(C), AFCD also undertook to follow up with associations of rock climbers on fixing of nails onto rocks. Some educational seminars might be arranged for these associations.

(Post-meeting note: Information provided by the Administration in relation to paragraphs 20 to 22 was circulated to members vide LC Paper No. CB(1)1595/03-04(01) on 22 April 2004.)

II. Any other business

23. There being no other business, the meeting ended at 6:45 pm.