

立法會
Legislative Council

LC Paper No. ESC161/17-18

(These minutes have been
seen by the Administration)

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Establishment Subcommittee of the Finance Committee

Minutes of the 19th meeting
held in Conference Room 1 of Legislative Council Complex
on Monday, 4 June 2018, at 2:30 pm

Members present:

Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)

Hon Alvin YEUNG (Deputy Chairman)

Hon James TO Kun-sun

Hon WONG Ting-kwong, GBS, JP

Hon WONG Kwok-kin, SBS, JP

Hon Steven HO Chun-yin, BBS

Hon WU Chi-wai, MH

Hon Charles Peter MOK, JP

Hon CHAN Chi-chuen

Dr Hon KWOK Ka-ki

Hon KWOK Wai-keung, JP

Dr Hon Fernando CHEUNG Chiu-hung

Hon IP Kin-yuen

Dr Hon Elizabeth QUAT, BBS, JP

Hon Martin LIAO Cheung-kong, SBS, JP

Hon POON Siu-ping, BBS, MH

Dr Hon CHIANG Lai-wan, JP

Ir Dr Hon LO Wai-kwok, SBS, MH, JP

Hon CHUNG Kwok-pan

Hon CHU Hoi-dick

Hon Holden CHOW Ho-ding

Hon SHIU Ka-fai

Hon YUNG Hoi-yan

Dr Hon Pierre CHAN

Hon CHAN Chun-ying

Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Member attending:

Hon Tanya CHAN

Members absent:

Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon HO Kai-ming
Hon SHIU Ka-chun

Public Officers attending:

Ms Carol YUEN Siu-wai, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service 1
Mr LIU Chun-san, JP	Under Secretary for Development
Miss Joey LAM Kam-ping, JP	Deputy Secretary for Development (Works) 1
Ms Vina WONG	Head of Greening and Landscape Office, Development Bureau
Mr LAI Cheuk-ho	Deputy Director of Civil Engineering and Development
Mr Terence LAM Tat-ming	Assistant Director (Technical) of Civil Engineering and Development Department
Mr CHUI Wing-wah	Deputy Director of Highways
Dr CHUI Tak-yi, JP	Under Secretary for Food and Health
Miss Linda LEUNG Ka-ying	Principal Assistant Secretary for Food and Health (Health)2
Mrs Sylvia LAM YU Ka-wai, JP	Director of Architectural Services
Ms Sheron LI Wing-yi, JP	Assistant Director (Quantity Surveying), Architectural Services Department

Mrs Apollonia LIU LEE Ho-kei, JP	Acting Director of Administration and Development, Department of Justice
Mr Wesley WONG Wai-chung, SC, JP	Solicitor General, Department of Justice
Mr Llewellyn MUI Kei-fat	Deputy Solicitor General (Constitutional Affairs), Department of Justice

Clerk in attendance:

Ms Anita SIT	Assistant Secretary General 1
Ms Connie SZETO	Chief Council Secretary (1)4

Staff in attendance:

Mr Keith WONG	Council Secretary (1)4
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Miss Yannes HO	Legislative Assistant (1)6
Ms Haley CHEUNG	Legislative Assistant (1)9

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The Chairman drew members' attention to the information paper ECI(2018-19)3, which set out the latest changes in the directorate establishment approved since 2002 and the changes to the directorate establishment in relation to the six items on the agenda. She then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the item under discussion at the meeting before they spoke on the item. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

EC(2018-19)5 **Proposed creation of two permanent posts of Chief Landscape Architect (D1) one each in the Civil Engineering and Development Department ("CEDD") and Highways Department ("HyD") with immediate effect upon approval of the Finance Committee to strengthen the landscape services provided by CEDD and HyD with a view to enhancing the quality, sustainability and liveability of the outdoor environment**

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2. The Chairman remarked that the item proposed to create two permanent posts of Chief Landscape Architect ("CLA") (D1) one each in CEDD and HyD with immediate effect upon approval of the Finance Committee ("FC") to strengthen the landscape services provided by CEDD and HyD with a view to enhancing the quality, sustainability and liveability of the local outdoor environment.

3. The Chairman said that the Panel on Development discussed this staffing proposal at the meeting on 27 February 2018. The majority of Panel members supported the creation of the two permanent CLA posts to strengthen the landscape services provided by CEDD and HyD with a view to enhancing the quality of the local outdoor environment. Members belonging to the Democratic Party objected to the proposal and called for the creation of a dedicated arborist grade in the civil service. The Administration had responded to members' questions and views at the meeting. Some members sought supplementary information on the mechanism in place for incorporating expert views in the landscape design for individual development projects, and the work in the development and uplifting of the urban landscapes of Hong Kong in the past five years. The information was circulated to all Members vide LC Paper No. CB(1)958/17-18(01).

Professional development of the Landscape Architect grade within the government structure

4. Mr CHU Hoi-dick pointed out that the two CLA posts proposed for CEDD and HyD would report to the directorate officers from other professional grades. He was concerned whether the arrangement would restrict the functions that CLAs and their teams could perform in public works. As in the example of the elevated pedestrian corridor in Yuen Long Town connecting with Long Ping Station (project code: 182TB) ("elevated pedestrian corridor in Yuen Long Town") approved by the Public Works Subcommittee on 26 May 2018, the works departments did not adopt the professional advice provided by, among others, the Hong Kong Institute of Landscape Architects ("HKILA") when the project was taken forward. This reflected that the advice given by the Landscape Architect ("LA") grade was not attached due importance within the current government structure. Mr CHU opined that the LA grade should be made an independent department so as to take up more of a leading role in implementing the policy on landscape architecture in public works projects. Mr CHU asked whether the Administration had any plan to establish a Landscape Architecture Department.

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5. Mr Tony TSE shared similar concerns. He took the view that the Administration should consider establishing a Landscape Architecture Department led by the professional LA grade officers. He commented that the creation of the CLA posts for the supervision of the work of LA teams would facilitate policy formulation and the inclusion of professional views on landscape architecture at an earlier stage of public works planning. Mr TSE expressed support for the creation of the proposed posts.

6. Under Secretary for Development ("USDEV") replied that the views of Mr CHU and Mr TSE were noted, but there was currently no plan to establish an independent Landscape Architecture Department. He and Head of Greening and Landscape Office, Development Bureau ("H/GLO") added that given the rising importance of landscaping, early involvement of the teams led by CLAs in landscape planning and design work (including preparation of Landscape Master Plans) at the planning stage of New Development Area ("NDA") projects would bring a positive impact on project development as a whole. USDEV stressed that the authorities would keep in view the involvement of CLAs and their teams in future new town developments and review its effectiveness.

7. Mr AU Nok-hin enquired why the CLA posts had not been created in other departments responsible for landscape works and tree maintenance, such as the Leisure and Cultural Services Department. The Chairman asked whether there were plans to create the CLA posts in other departments under the Development Bureau ("DEVB").

8. USDEV replied that the work of LA was not limited to maintenance of vegetation, but also included the planning of outdoor space and environment, landscape design and management of landscape architecture. Each department should consider the creation of the relevant posts on a need basis. There was no plan to create the CLA posts in other departments under DEVB.

9. Mr CHU Hoi-dick requested H/GLO to comment on the current design of the elevated pedestrian corridor in Yuen Long Town from the perspective of LA.

10. USDEV and Deputy Director of Highways ("DDHy") remarked that the Administration needed to take into account a series of factors, including the professional advice of LAs and a balance among the needs of various parties, in designing public facilities so as to adopt the most appropriate design option. The Advisory Committee on the Appearance of Bridges and Associated Structures had been consulted on the design of

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the elevated pedestrian corridor in Yuen Long Town. USDEV considered it inappropriate to discuss the design of an individual public works project at the current meeting.

11. H/GLO remarked that apart from the landscape effects, such as compatibility of public facilities with the surrounding environment, the functional requirements for these facilities should also be considered in their design. Purely from a landscape perspective, the elevated pedestrian corridor in Yuen Long Town was considerably large in volume, but it was believed that HyD had already studied various feasible options and struck a balance among such factors as functions, landscape and building appearance before making the decision.

Entry requirements and grade management for the LA grade

12. Mr CHAN Chun-ying expressed support for the proposed creation of the posts. Mr CHAN noted that a CLA post had been created in the Architectural Services Department ("ArchSD") earlier, and together with the two proposed CLA posts and the other CLAs under DEVB, they would lead nearly 100 LAs of different ranks under DEVB and its departments. Mr CHAN was concerned about the division and coordination of work among these CLAs, as well as how LAs of different ranks would exchange work experience.

13. Mr Jeremy TAM expressed support for the proposed creation of the posts. Mr TAM was concerned about how the LAs deployed to different departments would exchange experience and relay the problems and concerns from their daily work. Mr TAM opined that making the LA grade an independent department might lead to a cumbersome personnel structure in the Government, which was not a desirable management mode for the grade.

14. USDEV replied that ArchSD and the Greening and Landscape Office under the Greening, Landscape and Tree Management Section ("GLTMS") of DEVB each had one CLA. Together with the two proposed CLAs, DEVB and its works departments would have four CLAs, with Permanent Secretary for Development (Works) ("PS/DEV(W)") being the controlling officer of the LA grade. At the bureau level, GLTMS was responsible for setting policy objectives in respect of landscape, while CLAs of works departments had to implement these policy objectives when delivering the landscape works of their respective departments. As such, there would be no overlap in the work of these CLAs.

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15. Deputy Secretary for Development (Works) 1 ("DS/DEV(W)1") remarked that there were currently about 80 members in the LA grade under the management of H/GLO who was responsible for handling the views and requests relayed by grade members. To familiarize grade members with the Government's landscape policy for carrying out their duties, briefing sessions would be organized when necessary, and technical guidelines and circulars would be issued for reference and compliance by grade members. Moreover, activities were organized from time to time for experience sharing among LAs working in different departments. She added that meetings were usually held with LA grade members approximately every six months in order to provide them with the latest information. The authorities attached great importance to tree management and related risk assessment and would consider holding such meetings more frequently. Workshops and training courses would also be provided to grade members every two to three months on average, including sharing of experiences and insights by officers who had participated in overseas training or exchange programmes .

16. Dr CHIANG Lai-wan, Mr KWOK Wai-keung and the Chairman enquired how candidates would be identified for the proposed CLA posts. Dr CHIANG expressed concern about the shortage of local registered landscape architects ("RLAs") and sought supplementary information on the entry requirements, including academic and professional qualifications, for LA grade members, including Assistant Landscape Architects ("ALAs"), LAs and Senior Landscape Architects ("SLAs"). She also enquired whether the Administration would consider employing graduates from the landscape architecture programmes of other local institutions as LA grade members apart from the master degree holders from the University of Hong Kong ("HKU"), as well as about the required increase in the number of LA grade members in the future as planned by the Administration. Dr CHIANG suggested that consideration should be given to relaxing the entry requirements for ALAs, such as accepting graduates from the landscape architecture programmes of other local institutions.

17. USDEV replied that suitable SLAs would be internally identified for promotion to CLAs in accordance with the civil service promotion mechanism. An open recruitment exercise would be conducted only if suitable candidates were not identified. H/GLO supplemented that currently employed LA grade members must be RLAs of the Hong Kong Landscape Architects Registration Board at the time of appointment. Persons could apply to be Hong Kong RLAs if they were holders of the Master of Landscape Architecture degree from HKU or the academic qualifications from other institutions recognized by HKILA, and possessed

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at least two years' relevant practical work experience before obtaining professional membership of HKILA, followed by an additional year of relevant work experience in Hong Kong.

(Post-meeting note: The information provided by the Administration was circulated to members on 21 June 2018 vide LC Paper No. ESC151/17-18(01).)

18. The Chairman expressed concern about the appointment of PS/DEV(W) from outside the LA grade as its controlling officer, and enquired about the respective roles of the Head of GLTMS ("H/GLTMS") and H/GLO in managing the work of the LA grade. To enhance the management power of H/GLO, the Chairman asked whether consideration would be given to upgrading H/GLO to the D2 rank.

19. DS/DEV(W)1 advised that H/GLO and CLAs of other works departments were jointly responsible for such matters as the management of on-the-job training, professional development and postings for SLAs and LAs, whereas H/GLTMS and H/GLO were responsible for drawing up, among others, suitable operational guidelines and circulars in accordance with the landscape policy objectives for compliance and implementation by relevant grade members.

Responsibilities of the proposed posts

Scope of responsibilities

20. Dr Fernando CHEUNG opined that the current role of LAs in public works was largely auxiliary in nature and enquired how the two CLAs could enhance the quality, sustainability and liveability of the local outdoor environment. Mr James TO noted that under the existing structure of HyD, the teams comprising LAs of different ranks had been carrying out the duties set out in paragraph 25 of the Administration's paper. He asked about the reasons for the need to create the proposed post.

21. USDEV replied that when NDA projects were taken forward, there were plans to put the planning and supervision of the overall landscape architecture under the charge of CLAs starting from the planning stage so as to enhance the quality of landscape and outdoor environment of the projects.

22. Deputy Director of Civil Engineering and Development ("DDCED") supplemented that the CLA of CEDD would need to formulate

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departmental landscape strategies in tandem with DEVB's landscape policy. For example, the drawing up of guidelines and criteria on landscape planning and design for NDA projects, housing sites and infrastructure works would be integrated with the design concepts of blue-green ecology ("blue-green initiatives"), and would cover the selection of suitable vegetation and soil to achieve the policy objective of biodiversity. The CLA would also be responsible for the formulation and implementation of the department's landscape quality management system to ensure that every part involving landscape in the works projects was provided with quality professional services and expert advice in respect of landscape; provision of better and appropriate conservation options for the trees affected by works projects; and enhancement of cross-departmental and cross-disciplinary communication and collaboration on issues and matters regarding the landscape profession. Therefore, the additional CLA could enhance the quality of landscape services of the department.

23. DDHy replied that currently, the LA grade members in HyD would carry out landscape work under the charge of HyD on the premise of dovetailing with DEVB's relevant policy from a professional and technical prospective. The proposed CLA would plan and supervise from a higher-level perspective the aforesaid work carried out by the LA grade members in the department. The CLA would need to enhance the quality, sustainability and liveability of the outdoor environment in accordance with the prevalent policy, formulate criteria and measures applicable to the department, and set up a quality management system as well as steer its implementation by LA grade members. The responsibilities of the proposed CLA post of HyD were similar to that of CEDD.

24. Mr AU Nok-hin and Mr WU Chi-wai enquired how the two CLAs would deal with the issues arising from conflicts between the proposals of landscape planning and design and the objectives of public works. Mr WU was concerned whether the CLAs could make a final decision on the relevant issues.

25. USDEV replied that the resolution of conflicts would be subject to the circumstances of individual cases. Taking tree conservation and maintenance in works areas as an example, under general circumstances, the Tree Management Office ("TMO") would make a final decision only after making reference to the views of the CLA responsible for the landscape part of a works project.

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Urban forestry management strategy and innovative landscape solutions

26. Mr CHAN Chun-ying enquired whether the CLAs of CEDD and HyD would consider growing plants of some amenity value in respect of vegetation species selection when delivering the works, so as to create more local attractions and public leisure venues.

27. Taking a park in Tseung Kwan O cited by Mr CHAN Chun-ying as an example, DS/DEV(W)1 remarked that DEVB had given instructions to the LA grade teams in different departments, requesting them to give more consideration to thematic landscape design complete with corresponding selection of vegetation species in order to achieve the objectives of greening and enhancing the amenity value of plants.

28. Mr CHAN Chi-chuen asked about the specific responsibilities of the CLA of CEDD in promoting the blue-green initiatives. He enquired about the upcoming projects to be taken forward under the blue-green initiatives apart from the revitalization of the Kai Tak Nullah and Tung Chung River and the development of the former Anderson Road Quarry.

29. USDEV replied that the blue-green initiatives would be implemented for the existing river resources in NDA projects including the Hung Shui Kiu and Yuen Long South NDAs. DDCED supplemented that the CLA would participate in the landscape planning and urban design of NDA projects to introduce blue-green ecology into the landscape planning and open space design of such projects as rain gardens and storm water retention lakes.

30. Mr CHAN Chi-chuen sought information on the urban forestry management strategy to be implemented by the CLA of HyD and the measures to manage senescent trees, in particular whether a review would be conducted on the procedures prior to tree-felling, including the necessary testing and completion of feasible mitigation measures. He also requested disclosure of the list of trees considered to have potential risk of collapse under HyD so as to enhance the public's right to information. Mr AU Nok-hin was of the view that the authorities failed to give a detailed account in the paper regarding the details of the urban forestry management strategy and the CLA's responsibilities in this regard.

31. DDHy advised that regarding the management of senescent trees, the CLA would need to consider replacement of tree species in an orderly manner when necessary. He remarked that *Acacia confusa* was extensively planted on roadsides in the past, but these trees had become senescent as time went by. More native tree species had been planted

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having regard to the local circumstances. In this connection, the CLA would take charge of district consultation and the formulation of the strategy for replacement of tree species.

32. DS/DEV(W)1 replied that there was a clear policy direction in urban forestry management, including the application of the principles of "Right Tree, Right Place" and "vegetation diversity". "Right Tree, Right Place" referred to the selection of suitable vegetation species in appropriate places at the design stage with particular emphasis on native species coupled with proper planting and maintenance to foster a suitable environment for healthy plant growth. "Vegetation diversity" sought to encourage the growing of a wide variety of vegetation to increase plants' resilience to pests and diseases through plant community diversification, with a view to safeguarding tree health and promoting the overall sustainability of vegetation. She also stressed that the work of LAs, instead of being auxiliary in nature or merely serving as landscape decoration for public works, could effectively lower urban temperature through landscape planning and urban design, thereby making concrete contribution to the enhancement of the city's resilience against climate change. For instance, rain gardens enabled better use of rainwater on one hand and could relieve the burden on drainage facilities on the other hand. Furthermore, as proper tree management was an important part of urban forestry management, clear policy guidelines were available to ensure consistency of the tree management approach among different departments.

33. Mr KWOK Wai-keung expressed support for the proposed creation of the posts. Mr KWOK hoped that the creation of the proposed posts could achieve early reservation of suitable sites and sufficient space with soil for tree growth at the planning stage of works to prevent the occurrence of problems in the future which would lead to tree death or removal or even pose danger to pedestrians. Mr WU Chi-wai said that the trees currently planted along roadsides generally suffered from a lack of growing space. He enquired about the improvement measures HyD would put in place.

34. USDEV shared Mr KWOK's view. He reiterated that one of the purposes of creating the proposed posts was to involve LA grade members in the landscape planning and design as soon as possible at an early implementation stage of a works project so as to enhance the sustainability of landscape services. The authorities noted the problems faced by the trees growing on roadsides, but it was difficult to carry out large-scale improvement works as some of the sites were located in developed areas. Better arrangements would be made in this regard in the future planning for NDAs.

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35. Mr AU Nok-hin remarked that the Urban Forestry Advisory Panel ("UFAP") had stated upon its establishment in 2017 that a review would be conducted on the urban forestry policy. One and a half years since UFAP's inauguration, he opined that the Administration should make public the relevant outcomes and recommendations upon completion of the UFAP review. Given that the responsibilities of the proposed posts included handling urban forestry issues, Mr AU enquired about whether the two CLAs would need to implement the strategies proposed by UFAP and the relevant details. Mr AU was particularly concerned whether the review would put forward improvements to the procedures of risk assessment for tree management for compliance by the departments responsible for tree maintenance so as to minimize the inconsistency in their practices.

36. USDEV replied that the two CLAs were primarily responsible for landscape works of the their respective departments. Although their work was not directly related to UFAP, the CLAs and their teams also had to work closely with TMO and outsourced arborists.

Division of work with the Tree Management Office and professional development of arborists

37. Mr AU Nok-hin was concerned that a bulk of the Administration's tree management work had been outsourced to contractors, and enquired how the two CLAs would coordinate their work with TMO and the outsourced contractors. Noting that HyD's tree management had partly been outsourced to contractors, Mr Holden CHOW opined that the holder of the proposed post must ensure that the requests made by local communities regarding tree maintenance were properly addressed. In this connection, he enquired how the proposed post would supervise the work of contractors and penalize underperforming contractors.

38. USDEV advised that the scope of work of arborists was different from that of LAs. The former's work mainly included the management of tree growth and tree maintenance as well as risk assessment for trees, while the latter, apart from implementing the urban forestry management strategy, would integrate landscape planning and design into different works projects with a view to enhancing landscape services to meet the public aspirations for sustainable landscapes and increase the city's resilience against climate change.

39. DDHy pointed out that HyD topped other departments in terms of the number of trees under their respective management, hence urban forestry management and tree asset management were among the key tasks

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of HyD. Currently, the maintenance of 600 000 trees under HyD's management, which covered an area of about 1 100 hectares, was partly outsourced to contractors for delivery. The CLA would need to oversee tree inspections and supervise the work of contractors. Regarding underperforming contractors, HyD had in place an established mechanism on penalties which included fines and entries in the relevant contractor's performance report. One of the CLA's tasks was to review the policy and measures regarding the outsourcing mechanism and the supervision of the performance of contractors.

40. The Chairman enquired about the number of arborists currently employed by the Administration, and whether consideration would be given to the creation of an Arborist grade to be headed by a directorate officer from the same grade or the engagement of consultants to enhance the steering of tree maintenance and removal works. The Chairman requested the Administration to provide supplementary information in response to her enquiry, including the time it planned to report to a relevant panel of the Legislative Council ("LegCo") on the outcome of its consideration.

41. DS/DEV(W)1 replied that there were about 300 qualified arborists in the Government's tree management team, but they did not constitute an independent grade under the current government structure. Active consideration would be given to the Chairman's suggestion.

(Post-meeting note: The information provided by the Administration was circulated to members on 21 June 2018 vide LC Paper No. ESC151/17-18(01).)

Tree management and landscape work with the use of innovative technology

42. Dr Elizabeth QUAT expressed support for the proposed creation of the posts. Dr QUAT said that the job description of the proposed posts included leading application of innovative initiatives, research and development. She enquired how the two CLAs and TMO would apply technology, such as Internet of Things and installation of sensors, to carry out conservation and monitoring of trees, handle urban forestry and enhance the city's resilience against climate change. She took the view that with the support of related technologies, apart from improving urban climate, landscape architecture could provide early warning of disasters caused by extreme climate to safeguard public safety. The Chairman suggested that DEVB and the Innovation and Technology Bureau should strengthen liaison and collaboration on this front.

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43. DDCED remarked that blue-green design features, such as artificial flood attenuation lakes, would be introduced when NDA projects were taken forward. The water bodies in the artificial flood attenuation lakes could cool down the city and collect floodwater during heavy rainfall, which would help enhance the city's resilience against climate change.

44. DS/DEV(W)1 remarked that HyD was working with an overseas company to explore the use of remote sensing multispectral imagery to complement tree inspections. In addition, DEVB also worked with local tertiary institutions and Friends of the Earth to install sensors on individual trees and stonewall trees to identify trees with deteriorating health conditions or a risk of collapse. Once the test became mature, DEVB would extend the installation of sensors to other trees.

Personnel led by the proposed CLAs

45. Mr Martin LIAO noted that apart from the proposed creation of the two CLA posts, nine and six non-directorate posts would be created in CEDD and HyD respectively. He enquired about the justifications for these additional posts, the responsibilities of the new posts and their division of work. Mr Tony TSE noted that the holder of the proposed CLA post in CEDD would lead six teams of LAs and other personnel upon the creation of the post. He was concerned whether the post holder would be overloaded.

46. USDEV and DDCED replied that upon the creation of the CLA post, the existing Landscape Unit ("LU") under CEDD would be re-designated as Landscape Division ("LD"). The additional manpower and the original LU personnel would be divided into six teams mainly responsible for three areas of work, namely landscape advisory services, landscape services and tree management. The CLA would be supported by 20 SLAs, LAs and ALAs. Landscape advisory services mainly comprised management of landscape projects carried out by external consultants and provision of professional advice, while landscape services comprised landscape design and supervision of the internal projects of CEDD. As there were about 9 000 trees managed and maintained by CEDD on a permanent basis, it was necessary for the maintenance and other related work to be regularly carried out by dedicated personnel.

47. DDHy replied that the additional manpower included one SLA, two LAs and three Forestry Officers and technicians. Together with the existing manpower, the newly formed LD would have about 60 staff members. It was believed to be able to enhance the planning and design

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of landscape services for road and rail projects and strengthen the maintenance of 600 000 trees managed by HyD.

Voting on the item

(At 4:25 pm, the Chairman remarked that as the Subcommittee had deliberated this staffing proposal for nearly two hours, the Subcommittee would vote on the proposals under this item after Mr AU Nok-hin and Mr CHU Hoi-dick spoke for the third time respectively.)

48. There being no further questions from members, the Chairman put the item to vote. Mr CHU Hoi-dick requested separate voting for the proposed creation of the CLA posts in CEDD and HyD. The Chairman instructed that the proposals set out in the paper be put to vote in the following order:

- (a) The first proposal: creation of one permanent CLA post in CEDD with immediate effect upon approval of FC; and
- (b) The second proposal: creation of one permanent CLA post in HyD with immediate effect upon approval of FC.

49. The Chairman put the first proposal to vote. She was of the view that the majority of the members present and voting were in favour of this proposal. She declared that the Subcommittee agreed to recommend the creation of one permanent CLA post in CEDD to FC for approval.

50. The Chairman put the second proposal to vote. At the request of Mr CHU Hoi-dick, the Chairman ordered a division, and the division bell rang for five minutes. 18 members voted for and six members voted against the creation of one permanent CLA post in HyD. The Chairman declared that the Subcommittee agreed to recommend the creation of this post to FC for approval. The votes of individual members were as follows:

For

Mr WONG Ting-kwong	Mr WONG Kwok-kin
Mr Charles Peter MOK	Mr KWOK Wai-keung
Mr IP Kin-yuen	Dr Elizabeth QUAT
Mr Martin LIAO	Mr POON Siu-ping
Dr CHIANG Lai-wan	Ir Dr LO Wai-kwok
Mr Alvin YEUNG	Mr Holden CHOW
Mr SHIU Ka-fai	Ms YUNG Hoi-yan
Dr Pierre CHAN	Mr CHAN Chun-ying

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Mr Jeremy TAM
(18 members)

Mr Tony TSE

Against

Mr WU Chi-wai
Dr Fernando CHEUNG
Mr Gary FAN
(6 members)

Mr CHAN Chi-chuen
Mr CHU Hoi-dick
Mr AU Nok-hin

51. Mr CHU Hoi-dick requested that the second proposal be voted on separately at the relevant FC meeting.

(At 4:41 pm, the Chairman announced that the meeting be suspended for five minutes. The meeting resumed at 4:47 pm.)

EC(2018-19)6 Proposed creation of one supernumerary post of Chief Quantity Surveyor (D1) in the Architectural Services Department for about nine years with immediate effect upon approval of the Finance Committee up to 31 March 2027 to strengthen professional support in quantity surveying for the delivery of the projects under the Ten-year Hospital Development Plan at strategic level

52. The Chairman remarked that the staffing proposal was to create one supernumerary post of Chief Quantity Surveyor ("CQS") (D1) in ArchSD for about nine years with immediate effect upon approval of FC up to 31 March 2027 to strengthen professional support in quantity surveying for the delivery of the projects under the Ten-year Hospital Development Plan (the "10-year HDP") at strategic level.

53. The Chairman pointed out that the Administration consulted the Panel on Health Services on this staffing proposal on 24 April 2018. Panel members raised no objection for the proposal to be submitted to the Establishment Subcommittee ("ESC") for consideration. Members noted that being the vote controller of the various works projects under the 10-year HDP, ArchSD was duty-bound to ensure completion of all projects within the cost cap of \$200 billion. Moreover, ArchSD also served as the works agent of individual works projects who was responsible for, among others, relevant building design and engagement of works contractors to implement the projects. As for the works projects of which the Hospital Authority ("HA") served as the works agent, ArchSD would act as the technical adviser to ensure that these projects conformed to government

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requirements. Some members held that ArchSD should strengthen construction cost control of hospital works projects to avoid cost overruns, and reserve space at the design stage for hospital expansion where feasible to meet future service demand. At members' request, the Administration provided supplementary information (LC Paper No. CB(2)1479/17-18(01)) after the meeting on the respective roles of ArchSD and HA in the works projects under the 10-year HDP and the relevant workflow.

54. Ir Dr LO Wai-kwok and Mr Tony TSE expressed support for the staffing proposal. They pointed out that apart from the 10-year HDP, the Financial Secretary had announced in the 2018-2019 Budget that \$300 billion would be set aside in preparation for the second 10-year HDP. It was envisaged that the work of the proposed post would last for nearly 20 years. They took the view that the Administration should create the proposed post on a permanent basis to take forward this long-term work.

55. Under Secretary for Food and Health ("USFH") remarked that as the proposed post was a newly created one, the Government considered it more appropriate to create the proposed post on a supernumerary basis in accordance with the principle of financial prudence. The Government would review the situation in due course to consider if there was a need to make permanent the post.

56. Mr Tony TSE noted from paragraph 14 of the paper for this item that the proposed post would head the new Division 4 under the Quantity Surveying Branch ("QSB") and that a number of Quantity Surveyors ("Qs") would be redeployed from other divisions and the Project Management Branch of QSB to Division 4 to concentrate on the healthcare works projects under the 10-year HDP. He was worried that given ArchSD's stringent manpower situation, the redeployment of Qs from other sections of QSB to Division 4 might affect the progress of other public works projects delivered by ArchSD.

57. Director of Architectural Services advised that the current manpower resources in ArchSD were fully stretched. To enhance the delivery efficiency of various healthcare works projects under the 10-year HDP, ArchSD would redeploy one Senior Quantity Surveyor ("SQS") and four Qs (who were originally responsible for healthcare works projects) from other sections to the new Division 4 upon the creation of the proposed post. In addition, one time-limited QS post and one time-limited SQS post created for the 10-year HDP would also be redeployed to the new division. Division 4 would be put under the unified management of the proposed CQS to concentrate on cost control, formulation of procurement and contract strategies as well as management of risks and value involved

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in various healthcare works projects. The arrangement would not affect the manpower of ArchSD for handling other public works projects.

Voting on the item

58. The Chairman put the item to vote. She was of the view that the majority of the members voting were in favour of the item. She declared that members of the Subcommittee agreed to recommend the item to FC for approval. No member requested that the item be voted on separately at the relevant FC meeting.

EC(2016-17)26 Proposed making permanent of one supernumerary post of Deputy Principal Government Counsel (DL2) in the Legal Policy Division of the Department of Justice with immediate effect upon approval by the Finance Committee to undertake essential duties in respect of constitutional and electoral matters

59. The Chairman remarked that the staffing proposal was to make permanent one supernumerary post of Deputy Principal Government Counsel ("DPGC") (DL2) in the Legal Policy Division of the Department of Justice ("DoJ") with immediate effect upon approval by FC to undertake essential duties in respect of constitutional and electoral matters.

60. The Chairman pointed out that the Administration consulted the Panel on Administration of Justice and Legal Services on the staffing proposal on 19 December 2016. Panel members generally agreed to make permanent the proposed supernumerary DPGC post so as to cope with the increasingly heavy, complex and controversial work. Some members hoped that with the creation of the permanent post, DoJ could handle more election-related litigation on its own, thereby reducing the necessary legal costs on briefing out cases. Some members, however, were of the view that the workload of the Constitutional Development and Elections Unit ("CD&EU") of DoJ in respect of constitutional reform was limited, and thus raised query on the need to create the post. Some members were also concerned about the roles and responsibilities of the proposed post in the disputes arising from the relevant LegCo election. After discussion, the majority of Panel members supported the Administration's submission of the proposal to ESC for consideration.

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Justifications for the creation of the permanent Deputy Principal Government Counsel post

61. Mr CHAN Chun-ying and Mr WONG Ting-kwong enquired about the concrete responsibilities of the proposed DPGC post and the justifications, including quantitative ones, for making it permanent. Mr WONG also suggested that the proposed post should step up efforts in promoting public awareness of the Constitution of the People's Republic of China ("the Constitution").

62. Solicitor General, DoJ ("SG/DoJ") advised that the proposed post would head CD&EU and lead its counsels in rendering legal advice to the Government on constitutional and electoral affairs. To ensure that the legal advice provided by CD&EU was accurate and would not contradict with other legal advice provided by DoJ, it was necessary for the unit to be headed by a government counsel at directorate level who would oversee the quality of legal advice. He added that if the proposal was not approved, the service standard of CD&EU would be seriously affected and the ability of DoJ to retain legal talents would also be undermined by the diminished promotion prospects.

63. Mr CHAN Chun-ying, Mr Alvin YEUNG and Mr Jeremy TAM enquired about the numbers of instances involving CD&EU's provision of legal advice to various government departments during the time when the proposed post was of a supernumerary nature in the past. Mr YEUNG also requested the Administration to provide statistics on CD&EU's legal advice as accepted by government departments.

64. Deputy Solicitor General (Constitutional Affairs), DoJ ("DSG(CA)") advised that the numbers of instances involving CD&EU's provision of legal advice to the Government from April 2012 to 2017 were as follows:

2012 (April to December):	726
2013:	672
2014:	750
2015:	1 007
2016:	1 236
2017:	572

He explained that as LegCo or District Council elections were held in 2012, 2015 and 2016, CD&EU had rendered more legal advice relating to electoral affairs to various government departments in these years. While no large-scale elections were held in 2013 and 2014, CD&EU had to render

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legal advice to the Government on other electoral issues, such as legal disputes relating to voter registration. After providing legal advice to government departments, CD&EU would not follow up on whether the advice was accepted by the departments, hence relevant statistics were not available. He added that CD&EU's government counsels had to conduct an independent analysis on each case instead of providing the same legal advice on different cases in a mechanical manner. Thus, the workload of the unit was rather heavy.

65. Mr Alvin YEUNG noted that the proposed post was created on a supernumerary basis in 2012 and lapsed in mid-2017. He asked whether CD&EU was still in operation after the lapse of the post and how DoJ deployed related supporting staff. In addition, Mr YEUNG and Mr CHAN Chi-chuen enquired whether the Government had briefed out cases to non-DoJ counsel in the light of the manpower shortage of CD&EU.

66. SG/DoJ explained that CD&EU was currently supported by two Senior Government Counsel and one Personal Secretary I ("PSI"). In view of the lack of directorate leadership at CD&EU, it was necessary for DoJ to deploy counsel from its other units to support the work of CD&EU having regard to its operational needs. If more complex cases were involved or there was an absence of experts within DoJ for handling certain special cases, DoJ would consider briefing out cases to non-DoJ counsel. Acting Director of Administration and Development, DoJ supplemented that PSI of CD&EU was a time-limited post and was recreated by DoJ under delegated authority after its lapse in April 2017.

Vetting procedures for elector eligibility

67. Mr Holden CHOW pointed out that according to the existing vetting procedures for elector eligibility, if the eligibility of electors was called into question, the persons concerned were required to attend court in person to provide explanation. Apart from the inconvenience caused to them, the complaint mechanism might also be subject to abuse. He enquired how DoJ would improve the vetting procedures for elector eligibility to avoid abuse of judicial procedures.

68. SG/DoJ pointed out that improvements to the vetting procedures for elector eligibility fell within the purview of the Constitutional and Mainland Affairs Bureau ("CMAB"). If CMAB intended to amend the existing voter registration procedures, it might touch on human rights or other issues involving litigation proceedings. CD&EU would then need to render legal advice to CMAB.

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Legal advice provided by the Department of Justice on Legislative Council elections and eligibility of Members

69. Mr Gary FAN pointed out that a number of LegCo Members-elect had been disqualified from office by the court in the past two years and the nominations of some LegCo election candidates were also invalidated by Returning Officers ("ROs"), which had led to heated controversies in society. He held that DoJ was duty-bound to disclose the content of the legal advice it had provided to the Government on such cases to facilitate public monitoring of the impartiality of DoJ's legal views and members' consideration of whether the creation of the proposed permanent post in CD&EU was fully justified.

70. SG/DoJ remarked that the legal advice provide by DoJ was covered by legal professional privilege. Coupled with the fact that some cases concerning the right to stand for election were pending in court, he could not disclose the content of the legal advice provided by DoJ to the Government. He added that legal professional privilege was an important common law principle to ensure that the litigating parties in need of legal advice could obtain the best legal advice and representation under adequate protection.

71. Mr CHAN Chi-chuen, Mr Alvin YEUNG, Mr Jeremy TAM and Dr Fernando CHEUNG pointed out that ROs had time and again adopted the legal advice provided by DoJ before invalidating the nominations of some LegCo election candidates. They queried that CD&EU rendered legal advice to ROs from a political perspective for the purpose of disqualifying some candidates from standing for LegCo election. As such, they were opposed to the creation of the proposed post in CD&EU.

72. Mr CHAN Chun-ying enquired about the additional workload of CD&EU arising from the issues relating to disqualification of Members-elect and invalidation of the nominations of LegCo election candidates.

73. Mr Holden CHOW expressed support for the creation of the proposed post. He took the view that non-establishment Members associated the proposed creation of the post with disqualification of LegCo Members-elect and invalidation of the nominations of LegCo election candidates for the purpose of "demonizing" the post to obstruct the proposed creation of the post by the Administration.

74. SG/DoJ denied the claim that CD&EU provided legal advice to the Government from a political perspective. He pointed out that ROs had the

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statutory power to determine whether the nomination of a LegCo election candidate was valid and the decision might eventually be subject to legal challenge. The role of CD&EU was to provide professional and impartial advice to ROs in order to assist them in making decisions and ensure that the decision was legally sound to stand up to any possible litigation in the future. DSG(CA) supplemented that DoJ did not maintain statistics on the additional workload of CD&EU arising from the cases involving candidates' eligibility to stand for election.

75. Mr Jeremy TAM enquired whether DoJ would arrange centralized handling by CD&EU of ROs' requests for DoJ's legal advice on their decisions, and whether the Secretary for Justice ("SJ") would make a final decision on the relevant legal advice.

76. SG/DoJ advised that apart from CD&EU, the Constitutional Affairs Sub-division of DoJ also comprised the Human Rights Unit and the Basic Law Unit. If government departments sought advice from DoJ on the right to vote or the right to stand for election, DoJ would consider whether the cases involved issues concerning human rights or the Basic Law and arrange for the provision of advice by the relevant unit. In addition, DoJ would decide on the seniority of counsel for handling cases having regard to the complexity and subject matter of the cases. For cases involving various subjects, DoJ might need to handle them in a cross-unit approach. He added that DoJ rendered legal advice to the Government as a team, and SJ was accountable for all the legal advice provided.

77. Mr CHU Hoi-dick said that some political figures had publicly commented that persons who advocated the violation of the Constitution might not be eligible to stand for LegCo election. He enquired whether DoJ had studied if the Constitution was applicable to any decision on candidates' eligibility to stand for LegCo election.

78. SG/DoJ advised that the National People's Congress had come up with the Basic Law in accordance with the Constitution and some of the local legal issues might be related to the Constitution. Therefore, it was inevitable for DoJ to study relevant provisions of the Constitution in handling certain legal issues.

79. Mr AU Nok-hin said that if ROs had doubt about candidates' eligibility to stand for LegCo election, they should consult a Nominations Advisory Committee ("NAC") in accordance with the Electoral Affairs Commission Ordinance (Cap. 541), but they very often chose to seek legal advice from DoJ to support their decisions to disqualify candidates from standing for election. He sought the Administration's explanation on the

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criteria adopted by ROs in deciding whether to seek legal advice from DoJ or NAC.

80. SG/DoJ reiterated that the role of DoJ was to provide accurate legal advice to ROs in an impartial manner. ROs would make decisions on the eligibility of candidates in accordance with their statutory power. If candidates or other persons were not satisfied with the decisions of ROs, they could seek court review according to the established mechanism. He remarked that as there was currently a litigation case pending in court involving the exercise of powers by ROs, he would not comment on how ROs should decide whether to seek legal advice from DoJ or NAC.

81. The Chairman remarked that as some members were still waiting for their turn to ask questions, the Subcommittee would continue the discussion on this item at the meeting on 6 June 2018.

82. The meeting ended at 6:31 pm.

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