

Convictions under environmental legislation: October - December 2004

The EPD's summary of conviction recorded and fines imposed during the period October to December 2004 is as follows:

January 2005

20 pollution convictions in January 2005

Twenty convictions were recorded last month (January) for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Fifteen of the convictions were under the Waste Disposal Ordinance, two under the Air Pollution Control Ordinance, two under the Noise Control Ordinance and one under the Water Pollution Control Ordinance.

The heaviest fine in January was \$20,000, assessed against a company that used powered mechanical equipment otherwise than in accordance with permit conditions.

February 2005

Nine convictions were recorded last month (February) for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Eight of the convictions were under the Air Pollution Control Ordinance and one under the Waste Disposal Ordinance.

The heaviest fine in February was \$6,500, assessed against a company that failed to comply with an air pollution abatement notice.

March 2005

31 convictions were recorded last month (March) for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Twelve of the convictions were under the Waste Disposal Ordinance, 11 under the Air Pollution Control Ordinance, five under the Noise Control Ordinance and three under the Water Pollution Control Ordinance.

The heaviest fine in March was \$25,000, assessed against a company that contravened the provisions of a licence.

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URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY

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Beginning with this edition of the *Quarterly*, the *West Kowloon Cultural District* project replaces *Hong Kong Disneyland* as the subject of our mega-development column.

The main article in this edition reviews the evolution of the WKCD project to date, and its key desired planning outcomes. In our next edition, we shall reflect on some of the main criticisms of the project.

The Editors

CONTENTS

FEATURE:	Page
WEST KOWLOON CULTURAL DISTRICT: HONG KONG'S PROPOSED ICON FOR CULTURE AND LEISURE	1
LEGISLATION DIGEST	3
TOWN PLANNING	4
WEST KOWLOON CULTURAL DISTRICT	5
HONG KONG BRIEFING	6
ADVISORY COUNCIL ON THE ENVIRONMENT(ACE)	7
REGIONAL & INTERNATIONAL	8
PROSECUTION STATISTICS	12

WEST KOWLOON CULTURAL DISTRICT: HONG KONG'S PROPOSED ICON FOR CULTURE AND LEISURE

Prior to April 2001, the government decided to allocate a choice site on the northern shore of Victoria Harbour for the creation of additional art, museum, cultural and recreational facilities in a concentrated cultural hub. This was the birth of the West Kowloon Cultural District (WKCD) mega-project, which is a huge engineering, logistical and financial undertaking in anybody's language. Consequently, construction of the WKCD is not expected to be finished until 31 December 2012.

A large site of 40 hectares has been allocated for the development. The site is part of the West Kowloon Reclamation Area and lies at its southern tip, adjacent to the Western Harbour entrance. The site is, of course, within what was once part of Victoria Harbour.

The Housing, Planning and Lands Bureau was appointed the lead government agency to oversee the development. It reports on progress of the project to both Legco and the government's Steering Committee for Development of the WKCD, which comprises:

- Chief Secretary for Administration (Chairman)
- Secretary for Housing, Planning and Lands (Deputy Chairman)
- Secretary for the Environment, Transport and Works
- Secretary for Financial Services and the Treasury
- Secretary for Home Affairs
- Secretary for Justice or her representative
- Permanent Secretary for Planning and Lands
- Commissioner for Tourism
- Director of Architectural Services
- Director of Lands
- Director of Leisure and Cultural Services
- Director of Planning
- Director of Territory Development

Design competition

In April 2001, the government invited, in an open competition, the submission of conceptual plans to develop the site as an integrated arts, cultural and entertainment district. The competition was open to designers world-wide. The winning design

entry was to form the basis for the master design and plan for WKCD in the actual development phase.

More than 160 entries were submitted. In February 2002 the design submitted by the internationally famous architectural firm, Foster and Partners, was declared the winner. Four other designs received honourable mentions. However, the Foster design became the main, if not sole, basis of the design and development criteria to apply to the WKCD.

At the time, the government described the major components of the Foster design as including: “a cultural headland with an assembly of performance venues and museums at the western end of the site, a central retail and entertainment spine with a collection of shops, restaurants and entertainment facilities, a commercial gateway with tower blocks for office, hotel and other commercial uses at the eastern end and provision of open space comprising a podium park, landscaped terraces and a waterfront promenade.”

In the light of the subsequent public agitation caused by the Foster design, it is worth recording the competition jury’s published reasons for choosing it ahead of the 160 plus other entries. Briefly, these were:

- singularity of image, offering coherent visual authority and a [built] development which is progressive, well suited for 21st century Hong Kong, and likely to be an icon
- horizontality of the scheme across the site, which does not complete with the tall buildings behind
- a multiplicity of public - space opportunities and scales
- a substantial green space
- logical and imaginative deployment of programmatic elements, drawing people through the commercial and entertainment facilities to the arts and cultural centre
- skilful integration with surrounding neighbourhoods and complexes
- the design is viable as it is technically straight forward, and construction of the canopy roof is within the scope of Hong Kong’s technical skills and experience

- the well argued case put forward by Foster and Partners

Invitation for proposals

In 2003 the government began the next stage of creating the WKCD, which was to invite proposals (IFP) from developers to construct and then manage (for 50 years) the WKCD. Development and design parameters for the IFP were substantially based on the Foster design. Thus, the WKCD will be essentially a Foster and Partners designed project.

The government has proposed granting a 50 year lease of the site to the successful proponent, so the developer will operate the site, apart from utilities and other components handed over to the government and privately owned parts of the project, for this period. Significantly the developer will be permitted to develop and sell commercial and residential components of the project. In return, the developer will be required to plan, design, finance, construct and operate the project.

In general terms, the IFP described the core facilities of the WKCD as:

- (a) The Canopy;
- (b) Core Arts and Cultural Facilities;
- (c) Other Arts and Cultural Facilities;
- (d) Retail and entertainment facilities;
- (e) Commercial and office developments;
- (f) Residential and hotel developments;
- (g) GIC Facilities including the re-provisioning of the Tsim Sha Tsui Fire Station Complex (some of the existing facilities may need to be re-provisioned outside the Development Area);
- (h) Open space and landscaping works;
- (i) Automated People Mover System (within the Development Area and an optional extension outside the Development Area);
- (j) Other transport infrastructure facilities including the Pier within the Development Area;
- (k) External pedestrian links (including for example, footbridges and subways) to provide linkages to adjacent developments outside the Development

Area and vehicular access/ingress and egress points directly abutting or linking to the Development Area;

- (l) Drains, sewers, water mains and other utilities and connections; and
- (m) Engineering works including possible realignment of existing seawall, decking over tunnel portal of Western Harbour Tunnel, building over existing ventilation buildings of MTRCL and WHTCL, possible interfacing works with the construction of the Kowloon Southern Link of KCRC, necessary modification or re-provisioning of salt water pumping station of Water Supplies Department, existing sewerage and drainage system, including the box culvert, seawater cooling systems, emergency vehicular access and other infrastructure and utility provisions.

Mandatory design requirements for WKCD

In the IFP, the government mandated a number of design requirements. These include:

- (a) the provision of core arts and cultural facilities as follows:-
 - a theatre complex comprising three theatres with seating capacities of at least 2,000,800 and 400 seats, respectively
 - a performance venue with a seating capacity of at least 10,000 seats
 - a museum cluster comprising four museums of differing themes with total net operating floor areas of at least 75,000 square metres
 - an art exhibition center with net operating floor area of at least 10,000 square metres
 - a water amphitheatre
 - at least four piazza areas
- (b) the provision of the canopy proposed in the Foster design, covering at least 55% of the development area; and
- (c) the demolition and re-provisioning of the Tsim Sha Tsui Fire Station Complex.

Objectives and benefits of WKCD

The government has said that the objectives and benefits of the WKCD will be to:

- Enrich our cultural life by attracting internationally acclaimed performance exhibitions;
- Nurture local arts talent and create more opportunities for arts groups;
- Enhance international cultural exchange;
- Put Hong Kong on the world arts and culture map;
- Provide state-of-the-art performance venues and museums;
- Offer more choices to arts patrons;
- Encourage creativity;
- Enhance our harbour front;
- Attract overseas visitors; and
- Create jobs

Town Planning aspects of the WKCD

On 11 July 2003 the Town Planning Board (TPB) rezoned the WKCD site to “Other Specified Uses” (‘OU’) annotated “Arts, Cultural, Commercial, Entertainment Uses”. After consideration of objections, the TPB later reconfirmed the rezoning. In doing so, it issued a press release on 12 December 2003 which in part said:

“Members are of the view that as the planning intention is to facilitate the development of the site into an integrated arts and cultural district together with other commercial and supporting facilities, the rezoning of the district to ‘OU’ annotated ‘Arts, Cultural, Commercial and Entertainment Uses’ is appropriate.

Given the scale, nature and development time span of the area, the OU zoning is needed to allow a greater degree of design flexibility for the proponents to come up with the best proposal. Such zoning has been adopted before as in the case of the development of the new airport at Chek Lap Kok, the industrial estates and the container terminal.

The Board was satisfied that since the majority development in the district would be covered by the distinctive canopy, thereby limiting the building height, development

intensity and overall built-form of the district would be under effective control. In addition, the same amount of open space originally proposed in the previous version of the Plan will be provided in the development of the cultural district.”

The TPB has very recently refused an application by concerned legislators to revise the rezoning to give more emphasis on the “cultural arts and entertainment” elements of the WKCD and less on the also permitted (under the OU zoning) “commercial and supporting facilities” elements.

The TPB has adopted an unusual planning approach, whereby the project’s requirements will dictate the planning principles, objectives and mandatory requirements, which normally precede - or pre-exist - developments. TPB’s press release included the comment:

“Once the preferred development scheme is agreed upon, it is the intention of the Board to incorporate the development parameters of the agreed scheme, such as the total gross floor area (GFA), the plot ratio and maximum building height, etc, into the Plan for public inspection and comment. In doing so, any subsequent changes to the stipulated development parameters will require the approval of the Board”

Whether this is a sound planning approach, or responsible balancing of specialist agencies’ responsibilities (there is also the issue of the seemingly complete lack of involvement of the Environmental Protection Department) is questionable.

Outcome of IFP

As we now know, proposals by three consortia of developers have been short-listed for further consideration. A fourth proposal (from Swire Properties), which otherwise had merit, has been rejected for non-compliance with the mandatory requirement of the canopy, which is the centre-piece of the Foster design.

A good deal of public criticism has been levelled at the government for, especially, adopting a single-developer approach to the project and making the canopy a mandatory feature of the WKCD. This has prompted the Committee to delay a final decision on the choice of developer, and to extend the period of public consultation until 30 June

2005. Contract details for submissions of representations are:

www.hplb.gov.hk/wkcd; by fax: 2186 7832; via e-mail: wkcd@cedd.gov.hk; or by mail to: Planning and Lands Bureau, 9/F Murray Building, Garden Road, Central, Hong Kong - “WKCD Team”.

LEGISLATION DIGEST

Air Pollution Control (Petrol Filling Stations) (Vapour Recovery) (Amendment) Regulation 2004 (L.N. 218 of 2004)

Date of Gazette: 24 December 2004

(Made under section 143 of the Air Pollution Control Ordinance Cap. 311) after consultation with the Advisory Council on the Environment)

1. Commencement

This Regulation shall come into operation on 31 March 2005.

2. Explanatory Note

(i) The object of this Regulation is to amend the Air Pollution Control (Petrol Filling Stations) (Vapour Recovery) Regulation (Cap. 311 sub. leg. S) (the “principal Regulation”) to require the installment of new vapour recovery systems in petrol filling stations to control the emission of volatile organic compound in the course of dispensing petrol into the fuel tank of a motor vehicle. The Regulation also introduces a few modifications to the existing provisions of the principal Regulation.

(ii) Section 2, among others, amends the existing definition of “vapour recovery system” and introduces new definitions of “petrol dispenser”, “Phase I vapour recovery system” and “Phase II vapour recovery system”.

(iii) Section 3 amends section 3 of the principal Regulation to provide that -

- (a) no person shall own a regulated vehicle unless the vehicle is installed with a Phase I vapour recovery system;

- (b) no person shall own a petrol filling station unless each petrol storage tank of the station is installed with a Phase I vapour recovery system and each petrol dispenser of the station is installed with a Phase II vapour recovery system.
- (iv) Section 5 adds a new section 4A to the principal Regulation to provide that if the air pollution control authority (“the Authority”) considers that the vapour recovery system of a regulated vehicle or of a petrol filling station is not functioning properly, he may require the owner of the vehicle or station, as the case may be, to cause further test and examination to be carried out by a competent examiner.
- (v) Section 6 amends section 5 of the principal Regulation to provide that -
- (a) the competent examiner instead of the Authority is to be responsible for issuing a certificate certifying that the vapour recovery system of a regulated vehicle or of a petrol filling station complies with the specified test requirements; and
- (b) the competent examiner commits an offence if he issues a certificate which contains any statement or information which is false or misleading in a material particular.
- (vi) Section 8 adds a new section 6A to the principal Regulation to provide that the owner of a petrol filling station shall not dispense petrol into the fuel tank of a motor vehicle or any other container if the Phase II vapour recovery system with which the petrol dispenser of the station is installed is not in operation.
- (vii) Section 9 amends section 8 of the principal Regulation to provide that certain provisions concerning Phase II vapour recovery system shall not apply in relation to all existing petrol filling stations until the expiry of 36 months immediately after the commencement of the Regulation, with the exception of any existing petrol filling station which has each of its petrol dispenser installed with a Phase II vapour recovery system within those 36 months.
- (viii) Section 13 amends Schedule 2 to the principal Regulation to provide for the

new test requirements in relation to the vapour recovery system of a petrol filling station.

TOWN PLANNING

Mega Wan Chai Hotel Application

The developer of a proposed mega tower hotel project in Wan Chai has applied for planning approval for amendments to the proposal to develop 93-storey hotel and commercial complex in Wan Chai, which was originally approved by the Town Planning Board (“the Board”) in 1994. The latest scheme proposes to enlarge the site boundary by about 42% and to extend into an open space zone, with a different design and layout. The Metro Planning Committee of the Board rejected the application in April 2004. Therefore, the applicant sought review of the decision. A review hearing was held on 23 July 2004.

At the review hearing, the Board raised a number of concerns relating to the scale of development, increased traffic, visual impairment, tree felling, open space reduction, and sunlight and ventilation aspects.

A spokesman for the Board said, “Falling within an area mainly zoned “Other Specified Uses” annotated “Comprehensive Redevelopment Area” (“OU(CRA)”) and partly zoned “Open Space”, the proposed development would contribute positively to urban renewal in Wan Chai District. It would also help preserve Nam Koo Terrace while allowing public access to this historical building. By including land already zoned for open space use within the development, implementation of the open space could be fast-tracked. The Board recognised such merits in the development and fully appreciated the efforts made by the applicant in revitalizing this part of old Wan Chai over the past years. While the proposed development was generally in line with the planning intention laid down by the Board for the OU(CRA) zone, there were still issues of concern on aspects such as the design of the proposed development which would result in a wall effect when viewed from Bowen Road. The applicant would also need to fully demonstrate that the development would be sustainable in traffic terms without resulting in unacceptable traffic impact on

the surrounding road network.”

At a Board hearing in December 2004, the applicant made further submissions to address the above concerns of the Board, and presented a further amendment proposal. As the further proposal contained changes to the earlier proposal submitted - which was considered by the Board in July 2004 - the Board decided to solicit public views on the applicant’s latest proposal through the Wan Chai District Office. Views of Legislative Council Members, Wan Chai District Council and the general public were subsequently submitted to the Board for consideration.

Although the applicant had taken considerable efforts to consult the local community on the application and to address the concerns previously raised by the Board, having thoroughly examined the applicant’s further submissions and all relevant planning considerations and views expressed by the Legislative Council Members, Wan Chai District Council and the general public, the Board rejected the application at a review hearing held on 25 February 2005. The reasons for the decision are summarised as follows: -

Urban development

The Board recognised that the project would contribute positively to urban renewal in Wan Chai.

Scale of development

The major concern of the Board was the overall bulk of the development, which was massive and incompatible with the character of neighbouring buildings in Kennedy Road.

Visual impairment

The development would create significant visual impact in view of the proposed building, as compared with surrounding buildings.

Increased traffic

In respect to traffic, although the road improvement schemes proposed by the applicant could mitigate the anticipated increase in vehicular traffic, the feasibility and timing for implementation of the schemes had not been sufficiently demonstrated.

Tree felling

The proposed development would involve massive tree felling which was unacceptable.

Open space

Finally, the Board was concerned that some of the proposed covered open space within the development might not have the capacity to fulfill the proper and intended function of public open space.

[Press Releases of Town Planning Board, 23 July 2004, 3 February 2005 and 25 February 2005]

WEST KOWLOON CULTURAL DISTRICT

West Kowloon Cultural District

On 6 January 2005, the Legislative Council issued a clear political message to the government by passing an amended motion calling for the scrapping of the West Kowloon Cultural District's (WKCD) single-developer approach and the removal of the giant canopy as an integral part of the project. During the meeting, Chief Secretary Donald Tsang refused to make concessions, saying that the canopy was a basic requirement of the proposal. However, the government could restart the Cultural Hub's planning process if the public did not like any of the three selected proposals.

In response to the Legco request and followed a review of progress made in the consultation so far, Secretary for Housing, Planning and Lands, Michael Suen Ming Yeung, announced at the Legislative Council's Subcommittee on the West Kowloon Cultural District Development on 16 March 2005 that the public consultation period will be extended for three months.

Swire Properties took up the government's invitation last year for proposals on how the WKCD should be built. But its plan was rejected because it failed to meet the government's mandatory requirement of a canopy covering the site. It is refusing to give up its bid, even though the government has dropped it from a shortlist of three contenders. It carries on with public promotion of its plan.

Swire Properties has proposed that parts of the old Kai Tak airport runway should be

removed to create four islands of development, which would help to beautify Victoria Harbour. It suggests that a total of 10 hectares of the runway should be removed in four places, creating "valuable waterfront residences in a spectacular island archipelago design". The plan is part of a harbour proposal. The entire proposal will cover the Kai Tak site, the WKCD, Tsim Sha Tsui, Victoria Park and the Tamar site in Admiralty.

Swire Properties also opposes to the government's proposal for a cruise terminal, heliport, stadium and refuse transfer station at Kai Tak, saying the plans "should be subjected to critical public debate". A spokeswoman for Swire said that if the runway was cut into four islands, it would improve water flow and help resolve pollution in the area. Swire believes a cruise terminal should be built at West Kowloon where the government wants to house a cultural hub. Instead of building a giant glass canopy at the West Kowloon waterfront, Swire prefers a 30-hectare park covered by a natural canopy of trees.

Swire Properties also proposes regenerating the Hong Kong Cultural Centre at Tsim Sha Tsui. The redevelopment would have a new 2,200-seat theatre, as well as concert halls and an arts complex. The plan includes a museum complex, designed by renowned architect Frank Gehry, on the Tamar site. The complex would house the new Hong Kong Museum of Modern Art.

[SCMP, 6, 7 January 2005, 11 & 17 March 2005]

West Kowloon canopy: functional and practical

The Civil Engineering & Development Department Kowloon Project Manager Kwan Pak-lam said, on behalf of the government, that the canopy concept in the West Kowloon Cultural District (the "WKCD") was practical and environmentally friendly.

The microclimate created by the use of canopy could help reduce the temperature and minimize the unpleasant heat and high humidity in the outdoor spaces. Not only did the canopy reduce outdoor temperature, the temperature of the sheltered area would also be reduced by 4° to 7° Celsius, according to the microclimate principle. This would

definitely save a considerable amount of energy by reducing the need for air-conditioning.

Claimed to be more functional and architecturally iconic than the canopies in the New Milan Trade Fair in Italy and in the Shenzhen citizen's Centre in China, which are both impermeable, this semi-permeable canopy could produce a cooling effect within the whole structure and was therefore environmentally friendly.

House, Planning and Lands Bureau (<http://news.gov.hk/en/category/infrastructureandlogistics/041213/features/html/041209en06001.htm>), 12 December 2004

Canopy will spoil view

Despite the government's best endeavors to market the canopy proposed for the West Kowloon Cultural District (WKCD), the canopy does not appeal to the general public. Visitors, after attending exhibitions of the WKCD model, raised concerns about huge construction and ongoing maintenance costs associated with such unique architectural project. More importantly, the harmony and beauty of the harbour view, which is unquestionably the most valuable asset of Hong Kong, may potentially be destroyed or disrupted by the creation of a canopy.

The canopy may also pose a safety concern during typhoons and its construction should therefore carefully be reconsidered.

[SCMP, 23 February 2005]

Noise controls killing West Kowloon as concert venue

The strict noise rules may drive concert promoters out of the proposed WKCD. Recently, the organisers of a seven-hour rock marathon Wild Day Out at West Kowloon Heliport received 19 warnings of excessive noise from the Environmental Protection Department.

The organisers of Wild Day Out said the chance of using the WKCD as a performance venue was slim because of the potential complaints expected to be received from relevant government departments. The dilemma faced by organisers was when the WKCD was used, was that while they complied with the relevant noise control

stipulations, the audience would on the other hand complain about the weak sound.

It was pointed out that the problem did not only relate to modern music, but classical music as well, since those performances could also be very loud. The threat posed to classical music, which had always been a major element of cultural programmes, might deter even more organisers from considering the WKCD as a venue.

Promoters urged the government to think twice about planning to stage outdoor concerts in the WKCD, particularly when more residential buildings were to be built in that area, in order to avoid the unfortunate situation of the Hong Kong Stadium to being repeated.

[SCMP, 14 February 2004]

HONG KONG BRIEFING

Waste incinerator opponents “have the wrong target”

A 20-metre-high compact incinerator has been built adjacent to a production plant at Tap Shek Kok, in Tuen Mun, with the aim of conducting a proposed waste incineration trial. About 30 tonnes of solid waste will be burnt each day for three days per week. The trial could last up to 16 weeks if the emission levels are satisfactory. The purpose of the trial is to yield useful information to test the claim of Cheung Kong Infrastructure Ltd. for a future contract from the government to build and operate an integrated waste treatment system.

Despite the company's expectation of dioxin emissions being much lower than the legal limit, residents of Lung Kwu Tan, Tuen Mun, opposed the controversial trial. They are concerned that health deterioration will be caused by the cancer-causing dioxins emitted during the process. Representatives of the company said that the residents' fears were groundless, and put the blame on the rapid growth of the Pearl River Delta for general deteriorating air quality. Whilst acknowledging the northerly winds do bring polluted air from the Guangdong Province to Tuen Mun, representatives of Lung Kwu Tan village stressed that the incinerator's emissions brought by southerly or easterly winds would have far greater impact on them.

[SCMP, 7 February 2005]

Governor vows to tackle air pollution

In the provincial People's Political Consultative Conference held on 24th January 2005, delegates of Hong Kong and Macau raised air pollution problems with Guangdong governor, Huang Huahua, who gave assurances that his government was determined to combat air pollution problem in the Pearl River Delta. The issue was raised following a study of air pollution across the border, which clearly indicated that the matter has become more serious in recent years.

Practical steps taken by the Guangdong province include moving small cement factors and polluting power plants in the Pearl River Delta to the mountainous interior, promoting the use of clean energy by building more nuclear power plants, liquefied natural gas power plants, and harnessing wave power to generate electricity.

Mr. Huang promised that efforts to overcome air pollution problem would not be compromised by the province's strong determination to press on with industrialisation.

[SCMP, 25 January 2005]

Decline in air quality cuts HK lifespan by 16 months

According to an estimate of prominent energy and environmental expert Ari Rabl, poor air quality in Hong Kong, which roughly has the effect of smoking 8 cigarettes a day, was shortening the life expectancy of people in Hong Kong by 16 months.

Whilst the adverse impact of poor air quality in Hong Kong was far more serious than in other major cities in the world, the focus should not only be on the shortened lifespan, but also on the last few years of life when people suffered miserably from diseases linked to air pollution, Dr Rabl warned.

Dr. Rabl also indicated that significant adverse impact of air quality on the development of children: Pollutants can adversely affect the mental development of babies and young children but a cleaner environment would improve their brain development.

[SCMP, 3 January 2005]

Bid to enlarge Park Island beach

Sun Hung Kai Real Estate Agency, a real-estate developer, plans to quadruple the size of a beach next to its Park Island development at Ma Wan under a project it claims will cater to swimmers, even though the water there is so polluted that the beach is often closed to the public. Additional space for a beach volleyball court and a lifeguard tower, as well as more room for sunbathers, will be provided.

Due to its location on an island at the Lantau end of Tsing Ma Bridge, the 15,000 square metre reclamation is not governed by the Harbour Protection Ordinance. Seven nearby public beaches have been closed to swimmers because of local pollution levels. Tung Wan Beach is the only one currently open.

The developer says the project will improve the beach environment to meet growing demand from swimmers after the closure of other beaches in the vicinity. The project is described as “community work” supported by Park Island residents and Tsuen Wan district council. The developer says they will follow all applicable government procedures in the improvement work and the proposal will be gazetted and open to public consultation.

Under an initial agreement, the developer will finance the project and provide a five-year guarantee to maintain the landscape of the beach. The Leisure and Cultural Services Department will pay management and maintenance costs. A spokesman for the Leisure and Cultural Services Department said the work would be scrutinised under the Town Planning Ordinance and the Foreshore and Seabed (Reclamation) Ordinance.

Ho Kin-chung, of the Advisory Council on the Environment, said the project's main purpose was to beautify the environs of the developer's housing estate. However, there was not much point in expanding the beach for swimming purposes, given the poor water quality. Professor Ho said the project would need to undergo an environmental impact assessment and would require an amendment to the area's zoning plan.

The beach at Ma Wan was seldom visited before homebuyers began moving into Park Island in 2003. It was closed four times due to poor water quality last year, with 16 of the 39 tests conducted there showing poor to

very poor water quality.

[SCMP, 28 February 2005]

ADVISORY COUNCIL ON THE ENVIRONMENT (ACE)

Report on the 90th Environmental Impact Assessment Subcommittee Meeting

EIA report on Siu Ho Wan Water Treatment Works Extension

*(ACE Paper 10/2004) (by EIA
Subcommittee Secretariat, December
2004)*

At its 90th meeting, the Environmental Impact Assessment (“EIA”) Subcommittee considered the strategic environmental assessment report on Territory-wide Implementation Study for Water-cooled Air Conditioning Systems in Hong Kong. Separately, the Subcommittee also considered the EIA report on Siu Ho Wan Water Treatment Works (WTW) Extension.

Need for the project

The existing Siu Ho Wan WTW and the associated raw water and treated water transfer and distribution systems provide treated water to the Hong Kong International Airport at Chek Lap Kok and the initial phases of North Lantau New Town and Discovery Bay. The systems have a capacity of providing treated water of 150,000 m³/day. In order to cope with the water demands of the developments at North Lantau new town, the north shore and north-east areas of Lantau and Discovery Bay, the Water Supplies Department has proposed an extension of the Siu Ho Wan WTW.

Description of the project

The project comprises the following-

- (i) extension of the Siu Ho Wan WTW within the existing WTW site boundary from a capacity of 150,000 m³/day to 300,000m³ /day;
- (ii) construction of Siu Ho Wan Raw Water Booster Pumping Station and the associated raw water mains, and E&M plants site;

- (iii) demolition and reprovisioning of the Pui O Raw Water Pumping Station;
- (iv) uprating of Pui O No. 2 Raw Water Pumping Station;
- (v) laying of two sections of 2km long raw water mains at Pui O; and
- (vi) all other associated civil, building, structural, piping, mechanical and electrical works.

Only (i) above is classified as a designated project under the EIA Ordinance.

Members’ views and the conclusion of the Subcommittee

Having regard to the findings and the recommendations of the EIA report, members of the Subcommittee (“Members”) agreed that the EIA report could be endorsed without condition.

Strategic environmental assessment of Territory-wide Implementation Study for Water-cooled Air- Conditioning Systems in Hong Kong

*(ACE Paper 11/2004) (by EIA
Subcommittee Secretariat, December
2004)*

Need for the study

Over 30% of electricity produced in Hong Kong is estimated to be consumed by air-conditioning systems. An increasing population and further economic development will continue to encourage the demand for air-conditioning. Water-cooled air-conditioning systems (WACS) are more energy efficient than their conventional air-conditioning counterparts. Wider adoption of WACS, especially in commercial buildings, is an effective measure to conserve energy and reduce greenhouse gas emissions associated with electricity consumption.

Description of the study

This Study aims to formulate plans, programmes and control requirements for the phased implementation of WACS in the territory. It has examined in detail the relevant environmental, health, regulatory, institutional, financial, technical and land administration issues in WACS implementation. It has also explored various technologies and three strategic WACS,

namely the Centralised Piped Supply System for Cooling Towers (the Cooling Tower Scheme), the more energy-efficient District Cooling Scheme and Centralised Piped Supply System for Condenser Cooling (the Seawater Scheme).

Use of seawater (flushing water) for the Cooling Tower Scheme and District Cooling Scheme

On the viability of using seawater for the Cooling Tower Scheme, the project proponent explained that there were constraints in the supply of adequate seawater in Hong Kong. It would be necessary to make capital investment in improving and extending the pipeline network of the flushing water supply system. Comparatively, there would be adequate supply of fresh water. In addition, the Cooling Tower Scheme would emit moist air from the system. The high corrosive power of salty moist air would adversely affect structures and buildings in the vicinity, particularly metal fixtures such as windows and doors.

As regards the use of seawater for the District Cooling Scheme, the project proponent team explained that most District Cooling Systems in overseas countries used fresh water. In Hong Kong, seawater would be used for District Cooling System as far as possible; but for areas which were too far from the sea, fresh water would have to be used.

As regards the loss of water from the Cooling Tower Scheme, the project proponent pointed out that the loss rate would be minimal, i.e. about 1% of recirculating cooling water or in the order of 1 m³ of water for 1 m² of area per year.

The impact on seawater temperature

On the impact on seawater temperature, the project proponent team explained that despite an increase of 5°C to 6°C in seawater temperature at the outfall of the seawater discharge, and a slight increase of 1°C in some localized water zones, according to the water quality modelling conducted during the Study, there would be no problem in complying with the water quality objectives for Hong Kong waters. In marine sensitive areas, such as Tolo Harbour, Deep Bay and the vicinity of fish culture zones, seawater discharge would be avoided. The project proponent also pointed out that, depending

on the quantity of seawater discharge, a discharge licence would be required from the Director of Environmental Protection and hence subject to controls imposed by the Director.

General impact of WACS on the environment

On the general impact of WACS on the environment, the project proponent team explained that the conventional air-cooled air-conditioning systems consumed a lot of electricity, and their impact on the environment was significant. While the WACS might also have an adverse impact, it was much less than that caused by conventional air conditioning systems.

The feasibility of recovering and using the heat produced by WACS

The project proponent team advised that as heat was produced during the operation of WACS, the study on the implementation of a pilot District Cooling Scheme in Wan Chai Waterfront would not rule out the feasibility of recovering the heat produced by WACS for other uses.

Implementation of the recommendations of the Study

On the implementation of the recommendations of the Study, the project proponent team advised that a consultant was appointed in September 2004 to draw up guidelines and other relevant requirements on the proper use of cooling towers for air-conditioning purposes. A task force had also been set up to steer the drafting of guidelines. At present, there was no plan to introduce statutory requirements for the implementation of WACS.

Noise and visual impacts of the Central Seawater Scheme and District Cooling Scheme

With regard to the visual impact of the Central Seawater Scheme and District Cooling Scheme, the project proponent team explained that since the major chiller plants of the two Schemes were put underground, there was no visual impact as such. In fact, the replacement of conventional air-conditioning systems by the two Schemes would greatly improve the amenities of buildings in the territory. As for the District Cooling Scheme, buildings served by the Scheme did not require their own chiller plants, thereby eliminating noise and water-

dripping problems usually associated with conventional air-conditioning systems. Furthermore, the footprints of WACS would be smaller than those of conventional air-conditioning systems.

Conclusion

Having regard to the findings and recommendations of the Study, Members supported the steps to move forward recommended by the Study.

REGIONAL & INTERNATIONAL

HONG KONG

Greens urge ban on local trawling

Environmentalists have urged the government to ban trawler fishing in Hong Kong waters in order to restore decreasing fish stocks, claiming that lawmakers are ignorant about the damage done to the marine environment by inshore trawling. When trawling, boats drag massive nets along the seabed, damaging coral, sponges and other life forms on the bottom and scooping up all fish in their path.

Markus Shaw, chairman of WWF Hong Kong, said that trawling was environmental vandalism taking place under the sea. People generally were not aware of the damage trawling causes.

Mr. Shaw said the average size of fish caught by trawlers is a mere 10 grams, and 12 out of Hong Kong's 17 commercially important species were over-exploited, whilst the remainder were fully exploited. Hong Kong has the lowest biomass of fish per square metre of reef in the world. The WWF in Hong Kong has presented its official submission to Deputy Secretary for Health, Welfare and Food.

The government has proposed that all commercial fishing boats be required to hold licences and to abide by an annual two-month moratorium to help stocks recover.

Patsy Wong Pat-shun, senior fishing officer at the Agriculture, Fisheries and Conservation Department, said the moratorium idea, which was opposed by the fishing industry, might be abandoned so as to win support for a fishing licensing system.

Most of the fishing groups which have been consulted by the department generally supported a licensing system. But they had reservations about the moratorium and a proposal to ban trawling in Tolo Harbour and Port Shelter, coupled with the creation of two no-take zones in which all fishing would be prohibited.

[SCMP, 7 March 2005]

ASIA

Asia's jungles in a jam, but hopes high for reforestation

Reports by environmentalists reveal disappearing forests, waterways choked with waste, coastal destruction and a shroud of air pollution in Asia. The blame is placed on industrialisation and man's thirst for natural resources and hunger for wealth.

China receives the brunt of the conservationists' wrath, allegedly being responsible for rampant illegal logging, consuming ever-greater amounts of coal and oil, gobbling up seafood stocks and making endangered animals and plants scarcer than they already were.

A report on Indonesia's tropical forests released in Jakarta recently by the Britain-based *Environmental Investigation Agency* claimed that dozens of shiploads of illegally cut logs were each month being taken from the eastern province of Papua to a port north of Shanghai to be turned into floorboards. Senior investigator, Julian Newman, said the trade contravened a 2002 agreement between China and Indonesia to stop such practices. He claimed Indonesia's military was profiting, as well as Hong Kong, Singapore and Jakarta-based middlemen, who had provided forged documents. Mr. Newman said the 2002 agreement was good, but the ministries in both countries responsible for implementation had insufficient power.

The report came amid fears that Indonesia's dwindling natural forests would be targeted for timber to reconstruct parts of Sumatra devastated by the earthquake and tsunami on 26 December 2004.

Indonesia is cited by experts as one of the world's acute environmental worries. Disappearing forests result in increased landslides, and there are concerns about water supplies and endangered species.

Although Indonesia officially lost two million hectares of forest last year, some environmentalists said the real figure was four million hectares.

On the other hand, inventories showed that forest cover had risen by one million hectares last year in the Philippines. In China, it was reported that seven million hectares were being reforested annually on the mainland.

The UN organisation's 2003 report on the state of forests in Asia and the Pacific showed an average of one million hectares was being lost in the region each year. A forestry official with the regional office of the UN Food and Agriculture Organisation said the figure was now probably 1.5 million hectares. The rate is slower than it once was because in some countries, especially in northeast Asia, forests are being restored and re-established.

Despite China's extensive reforestation programme, the mainland is seen as the biggest challenge to conservation of the world's forests. Devastating floods on the Yangtze and Yellow rivers in 1998 killed thousands of people, and the removal of forests along the banks of the rivers was blamed. A ban on cutting down natural forests has led to timber being sought from other sources worldwide.

The president of the Washington-based environmental group Forest Trends said research showed the quality of the new forests to be poor. Countries wanted to become self-sufficient in their own timber needs in the next 15 years. However, an analysis conducted by Forest Trends, with the collaboration of many Chinese institutions, concludes that this is not going to happen.

Borneo's forests could be gone in 10 years. Part of the reason for that is the demand for timber in China, and the rapidly growing palm oil industry. Forests in the Russian Far East might be the most threatened in the world at this point because they are just on the other side of the border with China and there is a new need for hard currency. Myanmar's forests are also threatened.

The concern is high, yet some environmentalists are optimistic that Asia's developing countries will heed the warnings. US environmental journalist, James Fahn, argued that degradation of Asia's environment would slow and then reverse as countries embraced democracy and built

democratic institutions and strong civil societies. Mr. Fahn commented that democracy was very good for the environment generally because it allowed the building up of civil society that could then pressure the government and business sector to be more concerned for environmental issues.

A 2001 court case in which a Thai girl was awarded damages for being injured by toxic pollution at Bangkok's port was a hopeful sign. So, too, was the steadily increasing number of environmental pressure groups in the region.

Mr. Fahn, a resident in Thailand from 1990 to 1999, said he drew inspiration from the country, even though during the past 40 years, most of it under military dictatorships, forest cover had fallen from 60 per cent of the country to the present 15 to 20 per cent. Under democratic governments, corruption had decreased and environmental awareness increased markedly.

Traditionally, nature's resources provides the livelihood of farmers and fishermen. Mr. Fahn said Indonesia and other Asian nations could use increasing wealth and relatively low urbanisation to their advantage. The basis is to give authority back to the villagers who have lost control over land they once used to gather food or medicine, due to timber concessions and the like.

One approach is to reward people living in or near forests to take care of their surroundings. This will not necessarily be cash, and could include secure land ownership, and access to markets or health clinics.

Another increasingly popular approach in Asia is to employ community-based forestry management, which gives more power to villagers to conserve their forests.

[SCMP, 28 February 2005]

CHINA

Wetlands plan will lessen damage from disasters

China plans to develop a huge wetland conservation zone along the coast of the Pearl River Delta to help reduce the impact from tsunami and typhoons. It will include all the marshlands and mangrove forests in

Guangzhou, Zhuhai Shenzhen, Hong Kong and Macau.

State Forestry Administration vice-director, Zhao Xuemin, believes the plan will help maintain the fragile ecological system in the delta and reduce damage from natural disasters, including floods, typhoons or tsunamis. The director said China would launch a nation-wide programme this year to give better protection to its wetlands, which ecologists said were crucial for biological diversity, water quality and flood control.

The Guangdong Forestry Administration said it planned to spend 500 million yuan in the next five years on wetland conservation. The money would be used to plant a 50,000-hectare mangrove forest near the mouth of the Pearl River, and on a programme to preserve 50 hectares of nearby natural wetlands.

Guangdong has 1.84 million hectares of wetlands, accounting for about 11 per cent of its total territory. It also boasts the largest mangrove forest in China, covering more than 10,000 hectares. But the wetlands are shrinking due to rapid industrialisation in the Pearl River Delta.

Dr Lew Young, conservation manager of the Mai Po nature reserve in Hong Kong, said the authorities must conduct a thorough study before setting up the conservation zone. He said wetlands were a natural buffer for the coastlines and could help absorb the destructive impact of typhoons and tsunamis.

[SCMP, 24 February 2005]

INDIA

Tigers disappear from reserves

Tigers disappeared for a year at Sariska Park in Rajasthan, one of India's best-known reserves. At other famous parks, such as Ranthambore in Rajasthan, the sightings are becoming rare. Ranthambore officials say 18 tigers are missing.

Experts fear that the species is being pushed inexorably towards extinction. Rajasthan MPs, who normally care little for environmental matters, worry very much about how tourism will suffer if the tigers disappear. They have thus demanded the creation of a special taskforce to investigate the problem.

The bulk of India's estimated 3,600 tigers, about half the world's total population, are to be found in nine reserves in India, including Sariska and Ranthambore.

The tiger's usual threats, such as poaching, shrinking habitat and recurring droughts, are causing great damage in India. Years of drought in Rajasthan have dried up water supplies in wildlife sanctuaries as well as ruining crops. Conservationists want the parks to receive water. However, the Chief Minister said that farmers had threatened to commit suicide if precious water was given to sanctuaries instead of to them. He portrayed the issue as being a conflict between human beings and animals.

Tiger expert, Valmik Thapar, said that the Rajasthan government kept giving out mining leases to contractors in areas that were protected forests, like Sariska, in violation of the laws. The human activity there drives the tigers away. The most serious problem is the destruction of the tigers' habitat and prey. In Ranthambore, the 300 sq. km core of the park has been invaded by graziers and livestock.

Poaching is another hazard. The Environmental Investigation Agency lobby group said late last year that China's economic boom was fuelling the illegal trade in tiger products.

[SCMP, 16 February 2005]

HONG KONG

Hong Kong joins partnership on renewable energy

On 25 January 2005 Hong Kong joined an international network promoting the use of renewable energy.

The Renewable Energy and Energy Efficiency Partnership was initiated by Britain at the Johannesburg World Summit on Sustainable Development in 2002. It aims to accelerate and expand the international market for renewable energy and energy-efficiency systems by matching donor funding with projects and sharing information and experiences between partners. Other members include the United States, Australia, Japan and the European Commission.

A government spokeswoman said joining the partnership would help Hong Kong develop

renewable energy. It will enable Hong Kong to have better access to the latest policy and technology developments relating to renewable energy and energy efficiency in other parts of the world.

It is believed that more energy-saving measures and wider use of renewable energy in Hong Kong will help to reduce reliance on fossil fuels and to control greenhouse gas emissions.

Edwin Lau Che-feng, assistant director of Friends of the Earth, said he hoped the partnership could help Hong Kong regulate the market and promote renewable sources. However, he said it was crucial that Hong Kong shouldered its responsibility as a developed economy.

Under the government's proposal, Hong Kong will reach a renewable energy target of 1 per cent by 2012 and 3 per cent by 2022. It is estimated that the city's carbon dioxide emission will rise 39 per cent from the 2000 level by 2010.

The signing came about three weeks before the Kyoto Protocol, an international convention fighting global warming, came into force on 16 February 2005. Under the Kyoto Protocol, at least 30 developed countries will be required to cut greenhouse gas emissions to 1990 levels. The protocol, which the mainland has signed, will also be extended to Hong Kong under an agreement with the central government.

Hong Kong will escape the reduction target imposed on developed countries as China is exempted due to its status as a developing nation.

[SCMP, 25 January 2005]

USA

Bush renews demand for Arctic oil

President Bush has again urged Congress to permit oil exploration and exploitation in the Arctic Refuge, Alaska, citing America's heavy dependence on foreign oil as a security problem.

Mr. Bush argues that a small corner of the Arctic Refuge - the last true wilderness area in the USA - should be opened up for oil production, so as to lessen the dependence of America on high-priced oil imports.

The last attempt by the Bush government to override the strict non-exploitation status of the Refuge was rebuffed by Democrats and a number of moderate Republicans in the Senate. They agreed with conservationists that the country needs to look to alternative energy sources rather than endangering the fragile ecosystem and wild life habitat of the Arctic Refuge.

It is estimated the Refuge holds oil reserves of approximately 16 billion barrels. America currently imports an estimated 11.8 million barrels of oil per day.

[SCMP, 11 March 2005]

This Quarterly Report does not constitute legal advice given on any particular matter. Whilst all effort has been made to ensure completeness and accuracy at the time of publication, no responsibility is accepted for errors and omissions. Further information and enquiries in respect of this quarterly should be directed to Fred Kan & Co. or any of our following associate firms:

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