

URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY

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The main article in this edition considers an example of Hong Kong's regulatory agencies' willingness to bend environment-protection regulations for the sake of other administrative priorities. This tendency is reflected in many aspects of Hong Kong's governance, and, it must be said, is not peculiar to Hong Kong. The context of the article is protection of our once wonderful Country Parks, which are under constant threat from the perceived needs of an increasing population.

The Editors

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RUBBISHING OUR COUNTRY PARKS: A QUESTION OF PRINCIPLE

The decision taken in June 2007 by the Country & Marine Parks Board (CMPB) to “endorse in principle” an encroachment of 5 hectares into Clearwater Bay Country Park, has caused a number of Hong Kong’s Environmental NGOs to review with concern certain actions of the Administration in respect of Hong Kong’s country parks.

An increasing body of evidence suggests that the Administration’s respect for our precious Country Parks is, at best, ambivalent. Specific concerns include: a 10 year delay in carrying out the commitment of the then Chief Executive to designate Lantau North Country Park; obfuscation in establishing the proposed Sokos Marine Park, and instead approving the LNG Terminal EIA for construction in the Sokos Islands; and allocating land without compensation from Clearwater Bay Country Park for the proposed SENT Landfill Extension, and from Lantau Country Park for the Tung Chung Road. Other examples also exist¹.

Further grounds for concern emerge when these actions are considered against a background of the government’s progressive, general downgrading of the importance of the environment².

It is hoped that this regrettable (but continuing) trend in which environmental concerns are being compromised for development objectives without appropriate safeguards being established, or appropriate environmental trade-offs given, can be reversed.

This issue has come to a head now because the Environmental Protection Department (EPD) intends (for the second time in 15 years) to use Clearwater Bay Country Park to maximise the capacity and cost-effectiveness of a landfill. They and the Agriculture, Fish and Conservation Department (AFCD) did not provide the CMPB with all the facts and relevant documentation in relation to the previous unlawful and non-compatible use of land in Clearwater Bay Country Park, which are directly relevant to the present application.

What makes the situation even worse is that EPD intends (contrary to the Ombudsman’s recommendations and proper environmental assessment practice)³, to rely on a partial, conflicted consultation process when a better process (and appropriate precedent) exists. The lawful procedure is for EPD to request permission from the Chief Executive in Council to excise the necessary land and to compensate with a similar area - under sections 8-15 of the *Country*

Parks Ordinance (Cap. 208) (CPO).

The time is appropriate to raise this issue as the opportunity exists to rectify the current situation, and for the appropriate processes to be followed to achieve an outcome, which carries the stamp of unimpeachable credibility and legitimacy, and which will prevent such situations occurring in the future.

It should, however, be stressed that the main concern is not the landfill, which is recognised as a necessary evil in Hong Kong’s waste management strategy, but rather the *process* under which EPD is seeking to use part of Clearwater Bay Country Park, whereby:

- a. neither AFCD (as the Country Parks Authority) nor the Country Parks Board has the legal right under the terms of the CPO to approve uses of the country park - temporary or otherwise – that do not meet the terms set out in section 4 of the Ordinance;
- b. public rights to consultation in a statutory procedure are being bypassed;
- c. no off-set is offered for the public’s loss of Country Park land; and
- d. the CMPB has not been given the full facts of the case laid before it.

Possible remedial actions include:

- a. ACE and/or CMPB call for a review of the CPO to establish a legal mechanism for dealing with projects that do not comply with the stated objects of the Country Parks as set out in section 4 of the CPO;
- b. a mechanism is established for assessing the merits of proposed non-conforming uses, which has the following key considerations:
 - (i) no land of high ecological value can be used (i.e. designate “no go” areas);
 - (ii) a test for overriding public benefit should be established ;
 - (iii) all deliberations be open to full public scrutiny and comment;
 - (iv) an appropriate mechanism for land off-sets be established ;
- c. the boundaries of Clearwater Bay Country Park be redrawn and gazetted to exclude the landfill and other government land of at least medium ecological value be incorporated into the park in compensation.

¹ Annex 1
² Annex 2
³ Annex 5

CLEARWATER BAY COUNTRY PARK AND SENT LANDFILL

Background

EPD has released for consultation an EIA of its proposal to use 5 hectares of Clearwater Bay Country Park to optimise the life-span and cost-effectiveness of the South East New Territories (SENT) Landfill. EPD obtained "in principle" endorsement from the Country Parks Board (CPB) in early June 2007. EPD noted that approval was required in order to commence the formal EIA study⁴ although it is not stated under which policy, legislation or administrative procedure this is so.

However, EPD and AFCD, in its position of Country Parks Authority⁵, failed to inform CMPB that, when a similar application was made by EPD to use 18 hectares of the same country park for SENT Landfill in 1993, the procedure was challenged by *Friends of the Earth* (FoE). That year, FoE submitted a complaint to the Ombudsman, who substantiated a number of the points raised by FoE and made several statements that are of direct concern to the present case⁶.

The fact that this information was apparently not supplied to the CMPB for the 2007 proposal gives rise to the very serious concern that the departments' decision is without legal basis and is contrary to correct procedure, as was determined by the Ombudsman. The Ombudsman noted that initially the AFCD had objected to the landfill as a non-compatible use under the CPO. Bearing this in mind, the current decision of the CMPB must be revisited with full access to this information.

EPD have informally consulted environmental NGOs about the SENT Landfill Extension. EPD were informed by the NGOs that this may be acceptable if appropriate compensation were offered in the form of designating suitable areas of high ecological value elsewhere in Hong Kong as Country Park.

EPD has informed the NGOs that it is not policy to compensate for the land taken, although it has not stated under what policy, ordinance or administrative measure this is so. EPD has instead offered to plant trees to screen the landfill as mitigation. This is insufficient to protect the public interest in Country Parks.

The FoE Judicial Review: unsound approval of development inside country parks

In 1992 FoE launched a judicial review on a related issue of unlawful approval of non-conforming uses of Country Park land. FoE successfully argued that the Country Parks Authority was wrong in using section 10 of the Country Parks Ordinance (cap 208) to approve developments in established Country Parks. This decision led to the refusal of permission for a private golf course at Sha Lo Tung.

Since then, the Country Parks Authority has continued to approve government works in country parks, although it is not known under what legal mechanism this is being done, as no provision exists within the Country Parks Ordinance to authorise such works. The AFCD acknowledged this to be the case in an informal meeting with concerned members of the public in July 2007.

The Country Parks Authority (i.e. AFCD) has also claimed, contrary to the views of the Ombudsman in 1993, that it has no power to determine the use of government land inside Country Parks, and that such decisions lie with the Land Authority (Lands Department). This view is not in accordance with the CPO, section 3 of which clearly identifies the Director of AFCD as the Country Parks Authority. This AFCD view is a misunderstanding of the legal position⁷.

It is wrong in principle to use Country Parks for a rubbish tip⁸, as asserted correctly by the AFCD itself in 1981, 1989 and 1990. It is also wrong to seek endorsement from the CMPB when AFCD knows it has no authority to approve incompatible developments in country parks. This is aggravated further by failure to provide the highly relevant information mentioned above to the Board in the current process. Furthermore, it appears to be unlawful to bypass the statutory mechanism for public consultation provided by sections 8-15 of the CPO.

The situation becomes more serious when put in the context of other decisions of the Administration that have had an adverse impact on Country Parks.

The Correct Procedure

The appropriate procedure, if EPD wishes to obtain Country Park land for use as a rubbish dump, is to request the Chief Executive in Council to excise the land following gazettal of the redrawn boundaries of Clearwater Bay Country Park. This procedure is clearly set out in sections 8-15 of the CPO. Redrawing the boundaries, and the public consultation process this would trigger⁹, also provides the opportunity to compensate by adding areas of high ecologically significant land, and thereby enhancing the overall value of the Country Parks network.

ANNEX 1

Country Parks impacted by recent government decisions

1. In recent years Hong Kong's Country Park system has suffered from a number of incompatible actions and adverse developments allowed by the HKSAR Administration, of which the following are examples.
2. **Lantau North Country Park** – Intended as compensation for Chek Lap Kok Airport and approved in 1999 but gazetted only in January 2008, almost 10 years later, apparently due to "lack of funds" (note: according to conservative assessments, Hong Kong government reserves currently stand in excess of HK\$900 billion).
3. **Lantau Country Park** – Tung Chung road widening was approved without compensation and has been subject to further unpunished abuses stemming from poor site management and the construction of an illegal access road during 2005-7.
4. **Soko Islands potential Marine Park** – Identified as a potential marine park, but the process of designation was halted in 2002. In 2007 the Director of Environmental Protection approved the EIA for an LNG Terminal to be built there.
5. **Clearwater Bay Country Park** – EPD plans to build a landfill adjacent to the Country Park and use 5 hectares of land without offering appropriate land set-off – 2007.
6. **Marine Parks:** AFCD continues to issue fishing licences to legitimise fishing inside the very small percentage of Hong Kong's waters that have been declared marine reserves, including at least 360 in 2007.

ANNEX 2

Administrative policy and actions which adversely affect the environment:

1. Sustainable Development Unit devolved from the office of the Chief Secretary to the Environment Bureau, reducing its significance to parity with other development issues rather than an overarching framework governing all development decisions which represent global best practice.
2. The Creation of the Development Bureau with the express intention of "fast-tracking" development projects.
3. The Chief Executive's recently stated desire to increase the population of Hong Kong to 10 million people, putting even greater pressure on Hong Kong's already stretched land resources.
4. The appointment of an Environment Secretary with no environmental background means that the environment has no qualified advocate in ExCo.
5. The appointment of an Administrative Officer as Director of Environmental Protection with no environmental background. The role is highly technical in nature and cannot be learned in a few months.
6. Lantau Concept Development Plan – reversal of declared Government policy designating Lantau as Hong Kong "Green Lung", that should be set aside for recreation, wildlife and landscape.
7. Deep structural weakness in the Nature Conservation Policy; very slow rate of implementation leaves sites vulnerable and without any legal protection.

ANNEX 3

EIA for SENT Landfill: conflict of interest and the wrong mechanism

1. *Wrong mechanism for assessing impact on the Country Park*

It is recognised that regardless of potential conflicts of interest, it is essential to conduct an EIA for the SENT landfill extension. However, the EIA Ordinance has no provision for assessing how the rights of users of the Country Park will be affected by the project.

Since the EIA Ordinance does not carry such authority, and EPD's EIA process is compromised by conflict of interest – EPD is the project proponent and the Director of Environmental Protection (DEP) holds the power of approval on EIAs – there is a clear need for public consultation under an appropriate mechanism to alleviate public concerns over conflict of interest and to protect the rights of the public to use and enjoy the Country Parks.

2. *Using the Country Parks Ordinance to address public consultation*

Fortunately, sections 8-15 of the CPO (section 15 particularly) provides for gazettal of a change of boundary when land is excised from the Country Park. The gazettal allows for public consultation on issues directly relating to the change of boundaries, and how this may affect the Country Park and its users.

It is particularly appropriate to follow this course given the Chief Executive's 2007 pledge to improve public consultation. The implication of the current approach proposed by EPD is the removal of a project – with a clearly conflicting use for country park land – from the protection of the highest Authority, namely the Chief Executive in Council, and to delegate it instead to the Country Parks Board, a group of public citizens vested only with the power to make recommendations and "endorsements".

ANNEX 4

The powers and duties of the Country Parks Authority

1. AFCD – the Country Parks Authority (CPA) – has recently stated that it has no authority in managing the Country Parks. It claims that when development is planned on government land the decision-maker is the Lands Department, and that the job of CPA is simply to make recommendations.
2. This view contradicts section 3 of the CPO, which expressly identifies the Director of AFCD as the legal authority and sets out clear criteria for that authority.
3. According to Section 4 of the Ordinance the duties of the Director are:
 - a. to make recommendations to the Chief Executive for the designation of areas as country parks or special areas;
 - b. to develop and manage country parks and special areas;
 - c. to take such measures in respect of country parks and special areas as he thinks necessary:
 - (i) to encourage their use and development for the purposes of recreation and tourism;
 - (ii) to protect the vegetation and wild life inside country parks and special areas;
 - (iii) to preserve and maintain buildings and sites of historic or cultural significance within country parks and special areas but without prejudice to the Antiquities and Monuments Ordinance (Cap 53); and
 - (iv) to provide facilities and services for the public enjoyment of country parks and special areas;
 - d. generally to administer the Ordinance.
4. These provisions indicate that the CPA is not merely an advisory body to the Lands Authority, but has independent authority to manage the Country Parks for wildlife protection and passive recreation.
5. It should be noted, however, that the Authority has no powers to permit developments that do not conform with the listed activities. In such instances a mechanism (sections 8-15 of the Country Parks Ordinance) has been established whereby land in Country Parks that is required for development should

⁴ Annex 3

⁵ Annex 4

⁶ Annex 5

⁷ Annex 6

⁸ Annex 5 point 1

⁹ Annex 6 point 7b

be excised from the Park following a gazettal process that allows proper public consultation under the auspices of the Chief Executive in Council.

6. In the past some confusion arose as to whether the Authority had the power to permit developments in Country Parks under Section 10 of the Country Parks Ordinance. However, it is clear from the first clause of that section that it is intended to prevent or control developments in *proposed* Country Parks, which have been gazetted but not yet approved. However, following a successful judicial review brought by Friends of The Earth in 1993 (in relation to Sha Lo Tung), this avenue for approval was closed.
7. Since then, the CPA has approved numerous new works inside Country Parks that were either ecologically damaging or created unwelcome eye-sores. There is still no indication of the legal authority relied on for permitting such non-conforming developments.
8. It has been suggested by EPD that no mechanism has been provided in the Ordinance to allow for land set-offs as compensation for incompatible uses (although the CPA does have the power to propose boundary changes). This is likely due to the fact the drafters of the Ordinance had no intention or expectation that any such uses would ever be proposed, let alone permitted by the Authority.

ANNEX 5

Key excerpts from the 1993 Ombudsman's Report

1. *Initial opposition from A&FD to the landfill (p. 36)*

"35. At the LDPC meeting held on 11 December 1981, CPA [Country Parks Authority] emphasised that "these (proposed) sites would be strongly opposed by the CPA under where approval under section 10 of Cap.208 is needed for any development within the Country Parks". Subsequently, on 27 October 1989, an Inception Report compiled by the consultants was sent to A&FD (Agriculture & Fisheries Department) for comment by EPD. On 10 November 1989, the department replied that the proposed encroachment of the landfill into Clearwater Bay Country Park (CWBCP) was unacceptable. . . ." (emphasis by the Ombudsman)

"... On 8 January 1990 A&FD also wrote to the consultants stating that: (a) the landfill development was not a compatible use from the point of view of Country Parks; . . ."

2. *Acting contrary to the CPO (p. 64)*

"SENT Landfill Project General Observations Misapplication of the CPO (Complaint Point (a)). Approval of the project perverted the stated objects of the CPO (Complaint Point (h))"

"69. Since EXCO had approved the location of SENT, the project would have proceeded smoothly if not for the subsequent proposal to encroach upon the CWBCP to make it more cost-effective. It is not lost upon the A&FD that a landfill is totally incompatible with all of the stated objectives of the CPO, and at first A&FD, as well as PMC/CPB had raised objections to the proposed encroachment, but to no avail. Subsequently, being presented with an apparently foregone conclusion, the department probably felt it had to toe the party line. This is unfortunate, since in administering the Ordinance, CPA is entitled to adhere strictly to his statutory duty of rejecting undesirable developments within the country park boundary."

"70. Despite A&FD's difficulties, I consider that as a matter of principle it should have insisted on the following before approving the development – completion of the EIA, Consultation with the [District Board] DB, invoking sections 8-14, and amendment of the park boundary.

At that time only the initial assessment of the EIA was then completed, and the EIA study did not commence until 1989 when the SENT landfill feasibility was commissioned. Subsequently, formal approval was given under section 10 on 31 July 1991, after the EIA was completed in November 1990, but by then the Sai Kung District Board was still not consulted.

On 13 April 1992 the High Court ruled in relation to the golf course case [at Sha Lo Tung] that section 10 does not empower CPA to authorise development within a designated Country Park. This turn of events, which clearly shows that the grant of section 10 approval for the SENT project was also *ultra vires*, should underline the need for conducting further public consultation on the project before proceeding

further." [emphasis added]

"71. The above findings show that the allegations of misapplication of the CPO and breach of the statutory objectives are substantiated, but I accept that A&FD was acting in good faith and in the belief that, on balance, the encroachment would be in the interests of the community."

3. *Appropriate application of approval in principle (page 71-73)*

"Recommendations

84. ... (h) grant of approval-in-principle for future land allocation to a private developer or incompatible use of country park land should take place only after all the important matters of principle, e.g. valid objections, sections 8-15 procedure, EIA etc. have been resolved (Lands Department and A&FD)."

4. *The public's right to comment (p. 90)*

"88. Regarding the section 8-14 procedure, call it consultation procedure or objection procedure the point is the public ought to be given a chance to make representations against massive incompatible developments proposed to take place within a designated country park."

5. *Authority & legitimate expectations of the Country Parks Authority (p. 93)*

"89. . . . I have advocated earlier in this report that there is no similar set of procedures for government land in the law, not because CPA does not need to enforce his statutory duty in respect of such land, but because it is a legitimate expectation that the Administration would naturally observe the objects of the law. I remain of that same view after reading the Administration's comments. If Government land is to be exempted from control, this would have been so stated in the Ordinance. I consider that sections 16 & 17 in no way derogate from or adversely affect CPA's role or authority in controlling, managing and developing all land within a country park."

6. *Use of this case as a precedent (p. 97)*

"93. It is unfortunate that, given the present state of affairs, there is no viable alternative but to proceed with SENT without invoking the objection procedure, but the situation is by no means satisfactory and must not be taken as a precedent for the future."

ANNEX 6

The proper application of the CPO

1. The CPO provides that management powers, duties and legal responsibility in respect to Country Parks lie with the Director of AFCD, who is named as the Country Parks Authority (CPA), assisted by an advisory Country Parks Board (CPB). However, ultimate power over the land rests in government at the highest level, i.e. the Chief Executive in Council. Therefore:
 - a. The Director of AFCD as Country Parks Authority is the legal manager of the land as Parks and has a duty to discharge his responsibilities in accordance with Section 4.
 - b. The highest branch of government i.e. the Chief Executive in Council, has residual or a landlord type of authority over 'the Land' if it is Government Land within the Park.
2. Thus, if a government department, e.g. EPD, wishes to use portion of a Park for waste disposal as a landfill, it can request that the area in question be removed from the boundaries of the Park by following procedures under Sections 8-15 and asking the Chief Executive in Council to amend the map to excise the area required.
3. However, whilst the land is still a part of the Park, it remains under the immediate and direct management and control of the Director of AFCD, as the Country Parks Authority, and he has positive legal duties to uphold the purposes of the Park in accordance with the CPO: Section 4.
4. If the CPA is faced with an application for land use in the Park that is compatible with Section 4 purposes, then it can approve or carry out the use. If the CPA is faced with an application for use that is not compatible with Section 4, temporary or otherwise, then it cannot approve that use.

5. Using a Country Park for waste disposal is not compatible with Section 4. This proposition was asserted repeatedly by AFCD itself until 1990. It is common sense-- and the law-- that landfill in a Country Park must not be approved by CPA (as the managing authority).
6. Instead, the Chief Executive in Council, if so requested by EPD and if it deems fit, has a discretion to use his statutory powers to excise the land from the Country Park, so that it reverts to being ordinary government land under the powers of the Lands Authority or EPD, or whatever appropriate department the government decides should control the land.
7. EPD and AFCD, by not following the statutory procedure in the SENT case, are:
 - a. removing from the Chief Executive in Council the responsibility to make the decision under Sections 8&15, and thus usurping the power and duty of the Chief Executive in Council ;
 - b. avoiding the requirements for public consultation which are part of the process under Section 9.
8. There is no statutory power of the CPA or CPB to approve a waste landfill in a Park. Any such approval would be *ultra vires* the CPA and CPB. For the CPA and CPB to do this would be to usurp the statutory power and duty of the Chief Executive in Council. It is also contrary to the CPO.

9. If waste disposal takes place by EPD, or anybody, the CPA has a duty to prevent it, and CPB has a duty to advise against it. The CPA has failed to take action in the past. It may not just note, or not object to, or process or consider the EPD request. It may only refuse. It may not, as highlighted by the Ombudsman¹⁰, stand by and stay silent and thereby condone such an abuse of the CPO.

[This article was submitted by Mike Kilburn, a staff member of Kadoorie Farm and Botanic Garden]

TOWN PLANNING

Cyclists take to streets in campaign for dedicated bicycle-paths

Forty cyclists followed a route from Kennedy Town to Shau Kei Wan through congested streets to dramatise their fight for a harbourfront cycle path.

The group included conservationists and lawmakers. They started from Kennedy Town and stopped at the North Point headquarters of the Planning Department to deliver a letter from the Hong Kong Cycling Alliance and the Hong Kong Cycling Information Network. The two organisations hope that a bicycle path will be included in the department's seafront promenade blueprint.

One cyclist said that the government's policy, which tries to squeeze every last dollar per square foot, has ignored considerations such as allowing more open space for the public on the south side of Victoria Harbour. He said that we have been indoctrinated into accepting as the norm an air-conditioned city environment, to the extent that a cycle path is a luxury.

Another cyclist observed that the city is not at all bike friendly. Riders are forced to share the roads with heavy traffic, which is very dangerous. By not providing sufficient cycling networks, the government has put cyclists at danger.

Two cycling fatalities occurred last year. A 7 years old boy was killed in April and a 13 year- old the following month, when he was struck by vehicles while cycling.

[The Standard, 07/04/2008]

Judicial review sought on heliport move to cut number of landing pads

Hong Kong Regional Heliport Working Group has sought judicial review of a decision to reduce the size of the heliport facility in the new master plan for the construction of a heliport next to the Convention and Exhibition Centre. The Group describes itself as a group of industry representatives and people concerned about the lack of downtown facilities for helicopters.

The Group is challenging the Town Planning Board's decision to amend the Draft Wan Chai North Outline Zoning Plan to allow for a facility with two landing pads instead of four. The Group claims that four pads are necessary to cater for forecast growth in

¹⁰ Appendix 5 point 2 paragraph 70

helicopter transport throughout southern China.

The size of the facility was reduced when the Court of Final Appeal ruled that the government needed to show an overwhelming public need if it was to reclaim any more of the harbour.

According to the Board, the re-sized facility will cater primarily to the Government Flying Service, as the Central Helipad facilities in Lung Wui Road, Admiralty, were closed in January 2004 for reclamation work. The facility will also provide space for domestic helicopter services. But there will be no provision for international services. The Group raised strong objections to the amendments but was informed in late January that their objections had been considered and rejected.

The Group considers that the Board made a fundamental error in assuming that expanding the Hong Kong-Macau ferry terminal's heliport would adequately address the growth in use of helicopters which has been forecast. According to their written objections, the heliport at the terminal is suitable only for twin-engine craft, whilst ground-based facilities could be used by single-engine aircraft. The Group said single-engine aircraft make up 85 per cent of the civilian fleet worldwide. They also are worried that the growth of the gambling industry in Macau would mean that any increase in helicopter services from the terminal would be absorbed by the increased traffic between Macau and Hong Kong.

The objectors dismiss alternative locations, such as Kai Tak, as being too far from the people who would use the facility, which will defeat the purpose of having a heliport.

The working group wants the Court of First Instance to overturn the Board's decision and to require the Board to reconsider its objections.

[SCMP, 12/04/2008]

Opposition to tower plan at Wanchai market site

The Urban Renewal Authority has announced its intention to turn the grade- three listed Wanchai market into a 39- storey high-rise. The plan was opposed by conservation groups yesterday for its adverse impact on the built environment and for being significantly out of proportion with the affected street-scapes.

The Authority replied that it is common in many places to build a new building on top of an old one when the original function of the old building no longer justifies its stand-alone existence, but people still want to preserve its façade. They believed the new plan has made concessions to both development and environmental protection. The plan will be passed to the Town Planning Board for consideration.

Only 40 per cent of the market's gross floor area will be preserved under the plan because room must be made for pilings for the foundations on which a car park and residential complex will be built. The main façade, including the main entrance, the curved canopy and fins, and part of the front portion of the structure, will be preserved. The reconstruction will take 6 to 9 months.

The Authority explained that it is not uncommon for a new building to be built on the old one. The idea has been applied to buildings all over the world, such as Germany's parliament house and the Peninsular hotel in Tsim Sha Tsui.

The Authority further explained that if other redevelopment methods are used instead of the present means-- for example, an exchange of land-- a minimum of 1.5 years are required to complete the project. Further time may even be needed considering the time for planning and consultation. There were suggestions to move the residential building back from the street so as to preserve the whole of the market, but this was rejected by the Authority because the land behind the market is not owned by the government. An exchange of land is not a choice, according to the Authority.

A green group criticised the plan for turning the historic two-storey market into a podium, meaning the purpose of preservation cannot be served. They stated that the Authority many parcels of land which could be used in an exchange with the developer. They blamed the Authority for insisting on the plan and for not being willing to face up to its planning mistakes.

[Mingpao, 22/04/2008]

Height restrictions could threaten plans for Polytechnic's tower

A height restriction proposed for Tsim Sha Tsui by the Town Planning Board yesterday posed a threat to the HK\$400 million "innovation tower" proposed by the Hong Kong Polytechnic University.

The proposed tower is intended to house the school of design and a museum showcasing local and international design classics. The height of the tower would be more than 70 metres. However, the new restriction proposed for the campus is only 45 metres.

The tower was designed by Zaha Hadid, an internationally renowned architect who won a competition held by the university. The architect was the first female recipient of the coveted Pritzker Architecture Prize, which is regarded in architectural circles as the equivalent of the Nobel Prize.

Building plans for the tower have yet to be approved. Construction is scheduled to start next year, completing in 2011. The Chairman of the Polytechnic University council said last year that the building would be a meeting place for all disciplines studied and taught at the university.

The university may raise objections to the height restrictions in the two-month public consultation period.

An architect and a member of the Harbourfront Enhancement Committee welcomed the restrictions. He considered that the restriction followed harbour planning guidelines. The guidelines, drafted by the committee, recommend that building heights should remain low along the harbour and increase inwards to the city centre. The architect considered that a stepped- height environment would facilitate better air ventilation. But he warned that the new restrictions would not apply to projects that have already been approved by the Buildings Department.

A hotel proposed by the New World Development on the harbourfront is one of the examples. With a height of 265 metres, the hotel will be built at the New World Centre after its department store is moved in July. The vice- president of the Hong Kong Institute of Planners said he was worried that the uniform height of 60 metres proposed along the harbourfront would affect Hong Kong's cityscape. He believed that buildings of various heights form a beautiful and unique cityscape. He also thought that the government should consider minor relaxation of height limits in individual cases.

The managing director of Savills Valuation and Professional Services agreed that a uniform height of 60 metres in East Tsim Sha Tsui would create a monotonous look. On the other hand, the Hong Kong Island waterfront was more attractive because of the different levels of building heights.

However, whilst developers in some foreign countries can get compensation if they lost out due to government rules, developers in Hong Kong will not.

[SCMP, 26/04/2008]

Hong Kong's drive for a green frontier

The government plans to use the frontier restricted area for ecological and heritage tourism and hobby farming.

The Permanent Secretary for Development (Planning and Lands) said that only low- density developments such as hostels would be allowed in the area. Traditional- style buildings would be built in the area as hostels.

The Government announced four months ago that 85 per cent of the 2,800- hectare zone would be opened up in three stages from 2010 to 2012. Ecological values would be preserved in 70 per cent of that area.

Within the zone are ecologically and culturally sensitive places such as: Hoo Hok Wai, with its fish ponds and home to rare birds such as the black- faced spoonbill and imperial eagle; Lin Ma Hang, a village with a dozen traditional- style houses which date back more than 300 years; and a river having 13 species of indigenous fish and a cave containing several bat species.

A preliminary plan will be sent to the Town Planning Board this week and public consultation will follow. The study will be completed in the middle of next year by the Board.

The plan may be a disappointment for those who want an economic and trade zone. The Permanent Secretary hoped that people would not have too much expectation over the development of the zone. He explained that land acquisition would be carried out only for drainage works. He stated that both Shenzhen and Hong Kong would ask institutions to carry out public consultation on the development of the zone.

Chief Secretary Henry Tan Ying-yen has suggested the zone be turned into a base for the development of high- value technology to compensate for the cost of cleaning up the land.

[The Standard, 13/05/2008]

Tsim Sha Tsui towers "too high"

A green group called on the government to negotiate with property developers to set appropriate height limits for two wall-like towers to be built in Tsim Sha Tsui.

Wharf has planned to develop a 96- storey building, with an estimated height of 386.7 metres, near Harbour City. Another 70- storey building, estimated at 265 metres high, will be built near New World Centre by New World Development. Both buildings are zoned for commercial land use.

Green Sense was critical that the towers would seriously affect harbour views on Kowloon side. The building near New World Centre would even block views of the ridgeline of Lion Rock. The government was urged by Green Sense to start negotiating with the developers to reduce the building heights.

The Town Planning Board announced last month an amended outline zoning plan of Tsim Sha Tsui for public consultation. The plan restricts the height of new buildings in the area to 80 metres.

The green group also questioned why the government allowed the two buildings, which were approved in 1999 and 2003 respectively, to be built on the harbourfront.

A poll by Green Sense of 300 residents and tourists this month revealed that 72 per cent agreed that the government should impose a height limit on harbourfront buildings in order to preserve the harbour view. More than 50 percent said the building planned for near New World Centre should not be allowed as it would affect the city view.

The survey also found that more than half the respondents suggested the harbourfront buildings should be within the range of 10 to 30-storeys.

[SCMP, 26/05/2008]

Over a hundred proposals received for heritage building

In order to better preserve our history and heritage, the government has initiated the Revitalising Historic Buildings Through Partnership Scheme. Seven buildings will be approved in the first phase of the Scheme. The Chairman of the Development Bureau announced that a total of 114 proposals have been received by the government and they are now under consideration and screening.

The Chairman said that the government had originally estimated that the Scheme would cost HK\$1 billion, but further funds might be needed after the Scheme has been launched. The Bureau will assess the Scheme and apply for funds to the Legco as and when necessary. There is at present no maximum limit for the budget. Funds will be given on a necessity basis.

The Chairman revealed that finance was not a problem and the government is willing to set aside a larger amount if that is necessary to make the Scheme effective.

The Chairman announced that the Scheme would operate under a high transparency of disclosure. It is hoped that the Scheme would meet its aim of revitalising historic buildings and maintaining sustainability in town planning.

[Headline Daily, 06/06/2008]

WEST KOWLOON CULTURAL DISTRICT (WKCD)

Concern over allocation of public space

At a recent Legco subcommittee meeting, lawmakers raised concern that the 23 hectares of public open space in the government's proposed plan for the WKCD might be split into smaller areas not conveniently accessible to the public. The government has responded that details of the public space would be made clear in the next planning stage.

[SCMP, 09/05/08]

Local artists invited to participate in the WKCD

A non-profit art group has organised an Art Container Project to promote the works of local artists and 38 local artists have

been invited to participate in the creative venture at WKCD by illustrating their designs on the sides of freight containers. The containers will then be packed with goods to be exported to various destinations around the world. A vice-convenor said they hoped the Project could put the local arts scene on the international map.

[SCMP, 09/05/08]

Tent theatre planned for delayed arts hub

As work on the West Kowloon Cultural District will not begin for another three years as well as to ease Hong Kong's shortage of performing arts venues and make the West Kowloon reclamation look less abandoned, the government suggested inviting proposals from the private sector to set up a temporary theatre in a tent on 3.5 hectares of the reclaimed site. The tent will be big enough to seat 1,000 to 1,500 people.

Members of the Harbourfront Enhancement Committee, which advised the government on the WKCD, welcomed the proposals but warned that the theatre must not be subject to excessive regulations, which would reduce people's incentive to tender their proposals. A committee member also said the proposal was not feasible if access to the arts hub site was not improved. Recently, a drive-in cinema on the arts hub site shut down because too many people found it difficult to access the hub.

The tent theatre would house cultural activities, particularly by non-profit making organisations, which would be allowed to rent space at concessionary rates.

[Ming Pao, 30/04/08]

WKCD will also be a rail hub

According to the Transport and Housing Bureau, the new MTR station at West Kowloon will be served by the Airport Express and the MTR via the proposed Kowloon Southern Link, which would make West Kowloon the city's rail hub as well as its arts hub once the museums and performance venues begin operating after 2015. In fact, the platforms of the new cross-border rail terminal will extend into the site of the WKCD. The government says, however, that as the rail lines will be underground they would not be counted as part of the site's gross floor area.

The authority to be set up to run the cultural district will control 3.3 hectares of the space above the station, on which offices or hotels up to 20 storeys high may be built. The Development Bureau will seek bids to build facilities, including a shopping mall, on the rest of the developable area above the terminal.

[SCMP, 23/04/08]

M+ museum

The government has announced plans to spend HK\$4.75 billion to build a modern visual arts museum in the WKCD to be called "M+ museum". This figure amounts to less than one quarter of the total costs of the whole WKCD project. However, it is expected the museum will operate at an annual loss of HK\$3 million. The government hopes the shortfall will be offset by rents from restaurants and commercial facilities at the site.

The Home Affairs Bureau forecasts that the HK\$4.75 billion would be spent in two phases. The first phase will be completed in 2015. When opened, the museum will charge an average admission fee of HK\$27.5. The second phase will be completed by 2031, with an average admission fee of HK\$30. The government expects that the museum will attract two million visitors annually, earning annual income of HK\$30 million.

[Sing Tao Daily, 23/05/08]

Trees near the WKCD have been felled

Almost 100 trees lining a road leading to the proposed West Kowloon Cultural District have been chopped down. A green advocate accused the government of a lack of sincerity in its stated policy of protecting trees, while a resident living nearby described it as "disgustingly horrifying". The government said the trees were removed to allow for road-widening.

[SCMP, 26/05/08]

The size of M+ not to be reduced

The government expressed the view that the size of the proposed modern visual arts museum in the WKCD, the M+ museum, should not be further reduced. Some legislators questioned that the HK\$2.6 billion cost of building the museum is too much, and

also questioned the need for such a big museum. The government, however, said the scale of M+ had already been reduced by 30% compared with the original design, and it cannot be further reduced.

[Sing Tao Daily, 05/06/08]

Regional cultural hub

After HK\$39.5 billion worth of rail construction to connect Hong Kong to Guangzhou and Shenzhen has been completed, Hong Kong will be fully integrated with the mainland rail network. The link, starting in West Kowloon, will cut travel times between Hong Kong and Beijing and Shanghai from the current 24 and 20 hours to 10 and 8 hours respectively.

The government believes the area around the terminus, which will extend into the West Kowloon Cultural District, will become a new commercial center as well as a transport hub. The integration of the terminus with the WKCD will also greatly enhance the district as a regional cultural hub.

[The Standard, 23/04/08]

Survey reveals fears for proposed cultural hub

A survey by a civic party found that 88 percent of the 332 respondents disagreed with the government's allocating a huge sum of money to construction of the WKCD before revealing how the money will be spent. And 72 percent of those surveyed said they were worried about the financial viability of the cultural hub.

[The Standard, 02/06/08]

Culture on Chief Executive's agenda

The Chief Executive has proposed strengthening ties with the mainland in order to encourage more arts and entertainment troupes to visit the proposed future West Kowloon cultural hub to entertain local audiences. He also said he expected the cooperation would foster two-way cultural exchange, so that more Hong Kong arts groups will be encouraged to perform in Mainland China.

[The Standard, 20/03/08]

HONG KONG BRIEFING

Mainland bag levy leaves HK lagging

The mainland has put a price on plastic bags nation-wide, prompting green groups to complain that Hong Kong is lagging behind the rest of the world. From 1 June 2008 mainland shoppers will be charged between 0.2 yuan (HK\$0.225) to 2 yuan for plastic bags, in line with the central government's pledge to boost its green credentials ahead of the August Olympics.

Hong Kong trails by comparison. The proposal of the Hong Kong government for a 50-cent green levy on plastic bags is muddling along in the Bills Committee of the Legislative Council.

According to the 2005 policy framework of the government - a 10-year blueprint - the levy should have been passed in 2006 and implemented six months later. But the levy, which is part of the Eco-Responsibility Bill, was debated in Legco on June 12 and faces two more full Council meetings.

Hong Kong people discard about 23 million bags every day. Taiwan and South Korea phased in plastic bag levies years ago, whilst European countries have been charging for the past decade.

[The Standard, 30/05/2008]

Battle lines drawn in idling engines row

The government has confirmed it will push ahead with a ban on idling engines. The decision follows 40 meetings with interested parties, including transport trade associations, vehicle suppliers, the Heung Yee Kuk - which represents traditional New Territories interests - and legislators. Most supported a ban.

The bill will be introduced in the Legislative Council late this year or early next year. It will provide for fines for drivers who leave their engines running, which contributes to air pollution.

The ban will cover all parts of Hong Kong and all vehicles except those used for emergency response and other special duties, and those with passengers alighting or boarding. The first two taxis or light buses in a queue will also be spared the ban, which will be enforced by about 200 traffic wardens, with offenders facing

a fine of HK\$320.

Opponents of the legislation are gearing up for a fight over the scope of the ban. Groups representing taxi and minibus drivers are demanding they be exempt. The Taxi Operators Association said taxi drivers are now using liquid petroleum gas for their vehicles and switching the air-conditioning on and off will be uncomfortable for the driver. They also need to provide passengers with a comfortable journey.

The Taxi and Public Light Bus Concern Group said the exemption for queuing vehicles would be unworkable for red minibuses because they do not have assigned stops and buses for different destinations queue together. Taxis might respond to the queuing rules by driving around the block instead of waiting at a stand, which would only create more congestion and air pollution.

[SCMP, 27/04/2008]

Hong Kong and Shenzhen collaborate with DuPont to develop solar energy technologies

On 5 May 2008, the Hong Kong Special Administrative Region Government and the Shenzhen Municipal Government announced the launching of the first major technology co-operation project under the "Shenzhen Hong Kong Innovation Circle" to establish a Solar Energy Research and Industrial Platform in collaboration with DuPont.

According to letters of intent signed on 5 May 2008, the Hong Kong Science and Technology Parks Corporation will take the lead to establish a Solar Energy R&D Support Centre at the Hong Kong Science Park to pursue the development of solar energy and related technologies in Hong Kong and the Pearl River Delta region. DuPont will join the centre as the first anchor tenant by locating its Global Thin Film Photovoltaic Business/ R&D Centre in the Hong Kong Science Park. At the same time, the Shenzhen Municipal Government will collaborate with Hong Kong to provide land and other facilities to support the downstream development and manufacturing of solar energy products.

The Hong Kong government said that the development of solar energy will help reduce the use of fossil fuels in the generation of electricity, thereby reducing air pollution and sources of global warming. The joint Solar Energy Research and Industrial Platform is a major co-operation initiative between Hong Kong and Shenzhen aimed at improving the environment and promoting wider use of renewable energy.

The government said the latest studies show that there is a growing global demand for the use of renewable energy, including solar energy. The joint project will help meet this demand and bring about significant economic benefits to Hong Kong, as it will create new job opportunities and spur further technological developments in this field.

[Environmental Protection Department Newsletter, 05/05/2008]

Tax cuts for environment-friendly facilities to be introduced

The government will soon introduce one-off and accelerated tax cuts for environment-friendly machinery and installations in an effort to encourage the business community to adopt more environment-friendly practices.

Referring to the tax cuts proposal, a government spokesman said that a 100 per cent deduction against profits tax will be provided in the year of purchase, equal to the capital expenditure incurred in the provision of eligible machinery. Environmental protection machinery includes low noise construction machinery and plant registered under the Quality Powered Mechanical Equipment system administered by the Environmental Protection Department (EPD), as well as waste treatment, wastewater treatment and air pollution control machinery or other plant in compliance with the requirements under the various ordinances administered by the EPD.

A deduction against profits tax for 20 per cent of the capital expenditure incurred on the construction of eligible installations will be provided in each of the five years starting from the year of acquisition. Environmental protection installations, mainly renewable energy installations, include solar photovoltaic, wind turbine, thermal waste treatment and certain energy efficient building installations. The deductions will also be available to those who own or have been using environmental protection machinery or installations before implementation of the proposal.

Subject to the passing of a Revenue Bill by the Legislative Council, amendments will be made to the Inland Revenue Ordinance to implement the deductions.

[Sing Tao Daily, 26/04/2008]

Green group ready to clear the school air

A green group, *Clean the Air*, will voluntarily check the indoor air pollution levels of schools in the territory, beginning in April 2008. The group has warned that dirty air increases the risk of outbreaks of influenza and may cause other health problems for children and teachers.

Clean the Air calculates that people spend 90 per cent of their time indoors, where studies have shown pollutant levels could be up to five times higher than outside. Cross-infection among children was more likely if air quality was poor, triggering the spread of influenza, viruses and asthma.

The green group said the recent advice from the authorities to schools affected by influenza outbreaks was insufficient. It will offer tests and guidelines to schools in a drive to boost air quality. Under the scheme, which will be modelled on Canadian and US programmes, schools will be given a free check, educational talks and a monitoring checklist.

Children are more susceptible to indoor air pollution as they breathe in 50 per cent more air per pound of body weight than adults. However, most schools have not been checked by the government for air quality and do not have any acceptable guidelines to follow.

In the past few years, members of *Clean the Air* have visited about 30 schools in Hong Kong and most were below standard in indoor air quality. Common problems in schools include a high carbon dioxide content due to bad ventilation and mould, and bacteria caused by humidity and high dosages of chemical residues from cleaning liquids. The problems could be tackled by increasing ventilation, maintaining air-conditioning units and reducing the use of chemicals.

Clean the Air hopes to sign up 20 schools before the summer holidays. The indoor air programme in the United States covers 25,000 schools and has helped to generally raise health levels.

[The Standard, 03/04/2008]

Thirty seven per cent of primary schools use disposable lunchboxes

A survey by *Greener Action* showed that 37 per cent of primary school polled are using disposable lunchboxes. The green group has collected about 900 signatures which will be sent to the Education Bureau urging the government to mandate schools to use reusable lunchboxes.

In March and April this year, *Greener Action* conducted a survey covering 198 whole-day primary schools in Hong Kong. The survey found that 60 per cent of the primary schools polled use reusable lunchboxes. Compared with the survey figure of two years ago, which was 50 per cent, the current figures revealed that the situation has not improved.

The survey also found that 37 per cent of the primary schools provided pupils with disposable lunchboxes, which was only 2 per cent lower than the findings two years ago. *Greener Action* said the environmental awareness of primary schools in Hong Kong has not improved in the past two years. Taking Taiwan as an example, all schools in Taiwan are now prohibited from using disposable lunchboxes.

Despite the fact that meal suppliers adopt very stringent disinfection measures in cleaning the lunchboxes, *Greener Action* said that most schools and parents still have the misconception that a disposable lunchbox is more hygienic than a reusable lunchbox. The green group was critical that the meal guidelines formulated by the government impose no constraint on the schools regarding disposable containers, and some schools do not even know the guidelines exist.

Greener Action urged the Education Bureau to mandate that all schools in Hong Kong use reusable lunchboxes, and suggested the government impose a pollution levy on meal suppliers who provide disposable lunchboxes.

[Ming Pao, 28/04/2008]

Cross-border waste dumping scheme could be extended

A scheme in which construction and demolition waste is dumped across the border in China could be extended as local waste storage sites are expected to be filled by next year.

The pilot scheme was launched in July last year under an agreement with the State Oceanic Administration. It allows for the transportation of 10 million tonnes of waste from two temporary sites in Hong Kong to a site at Guangzhouwan, Taishan city, 140km west of Hong Kong.

Discussions have been going on with the local and central governments. The two temporary storage sites for construction waste, so-called "fill banks", in Tseung Kwan O and Tuen Mun - with a combined capacity of 18.3 million tonnes - will be full in the first half of next year if no action is taken.

According to government data, the fill-banks had 9.3 million tonnes capacity remaining in January, but the city produces about 8 to 9 million tonnes of construction waste each year.

More major infrastructure projects are about to start in the next few years and the volume of construction waste is expected to grow. The dwindling number of reclamation projects are no longer able to accommodate the increasing stockpile of construction waste.

The cross-border waste disposal scheme has prolonged the life expectancy of the fill -banks by a year. But the pilot scheme ends in August. The government is therefore investigating the possibility of continuing the scheme.

If a cross-border dumping scheme were agreed, it would ease pressure on local sites but would lead to a rise in fees for disposing of construction waste. The operator of the fill- banks charges HK\$27 per tonne, a price set before the cross-border scheme was launched. The government refused to comment on whether the fee would be increased but said it will review the situation after the pilot scheme finishes this August.

[SCMP, 07/05/2008]

Nathan Road tours to expose lighting abuses

A green group is organising tours along bustling Nathan Road to expose what it says is the city's abuse of, and obsession with, lighting. The tours aim to challenge the common perception that the colourful neon signs and commercial lights are a sign of prosperity and affluence. It is part of the group's campaign against light pollution in Hong Kong.

Organiser, *Friends of the Earth*, said the tours, starting on June 6, would target locals and visitors from the mainland and Taiwan. Tour participants will be led to 10 spots along Nathan Road that the group says represent the city's distorted lighting culture, which wastes energy and disturbs residents' lives. The group has written to the Travel Industry Council asking for co-operation.

A survey by the group found 1,693 neon signs hanging from exterior walls and commercial displays using spotlighting along the 3.6km road from Tsim Sha Tsui to Boundary Street. Eleven sites had at least 20 spotlights, with one in Cheong Hing Plaza, Prince Edward, having 76. Some were near residences but remained switched on as late as 4am. Some outlets selling luxury goods were lit up well after closing for the day, when there were no shoppers around.

The group said people on the free tours would see a jewellery retailer's neon sign in Jordan that changed and flashed 21 times a minute, some blank advertisement boards lit by rows of spotlights, and overlapping neon signs fighting for shoppers' attention in Mong Kok.

The green group said it was not totally against neon signs and commercial lighting, but there was room to minimise their impact on residents and the environment.

[SCMP, 13/05/2008]

Clamour for government action to protect marine life gets louder

Nearly 10,000 people have signed the Save our Seas petition of the *World Wildlife Fund* (WWF) calling on the government to take aggressive action to save diminishing local marine life.

In an appeal to Chief Executive the WWF said Hong Kong's colourful and diversified marine life is being degraded by pollution, development and over-fishing.

The green group is calling for the setting up of a fishing licence scheme to monitor and control commercial fishing in territorial waters, and for the designation of Port Shelter, Long Harbour, Tolo Harbour and Channel, as well as areas with artificial reefs, as no-take reserves. WWF is also advocating a ban on bottom trawling, in which weighted nets are dragged over the seabed, collecting shrimp, fish and crabs while destroying sea fans and

soft corals.

To arrest the declining and stagnant fishing populations in marine parks and other areas where commercial fishing is allowed, the WWF has suggested implementing closed fishing seasons. This would allow the recovery of fish stocks, similar to a 1999 moratorium imposed by the mainland that barred fishing in the South China Sea during the months of June and July.

Although government proposals include a licensing scheme in proposed amendments to the Fisheries Protection Ordinance, the group said the steps were still insufficient to allow for the recovery of fish stocks. A spokesman for the group said the WWF is holding discussions with the Agriculture, Fisheries and Conservation Department (AFCD) on how best to tackle the problem.

[The Standard, 30/04/2008]

ADVISORY COUNCIL ON THE ENVIRONMENT (ACE)

Total water management strategy in Hong Kong (ACE Paper 13/2008)

Background

The Administration presented a paper on "Total Water Management in Hong Kong" in October 2003, briefing Members on the concept and approach to be adopted by the Administration in the formulation of the Total Water Management (TWM) programme, and reporting on the progress of the pilot desalination plant and trial effluent reuse scheme.

This paper seeks to update Members on the state of pilot schemes described in the 2003 paper and the outcome of a review study for formulating a TWM Strategy that would serve Hong Kong's needs in the long term.

Water Demand and Supply Situation

Water Demand

In 2007, total fresh water demand in Hong Kong was 951 million cubic metres (mcm). Domestic (35%) and non-domestic (25%) consumption accounts for most of the water demand. Water mains leakage (23%) aside, other significant uses of fresh water are toilet flushing and fire-fighting. Assuming a population of 8.4 million by 2030, which is based on Planning Department's reference population forecast to 2030, Hong Kong's fresh water demand will grow to 1,315 mcm per year.

Water Supply

Our fresh water supply is from two sources. Firstly, surface water collected locally from water gathering grounds ("local yield") provides 20 to 30 percent of water supply at present. Secondly, about 70 to 80 percent of water is imported from Dongjiang under HKSAR's agreement with Guangdong authorities. So far, the largest quantity of Dongjiang water imported was 808 mcm in 2004. The agreed ultimate Dongjiang water supply quantity is 1,100 mcm per year. Maximum capacity available through the Dongjiang water supply system will be sufficient to cope with projected demand in the coming two decades, even under a rapid demand growth scenario.

Total Water Management Strategy

A TWM programme based on a suitable integrated strategy is required to better prepare Hong Kong for uncertainties such as acute climate changes.

The TWM strategy to be adopted is proactive management of demand and supply in an integrated, multi-sectoral and sustainable manner. Taking into account local conditions and overseas experience, the latest review has considered all major options for water demand management measures, as well as water supply management measures. Each water demand / supply management option has been evaluated in terms of quantity of water saved or supplied, cost effectiveness, environmental impact and public acceptance.

Water demand management

On demand management, the Water Supplies Department (WSD) has long been promoting water conservation. The main measures currently employed are:

- public education to promote voluntary water conservation;
- active leakage control through a large-scale programme of replacement and rehabilitation of water mains which will

end in 2015, and application of new technologies in leakage detection and reduction;

- (c) use of seawater for toilet flushing in metropolitan areas and most of the new towns; and
- (d) a tiered tariff structure to encourage water conservation.

The current review confirmed that these water demand management measures form an important part of the TWM programme and enhancements should be made. Further water conservation initiatives being considered are as follows.

Public education on water conservation

In addition to current measures (including announcements on TV and radio, leaflets, seminars and exhibitions), public education on water conservation issues will be stepped up in all sectors and direction. Focus on the next generation, in particular, will be made whilst an education programme for younger generations will be implemented and due consideration given to including the concept and details of water conservation in school programmes.

Promotion of use of water saving devices

Water saving devices which use less water than conventional facilities or appliances include taps that limit flow, low-flow showerheads and flow restrictors. The government will consider promoting usage of water saving devices by enhanced measures. Firstly, WSD will investigate the feasibility of developing a "Water Efficiency Labelling Scheme" (WELS), which is a similar concept to the Energy Efficiency Labeling Scheme. Secondly, the government will promote installation of water saving devices in its projects. This will include installation of water-saving devices in new government buildings and, as far as practicable, when retrofitting existing government premises.

Active leakage control

The current replacement and rehabilitation programme (R&R programme) for 3,000 km of water mains is to be implemented through four stages at an estimated cost of about \$15.7 billion and will be completed in 2015. Subject to WSD's review of the underground asset management, the R&R programme could be extended beyond 2015 to cover the remaining distribution network so as to further reduce leakage levels.

WSD could also reduce leakage by adopting additional proposed initiatives. The first is implementation of the Comprehensive Pressure Management (CPM) using the latest pressure management technologies (for example, installation of flow modulation pressure reducing valves and flow-metres) to optimise water mains pressure and reduce leakage. The second leakage control initiative entails enhancement of leakage detection and monitoring using regular surveys and telemetric district metering.

Water reclamation

Water reclamation aims to use lower quality water to replace high quality water currently used for non-potable purposes, such as toilet flushing, irrigation and street cleaning. The most important of these is the use of reclaimed water from sewage treatment works for non-potable uses, such as toilet flushing. The government has conducted reclaimed water-use pilot schemes in Ngong Ping and Shek Wu Hui.

Other types of water reclamation are reuse of grey water and rainwater harvesting. Grey water is collected from baths, wash-basins and kitchen sinks mainly for toilet flushing. Rainwater can be harvested for purposes such as irrigation and toilet flushing.

Water Supply Management

A number of major categories of water supply management options have been evaluated in the latest review on TWM, namely:

- (a) to enhance protection and management of existing water resources; and
- (b) to explore new water resources, such as expansion of water-gathering grounds and reservoir storage, and desalination plants.

Protection of water resources

WSD plans to strengthen the current protection practices in two aspects. Firstly, a study is in progress to develop the water pollution risks and impact assessment framework for protection of water resources from development in water-gathering grounds. Secondly, proper maintenance of the water-gathering grounds, in particular the catchwater systems and their adjacent slopes, is essential for safe and effective collection of surface water.

New water resources

Two alternatives of new water resources were evaluated in the latest review on TWM viz. expansion of water-gathering grounds and reservoir storage and desalination. Whilst desirable, expansion of water-gathering grounds will entail high costs and undermine the development potential of the areas concerned for the sake of protection of water quality.

Seawater desalination by reverse osmosis (RO) can yield the largest quantity of new water supplies in Hong Kong. It is a proven technology and many RO desalination plants have been built worldwide.

Future review and continuous monitoring

In the proposed integrated strategy for the TWM programme based on evaluation of the foregoing options under the recent review, initial emphasis will be put on the demand side of stepping up water conservation through active water asset management and leakage control and wider promotion and publicity of the need for water conservation. Non-potable use of reclaimed water will be considered pending final results of the pilot studies. For the supply side, the need and desirability of desalination as a potential option for diversification of water resources would be kept closely under review.

The strategy will guide government's long-term effort on TWM. It forms the foundation for future reviews and continuous monitoring of the progress of TWM; for adjusting its efforts to suit circumstances; for initiating new measures to meet challenges, and for optimal utilization and development of water resources.

Bacteriological water quality objectives for bathing beach waters in Hong Kong

(ACE Paper 16/2008)

Background

Bathing beach waters may contain micro-organisms which are generally derived from sewage effluents, animal droppings and urban runoff. Beach-goers can be exposed to these micro-organisms through direct body contact or ingestion of beach water. These micro-organisms may, in general, cause infection-type diseases, such as gastrointestinal infections or infections of the upper respiratory tract, ears, eyes, nasal cavity and skin.

The bacteriological WQO are promulgated under the Water Pollution Control Ordinance, Cap. 358, and have been adopted in the Technical Memorandum on Environmental Impact Assessment Process (issued under the Environmental Impact Assessment Ordinance) as criteria for water quality impact assessment. The WQO were adopted in an attempt to protect beach-goers from the risk of contracting diseases associated with swimming. They take the form of a limit on the density of the bacterium *E. coli*, which is a good indicator of faecal contamination of water.

Beach-goers are informed of the increased health risk under the circumstances of high level of *E. coli* through a beach water quality rating system, based on water quality data obtained from the Environmental Protection Department's (EPD) routine beach water quality monitoring programme. The system comprises two components, namely, "Annual Beach Ranking" and "Weekly Beach Grading". The Annual Beach Ranking is used to indicate the overall water quality of the beach in a year; whereas the Weekly Beach Grading is to inform the public of the prevalent water quality.

Development of bacteriological WQO for Hong Kong

The EPD followed the recommendations of the World Health Organisation (WHO) given in 1977 when the WQO were first established in the mid 1980s. The basic component of the WHO recommendations at the time was a criterion for interim use; the criterion was to be developed into a long-term WQO based on epidemiological studies reflecting the ambient environment and the pattern of immunity in the local population. The then limit value, which was largely based on the WHO criterion, was adopted as an interim objective in Hong Kong because local epidemiological data were not available such that it was not possible to tell if the limit value could adequately predict potential health impacts on beach-goers in Hong Kong.

Subsequently, the EPD, in collaboration with the Department of Community Medicine of the University of Hong Kong, initiated a series of local epidemiological studies in the late 1980s and early 1990s to gather scientific information to develop a long-term bacteriological WQO for bathing beach waters.

The epidemiological studies were undertaken according to the WHO guidelines. In the studies to develop the WQO, interviews

of 39,722 beach-goers at nine popular and spatially distributed bathing beaches were conducted followed by telephone calls to enquire about the development of illness after swimming.

Simultaneously, intensive testing of the microbiological quality of the beach waters was carried out. *E. coli* exhibited the highest correlation with swimming-associated illnesses, and hence was found to be the best indicator of health risks among other investigated microbial indicators. Accordingly, on the advice of the then EPCOM, a geometric mean *E. coli* density of 180 per 100 mL, corresponding to a minor illness rate of 10 in 1,000 swimmers or below, was established in 1992. It was also established that a geometric mean *E. coli* density of 610 per 100 mL corresponding to a "Poor" ranking and an illness rate of 15 in 1,000 swimmers was considered "barely acceptable" for swimming. It is worth noting that such risk rate is still lower than the risk rate of 19 in 1,000 swimmers recommended by the United States Environmental Protection Agency.

On-going developments

Internationally, many microbial organisms are used for indicating faecal contamination of bathing beach waters; *E. coli* and enterococci are more commonly used. With a view to keeping up with the international trend of using other microbial indicators as alternatives to *E. coli*, the EPD conducted an in-house study on the use of alternative indicators in 2001. The study covered seventeen beaches, which represented a full spectrum of beach water quality. The study identified strong positive correlation between *E. coli* and the other three faecal indicators: faecal streptococci, enterococci and *Clostridium perfringens*. *E. coli* was found to be more sensitive in indicating sewage pollution, and therefore an appropriate indicator for local waters.

In 2003, WHO promulgated a new set of guidelines in which enterococci was recommended as an indicator for microbiological quality of marine beach waters, but at the same time reiterated that jurisdictions need to develop their own WQO based on local data and socially accepted human health risk. In view of this and to check the reproducibility of the work done in 2001, the EPD conducted another study covering three selected beaches in 2006/08, again representing beaches of typically good, poor and very poor water quality. The investigation is on-going, but the results so far support the earlier findings that *E. coli* is the most sensitive and appropriate microbial indicator for beach waters in Hong Kong. However, the government will continue to watch closely new developments in the scientific community and practices of other jurisdictions (especially those in the sub-tropical region where Hong Kong is located) and will be open to a change in the manner of setting WQO if there are convincing arguments for such a change.

Draft Guidelines to account for and report on greenhouse gas emissions and removals for buildings of commercial, residential or institutional purpose in Hong Kong

(ACE Paper 17/2008)

Background

Buildings consume about 89% of electricity used in Hong Kong and are a major source of our greenhouse gas (GHG) emissions. Enhancing energy efficiency in buildings is therefore an area where significant energy savings and reduction in GHG emissions can be made. To this end and to continue to lead the community's efforts in combating climate change, the Chief Executive announced in the 2007 Policy Address that the government will conduct a carbon audit for its new offices at Tamar. Private developers are also encouraged to conduct carbon audits for their buildings and reduce GHG emissions from these buildings.

A Task Force comprising Environmental Protection Department, Electrical and Mechanical Services Department and Architectural Services Department was set up in November 2007 to draw up a set of guidelines to provide a systematic and scientific approach to account for and report on GHG emissions from the operation of buildings. The draft Guidelines can facilitate the users and managers of buildings in: improving their awareness of GHG emissions; conducting carbon audits of their buildings to measure their GHG emissions performance; identifying possible areas for improvement in reducing emissions; and conducting voluntary programmes to reduce or offset their emissions.

The Guidelines

Designed for voluntary and self reporting by the reporting entities, the draft Guidelines have been mapped out by making reference to two well accepted international protocols: "the Greenhouse Gas Protocol – A Corporate Accounting and Reporting Standard" of the World Resources Institute/World Business Council on Sustainable Development and International Organisation for

Standardisation (ISO) 14064-1, to ensure their consistency with international practice.

The draft Guidelines are intended primarily to be used to account for and to report on emissions and removals from buildings which are entirely used for commercial or residential purposes. They are also applicable to most buildings used for institutional purposes, which include schools/universities, community centres, sports complexes, etc. However, the Guidelines may not be applicable to buildings used for industrial or other special purposes because of the complexities of GHG emitting processes in these buildings.

As the first essential step in the reporting process, the draft Guidelines provide guidance for the reporting entities to determine physical boundaries and to identify operations for reporting purpose. In line with other international protocols mentioned above, all operations in relation to direct emissions and removals (Scope 1) and energy-related indirect emissions (Scope 2) are required to be accounted for and reported. A report on other indirect emissions (Scope 3) is optional.

1. Some examples of Scope 1 operations are: on-site electricity generators; boilers; gas stoves; dedicated motor vehicle fleets; leakage from refrigeration systems; and additional trees planted on site.
2. Scope 2 operations include production and transportation of electricity gas used in the buildings.
3. Some examples of Scope 3 operations are: commuting and business travel by employees; transportation of products, materials, people or waste by third parties; outsourced activities; GHG emissions arising from the production and distribution of energy products, other than those covered under Scope 2; and GHG emissions from production of purchased materials and products.

The draft Guidelines also set out local conversion factors for estimating GHG emissions of some common operations to facilitate reporting entities to quantify their GHG emissions and removals. The approaches and conversion factors in the Guidelines cover Scope 1 and Scope 2 operations which are commonly found in Hong Kong buildings. Additional approaches and conversion factors for some of the Scope 3 operations, such as electricity consumption for processing fresh water and sewerage, as well as methane production at landfills, are also included in the draft Guidelines to assist those users who wish to cover indirect emissions from these sources in their reports.

A sample reporting format, together with summary tables on emissions and removals, as well as guidance on reporting, is provided in the draft Guidelines.

Way forward

The Task Force is finalising the Guidelines taking into account feedback from stakeholders. Tentatively, it is planned formally to launch the Guidelines in June/July 2008. The authors are encouraging property developers, professional bodies, business groups, tertiary institutions and environmental groups to adopt the Guidelines for conducting carbon audits on their buildings.

A carbon audit is expected to take approximately two to three months to complete. On completion of the exercise, the findings will provide a good reference for emission reduction measures. The authors have thus far received positive responses from a number of major property developers in Hong Kong who have agreed to participate in the carbon audit and emission reduction campaign.

REGIONAL & INTERNATIONAL

THAILAND

Law must be changed to protect ordinary people against environmental damage

Realising that plaintiffs and defendants in environmental cases resemble very much the David and Goliath analogy, a group of Thailand's legal experts is trying to bring more justice to the legal process.

"We face giants. It is difficult for us to beat them under the current legal system which does not provide equal access to justice," said Pairoj Pholphet, from NGO Cord, a network of non-government organisations for rural development in Thailand. He was speaking at a recent seminar on problems on law enforcement for rehabilitating polluted environments and payment of compensation for victims of polluting activities.

Chulalongkorn University's Social Research Institute and EnLaw,

a non-profit legal organisation, held the seminar not long after the Central Administration Court ordered the Pollution Control Department to compensate 22 victims of lead contamination which occurred at Klity Creek.

According to the court, the major part of the Bt33,783 compensation each defendant received was for food they had to pay for while the case was in court. They had asked for Bt700 per month. The court awarded Bt350.

The villagers, all minority Karen living in Kanchanaburi, have suffered for more than a decade as Klity Creek has been contaminated with lead released from Lead Concentrated, a company with a registered capital of Bt30 million and run by an influential figure from Kanchanaburi.

"The case demonstrated that the compensation was based on the social and economic status of the plaintiffs. If the plaintiffs are poor they get less, which never hurts the defendants, who are often big corporations. We must reconsider whether the current system can make big companies afraid of polluting the environment," said Amnart Netyasupa.

Though an attorney in the Office of the Attorney-General, Amnart said he was speaking on his own account, and said government authorities should be able to charge the executive committee of a corporation which has polluted the environment, as well as the company itself. Currently only the company can be prosecuted.

Amnart said the so-called "class-action system", which allows representatives to bring a lawsuit for large numbers of people involved in the cases (i.e. a representative, or class action) should be allowed in Thailand.

"Environmental problems can cause a huge impact on many people over a vast area, and we know that not all the victims have access to justice. We should allow representative action," he said.

The Klity Creek villagers are not alone. Farmers in the Taw area of Tak province have high levels of cadmium in their blood. The Agriculture Ministry asked them not to grow rice, due to cadmium contamination in the soil, and though the source is still unknown, villagers believe it may be from the nearby zinc mines of Padaeng Industry and Tak Mining. Padaeng Industry is a leading mining company with registered capital of Bt2.26 billion.

People in Map Ta Phut, Rayong, have lived with air pollution for over 14 years, as their community is dominated by petrochemical factories. Many have suffered from leukaemia and other cancers believed to have been caused by polluting discharges from the factories.

Pairoj and other legal experts are now lobbying to amend the 1992 Environmental Protection Act and are also drawing up a bill to establish an independent organisation to protect the environment and to deal with environmental pollution cases, as is provided for in the Constitution. He expects the draft of the bill will be presented to Parliament together with 10,000 signatures of support, by the end of July.

[*Thai News Service, 06/06/08*]

PAKISTAN

LDA finalises arrangements for anti-encroachment operation

The Estate Management Directorate of Lahore Development Authority (LDA) of Pakistan has finalised all arrangements for launching an anti-encroachment operation in the Sabzazar Housing Scheme.

LDA had already served notices on illegal settlers (encroachers) with directions to demolish their unauthorised structures within two days to avoid anti-encroachment operations. The operation, which commenced 2 June 2008, is aimed at removing hurdles to the smooth flow of traffic, as well as clearing walkways for pedestrians and service roads.

Shopkeepers in the area have illegally extended their shops on service roads by constructing various structures, building overhead shades beyond the approved boundaries of their shops, erecting huge publicity boards and creating other nuisance for the general public. The operation will be carried on as a continuous campaign.

Meanwhile, LDA removed encroachments from Shadman Market. The Punjab government has declared the locality as a Model Area. The LDA staff removed encroachments and other impediments from pedestrian corridors and cleared pavements.

On the other hand, the Town Planning Wing of LDA has

launched a drive against private housing schemes which had been commenced without first fulfilling legal requirements. All signboards for such housing schemes, placed at different points along Raiwind Road, were removed. Staff of the Town Planning Directorate of LDA also demolished the site office of a housing scheme at Munawar Town which was being set up in the area earmarked by the LDA for two new residential developments.

The Metropolitan Planning Wing of LDA has already notified a list of 116 of such private housing developments that had been launched without getting approval from the competent authority as well as failing to fulfill other requirements. People have been advised that in their own interest they should avoid entering into any sale and purchase agreements for plots in these housing schemes.

[*The Nation (Pakistan), 02/06/08*]

JORDAN

USAID and Jordanian Ministries create land use plan for Jordan Valley area

The United States Agency for International Development (USAID), through its Economic Development Project (SABEQ), recently delivered a detailed Land Use Plan and guidelines for the North East Dead Sea Basin to the Jordanian Ministry of Planning and International Cooperation.

The planning exercise began in October 2007 at the request and under the coordination of the Ministry. The plan includes the northern shore of the Dead Sea and extends approximately 42 kilometres between Sweimeh and the edges of Wadi Mujib. The Land Use Plan was developed to provide guidelines for sustainable land use in the area north east of the Dead Sea Basin and as a result of increased investor interest in tourism development in the area.

The Plan allows for efficient land and asset management while protecting the unique natural environmental features of the area, and also permitting a broad spectrum of tourism and development opportunities.

USAID, through its Economic Development Project (SABEQ), developed alternative approaches for the land that were presented to an inter-agency steering group headed by H.E. Prime Minister Nader Al Dahabi.

The Government's decision was to pursue the "Balanced Vision" approach, supporting conservation and protection of the environment as well as economic development. The result is a Plan that provides opportunities for sustainable and balanced growth and that takes into account the environment, community needs and economic development.

The planning exercise reflects the result of extensive consultations that occurred between a variety of stakeholders, including the Ministry of Planning, the Ministry of Tourism and Antiquities, the Ministry of Water and Irrigation, the Ministry of Environment, the Jordan Valley Authority, representatives of Jordan's private sector, several non-governmental organisations and private communities. Outreach to the local communities played an important role in the planning process; several public events were held to determine the needs of the residents in the areas concerned and to gauge their support for the proposed land use plan.

"It is crucial for governments and communities to work together when planning for the future," stated USAID Mission Director. "Not only does a government have the responsibility to grow its economy, but it must do so while protecting its heritage and natural resources."

As part of the report, the project provided a series of recommended steps that will assist in implementing any action plans, including: the adoption of land use regulations; determining infrastructure and access requirements; improving living conditions for communities; empowering local communities; and establishing public-private partnerships to develop and implement tourism projects.

The USAID Economic Development Program (SABEQ) is a five-year broad economic development initiative implemented by BearingPoint, Inc. and a sizeable team of international and Jordanian partner firms.

[*AME Info - ME Company Newswire, 28/05/08*]

PHILIPPINES

DENR lawyers now better trained to go after violators of environmental laws

The Philippines' Environment and Natural Resources (DENR) Secretary Lito Atienza expressed confidence that pursuing cases and securing convictions against violators of environmental laws will soon become the norm rather than the exception.

The DENR chief expressed his optimism following an intensive five-day seminar-workshop for 69 select DENR lawyers in handling environmental cases filed with the "Green Courts". The seminar -- the first of its kind in the country -- was sponsored by the Philippine Judiciary Academy of the Supreme Court. DENR lawyers are now more equipped and confident in handling environmental cases, Atienza said.

Chief Justice Reynaldo Puno and retired Associate Justice and PhilJa Chancellor Amuerfina Melencio Herrera attended the culminating ceremonies of the legal training programme as guests of honour.

Puno pushed for the creation of the Green Courts-- or special courts-- in various parts of the country to handle environmental cases.

The certainty of punishment is the best deterrent to the commission of any crime against the environment, Atienza said. Getting the upper-hand in securing convictions is a very effective deterrent to the breaking of laws, especially in the arena of securing environmental justice, which is a relatively new field in the country's judicial landscape.

Atienza explained that apprehension of violators minus the conviction does not constitute a genuine effort to protect the country's environment. He noted that violators had managed to avoid convictions despite strong cases filed against them, largely because there are only a few environmental lawyers in the country who pursue the cases in court. Our tasks become more difficult when violators benefit immensely from their dastardly acts and get away with their crime, Atienza said.

The DENR is working with the Department of Justice (DOJ) to have a deputation of their lawyers as special counsel. The deputation would give them the authority to take active part in the litigation of cases filed with the Green Courts involving violations of environmental laws.

"We are jubilant that the Supreme Court has taken cognition of this. And no less than the Chief Justice Puno has committed himself to the formation of the Green Courts which will now be a reality. This should be a big boost to our efforts in performing our responsibilities", Atienza said.

He noted that existing environmental laws are already sufficient and cautioned against the crafting of new environmental laws. With so many laws, legislating new ones might provide violators undue advantage to shield their activities, Atienza said.

[Philippines News Agency, 27/05/08]

MALAYSIA

Solid Waste Management Act not applicable in Sabah and Sarawak

The Solid Waste Management Act will not be enforced in Sabah and Sarawak as both states have their own set of laws to regulate solid waste management and public cleanliness, Malaysia's Deputy Housing and Local Government Minister Datuk Hamzah Zainuddin said. He said both the Sabah and Sarawak governments had also expressed the intention that they would not apply the Act even when the legislation was under formulation.

"When we were formulating the Act, it was with the view of including Sabah and Sarawak but the governments in both states decided not to apply the law for the time being as they have their own legislation for the purpose," he said.

Ghapur had wanted to know whether it was the federal government or the state government which was responsible for sewerage management in Sabah, which is said to be having problems, especially with frequent tremors due to earthquakes in neighbouring countries. Hamzah said sewerage management in Sabah came under the state's Water Management Commission Act.

[Bernama, (The Malaysian National News Agency), 22/05/08]

CHINA

Plans call for a seamless cross-border environment

Joint projects between Shenzhen and Hong Kong are expected to make breakthroughs this year in technological innovation, financial cooperation and construction of cross-boundary infrastructure. The governments of Hong Kong and Shenzhen established a task force in March to speed up joint development of a 99-hectare border zone known as the Lok Ma Chau Loop.

The joint task force agreed that meetings will be held every six months to discuss planning and development of the zone, which lies between the boundaries of the two cities. Officials also agreed that greater effort should be made to ensure progress and liaison on studies concerning development of the loop and its checkpoints - Liantang in Shenzhen and Heung Yuen Wai in Hong Kong.

The task force decided that a study should begin this year to explore the feasibility of developing the loop for mutual benefit. Funding for the study will be shared between the two governments.

"Through this high-level mechanism and establishment of the joint task force and its working groups, the efficiency of the work on the loop and the control point will be enhanced," said Liu Yingli, executive vice-mayor of Shenzhen.

"This will contribute to sustaining the competitiveness of urban development on both sides and to promote prosperity for mutual benefit," Liu said.

After identifying Hong Kong as a role model last year, a top Shenzhen advisory body suggested that the Shenzhen government study laws and consultation processes in Hong Kong to improve the mainland city's legal environment. It was one of 12 suggestions submitted by a subcommittee of the Shenzhen Committee of the Chinese People's Political Consultative Conference (CPPCC Shenzhen) to promote cooperation between the two cities. The proposal is listed as the most important advice given to the administration at the annual meeting of CPPCC Shenzhen that began in April.

The subcommittee formulated the final proposal after more than two months of extensive studies and after conducting 10 symposiums, further highlighting the importance of Shenzhen-Hong Kong collaboration, said Zhong Zhiqian, chief of the subcommittee.

"The city should solicit support from Guangdong province and the central government to make Shenzhen-Hong Kong cooperation part of national strategic planning," according to the proposal.

The proposal asks the government to learn from Hong Kong and establish a system similar to the Independent Commission Against Corruption (ICAC) for a clean and efficient administration. In addition, Shenzhen should learn from Hong Kong's emphasis on innovation and intellectual property protection, the subcommittee remarked.

The subcommittee also suggested Shenzhen make better use of its independent legislative power as a special economic zone to promote greater participation by the public in government decisions.

The subcommittee also proposed enhancement of cooperation, in order to facilitate the flow of people and commerce between the two cities, and the improvement of border infrastructure. It also suggested that the governments of Shenzhen and Hong Kong develop industries with a competitive edge and encourage companies in the two cities to forge industrial alliances.

At the same time, the two governments should actively promote official, semi-official or non-governmental systems to better plan the development of the industries, the subcommittee recommended. Other measures advocated include access to each other's educational resources and the funding of talent-exchange programmes.

Shenzhen and Hong Kong have been closer than ever after both governments pledged tighter cooperation last year. The Shenzhen government said in a statement that it plans to become a cosmopolitan metropolis in 30 years through close ties with Hong Kong. Evidence shows that Shenzhen is an increasingly worthy partner for its powerhouse neighbor Hong Kong.

After advocating closer integration with Hong Kong for years, the Shenzhen government finally received positive feedback from the special administrative government of Hong Kong, with Chief Executive Donald Tsang saying in his policy address last October that the territory will promote the development of the Shenzhen-Hong Kong international metropolis.

"We have visited several government departments of Hong Kong, including the planning and environmental protection agencies, to strengthen communication and seek further common ground on Shenzhen-Hong Kong cooperation before making revisions to our long-term urban plan," Shenzhen planning chief Wang Peng told reporters.

The city released its urban planning draft 2007-20 last November for a month of public comment, outlining major goals: taking a firm foothold in the Pearl River Delta region and strengthening cooperation between Shenzhen and Hong Kong to jointly build a world-class metropolitan area.

According to a study by the Bauhinia Foundation Research Center, a Hong Kong non-governmental think-tank, a Shenzhen-Hong Kong international metropolis could outperform London and Paris in gross domestic product to become the world's third-largest city, after New York and Tokyo, by 2020.

"It will be an innovative move for the two neighboring cities, with a population of 8 million and 10 million respectively, to seek mutual development while maintaining independent governance," Zhang Yuge, a senior researcher with the China Development Institute, a Shenzhen-based non-governmental institute, said.

"The combined metropolis will have more impact on the mainland's economy while playing a more significant role in global markets. That's a win-win situation." Despite the different political systems under the "one country, two systems" policy, the two cities could improve infrastructure, trade and business relations and build smoother communication between governments and non-government organizations, he commented.

[Chinadaily.com, 08/05/08]

\$50 billion yuan price tag for landmark Tianjin eco-city

An ambitious eco-city being jointly built by Singapore and China in this northern port city will cost about 50 billion yuan, officials said, while giving the assurance that the project will not benefit only the rich.

This is the first time an official price tag has been disclosed for the landmark project, the biggest bilateral venture between Singapore and China since the Suzhou Industrial Park in the early 1990s.

Mr. Lin Xuefeng, vice-chairman of the Sino-Singapore Tianjin Eco-city Administrative Committee, said the project would cost about 50 billion yuan to build. He added, however, that this preliminary estimate could vary, depending on the projected costs finally calculated by the Sino-Singapore joint venture company building it.

Environmental awareness is growing in China, especially among the property-owning middle class. But the poor and those living in less developed regions continue to struggle with the fallout from all-out economic growth, such as polluted air and poisoned rivers.

Asked if this flagship project will benefit only those who can afford to live there, Mr. Lin said planners will draw on the experience of Singapore's Housing Board to ensure that residents from a wide spectrum of society are housed in the eco-city. "Social harmony is first and foremost a housing issue," he added. "We hope to create a harmonious city that is suitable for different sectors of society."

According to a draft master plan released, at least 20 per cent of homes in the eco-city will be public and subsidised. The 2,000 villagers who have to relocate for the project will also be guaranteed jobs and housing in the new city. The overall population of the city will be kept at around 350,000.

There are no plans to restrict the number of cars, said Dr. Dong Ke, a senior urban planner with the China Academy of Urban Planning and Design. Instead, planners hope to reduce residents' reliance on cars by setting up an efficient public transport network and by designing walkways linking homes, shops and public spaces.

Another highlight of the plan is the proposed building of a new university focused on environmental technology. Mr. Lin said the university would be vital in providing the technical expertise and manpower required for the eco-city, though it has yet to get the official green light from Beijing.

The eco-city project will be a "greenfields" project, that is, it will be constructed from scratch, with the final result being a 30-sq-km city in Tianjin that will showcase a good balance between rapid economic growth and environmental protection. It is hoped the project will be fully completed in about 10 to 15 years.

Plans for the eco-city will draw heavily on the urban planning experience of HDB new towns in Singapore, while incorporating much of the latest technology and expertise on energy and water conservation.

[*The Straits Times*, 07/05/08]

MACAU, CHINA

Building height limit “not enough” to protect Macau’s World Heritage site

The height restrictions imposed on high-rise buildings constructed in the surrounding areas of Macao’s Guia Hill, where a World Heritage site is located, is “not enough” to keep the site’s scenery intact, said Macao’s lawmaker Ng Kuok Cheong.

According to a government bulletin, the Macau SAR (Special Administrative Region) government has identified a total of 11 places as Guia hill’s “surrounding areas”, and has decided to set a height restriction of 90 metres above sea level for high-rise buildings constructed at the foot of the hill; those built in the rest of the areas will be limited to 52.5 metres above sea level.

A building with a height of 90 metres can still block the view of the heritage site, said Ng Kuo Cheong, urging the authorities to lay out detailed urban planning concerning the hill’s surrounding areas for the immediate future, and arrange public consultations on the matter.

In a previous press release, the SAR government admitted that Director of UNESCO’s World Heritage Center, Francisco Bandarin, had sent a letter to China’s State Bureau of Cultural Relics, expressing his “concern” over certain construction projects that may affect the view of the Guia Lighthouse.

The Guia Lighthouse is located on top of the Guia Hill, which, measuring 91 metres, is by far the highest point of the Macau Peninsula. Built in 1865 as the first modern lighthouse on the Chinese coast, the beacon still burns nightly, providing a visual reference which can be seen from far away.

For his part, Macau’s Secretary for Transport and Public Works, Lau Si Io, noted that the decision to restrict building heights in the hill’s surrounding areas was made after consulting relevant experts and the public, which is also in accordance with the SAR government’s policy of sustainable development.

[*Xinhua General News Service*, 16/04/08]

VIETNAM

Up to 97% of urban waste water untreated in Vietnam

Up to 97% of waste water in urban areas in Vietnam is untreated, Vietnam’s Ministry of Construction was quoted as saying by the An Ninh Thu Do (Capital Security) Newspaper.

Vietnam expects 40% of urban zones will have wastewater treatment stations under the national environment protection strategy in the period 2010-2020, the newspaper said. It is, however, difficult to meet the target due to financial obstacles, experts said.

Up to 92% of urban population and 51% of rural communities have been equipped with toilets. However, between 30% and 70% of urban areas use outdated sewage drainage systems. At present, more than 50 million people (or 80% of Vietnam’s rural population) use latrines that fail to meet health standards set by the Health Ministry, according to a new nationwide survey on rural sanitation conducted by the Health Ministry and UNICEF.

[*An Ninh Thu Do (Capital Security) Newspaper*, 08/05/08]

AUSTRALIA

Quest for land powers criticised

The need for tougher state powers to acquire land to rescue the \$1.4 billion Civic Place redevelopment at Parramatta has been challenged by a former lord mayor of the city, Julia Finn.

The Minister for Planning, Frank Sartor, has used a successful appeal by two Parramatta shop owners against compulsory acquisition of their properties as the justification to empower state agencies and councils to forcibly acquire land to sell to developers if they can demonstrate a “net public benefit”.

“The proposed legislation exceeds what is required to address council’s problem,” Cr Finn said. “‘Net public benefit’ as stated in the exposure draft is open to far wider interpretation than

increasing the size and quality of existing community facilities, which is what Parramatta City Council is seeking to achieve. Changes made to the Local Government Act in 2004 allowed councils to acquire properties and combine them to allow larger developments to take place if there was a community benefit for the site as a whole.”

Whilst the Council had approached the State Government about the issue and discussed changes in the law, the Council had not sought to go further than the intention of the Local Government Act amendments, she said. To this end the Council has appealed to the Court of Appeal against last year’s Land and Environment Court.

The man who helped expose the extent of the proposed new compulsory acquisition powers, Alex Davidson, a Glenorie landholder, says property rights have been further eroded in the draft legislation, referring to a proposal to clean-up “paper subdivisions” -- old subdivisions that only exist on paper because there are no roads or services and which at present can only be developed by agreement between landholders -- by forcing “hold-outs” to be included in land subdivision. This could be by compulsory acquisition of their land, compulsory contributions or by forcing them to give up part of their land to offset subdivision costs.

“This proposal seeks to confer upon the government the power to compel owners to sell at government-set prices,” Mr. Davidson said. “Justification seems to rest on the idea that holdouts might frustrate government or council plans to urbanise such areas.

“One of the criteria that must be satisfied is that 60 per cent of owners in the affected area agree - in effect replacing right with might. These areas would quickly become developed for housing if the government simply restored to titleholders their right to build a house.”

Another critic says government intervention in urban planning is the cause of the housing affordability crisis. In a speech to the Adam Smith Club in Melbourne this month, Bob Day, a former national president of the Housing Industry Association, said the median house price in Sydney had increased from three times the median income in the 1970s to eight times today.

“The so-called land shortage is a matter of political decision, not of geographical reality,” he said. “As well as the profit motive, state and territory governments have been spurred along by an ideologically driven urban planning cabal obsessed with curbing the size of our cities and pushing a policy of urban consolidation or ‘urban infill’.”

[*Sydney Morning Herald*, 29/04/08]

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.

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Convictions under environmental legislation: April to June 2008

[Note: the EPD no longer classifies second (and subsequent) offences.]

The EPD's summary of convictions recorded and fines imposed during the above period is as follows:

April 2008

Twenty-one convictions were recorded in April for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Ten of the convictions were under the Waste Disposal Ordinance, 7 under the Air Pollution Control Ordinance, 2 under the Noise Control Ordinance, 1 under the Water Pollution Control Ordinance, and 1 under the Dumping at Sea Ordinance.

The heaviest fine in April was \$25,000, assessed against a company that imported controlled waste without a permit. A defendant who failed to engage the services of a licensed waste collector and exported controlled waste without a permit was sentenced to two months' imprisonment.

May 2008

Thirty-five pollution convictions were recorded in May

Thirteen of the convictions were under the Air Pollution Control Ordinance, 11 under the Waste Disposal Ordinance, 10 under the Noise Control Ordinance, and 1 under the Water Pollution Control Ordinance.

The heaviest fine in May was \$28,000, assessed against a company which used powered mechanical equipment other than in accordance with permit conditions.

June 2008

Forty-four convictions for breaches of anti-pollution legislation enforced by the Environmental Protection Department (EPD) were recorded in June.

Twenty-three of the convictions were under the Waste Disposal Ordinance, 16 under the Air Pollution Control Ordinance, 3 under the Water Pollution Control Ordinance, and 2 under the Noise Control Ordinance.

One of the heaviest penalties was for waste import and export and chemical waste offences. The case involved the smuggling of a large quantity of waste computer monitors to the Mainland.

A cargo vessel and a pleasure craft were intercepted close to the eastern marine border of Hong Kong on May 5 by the Marine Police. Subsequent investigations showed that the two vessels were engaged in an "export offence". The Mainland shipmaster and the Hong Kong shipmaster of the two vessels were prosecuted by the EPD for exporting controlled waste without a permit, contrary to the Waste Disposal Ordinance, and for failure to engage the services of a licensed chemical waste collector, as required by the Waste Disposal (Chemical Waste)(General) Regulations.

They were convicted and sentenced to two months' gaol for each of the two environmental offences and to four-months for export offences under the Import and Export Ordinance. The sentences will run concurrently.

"The heavy penalties imposed by the court will act as a strong deterrent against illegal transboundary movements of hazardous waste. The government is committed to stringently enforcing border control to protect the environment," an EPD spokesman said.

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