

## **LULU Workshop: “Siting of Locally Unwanted Facilities: Conflict Resolution Strategies”**

Date: 21 June 2008

Time: 8:45 am – 12:30 am

Venue: Rm. 422, Wong Foo Yuan Building, The Chinese University of Hong Kong

### **Gist of Discussion**

#### **Introduction**

- In this project, two focused group meetings (hereafter known as workshops) have been held to gauge opinions from the professionals and local residents respectively. The first one was held on June 21, 2008 (Appendix 1) at the Chinese University campus for the academic and professional groups, and the second was held on July 5, 2008 in Tuen Mun where there is a concentration of LULUs. The purpose of the first to solicit the stakeholders’ view on the appropriateness and feasibility of resolution measures for Hong Kong. The stakeholders include professional and academia, officers from Environmental Protection Department, consultants and members from NGOS and green groups. The meeting with these people in focus groups has yielded a wealth of information which has provided considerable insight into the conflict resolution strategies arising from LULU development. The second meeting was to gauge the feelings of the local residents without the presence of government officials and professionals.
- The primary goal of both workshops is to investigate the feasibility of various resolution measures earlier proposed in a background paper distributed to the participants and available on the project website.
- This section presents a summary of the discussion on three major aspects that help resolve siting problems, namely (1) planning, siting and public consultation process; (2) compensation and community betterment and (3) institutional mechanisms. An overall summary is presented at the end.

#### **Group A: Discussion on Planning, Siting and Public Consultation Process**

##### **Existing problems:**

- There is mismatch between the process of LULU planning and the land use planning/zoning system in Hong Kong. Planning in Hong Kong is broad-brushed and there is no specification of what LULUs would be sited; it is only represented by a ‘brown field’ symbol which represents “Other Specified Uses” on the plan. LULU siting process is solely technical in which the government searches for a site that is suitable for environmental, engineering and land use compatibility.

- Consultation element may or may not be included in the project brief. Public engagement is not a statutory requirement in technical siting process. It very much depends on the practice of the responsible department, and sees if public relation is required in the feasibility study. Although there is statutory requirement for public participation in the town planning process, the zoning is just broad-brushed and it does not specify the LULU to be sited there.
- Absence of LULU planning in the strategic planning stage.
  - ◆ It was suggested that siting problem should be resolved in the strategic planning stage (e.g., HK2030) so as to avoid future conflicts and interface problems. Currently, however, there is no such detailed consideration in the strategic planning such as remaining space of landfills, number of incinerators needed and approximate locations of where they should be located, etc.. Setting the scene early can help avoid the future land use conflicts or interface problem.
  - ◆ However, it is recognized that there may be some practical difficulties when considering the LULU planning in the strategic planning stage. In particular, planning at strategic level is macroscopic in nature and visionary whereas the siting of LULUs is more microscopic and technical, and such details may not be available in the strategic planning stage.
  - ◆ If the details of zoning are specified in the strategic planning stage, early public concern and objection may be caused.
- The public lacks trust on the government. There are different levels of public trust towards different stakeholders. The level of public trust towards the government is not high, despite a majority of LULUs are proposed by the government. The level of public trust is the lowest for private sector.
- The level of public trust is the lowest for the private sector. LULU siting should better be conducted by the same party for the entire process such as in the French case. Currently in HK, the government identifies the site, the job is passed to the project proponent (e.g. waste facility operator). If there is any bug, the bug can pass on. In the French case, the operator has to do everything and assume responsibility. What is the role of private sector in siting in Hong Kong? In France, it is the private company to do the site search and build

and operate the waste treatment facilities. The company has the vested interest and is more flexible to do the siting.

### **Suggestions for the improvement in the planning process of LULUs**

- District branding should be resolved. For example, Tuen Mun district can be further sub-divided into different districts/ zones (e.g., Nim Wan and “Black Point sub-districts”) for industrial or LULU uses so that there is no direct association between Tuen Mun and the renamed districts.
- Land use planning for LULUs should be more specific, and it should start in the strategic planning stage so as to pre-empt possible future land use conflicts. Apart from clarity of the land use zoning, planning should also aim to prevent the future interface problem. For example, take the case of Tseung Kwan O, area next to the existing landfill should not be zoned for residential use because doing so would induce public objection and more NIMBY conflicts in the future. It was concluded by the participants in workshop II that the problem is related to both specificity and interfacing.
- LULU Planning and policy formulation should be done in parallel. LULU planning (e.g., need justification, scale and technology) and policy (e.g., policy on waste management; policy on landfill expansion and incineration) should be done in parallel. The government should inform the public not only the issues on LULU planning but also highlight the relevant policies for justifying the need of LULUs and the rationale of its planning and siting.
- Trust should be built between the public and the government. Since trust is mutual in nature, it is in fact an issue regarding how government may trust the public, NGOs and the academia, etc. Government should build up partnership with NGOs but should not compromise their decisions and operation; it is important to keep the momentum of building partnership. Since public trust in NGOs is high, the government should use NGOs as the facilitator; or the academia and advisory bodies as the middlemen. The government should collaborate more with NGOs, professional bodies or academia who are considered as more trustworthy by the public.

- The quality of public engagement is important. It should be made more daily-life related, localized, vivid so as to impress them. There are various means to *increase public trust on facilities* and turn ‘conflict’ to ‘cooperation’:
  - (1) The local community should be empowered, with the assistance of third parties such as NGOs and tertiary institutions, to understand the EIA process. That helps inform them to make decisions to accept or reject a certain project.
  - (2) Educational guided tours to other similar facilities may ease public concern.
  - (3) There should be no cover-up of accidents or problems about the facilities.
  - (4) The siting process should be transparent.
  - (5) Build up partnership with local public.

Public consultation should not be a formality but a co-decision making process. The relationship of public engagement and trust is largely depends on the quality of public consultation/ engagement process in terms of the degree of engagement and the approach. Therefore, trust building can be made successful through providing factual information, options/ alternatives, and involvement of other interested groups and community leaders in the consultation/ decision-making process that increase the ownership of project by the local public.

- It is important that public have a correct understanding of the risks of the proposed LULU through education and effective risk communication. It is because only if the public feel safe about the facility can the government talk about compensation/ betterment with the public. Some also agreed that it is important to do the communication with the public on the risk and siting issues. The timing of doing the public consultation is also important. If the public dialogue is being done too late, it may be difficult to change the public mindsets.
- It was suggested to design a fair and open bidding process for different potential districts to bid for siting a LULU in their district and the one who wins can have the rate reduction in their district. Similarly, different districts can go through a bidding process for siting a LULU in their district so as to get the community fund for community enhancement. The prerequisite is to ensure that the risks and impacts are avoided or minimized to the greatest extent and the

public do not perceive unacceptable risks incurred by the LULU siting.

- Assigning private companies to do the LULU planning and siting process.
  - ♦ It may be true that private companies may have more flexibility in doing the LULU planning and siting process than the government. However, it may not be feasible in Hong Kong as there is no charging for services provided by most of the LULUs and profits may not be guaranteed.
  - ♦ It is also suggested to assign private insurance company or their consortium to assess risks and monitor the LULU facility as they are more experienced in doing risk assessment and they would do it effectively to minimize payment for compensation. Nevertheless, some also queried that if the LULU facility already meets the required standards, it may be wastage of public money to pay for the insurance every year.

### **Group B: Compensation and Community Betterment**

Compensation and community betterment can be provided to the local community in either intangible or tangible forms.

#### **Intangible form of compensation and community betterment**

These softwares are especially important in the early stage of the LULU siting process. Examples are as follows:

- Community education and capacity building  
This can be provided at the initial stage of the LULU siting process. For example, in the cases of Japan and Taiwan, there are tours that took the local communities, including the representatives who are influential in the siting process, to visit other LULU sites. The people were given sufficient information concerning the incinerators in their community, so that they could have a better understanding of facts, and eliminate possible misunderstanding. As a result, it was found that the people were more willing to accept the siting decision. Nevertheless, this arrangement is difficult to be implemented in Hong Kong as there is no readily available site for visit.
- Creation of an harmonious community  
In order to avoid adverse labelling effect, it is important to create an atmosphere which is lively and energetic, so that a positive community image

can be built and more people will be attracted to the community.

- Stakeholder engagement  
Local communities should be consulted and informed at early stage, so as to avoid hidden or incomprehensive information which can leads to extreme response in case of accidents.
- Provision of the environmental data – The less willing the government is in providing environmental information, the more suspicious the public is.
- Inspiring public confidence in accepting risks  
This can be achieved by a private insurance company underwriting the risks. Participants felt that if the facility provider is so confident that the risks are acceptable, then they should pay a premium to an underwriter. The underwriter may at the same time require strict operation and monitoring mechanisms that will enhance public confidence and acceptance of the project.

**Tangible form of compensation and community betterment:**

These are the hardwares provided in the form of money and facilities:

- Monetary compensation can be offered.  
It was indicated that the possible negative impact on the property price is the primary concern of the local community. Therefore, the offer of minimum property price guarantee or reduction of rates can be help relieve their anxiety. In addition, compensation should be offered if land resumption is needed, accidents happen or pollution exceeds certain level. It was suggested that compensation should be paid in phases rather than in one go. It is also suggested not to use the term ‘compensation’ as this may have a labelling effect. Other terms such as opportunity or betterment should be used.
- Community betterment  
We need to find out the local needs through public consultation and develop mechanism to implement the policy/ measures for providing the betterment; this should be done comprehensively and fast. Better planning can be provided through the relaxation of the planning standard. More greeneries, infrastructure and facilities can be provided to build a better living environment.

In Taiwan (swimming pool) and Japan (Sauna), the facilities were built within the buffer zone. This can avoid the labelling effect and give more confidence to people. Besides, they have attracted a number of visitors and local people to the site. This measure may be difficult to be applied in Hong Kong except the social LULUs, because the incinerators are far from the local population.

To enhance efficiency, a *community betterment fund* can be set up, so that local community, who understand their need most, can decide on how to utilize the resources and enhance the quality of their community.

- Other measures can be offered to better address the issue of fairness. For example, quotas of school places from elite schools in other communities can be reserved for the communities being affected.

### **6.3.3 Observations on the provision of tangible resources:**

- Compensation and community betterment should not be carried in a one-off manner. That helps resolve the inter-generation equity issues.
- The siting of LULU facilities benefits the society but imposes negative impacts unfairly on the host community. Monetary compensation is a way to address the issue.
- To maximize the efficiency of community betterment, the views and need of the local communities should be first gauged.
- In general, it is believed that this mechanism contains a mixed bag of solutions; both tangible and intangible measures can be adopted in conjunction with the other. To ensure successful implementation, the works department can work with other government agencies (i.e. Social Welfare Department).

### **Group C: Institutional Mechanism**

- The term “institutional” (體制) is not just legal but also a set of processes and mechanisms. It has been suggested that a fresh body be established as a redress for the host community. For example, public hearing and referendum

can be held, on popular demand, even if the project has gone through the due statutory planning and EIA processes.

### **Present Frustrations**

- Public consultation is difficult.
  - The public have little trust on the government. As they do not understand planning and EIAO reports. The public seeks information from the media and some may oppose the project irrationally. People may not have the ability to participate for they have limited knowledge and understanding of the issue concerned. Despite the government has done a lot in terms of consultation, some people still do not know what is happening.
  - Usually, those people who support the project will not attend the consultation forums and remain silent, leaving only the die-heart opponents to attend.
  
- Lack of Trusted Facilitating or Intermediary Bodies
  - Without trusted third parties, the views of the proponent and opponents are polarized.
  - Some NGOs are extremely pro-environment.
  - People generally believe that Environmental Permit is the decision of the government and see it as pro-development.
  - People do not trust the government and some are prepared to challenge the decision, even after the due planning and EIA processes, in the court of law through judicial review.
  - It takes a long time for a project to go through judicial process which may result in “lose-lose” situation as in the case of Long Valley. Some people see it as a case wasting both money and time.

### **Suggested Solutions**

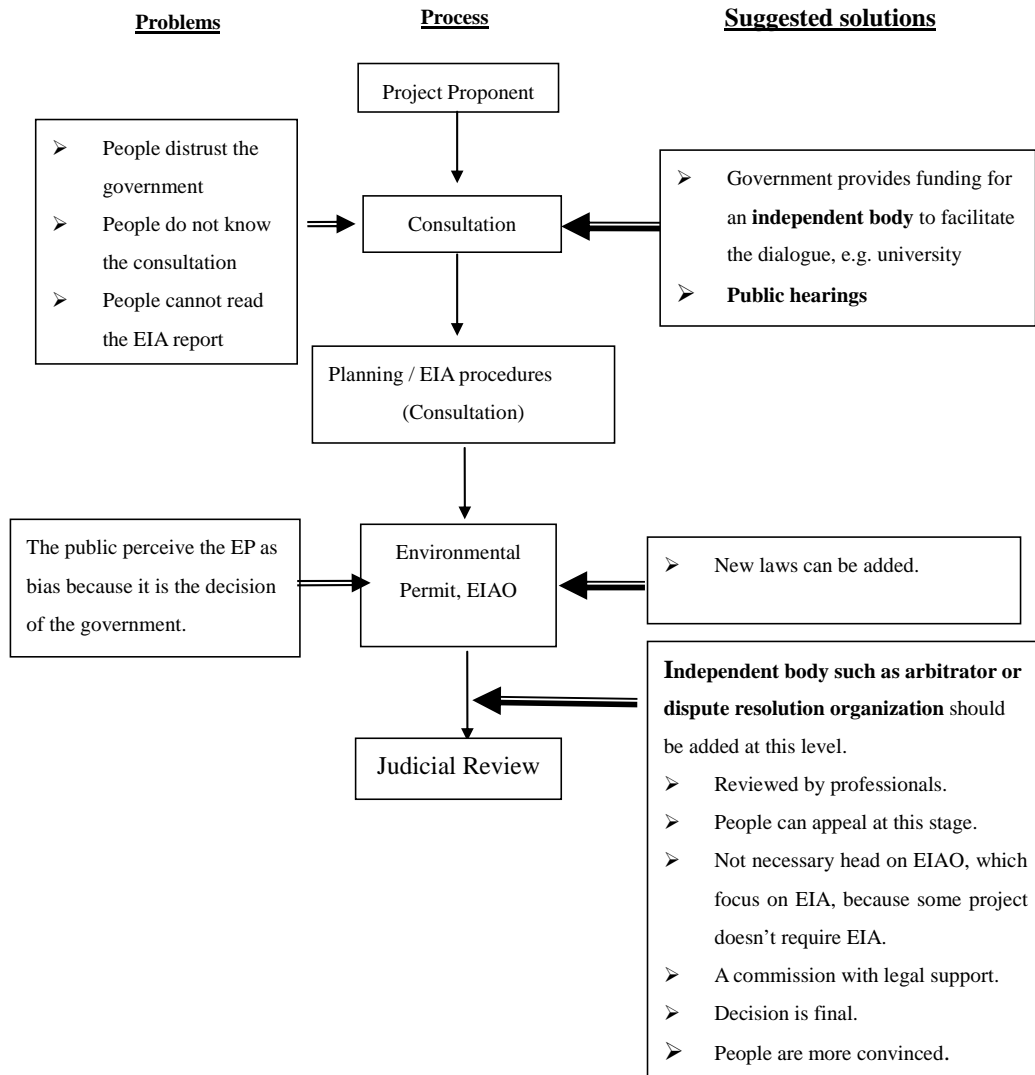
- In order to engage the host community, there should be an arrangement to empower *local community with the help of some civil societies. Empowerment also brings about capacity building* which can turn adversarial consultative meeting into something constructive and value-adding. The government should provide funding for the affected people to seek help from third parties which assist them to analyse the EIA reports. In the way, people can participate in consultation in a proactive way. Furthermore, people do not need to rely on media for



information.

- **Public hearings**, which are established for particular projects, can help the community to have their grievances adequately addressed. Throughout the process, all concerned parties can consider other's views and reflect on their positions. They are also given the opportunity to voice their views and seek further information and assurance from other parties. The process helps address grievance of those people who believe their views are ignored. Public hearings should be backed up by legal support.
- Involving a **facilitating agency** (中介機構) during the consultation stage. This can be an independent body that facilitates exchange of information. Since the community trusts academics and professional bodies, there is scope for tertiary institutions to act as the independent body and mediate. A credible facilitating agent can make the dialog between various parties more effective and serve as a buffer between the community and government. It is also an enabling mechanism that allows the public to understand the technicalities and represents their views. The facilitating agent can also take up in post-decision monitoring to assure compliance and build public confidence.
- There is a need to introduce an arbitration mechanism at the end of the EIA/planning process if everything fails. In the absence of such a mechanism, members of the public simply resort to the judicial review process should they have strong opposition to a proposed project that has already gone through the necessary EIA and/or planning process. The so call "arbitration" mechanism can allow credible and impartial professionals to review a project in question. It is believed that such a mechanism will allow opposing views be heard and diverse interests balanced. It is better than having a court judgment based largely on legalistic grounds. The establishment of such an arbitration system can tag on existing EIA and planning mechanisms without having to re-invent the whole wheel.
- The aforementioned mechanism can be called a **commission** with legal support. It is not media-sensitive but allows cross-examination. Such an approach may appear more rational and legitimate. Its decision is final

and people are more convinced. This body help local community to monitor the government upon the proposal. Such commissions can set up for specific projects on a need basis and should be backed up by legal support in order to achieve finality.



## Conclusions

NIMBY conflicts are not easy to manage. Stakeholders are currently frustrated if not exhausted under the current siting process. On the one hand, the proponent think they have done a lot but the public still do not trust them. On the other, the public do not trust the government and the process. It seems that there are rooms for improving the public engagement process in Hong Kong. Mechanisms should be in place to “enable” and “empower” the local communities to understand the projects and to take part in the consultative processes in a positive and constructive way. Independent bodies trusted both by the government, facility provider and the public have a role to

play.

Notwithstanding the suggestions, LULUs are by nature a social good which is bad to the host community. If some social benefits are generated, it is only fair that the issue of inequality be addressed. Some form of compensation/betterment may help redress inequity but should be undertaken early, judiciously and with public involvement. However, this should only be considered after the nature and scale of the project is justified, all risks and impacts minimized and a mutually agreed monitoring system is in place. Should all of the above fail, concerned parties should seek to address disputes through some institutionalized mediation or arbitration mechanisms.

## Appendix 1: List of Participants

	NAME	ORGANIZATION
1.	Chan Sandy	香港大學 - 城市規劃及環境管理研究中心
2.	Chan Ellen (陳英儂)	環境保護署 - 環境基建科
3.	Chau Kwai Cheong (鄒桂昌)	香港中文大學 - 地理與資源管理系
4.	Chee Daisy	香港可持續發展公民議會
5.	Cheung Calvin	香港科技大學
6.	Cheung Freeman (張振明)	安社亞洲 (香港) 有限公司
7.	Cheung Lister (張麗萍)	長春社
8.	Ho Lok Sang (何灝生)	香港可持續發展公民議會/嶺南大學 - 經濟系
9.	Kong Alex S.K.	Ove Arup & Partners HK Ltd.
10.	Lam Albert (林啓忠)	環境保護署
11.	Lam Josh (林錦慰)	安社亞洲 (香港) 有限公司
12.	Law Winnie	長春社
13.	Lee Frederick (李煜紹)	香港大學 - 地理學系
14.	Leung Alan	世界自然基金會香港分會
15.	Mah Daphne	香港城市大學 - 亞洲管治研究中心/公共及社會行政學系
16.	Tang Vincent (鄧智良)	環境保護署 - 自然保育及基建規劃科
17.	Wong Tracy	香港大學 - 城市規劃及環境管理研究中心
18.	Fung Tung (馮通)	香港中文大學 - 地理與資源管理系
19.	Lam Kin Che (林健枝)	香港中文大學 - 環境政策與資源管理研究中心
20.	Lee Wai Ying, Joanna (李慧瑩)	香港中文大學 - 地理與資源管理系
21.	Woo Lai Yan, Karen (胡麗恩)	香港中文大學 - 地理與資源管理系
22.	Chung Yi Tak, Teresa (鍾頤德)	香港中文大學 - 環境政策與資源管理研究中心
23.	Tse Ming Wai, Vivian (謝明慧)	香港中文大學 - 環境政策與資源管理研究中心
24.	Ng Kar Man, Carmen (吳嘉雯)	香港中文大學 - 地理與資源管理系