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ACE Paper 9/2023

For information on 3 May 2023

**Reporting of the Additional Information prepared for
the EIA report on “Technical Study on Partial Development of
Fanling Golf Course Site – Feasibility Study”**

**Note on the Statutory Environmental Impact Assessment Process
Regarding the Submission of Additional Information**

INTRODUCTION

The Advisory Council on the Environment (ACE) considered the environmental impact assessment (EIA) report on “Technical Study on Partial Development of Fanling Golf Course Site – Feasibility Study” (the Project) prepared by the Civil Engineering and Development Department (the Project Proponent) at its meetings on 8 and 19 August 2022. After thorough deliberation, the ACE concluded that while the EIA report should not be rejected, Additional Information would be required from the Project Proponent (PP) to facilitate the Director of Environmental Protection (DEP)’s consideration of the final decision. The ACE also requested the PP to report the Additional Information to the ACE once ready. On 24 August 2022, the Secretary of the ACE issued the comments to the DEP (see **Annex 1**). On 31 August 2022, the DEP asked the PP in writing to give him the Additional Information. On 18 April 2023, the PP submitted the draft Additional Information to the ACE Secretariat for discussion at the ACE meeting on 3 May 2023.

2. This paper provides background information on the statutory EIA process in relation to the “Technical Study on Partial Development of Fanling Golf Course Site – Feasibility Study” (See **Annex 2** for a summary of the ACE’s key involvement in the statutory EIA process since the PP submitted the subject EIA report to the EIA Subcommittee (EIASC) of the ACE on 30 June 2022).

LEGAL PROVISION

3. Under Section 6(4) of the EIA Ordinance (EIAO), if the DEP decides that the EIA report meets the requirements of the EIA Study Brief and the Technical Memorandum on EIA Process (EIAO-TM), he shall advise the PP to exhibit the report for public inspection, and to submit the report to the ACE for consideration

when necessary. Under Section 7(5), the ACE may give any comments it has on the EIA report to the DEP within 60 days of its receiving a copy of the report. Under Section 8(1), the DEP may ask the PP in writing to give him the additional information he requires to decide whether to approve the EIA report. Under Section 8(3)(c), the DEP shall, within 30 days of the receipt of additional information, approve, approve with conditions or reject the EIA report. The relevant sections of the EIAO on the public inspection and approval of the EIA report are attached in **Annex 3**.

4. As detailed in paragraphs 5 – 8 below, the ACE provided its comment to the DEP on 24 August 2022 to ask the PP to submit Additional Information to the DEP for consideration of the approval of the EIA Report. In response to the ACE's request, the PP submitted the draft Additional Information to the ACE on 18 April 2023.

BACKGROUND ON THE DECISIONS MADE BY THE ACE UNDER THE STATUTORY FRAMEWORK

5. On 22 April 2022, the PP submitted an application for approval of the EIA report to the DEP. In accordance with Section 6(4) of the EIAO, the DEP decided on 17 May 2022 that the EIA report met the requirements of the EIA Study Brief and the EIAO-TM, and advised the PP that the EIA report was suitable for public inspection.

6. Under Section 7(1) of the EIAO, the EIA report was exhibited for public inspection from 20 May 2022 to 18 June 2022. The PP submitted a copy of the EIA report to the ACE for comment on 30 June 2022. Under Section 7(5), the ACE may give any comments it has on the EIA report to the DEP within 60 days of its receiving a copy of the report. The statutory deadline for ACE to give comments on the EIA report to the DEP under the EIAO was on 28 August 2022.

7. The ACE and its EIASC considered the EIA report at the 154th EIASC meeting on 18 July 2022 and 254th ACE meeting held on 8 and 19 August 2022. The ACE has fully deliberated the EIA report at the two meetings and two rounds of voting were conducted to come up with the final comments at **Annex 1** which represented the stance of the ACE as a whole. In the first round of voting on “endorsing the EIA report with conditions”, the motion was not passed. In the second round of voting on “Additional Information would be required from the PP”, the motion was passed. The Chairman summarised that while understanding that the EIA report had met the requirements set out in the EIAO-TM, relevant Guidance Notes under the EIAO as well as the EIA Study Brief, Members still had reservations on various aspects including the ecological impact, hydrological impact, layout plan and tree preservation and compensation of the project. In light of the voting result, the ACE meeting concluded that while the EIA report should not be rejected, further information would be required from the PP to facilitate the DEP's consideration of

the final decision. The ACE also requested that the PP should report the Additional Information to the ACE once ready.

8. Subsequent to the decisions at the ACE meeting on 19 August 2022, the Secretary of the ACE issued on 24 August 2022 the comments and observations by the Council to the DEP, under Section 7(5) of the EIAO. Upon receipt of the above comments from the ACE, the DEP asked the PP in writing on 31 August 2022, under Section 8(1) of the EIAO, to give him the Additional Information he required to decide whether to approve the EIA report.

PURPOSE OF THE ACE MEETING ON 3 MAY 2023

9. The ACE has decided at its meeting on 19 August 2022 that the EIA report should not be rejected and provided its comments to DEP on 24 August 2022 vide **Annex 1** suggesting the PP should submit Additional Information to the DEP to facilitate the conclusion of a decision. As such, the purpose of the ACE meeting on 3 May 2023 is for the PP to report the draft Additional Information prepared, so that ACE Members may give further views or comments on the draft Additional Information before the PP's formal submission to the DEP under the EIAO.

10. Against the aforesaid background and statutory framework, the discussion at the 3 May 2023 meeting should be related to the eight key topics of the Additional Information prepared by the PP in response to the ACE's previous comments given to DEP within the 60-day statutory timeframe. The ACE would not be required to make further decision on whether to approve, approve with condition or reject the EIA report. The final decision of approving the EIA report would rest with the DEP under the EIAO. On those comments made by the ACE on the draft Additional Information, the DEP will consider them in conjunction with the Additional Information to be formally submitted by the PP as well as the deliberations of the ACE at the previous meetings held on 8 and 19 August 2022.

NEXT STEP

11. After reporting to the ACE, the PP will formally submit the Additional Information to the DEP under Section 8(1) of the EIAO. According to Section 8(3)(c), the DEP shall, within 30 days of the receipt of information under Section 8(1), approve, approve with conditions or reject the EIA report. Upon receiving the formal submission of the Additional Information from the PP, the DEP shall fully consider the comments made by the public and the ACE during the statutory public inspection period, including the comments made by the ACE at the 154th EIASC meeting on 18 July 2022 and 254th ACE meeting held on 8 and 19 August 2022, as well as the Additional Information received, to decide on whether to approve or reject the EIA report.

12. According to Section 4.5.1 of EIAO-TM, the EIA report shall be approved with or without conditions if –

- the requirements in the EIA Study Brief have been met;
- the requirements, principles and criteria in EIAO-TM have been met; and
- the relevant environmental issues raised by the public and the ACE during the public inspection period have been addressed.

According to Section 4.5.2 of EIAO-TM, in case the report requires certain amendments but such amendments will not affect the validity of the assessment and the overall results and conclusions of the report, the DEP may approve the report with conditions.

13. If the DEP decides to approve the EIA report, he may make reference to the aforesaid comments received in paragraph 11 above and the provisions of the EIAO to set conditions as appropriate.

Environmental Protection Department
April 2023



33/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong
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24 August 2022

Director of Environmental Protection
(Attn: Mr. TSANG Sai-wing, Terence)
27/F., Southorn Centre
130 Hennessy Road
Wan Chai
Hong Kong

Dear Mr Tsang,

**Environmental Impact Assessment Report
on “Technical Study on Partial Development of
Fanling Golf Course Site – Feasibility Study”**

The Advisory Council on the Environment (ACE) considered the Environmental Impact Assessment (EIA) Report on “Technical Study on Partial Development of Fanling Golf Course Site – Feasibility Study” on 8 and 19 August 2022. While understanding that the report had met the requirements set out in the Technical Memorandum on the EIA process, relevant Guidance Notes under the EIA Ordinance as well as the EIA study brief, Members still had reservations on various aspects including the ecological impact, hydrological impact, layout plan and tree preservation and compensation of the project.

Members considered that the information provided by the Project Proponent was insufficient to allow the Council to support the endorsement of the report at this juncture. The Council thus recommended that the Project Proponent should provide the following additional information to the Director of Environmental Protection to facilitate the conclusion of a decision –

- (a) Additional Bird Survey covering early morning to evening (i.e. before sunrise to 10 pm) to be conducted twice a month from September 2022 to March 2023 (covering the wet and dry seasons) to reaffirm that the overall results of the bird survey conducted in the EIA report are valid.

Details of the survey methodology including the types of device used, transect of the survey, qualifications of the personnel conducting the survey as well as the locations, frequency and duration of the survey shall be included in the further information;

- (b) Additional Moth Survey covering both evening and mid-night to be conducted twice a month from September to October 2022 to reaffirm the overall result of the moth survey conducted in the EIA report. Two rounds of survey with a duration of two hours each (i.e. one at two hours after sunset and the other one at mid-night between 00:00 and 02:00) should be carried out each night. Details of the survey methodology including the types of device used, location/transect of the survey, qualifications of the personnel conducting the survey as well as the locations, frequency and duration of the survey shall be included in the further information;
- (c) Details of the survey methodology adopted for the Bat Survey in the EIA report including the coordination of the transects of the surveys, qualifications of the personnel conducting the survey as well as the locations, frequency and duration spent on each Sub-Area;
- (d) Tree compensation plan which shall include details of planting numbers with a compensation ratio of at least 1:1.5 having regard to the number of trees affected, locations and tree species to be compensated as well as a management plan taking into account the water demand of the compensatory trees;
- (e) A detailed layout plan of the proposed housing development which shall illustrate, with the help of an overlay plan of the proposed housing blocks, the preservation of an additional 0.39 hectares of secondary woodland in Sub-Area 1 (Annex 1) (on top of those woodland, mixed woodland and Trees of Particular Interest (TPI) recommended for preservation in the EIA report), the locations of the trees to be retained, the location, disposition and design of the proposed housing blocks with a view to minimising adverse ecological impact;
- (f) A detailed analysis of the hydrological impact to show the flow of water, including available information on the profile of soil and bedrock conditions of the project site;
- (g) Additional analysis on the shading impact of the proposed housing blocks to the trees in the potential development area taking into account the revised layout plan; and

- (h) Further information on how the grave situated in Sub-Area 1 will be handled, with consideration of the view that many members of the Council have recommended to retain the grave as far as possible.

The Project Proponent should report the above supplementary information to the ACE once ready. Apart from the above, the Council also offered the following comments and observations on the report –

- (a) The Project Proponent should request the Antiquities Advisory Board to speed up the review of the grading assessment on the Fanling Golf Course;
- (b) The Project Proponent should enhance the ecological value of Sub-Areas 2 to 3 by planting more trees with a better management plan for public enjoyment. To maintain a balance between nature conservation and public enjoyment, core areas with limited access by the public should be designated for those parts where the Chinese Swamp Cypress are found while the rest can be open to the public;
- (c) The design shall incorporate sponge city concept to enhance permeability as well as green building designs such as green roof, sky garden and community farmland to enhance urban ecology and ecological connectivity; and
- (d) The Project Proponent should consider measuring the baseline ambient light level of the site, and use those findings and data for any future planning and monitoring etc., with the objective to minimise the light pollution impact to the ecologically sensitive areas in the site.

Yours sincerely,



(Owin Fung)

Secretary

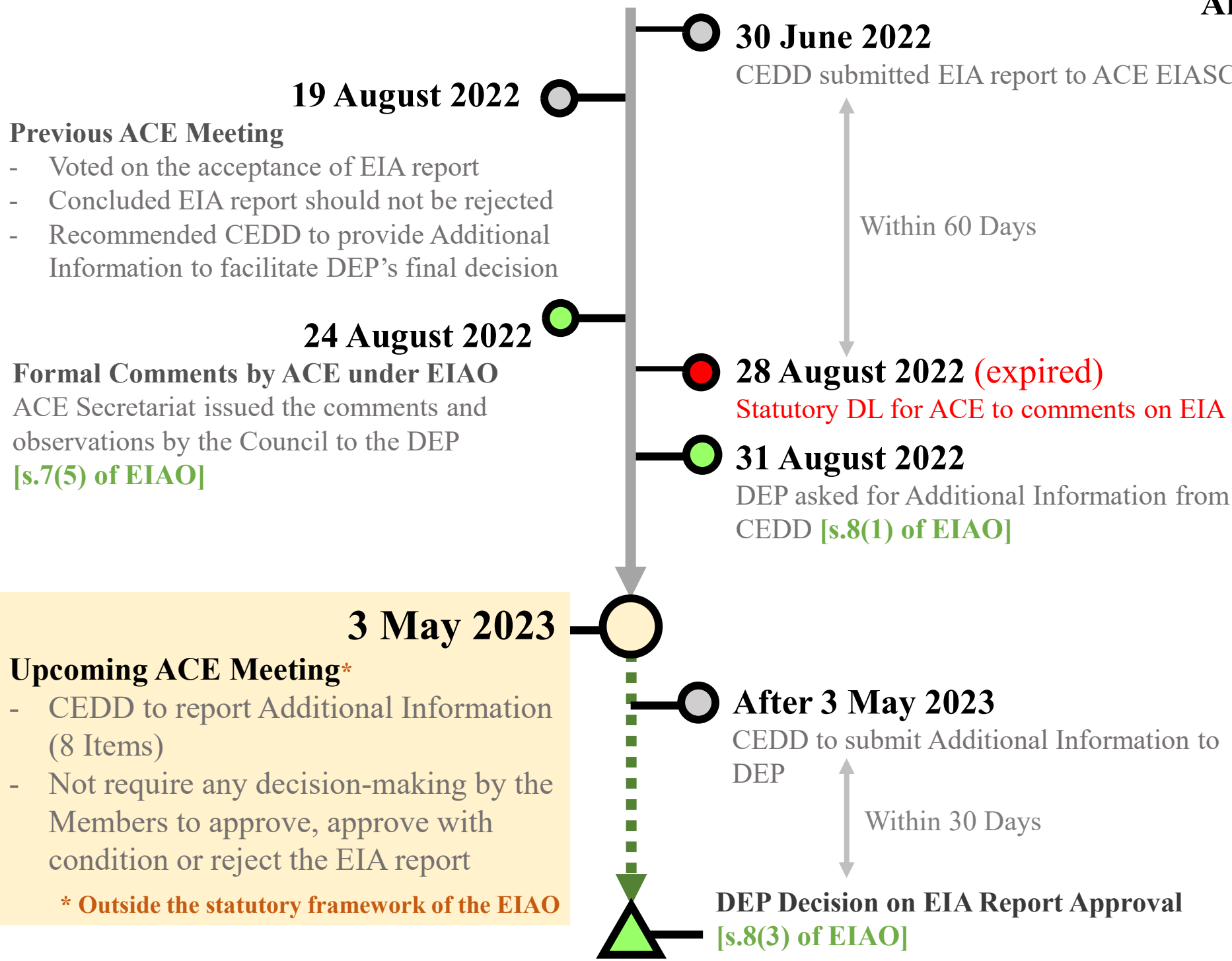
Advisory Council on the
Environment

c.c. ACE Chairman and Members

Aerial Photo of Sub-Area 1



* The location is indicative. Please refer to EIA report Figure 9.5a for the exact location.



Cap 499 Environmental Impact Assessment Ordinance
(Excerpt on Handling of EIA Report)

6. Environmental impact assessment report

- (1) An applicant shall prepare an environmental impact assessment report in accordance with—
 - (a) the requirements of the environmental impact assessment study brief; and
 - (b) the technical memorandum applicable to the assessment.
- (2) The applicant shall deliver an environmental impact assessment report to the Director for approval and pay the prescribed application fee. The Director may require the applicant to supply sufficient copies of the report so that the Director is able to circulate copies to relevant parties as defined in the technical memorandum.
- (3) The Director shall, within 60 days of receiving the environmental impact assessment report, decide if the assessment—
 - (a) meets the requirements of the environmental impact assessment study brief and technical memorandum; or
 - (b) does not meet the requirements of the environmental impact assessment study brief and technical memorandum.
- (4) If the Director decides that the environmental impact assessment report meets the requirements of the brief and the technical memorandum, he shall advise the applicant when the report must be exhibited for public inspection, whether the advertisement is to contain any specific material and whether a submission to the Advisory Council on the Environment or its subcommittee is required.
- (5) The Director is taken to have decided that the environmental impact assessment report meets the requirements of the environmental impact assessment study brief and the technical memorandum if the Director has not given notice in writing that the report does not meet the requirements of the brief and the technical memorandum within 60 days of receiving the report. The applicant is required to submit the number of copies of the report as set out in the brief.
- (6) If the Director decides that the environmental impact assessment report does not meet the requirements of the brief and the technical memorandum, he shall advise the applicant of the reasons why the report is unacceptable.

- (7) The applicant shall present his environmental impact assessment report to the Advisory Council on the Environment at the times and places advised by the Director if the applicant is required to submit the report to the Council.

7. Public inspection of reports

- (1) The applicant shall as soon as reasonably practicable after he has been notified under section 6(3)(a) that an environmental impact assessment report meets the requirements of the environmental impact assessment study brief—
 - (a) make the report available in such numbers as the Director may reasonably require at locations approved by the Director for public inspection free of charge for a period of 30 days;
 - (b) advertise as the Director may require the availability of the report once every 10 days of the period in a Chinese language newspaper and an English language newspaper, each of which circulate generally in Hong Kong; and
 - (c) provide free of charge sufficient quantities as the Director may require of the report to comply with paragraph (a).
- (2) The applicant shall set out in the advertisement—
 - (a) the nature of the designated project and the site where the project is proposed to be carried out;
 - (b) the period for which, the places at which and the hours during which the report is available for public inspection;
 - (c) that a member of the public may give the Director written comments on the report before the period of public inspection expires;
 - (d) the address to which the comments are to be sent; and
 - (e) any other information that the Director may reasonably require relating to the project.
- (3) The Director shall require an applicant to readvertise or extend the period of public inspection for up to another 30 days if the applicant fails to comply with any requirement under this Part or a direction that the Director gives to an applicant under this section unless the Director is satisfied that the failure is not significant.
- (4) The Director shall notify the Advisory Council on the Environment if an environmental impact assessment report is suitable for public inspection.
- (5) The Advisory Council on the Environment may give any comments it has on the report to the Director within 60 days of its receiving a copy of the report.

8. Approval of environmental impact assessment report

- (1) The Director may, within 14 days of the expiry of the public inspection period or the receipt of comments from the Advisory Council on the Environment, whichever is later, ask an applicant in writing to give him the information he requires to decide whether to approve an environmental impact assessment report. The Director shall supply the applicant with one set of written comments received from members of the public and the Advisory Council on the Environment free of charge where comments have been received.
- (2) The Director shall not make a request for further information where comments have not been submitted to him on the report as a result of the public consultation or from the Advisory Council on the Environment.
- (3) The Director shall, within 30 days of—
 - (a) the expiry of the public inspection period;
 - (b) the receipt of comments from the Advisory Council on the Environment; or
 - (c) the receipt of information under subsection (1),whichever is the later, approve, approve with conditions or reject an environmental impact assessment report for the designated project.
- (4) The Director is taken to have approved without conditions an environmental impact assessment report if the Director has not given notice in writing rejecting the report or approving it with conditions within 30 days of the happening of the later of the events set out in subsection (3)(a), (b) or (c).
- (5) The Director shall place an approved environmental impact assessment report on the register.
- (6) If the Director rejects an environmental impact assessment report, he shall give the applicant the reasons for the rejection.

- END -