

立法會
Legislative Council

LC Paper No. CB(1) 2221/08-09
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by the Administration)

Ref : CB1/PS/5/08/1

Panel on Environmental Affairs

Subcommittee on Combating Fly-tipping

Minutes of meeting
held on Monday, 15 June 2009, at 8:30 am
in Conference Room B of the Legislative Council Building

- Members present** : Hon LEE Wing-tat (Chairman)
Hon Audrey EU Yuet-mee, SC, JP
Hon CHEUNG Hok-ming, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
- Public officers attending** : Dr Kitty POON
Under Secretary for the Environment
- Mr TANG Kin-fai
Assistant Director (Environmental Compliance)
Environmental Protection Department
- Mr ROSS Graham Martin
Deputy Director (Specialist) (Lands Administration Office,
Headquarters)
Lands Department
- Mr Albert CHEUNG
District Lands Officer (District Lands Office, Yuen Long)
Lands Department
- Mr YEUNG Tak-keung
District Officer (Yuen Long District Office)
Home Affairs Department
- Ms Phyllis LI
Acting Assistant Director of Planning (Special Duties)
Planning Department

Mr Kelvin CHAN
Chief Town Planner (Central Enforcement and
Prosecution)
Planning Department

Mr Jonathan LEUNG
Chief Assistant Secretary (Works) 5
Development Bureau

Dr Alain LAM
Principal Environmental Protection Officer (Waste
Management Policy)
Environmental Protection Department

Mr LEE Yan-ming
Chief Traffic Engineer (New Territories West)
Transport Department

Mr CHEUNG Kwok-wai
Senior Conservation Officer (Technical Services)
Agriculture, Fisheries and Conservation Department

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Mr Franco KWONG
Council Secretary (1)1

I. Confirmation of minutes

- (LC Paper No. CB(1) 1629/08-09) — Minutes of the meeting held on
20 April 2009
- LC Paper No. CB(1) 1862/08-09) — Minutes of the meeting held on
7 May 2009)

The minutes of the meetings held on 20 April and 7 May 2009 were confirmed.

II. Meeting with the Administration

- (LC Paper No. CB(1) 1503/08-09(16) — List of follow-up actions arising
from the discussion at the
meeting on 20 April 2009
- LC Paper No. CB(1) 1631/08-09(01) — List of follow-up actions arising
from the discussion at the
meeting on 7 May 2009
- LC Paper No. CB(1) 1631/08-09(02) — Administration's response to
items 1 and 6 of
CB(1) 1503/08-09(16)

LC Paper No. CB(1) 1631/08-09(03) — Administration's response to items 2 to 5 of CB(1) 1503/08-09(16) and CB(1) 1631/08-09(01))

2. The Subcommittee deliberated (Index of proceedings attached at **Annex**).
3. The Administration was requested to -
 - (a) advise the existing policies on provision, maintenance and management of roads, particularly connecting roads/paths to main roads, in rural areas.
 - (b) enhance deterrent effect, the Planning Department (PlanD) should apply for a court review through the Department of Justice if it considers the penalty imposed by the court in relation to an illegal land filling activity is too lenient. Consideration should also be given for PlanD to carry out the reinstatement works first and reimburse the costs incurred from the parties concerned afterwards.
 - (c) advise the latest situation (with photos) of Shing Mun Road, Nam Sang Wai (DD115) as well as Ham Tin Kau Tsuen, DD99, DD96, DD125 and DD129 in Annex 2 to CB(1) 1631/08-09(02).
 - (d) advise the latest progress of the review of section 16A of the Waste Disposal Ordinance (Cap. 354) to deal with fly-tipping and land filling activities, particularly the threshold for the proposed enhanced control.
 - (e) request the Construction Industry Council to explain how a main contractor could ensure compliance with the voluntary trip-ticketing system by its subcontractors given the many layers of subcontractors involved.
 - (f) request the Drainage Services Department to prepare a paper on the enforcement action and remedial measures to be taken when a land filling activity involves blockage of a river or stream.

III. Any other business

4. There being no other business, the meeting ended at 10:20 am.

Panel on Environmental Affairs

Subcommittee on Combating Fly-tipping

**Proceedings of the meeting
on Monday, 15 June 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000001 - 000202	Chairman	The minutes of meetings held on 20 April and 7 May 2009 were confirmed	
<i>Agenda Item II - Meeting with the Administration</i>			
000203 - 000437	Chairman Ms Audrey EU	Members' agreement to first discuss the case about the village access near San Tin Park	
000438 - 000724	Chairman Administration	<p>Chairman's enquiry about the latest progress of the San Tin Park case</p> <p>Administration's response -</p> <p>(a) District Lands Officer/Yuen Long (DLO/YL) received a complaint in 2005 against an unauthorized conversion of a footpath in San Tin Park into an access for vehicular use;</p> <p>(b) DLO/YL took land control action under the belief that the access was newly converted into a vehicular access, but the action was suspended due to strong local resistance;</p> <p>(c) DLO/YL was later informed in 2008 that the access had in fact been used by vehicles for a long time prior to 2005, which was confirmed to be true after review of available records;</p> <p>(d) DLO/YL subsequently consulted the stakeholders concerned, including Heung Yee Kuk (HYK) which suggested that the Government should upgrade the</p>	

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		<p>access to a proper vehicular access to serve the local residents;</p> <p>(e) Taking into account local residents' request for retention of the access, District Officer/Yuen Long (DO/YL) agreed to consider improving the road surface of the access following normal village access standards and would carry out other maintenance works when necessary</p>	
000725 - 001204	Chairman Administration	<p>Chairman's enquiries on -</p> <p>(a) the existing policy governing the conversion of a footpath into an access for vehicular use; and</p> <p>(b) the party which would be held liable for traffic accidents occurred in an area covered by a Government Land Licence (GLL)</p> <p>Administration's response -</p> <p>(a) village accesses which had existed for many years might be allowed for continued use as a practical measure;</p> <p>(b) land control action would be taken against newly created accesses to minimize the proliferation of unauthorized accesses;</p> <p>(c) in the case of San Tin Park, the access in question had existed for many years (at least since 1990). Decision was made to allow for continued use of the access taking into account local views; and</p> <p>(d) DLO/YL would consider to exclude the improved access from GLL after completion of works to be undertaken by DO/YL</p>	
001205 - 001740	Ms Audrey EU Administration	<p>Ms Audrey EU's enquiries on -</p> <p>(a) failure on the part of the Lands Department (Lands D) to respond</p>	

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		<p>to her written enquiry about the case, which had been sent out three weeks ago;</p> <p>(b) overall policy on village accesses, such as how long an access should exist before it became an authorized access;</p> <p>(c) justification on removing the access in question from GLL given that it fell within San Tin Park, and that it was built by villagers using their own money; and</p> <p>(d) legality for DO/YL to carry out upgrading works at the access, and whether villagers had been consulted in this regard</p> <p>Administration's response -</p> <p>(a) Lands D would endeavour to provide a written reply to Ms Audrey EU as soon as practicable;</p> <p>(b) given the substantial number of village accesses in rural area, it was impossible to have one policy to suit all cases; and</p> <p>(c) the consultation exercise conducted by DO/YL in February 2007 revealed that 90% of the 269 replies from local communities objected to the closure of the access</p>	
001741 - 002214	Ms Audrey EU Administration	<p>Ms Audrey EU's disagreement to the Administration's explanation, pointing out that DLO/YL had planned another land control action in 2008 despite the strong resistance from local villagers in 2007</p> <p>The Administration's explanation that the land control action was suspended because of new information that the access was not newly created and had been used for many years. The way</p>	

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		<p>in which the case was handled was consistent with the Government's general practice</p>	
002215 - 002749	Prof Patrick LAU Administration Chairman	<p>Prof Patrick LAU's view that the case reflected the lack of planning and consultation on the development of road network in rural areas, which was not in line with the rapid development of the New Territories (NT) nowadays</p> <p>Administration's response -</p> <p>(a) the statutory Outline Zoning Plans (OZPs) had set out the broad land use zonings and major transport networks for NT; and</p> <p>(b) more detailed planning frameworks were set out in the administrative Outline Development Plans and Layout Plans</p> <p>Members' request for the Administration to conduct a comprehensive review on the development of rural areas, particularly in respect of road network, for future discussion by the Panel on Development</p>	<p>The Administration to advise the existing policies on provision, maintenance and management of roads, particularly connecting roads/paths to main roads, in rural areas.</p>
002750 - 003314	Mr CHEUNG Hok-ming Administration	<p>Mr CHEUNG Hok-ming's enquiry on the Administration's decision on the access in question</p> <p>Administration's response -</p> <p>DO/YL would improve the access following normal village access standards. The proposed works included:</p> <p>(a) resurfacing a section of about 15 metres near the entrance of the access which was in dilapidated conditions;</p> <p>(b) remove some concrete covering the drains along part of the access to improve the drainage condition; and</p>	

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		(c) future maintenance of the access would be carried out under the Minor Works Programme of the Home Affairs Department (HAD)	
003315 - 004254	Chairman Mr CHEUNG Hok-ming Administration	<p>Chairman's enquiries -</p> <p>(a) whether the access would be subject to traffic laws; and</p> <p>(b) whether heavy vehicles would be restricted to use the access</p> <p>Administration's response -</p> <p>(a) existing traffic laws were applicable to both private and public roads;</p> <p>(b) the definition of "road" under the Road Traffic Ordinance (Cap. 374) covered pedestrian ways, squares, alleys and places where the public could have access to;</p> <p>(c) when necessary, DO/YL would consider placing road humps along a village access to control speed of vehicles; and</p> <p>(d) where necessary, traffic control measures, such as displaying of signboard, could be taken to prohibit heavy vehicles from entering the access</p>	
004255 - 004530	Mr CHEUNG Hok-ming Chairman Administration	<p>Mr CHEUNG Hok-ming's enquiry on the feasibility of providing pedestrian way along the access</p> <p>Administration's response -</p> <p>(a) the minimum width of village accesses maintained by HAD was 3.5 metres. Depending on the traffic flow and the width of the access concerned, separate pedestrian way might not be provided;</p> <p>(b) some sections of the access in question just met the 3.5 metres</p>	

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		<p>requirement. Road widening and slope formation works might be required if a pedestrian way was to be provided; and</p> <p>(c) DO/YL would look into the need and feasibility of providing a pedestrian way for the access</p>	
004531 - 005104	Chairman Administration	Administration's explanation on the latest information/statistics provided by relevant Government departments in respect of the cases of depositing of inert construction and demolition (C&D) materials on private and Government land (LC Paper No. CB(1) 1631/08-09(02))	
005105 - 010015	Chairman Administration	<p>Chairman's concerns –</p> <p>(a) an increase in the number of complaints against depositing of inert C&D materials on private land in the first quarter of 2009. Need to tighten control given the increasing number of complaints;</p> <p>(b) whether large-scale land filling activities with a view to destroy the ecological value of the land to pave way for future development were on the rise; and</p> <p>(c) need to strengthen control over land filling activities</p> <p>Administration's response -</p> <p>(a) unauthorized and large-scale land filling activities were decreasing while depositing activities with consent of the landowners' consent were increasing;</p> <p>(b) consideration was being given to amending section 16A of the Waste Disposal Ordinance (Cap. 354) (WDO) to require any person who intended to deposit waste on any land to produce written consent of the landowner concerned. For depositing activities on private</p>	

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		<p>land where the landowner's consent was given, authorization from the relevant control authority may be required; and</p> <p>(c) Environmental Protection Department was working with relevant bureaux and departments, including the Department of Justice, to develop the details and look into a number of legal and practical issues of the proposal. Stakeholders such as HYK and DCs would be consulted</p> <p>Chairman's further concerns about the enforcement action and remedial measures to be taken by the Drainage Services Department (DSD) when a land filling activity resulted in the blockage of a river or stream</p>	
010016 - 010300	Chairman Administration	<p>Chairman's enquiry on feasibility to regulate the scale of land filling activities</p> <p>Administration's explanation on the need for careful consideration on the threshold with a view to balancing between public interest and private property rights. Initially, the proposal aimed at strengthening the control on land filling activities of 100 square metres (m²) or above</p>	
010301 - 011437	Ms Audrey EU Administration Chairman	<p>Ms Audrey EU's views/enquiries –</p> <p>(a) the limited number of reinstatement notices/ prosecutions and the low level of fine imposed by the court (as revealed in Tables 1 and 2 of LC Paper No. CB(1) 1631/08-09(2)) might not be able to achieve sufficient deterrence against fly-tipping and land filling activities;</p> <p>(b) the Administration should apply for a court review if the penalty imposed by the court was considered too lenient or insufficient; and</p>	<p>The Administration to apply for a court review through the Department of Justice if it considered the penalty imposed by the court in relation to an illegal land filling activity was too lenient.</p>

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		<p>(c) the rationale behind the large number of 234 reinstatement notices issued for only 37 sites in 2008</p> <p>Administration's explanation -</p> <p>(a) the Advisory Council on the Environment had written to the Judiciary Administrator in 2003 and 2008 to express their views that the sentences imposed should effectively deter such illegal activities;</p> <p>(b) the statistics were provided on a yearly basis. For the enforcement cases undertaken in 2008, the respective reinstatement and prosecution actions, where necessary, might be instigated in 2009. Reinstatement might not be required for some cases such as those within development zones; and</p> <p>(c) as each of the 37 sites might involve several landowners, the Administration had to issue a reinstatement notice to each of these landowners, thereby resulting in the large number of reinstatement notices</p>	
011438 - 012132	Ms Audrey EU Administration Chairman	<p>Ms Audrey EU's concern that only 26 of the 37 sites had been reinstated. To expedite the reinstatement process, consideration should be given for the Administration to carry out the reinstatement works first and reimburse the cost incurred from the parties concerned afterwards</p> <p>Administration's explanation -</p> <p>(a) since PlanD was not a works department maintaining term contractors on civil engineering works, it might have difficulty in carrying out the reinstatement works. Besides, cost recovery</p>	The Administration to consider should also be given for the Planning Department (PlanD) to carry out the reinstatement works first and reimburse the costs incurred from the parties concerned afterwards

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		<p>could be a lengthy process; and</p> <p>(b) the reinstatement action, so far, undertaken through serving of statutory notice and compliance by the notice recipients had been effective;</p>	
012133 - 012450	Chairman Ms Audrey EU Administration	<p>Chairman's concern that landowners might try to get round the threshold of 100 m² by separating the land into small lots of less than 100 m² for land filling activities</p> <p>Administration's response that Chairman's concern was noted, and consideration would be given to providing for controlling land filling activities in adjacent land</p>	
012451 - 013445	Chairman Administration	<p>Chairman's concern that some private land filling sites in Annex 2 to LC Paper No. CB(1) 1631/08-09(02) were zoned "Green Belt" and "Coastal Protection Area"</p> <p>Administration's response -</p> <p>(a) the 60 private land filling sites were under constant monitoring or actions by Government departments;</p> <p>(b) reinstatement notice, where appropriate, would be issued, and such notice would be registered at the Land Registry against the land title; and</p> <p>(c) compliance notice would only be issued if the site had been reinstated</p> <p>Chairman's request for information with photos about the latest situation of Shing Mun Road, Nam Sang Wai (DD115) as well as Ham Tin Kau Tsuen, DD99, DD96, DD125 and DD129</p>	The Administration to advise the latest situation (with photos) of Shing Mun Road, Nam Sang Wai (DD115) as well as Ham Tin Kau Tsuen, DD99, DD96, DD125 and DD129 in Annex 2 to LC Paper No. CB(1) 1631/08-09(02)
013446 - 014225	Chairman Administration	Chairman's view that the mandatory trip-ticket system (TTS) should be	The Administration to request CIC to explain

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		<p>extended to private works projects</p> <p>Administration's response that it had informed the Construction Industry Council (CIC) members' suggestions on the use of mandatory TTS, compulsory declaration system and global positioning system in private works projects. CIC's response was generally supportive and would prepare guidelines on TTS aiming for voluntary adoption by the industry</p> <p>Chairman's query that if TTS was adopted on a voluntary basis, how the main contractor could ensure compliance with TTS by its subcontractors given the many layers of subcontractors involved</p>	<p>how a main contractor could ensure compliance with the voluntary trip-ticketing system by its subcontractors given the many layers of subcontractors involved</p>
014226 - 014402	Chairman	<p>Chairman's request for DSD to provide an information paper on the enforcement action and remedial measures to be taken when a land filling activity involved blockage of a river or stream</p>	<p>The Administration to request DSD to prepare a paper on the enforcement action and remedial measures to be taken when a land filling activity involves blockage of a river or stream</p>
014403 - 014758	<p>Chairman Ms Audrey EU Mr KAM Nai-wai</p>	<p>Members' agreement to discuss the Administration's response to the summary of views/proposed measures put forward by deputations at the next meeting scheduled for 30 June 2009</p>	