

立法會 *Legislative Council*

LC Paper No. CB(2)1301/08-09(06)

Ref : CB2/PL/HA

Panel on Home Affairs

Background brief prepared by the Legislative Council Secretariat for the meeting on 17 April 2009

Greening and Tree Preservation

Purpose

This paper provides background information on greening and tree preservation and gives an account of past discussions held by Legislative Council (LegCo) Members on the subject.

Background

2. The Government's greening policy is to enhance the quality of living environment through active planting, and proper maintenance and preservation of trees and other vegetation. In December 2002, the Government established the Steering Committee on Greening (SCG) to steer the greening policy and co-ordinate the efforts of the relevant departments in tree protection and greening. The Committee chaired by the Permanent Secretary for Development (Works) comprises directorate level members drawn from 15 bureaux and departments. Three working committees were set up under SCG to promote greening, review the existing standards and guidelines on greening, and establish reference guidelines for maintenance of trees and vegetation.

Legislative framework for tree protection

3. There are several ordinances for protection of trees with conservation value on Government land or private land. Trees on unleased Government land are protected under the Forests and Countryside Ordinance (Cap. 96). Under the Ordinance, any person without lawful excuse fells or damages any trees in any forest or plantation on unleased Government land is punishable by a fine up to \$25,000 and imprisonment up to one year. Other relevant legislations for tree protection include the Country Parks Ordinance (Cap. 208),

Crimes Ordinance (Cap. 200) and Theft Ordinance (Cap. 210). In addition, trees on pleasure grounds, public cemeteries and gardens of remembrance are protected under the Public Health & Municipal Services Ordinance (Cap 132).

4. At the meeting of the Panel on Planning, Lands and Works (now renamed as "Panel on Development") on 27 January 2004, a member proposed to introduce a Member's Bill to amend the Forests and Countryside Ordinance to strengthen the statutory protection of old and valuable trees through setting up a register of these trees. The member considered that the legislative and administrative measures were inadequate in the scope of protection and passive in enforcement, and had failed to provide the necessary protection for valuable trees.

5. In response, the Administration said that there were already a number of existing ordinances relevant to the protection of trees which provided the necessary legal framework for protecting trees on Government land from being willfully damaged or illegally felled. The Administration further advised that the proposed Bill would affect the integrated approach adopted for maintenance of vegetation on Government land (details of which are elaborated in paragraph 6) and the Government policy on protection of trees through administrative measures introduced from time to time. Pursuant to the President's ruling on 18 January 2007, the Bill was not introduced to the Council.

Administrative measures for tree protection

6. The Administration adopts an integrated approach in assigning the responsibility for the maintenance of vegetation (including plants and trees) on government land. Under this approach, the department responsible for the maintenance of a facility (such as a park, open space, government building or slope) is also responsible for the maintenance of the vegetation there. These departments include the Agriculture, Fisheries and Conservation Department (AFCD), Leisure and Cultural Services Department (LCSD), Highways Department (HyD), Housing Department, Architectural Services Department (ArchSD), Drainage Services Department, and Water Supplies Department. Major administrative measures taken by the Administration since 2004 to enhance tree preservation and tree maintenance are summarized in paragraphs 7 to 9.

Register of Old and Valuable Trees

7. In 2004, the Administration established a Register of Old and Valuable Trees (OVTs) to strengthen the protection of trees with special value and issued a technical circular to promulgate additional procedures for priority preservation of trees on the Register (Registered Trees). According to the Administration's conservation plan, AFCD and LCSD would assess the suitability of trees for inclusion on the Register, conduct regular audit

inspections at least once every year to appraise the health conditions of Registered Trees and provide expert advice and guidance on site to tree maintenance departments and their contractors when necessary. Felling of the Registered Trees is prohibited unless under exceptional circumstances and with prior agreement of both the Development Bureau and the Lands Department. In 2007, LCSD set up a tree expert group comprising arborists, academics and professional tree maintenance personnel to advise the departments concerned on raising the standards on management and maintenance of OVTs. Since the beginning of 2008, LCSD had been updating the Register after each tree removal from the Register to keep the public informed of the reasons and dates of removal. The Register currently contains information of about 530 trees on Government land.

Guidelines on tree maintenance

8. Major guidelines issued by the Administration on tree maintenance are set out below -

- (a) a manual consolidating all relevant government technical circulars, guidelines and specifications, etc. on the subject of greening and providing guidelines for departments responsible for promoting green (issued in June 2004);
- (b) a technical circular on additional procedures for preservation of OVTs (issued in September 2004);
- (c) a technical circular setting out control framework for tree preservation and measures for strengthening tree felling procedures (issued in May 2006); and
- (d) an updated Practice Note regarding the revised control measures on tree felling in private projects (issued in August 2007).

Other measures

9. Other measures for enhancing the protection of trees include -

- (a) introduction of an enhanced contract condition to strengthen the protection of trees within public works construction sites since June 2004;
- (b) consultation with the District Councils on public works projects with soft landscaping works value exceeding \$3 million, in terms of landscape master layout plan, treatment of existing trees on site, etc.;

- (c) inclusion in Public Works Subcommittee papers information on tree preservation when seeking LegCo's approval of funding for public works projects;
- (d) collaboration with the Construction Industry Council Training Academy in organising training courses on horticultural work for landscape workers and supervisors; and
- (e) establishment of an interdepartmental working group in April 2008 to review the technical requirements and management criteria of the existing approved list of landscaping contractors, with a view to strengthening the entry requirement on tree maintenance of the approved contractors.

Views and concerns of Members

10. Members passed a motion at the Council meeting on 7 April 2005 urging the Government to expeditiously formulate an effective policy on protection of trees, and at the same time perfect existing relevant legislation, administrative measures as well as administrative framework, so as to effectively protect and preserve various kinds of trees. The wording of the motion is in **Appendix I**.

11. Following a fatal incident caused by the collapse of an old tree in Stanley in August 2008, members raised questions at the Council meetings on 22 October 2008 and 3 December 2008 respectively enquiring whether the Administration would (a) conduct a review on the tree caring method; (b) issue guidelines or establish standards for assessing the health conditions of trees; (c) increase the manpower for tree inspection or outsource some of the work; (d) set up a dedicated team or assign one single department to be responsible for coordinating such work as tree inspection, examination and caring; and (e) enact legislation on the preservation of trees.

12. The Administration's responses were as follows -

- (a) starting from 2007, LCSD had enhanced the participation of local and overseas tree experts in its management of trees to enhance its tree management work. After the fatal tree collapse incident in August 2008, LCSD had adopted a prudent approach by immediately re-inspecting the trees on the Register under its management. In order to enhance and speed up the inspection work, LCSD further enlisted the help of overseas tree experts. According to the inspection results, nine trees on the Register were found deteriorating in health. Owing to their potential hazards of collapsing, LCSD had removed these trees on public safety grounds;

- (b) LCSD would review its tree inspection and maintenance work from time to time for continuous improvement. At the present stage, it would focus its efforts on the necessary tree caring work and conduct a review in conjunction with the tree expert group on ways to enhance the transparency of information on the Register;
- (c) there were three teams of some 110 staff taking charge of tree management work in LCSD. The staff concerned had received training in horticultural and tree maintenance, and officers at the supervisory level had attended training courses on arboriculture conducted by overseas experts. This apart, district staff of LCSD and horticultural contractors also provided plant caring and maintenance services;
- (d) the Government's integrated approach in the maintenance of vegetation on government land had been successful and cost-effective in protecting vegetation. The Administration had no plan to assign a single department to be solely responsible for the management of vegetation; and
- (e) having considered the relevant legislations and administrative measures in place to protect trees of conservation value, the Government had no plan to enact specific legislations for tree protection.

13. At the Home Affairs Panel meeting on 20 October 2008, a member urged the Administration to explore the feasibility of putting the policy responsibility over matters relating to the protection and conservation of trees in the territory under one bureau, with a view to stepping up efforts in such work. The member considered that the present arrangement of many departments being involved in tree maintenance was far from satisfactory. He further suggested that the Administration should enact legislation to cover all aspects of tree protection and maintenance. The Secretary for Home Affairs responded that given the large number of trees in Hong Kong, the Administration had to consider carefully whether it should maintain the present approach in tree maintenance or dedicate the work to a single department.

Recent Development

14. Pursuant to the Coroner's Court's ruling on the fatal tree collapse incident, the Chief Executive announced on 31 March 2009 the appointment of the Chief Secretary for Administration to head an interdepartmental review on the recommendations put forward by the Jury on various issues relating to the Government's tree management policy, such as staff training, risk assessment of trees, and the adequacy of the existing guidelines and their execution. The relevant press cuttings are in **Appendix II**.

Relevant papers

15. A list of relevant papers and questions relating to tree preservation raised at the Council meetings with their hyperlinks at the LegCo website is in **Appendix III**.

Council Business Division 2
Legislative Council Secretariat
15 April 2009

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The LegCo Reporter

2004-2005

Issue No. 16 (8 April 2005)

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The following two motions with no legislative effect were also passed by the Council:

(1) *Motion on "Perfecting the policy on protection of trees", moved by Hon CHOY So-yuk*

"That, as currently the Government does not have a set of effective administrative measures or legislation to protect trees, and as co-ordination is lacking because the responsibilities are scattered among various departments, which may result in trees in the territory being destroyed, damaged or removed due to urban development, negligence or other reasons, this Council urges the Government to expeditiously formulate an effective policy on protection of trees, and at the same time perfect existing relevant legislation, administrative measures as well as administrative framework, so as to effectively protect and preserve various kinds of trees, especially those that are exceptionally old and large, rare and valuable, of historical, cultural or memorial significance, and of special ecological or scientific research value."

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新聞公報

行政長官就赤柱塌樹意外死因聆訊會見傳媒談話內容（只有中文）（附短片）

以下為行政長官曾蔭權今日（三月三十一日）於行政會議結束後，在中區政府合署中座地下大堂會見傳媒的談話內容：

各位，我和我的同事一直都是十分關注赤柱塌樹意外的死因聆訊。

對於莊頌賢小姐這樣年輕便失去了生命，我感到十分惋惜和難過。我好明白和理解頌賢家人所感受到的哀痛。在此，我再次衷心向頌賢家人表示最深切的慰問。

政府怎樣能管理好樹木，確保市民安全，是一個好重要的課題。

我已經囑咐政務司司長帶領政府所有有關部門，研究陪審團昨日提出的各項建議，包括我們的員工培訓、樹木風險管理、現行的指引是否足夠，以及執行的安排，儘早作出改善措施，解決現時的問題。

完

2009年3月31日（星期二）
香港時間12時48分

特首關注塌樹殺人 促跨局跟進死因庭建議 唐英年領專組檢討樹木管理

【明報專訊】就赤柱刺桐壓斃少女，特首曾蔭權昨日囑咐政務司長唐英年率領政府4個政策局，研究陪審團提出的改善護樹工作建議，包括員工培訓、樹木風險管理、現行指引是否足夠，以及執行安排，希望梳理護樹工作「政出八門」的流弊（見圖），目標是在3個月內完成檢討。

政府終於正視管理樹木工作，港大地理系講座教授詹志勇提醒政府要「重質不重量」，應為康文署高層增加一名樹木科學家，加強部門對樹木各種健康問題的專業判斷，才有望治本（見另稿）。

盼梳理護樹「政出八門」流弊唐英年昨日在另一場合宣布，他會跟相關部門重點檢討政府管理樹木的工作，目標是確保市民安全和管理好樹木。由唐英年領導的專責小組，部門包括發展局、環境局、民政事務局、運輸及房屋局。小組會全面檢討目前政府管理、保養樹木的各項安排和執行情況等，重點是要兼顧推廣綠化工作、保育古樹的同時，確保市民的安全。

對於赤柱塌樹意外奪去年輕的莊頌賢的生命，曾蔭權和唐英年昨日均表示感到十分惋惜和難過。曾蔭權表示明白和理解死者家人所感受到的哀痛，衷心向死者家人表示最深切的慰問。唐英年表示，做好樹木管理工作，相信是對死者及其家人的一點安慰。

康文署長首度表歉意

康文署長周達明昨日接受電台節目訪問時，終於首次「對意外深表歉意」，又指意外發生後，署方已採取果斷行動，例如檢查所有古樹，並移除數棵結構有問題大樹，以公眾安全為首要考慮。

他續說，康文署已推行多項新措施，加強管理樹木工作，包括在監察樹木狀況的表格加入新欄目，讓工作人員填寫蟲害及不正常生長狀況，並由上司覆核表格是否圓滿；並積極跟進死因庭陪審團提出的建議，例如檢討員工培訓及現行指引是否足夠；加強風險管理能力，安排相關人員接受培訓。

近年市區加強綠化，康文署管理的市區樹木由2000年的40萬棵，增至現時的76萬棵，周氏未有回應該署是否人手不足，但承認有進步空間。

據了解，政府檢視各部門管理樹木的範圍，發現有「政出多門」問題，多個部門之中，只有漁護署和康文署對護理樹木具備較豐富的知識。

康文署於09/10年度將獲額外增撥1100萬元護理樹木，令該署可增加檢查一般樹木及古樹的次數。至於檢討樹木的指引，則由發展局負責。

近年本港保育意識高漲，保育除了要與社區發展尋求平衡，還涉及安全，保育古樹就碰到這個問題。九龍公園細葉榕「樹王」因為未傷人，安全問題未引起足夠關注，到赤柱刺桐塌下殺人後，政府才高調回應。事態進展，顯示負責保育古樹的康文署樹木組人員，與其工作所需要專業知識，存在落差。不少古樹就在市民身邊，特別是彌敦道尖沙嘴段和 麗大道的古樹，設若它們有病而未為所知，他朝不幸重演赤柱刺桐殺人事故，就為時晚矣！

樹藝師對於護理樹木，具備一定專業知識，這一點不能否定，但是樹藝師的角色與職能，與專家有很大不同。正如醫生與護理人員一樣，護理人員並無斷症的專業資格、知識和能力，護理人員在醫生替病人斷症、處方之後，按照醫生的指示和要求，護理病人，但是如果病人的病情未被診斷出來，護理人員也就無用武之地。護理人員不能取代醫生，醫生若放下身段，可以為病人做護理工作，這就是醫生和護理人員的分別。

證諸過去發生的事故，樹藝師未能診斷出病樹，已是定論，因為他們不具備類如樹木醫生所需要的專家知識和資格。要保育本港的樹木，使樹木不再成為殺手，本港要盡快填補樹木專家這個空間。

詹志勇在死因庭作供時，建議樹木組團隊由科學家帶領，經理級人員入職時亦要擁有相關學位，安排專業訓練，持續進修。陪審團狠批康文署之餘，也建議要加強在職人員培訓，入職條件應提升至專業水平。

唐英年表示專責小組的工作重點，要兼顧在推廣綠化工作、保育古樹的同時，一定要確保市民安全和方便。要達至這個目標，首要完善護理樹木的基建工程，而引入樹木醫生，建立一套健全有效的樹木醫護制度，才是使樹木與市民和平共存的長治久安之計。

Wisers

南華早報

2009-04-01

EDITION By Martin Wong and Peter So

Henry Tang to be *tree* tsar after tragedy

Chief Secretary Henry Tang Ying-yen is to oversee efforts to improve the government's management of trees after criticism from an inquest jury.

Mr Tang will head an interdepartmental review of recommendations put forward by the jury, which on Monday found that the death of a teenager crushed by a falling *tree* trunk in Stanley was an accident that could have been prevented.

Chief Executive Donald Tsang Yam-kuen announced Mr Tang's role yesterday. Mr Tsang said he was "deeply sorry and regretful" about the death of student Kitty Chong Chung-yin, 19, "at such a young age".

"I totally understand the sadness shared by Chung-yin's family members. I sincerely offer Chung-yin's family my deepest condolences once again," Mr Tsang said after an Executive Council meeting.

He said he had "advised and urged" Mr Tang "to lead concerned departments of the government to study the various recommendations of the jury [covering areas] including staff training, risk assessment of trees, the adequacy of our present guidelines and their execution".

Mr Tang said he would work closely with the development, environment and home affairs bureaus, and *tree* experts, and hoped to complete the review within three months.

"We will try to strike a balance between promoting greening, preserving old trees and protecting public safety," he said.

Democratic Party lawmaker Kam Nai-wai said the very fact that such an appointment was deemed necessary showed the lack of teamwork among bureau chiefs. He likened it to the appointment of Mr Tsang, then chief secretary, to head the "Team Clean" hygiene blitz during the severe acute respiratory syndrome epidemic in 2003.

He said Mr Tang should pay more attention to tackling problems such as unemployment and political reform.

Chinese University political scientist Ivan Choy Chi-keung said the appointment might distract Mr Tang from his other duties, but showed the government took the issue seriously.

Mr Tang also heads committees on political reform, the development of the West Kowloon Cultural District, Hong Kong's role in reconstruction in earthquake-hit parts of Sichuan and economic co-operation with Guangdong and Macau.

Chong's elder sister, Catherine Chong Shiu-yin, said after the inquest that she could not recall the family receiving any apology from the Leisure and Cultural Services Department, which manages the city's trees.

Its director, Thomas Chow Tat-ming, offered one yesterday during an RTHK programme.

"For the accident leading to the passing away of Miss Chong and the sorrow of her family, we feel deeply

regretful and, once again, we offer our condolences to her family," he said.

Chong's father, Clarence Chong Kin-ki, thanked the chief executive and Mr Chow. He said he did not blame the director for the accident.

Tree expert Jim Chi-yung, of the University of Hong Kong, welcomed the review but said a comprehensive policy should be adopted to avoid a repeat of the *tree* collapse.

Relevant documents on greening and tree preservation

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
27.1.2004	Panel on Planning, Lands and Works	Information paper on Forests and Countryside (Amendment) Bill 2004 and the draft bill proposed by Hon CHOY So-yuk (Chinese version only)	CB(1)813/03-04(04) http://www.legco.gov.hk/yr03-04/chinese/panels/plw/papers/plw0127cb1-813-4ce.pdf
		Information paper provided by the Administration on "Member's Bill on Conservation of Trees Proposed by the Honourable Choy So-yuk"	CB(1)813/03-04(05) http://www.legco.gov.hk/yr03-04/english/panels/plw/papers/plw0127cb1-813-5e.pdf
		Minutes of meeting	CB(1)1313/03-04 http://www.legco.gov.hk/yr03-04/english/panels/plw/minutes/pl040127.pdf
18.1.2007	---	President's ruling on Forests and Countryside (Amendment) Bill 2006 proposed by Hon CHOY So-yuk, JP	http://www.legco.gov.hk/yr06-07/english/pre_rul/pre0118-ref-e.pdf
7.4.2005	Council meeting	Hon CHOY so-yuk moved a motion on "Perfecting the policy on protection of trees". The motion was passed.	http://www.legco.gov.hk/yr04-05/english/legco_rpt/1_rpt_0408.htm#m_2
		Official record of proceedings	http://www.legco.gov.hk/yr04-05/chinese/counmtg/floor/cm0407ti-confirm-c.pdf
20.10.2008	Panel on Home Affairs	Minutes of meeting	CB(2)425/08-09 http://www.legco.gov.hk/yr08-09/english/panels/ha/minutes/ha20081020.pdf

**Questions relating to greening and tree preservation
raised by Members at Council meetings since 2007**

17.1.2007	Hon CHEUNG Hok-ming raised a written question on "Tree preservation clauses in leases of private lands"
14.3.2007	Hon CHOY So-yuk raised a written question on "Protection of trees"
5.12.2007	Hon Martin LEE raised a written question on "Illegal felling of trees"
12.3.2008	Hon CHOY So-yuk raised a written question on "Maintenance of the Register of Old and Valuable Trees"
7.5.2008	Hon LAU Wong-fat raised an oral question on "Community Garden Programme"
4.6.2008	Hon Albert CHAN raised an oral question on "Infection of pine trees"
11.6.2008	Hon Albert CHAN raised a written question on "Information on trees"
26.11.2008	Hon Cyd HO raised an oral question on "The proposed Hopewell Centre II project"
3.12.2008	Hon Vincent FANG raised a written question on "Caring of trees"
7.1.2009	Hon Tanya CHAN raised an oral question on "Caring of trees"
25.2.2009	Hon Albert HO raised a written question on "Regulation of developments in country parks and marine parks"

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