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Subcommittee on Dumping at Sea (Exemption) (Amendment) Order 2009

**Background brief prepared for the
meeting on 16 November 2009**

Purpose

This paper provides background information on the Dumping at Sea Ordinance (Cap. 466) (DASO) and summarizes Members' views expressed at previous discussions on the new sediment disposal facility at the east of Sha Chau.

Background

Existing control of dumping at sea

2. Following the spirit of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (the London Convention), the DASO controls the disposal and dumping of substances and articles from vessels, aircraft and marine structures in the sea and under the sea-bed, the related loading operations as well as incineration at sea. Under section 8 of DASO, any person intending to perform those operations is required to obtain a permit from the Director of Environmental Protection before carrying out such operations.

3. Section 3 of the Dumping at Sea (Exemption) Order (Cap. 466 sub. leg. B) (DAS(E)O) provides general exemptions from the permit requirements to operations specified in Schedule 1 but such exemption is removed for operations in reclamation areas listed in Schedule 2. Before being listed under Schedule 2 to DAS(E)O, the affected foreshore and sea-bed in the reclamation area had, pursuant to the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) (FS(R)O), to be gazetted for notification, followed by the publication of the relevant notice of authorization if no objection is received.

Proposed new sediment disposal facility at the east of Sha Chau

4. From 1992, contaminated sediments were being disposed in the sea-bed pits at the east of Sha Chau. As it was envisaged that the existing pits would be filled up in 2010, the Administration proposed to construct a new sediment disposal facility in the east of Sha Chau which was found to be a suitable and most preferred

site after a territory-wide site search. The new facility comprises four disposal pits each of which is about 2 million cubic metre in capacity giving an aggregate design capacity of about 8 million cubic metre. Construction works of the new facility commenced in September 2009, aiming at coming into service in stages from June 2010 to 2014.

5. The foreshore and sea-bed affected by the new facility was gazetted for notification under section 5 of FS(R)O on 20 March 2008 (G. N. 1814 of 2008). No objection was received after the gazettal, and the notice of authorization was made under section 9 of FS(R)O on 13 June 2008 (G. N. 3966 of 2008).

6. In order to apply the regulatory control regime under DASO at the new facility, it is necessary to include the aforesaid authorized foreshore and sea-bed (i.e. G.N. 3966 of 2008) in Schedule 2 to DAS(E)O, similar to the arrangement for the existing sediment disposal facilities at the east of Sha Chau.¹

The Amendment Order

7. The Amendment Order amends Schedule 2 to DAS(E)O by specifying the new sediment disposal facility situated in the east of Sha Chau as a reclamation area for the purpose of section 4(2)(a) of DAS(E)O, so that a permit is required under section 8 of DASO for dumping operations in that reclamation area. The Amendment Order will come into operation on 1 January 2010.

Previous discussions

8. The provision of the new sediment disposal facility at the east of Shau Chau was discussed at various forum of Legislative Council in the past year. When considering the funding proposal of the new disposal facility at the meeting on 19 December 2008, members expressed concern about the disposal method, monitoring of water quality, possible impact on marine ecology and environmental monitoring measures. Panel members noted from the supplementary information provided by the Administration that the Tuen Mun District Council (TMDC), which originally raised objection to the proposed works, subsequently endorsed the project on 6 January 2009.

9. At the meeting of the Public Works Subcommittee (PWSC) on 21 January 2009, members urged the Administration to monitor the transportation and disposal of contaminated sediment to curb unlawful dumping at sea. They also requested the Administration to put in place measures to prevent leakage of contaminated mud during disposal.

10. At the meeting of the Finance Committee on 13 February 2009, Hon

¹ Item 18 of Schedule 2 to DAS(E)O lists the foreshore and sea-bed affected by the previous and existing sediment disposal facilities at the east of Sha Chau.

WONG Yung-kan reflected the concern of fishermen in Ma Wan and Tuen Mun about the possible reduction in fish catch in the east of Sha Chau because of repetitive sand dredging and contaminated mud disposal activities. Some members also expressed concern about the impact of the facility on Chinese White Dolphins.

11. When members considered the proposed site formation works for Kai Tak Cruise Terminal development at a recent PWSC meeting on 4 November 2009 and noted that the contaminated mud generated from dredging of sea-bed would be disposed at the new facility at the east of Sha Chau, they expressed concern on the mode of transportation and the capacity of the facility in meeting the needs arising from various works in Hong Kong.

Relevant paper

LegCo Brief on Dumping at Sea (Exemption) (Amendment) Order 2009

http://www.legco.gov.hk/yr09-10/english/subleg/brief/203_brf.pdf

The Administration's paper on "5729CL - Disposal of contaminated sediment - dredging, management and capping of sediment disposal facility at Sha Chau"

<http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev1219cb1-396-7-e.pdf>

The Administration's supplementary paper on "5729CL - Disposal of contaminated sediment - dredging, management and capping of sediment disposal facility at Sha Chau

<http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev1219cb1-594-1-e.pdf>

Minutes of the Panel on Development on 19 December 2008

<http://www.legco.gov.hk/yr08-09/english/panels/dev/minutes/dev20081219.pdf>

Minutes of PWSC meeting on 21 January 2009

<http://www.legco.gov.hk/yr08-09/english/fc/pwsc/minutes/pwsc20090121.pdf>

Minutes of FC meeting on 13 February 2009

<http://www.legco.gov.hk/yr08-09/english/fc/fc/minutes/fc20090213.pdf>

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