

立法會
Legislative Council

LC Paper No. CB(1) 1868/09-10
(These minutes have been seen
by the Administration)

Ref : CB1/PS/1/09/1

Panel on Environmental Affairs

Subcommittee on Combating Fly-tipping

Minutes of meeting
held on Tuesday, 13 April 2010, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon LEE Wing-tat (Chairman)
Hon Audrey EU Yuet-mee, SC, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon KAM Nai-wai, MH

Public officers attending : **For item II**

Dr Kitty POON, JP
Under Secretary for the Environment

Mr TANG Kin-fai
Assistant Director (Environmental Compliance)
Environmental Protection Department

Ms Margaret HSIA
Assistant Director (Waste Management Policy)
Environmental Protection Department

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

Mr ROSS Graham Martin
Deputy Director (Specialist)
(Lands Administration Office, Headquarters)
Lands Department

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

Ms Phyllis LI
Assistant Director of Planning (Special Duties)
Planning Department

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

Mr Fedrick KAN
Chief Engineer (Mainland North)
Drainage Services Department

**Attendance by
invitation**

: For item II

Kadoorie Farm and Botanic Garden

Mr L C WONG
Conservation Officer

Hong Kong Construction Association

Mr Russell JONES
Deputy Honorary Treasurer & Environmental Committee
Chairman

Living Lamma

Miss Jo WILSON
Secretary

Greeners Action

Ms KWOK Ying-ying
Project Officer

Hong Kong Waste Disposal Industry Association

Mr Eric KONG
Vice Chairman

Sha Tin District Council

Mr YEUNG Cheung-li
Member

Hong Kong Dumper Truck Drivers Association

Mr LEE Chi-fai
Secretary

WWF Hong Kong

Dr Alan LEUNG
Senior Conservation Officer

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

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

Miss Mandy POON
Legislative Assistant (1)4

- I. Confirmation of minutes**
(LC Paper No. CB(1) 1518/09-10 — Minutes of the meeting held on
3 February 2010)

The minutes of the meeting held on 3 February 2010 were confirmed.

II. Meeting with deputations and the Administration

Meeting with deputations

2. The Chairman invited the following deputations to give views -

- (i) Kadoorie Farm and Botanic Garden
(LC Paper No. CB(1) 1560/09-10(01))
- (ii) Hong Kong Construction Association
(LC Paper No. CB(1) 1591/09-10(01))

- (iii) Living Lamma
(LC Paper No. CB(1) 1560/09-10(02))
- (iv) Greeners Action
(LC Paper No. CB(1) 1598/09-10(01))
- (v) Hong Kong Waste Disposal Industry Association
(LC Paper No. CB(1) 1560/09-10(03))
- (vi) Sha Tin District Council
(LC Paper No. CB(1) 1560/09-10(04))
- (vii) Hong Kong Dumper Truck Drivers Association
(LC Paper No. CB(1) 1591/09-10(02))
- (viii) WWF Hong Kong
(LC Paper No. CB(1) 1591/09-10(03))

3. The Subcommittee noted the following submissions from individual/deputations who did not attending the meeting -

- LC Paper No. CB(1) 1560/09-10(05) — Submission from a member of the public (Chinese version only)
- LC Paper No. CB(1) 1560/09-10(06) — Submission from Dr YANG Mo, member of the Southern District Council (Chinese version only)
- LC Paper No. CB(1) 1560/09-10(07) — Submission from Advisory Council on the Environment
- LC Paper No. CB(1) 1560/09-10(08) — Submission from The Real Estate Developers Association of Hong Kong (English version only)
- LC Paper No. CB(1) 1560/09-10(09) — Submission from The Hong Kong Institution of Engineers (English version only)
- LC Paper No. CB(1) 1591/09-10(04) — Submission from Heung Yee Kuk New Territories (Chinese version only)

Meeting with the Administration

- (LC Paper No. CB(1) 1458/09-10(01) — List of follow-up actions arising from the discussion at the meeting on 3 February 2010
- LC Paper No. CB(1) 1184/09-10(02) — Administration's response to item (a) of CB(1) 1458/09-10(01)
- LC Paper No. CB(1) 1458/09-10(02) — Administration's response to the remaining items of CB(1) 1458/09-10(01))

Relevant papers

- (LC Paper No. CB(1) 1094/09-10(01) — Administration's paper on the proposal to further enhance the regulation of depositing of abandoned construction and demolition materials on private land
- LC Paper No. CB(1) 1180/09-10(01) — Submission from Designing Hong Kong (English version only)
- LC Paper No. CB(1) 1180/09-10(02) — Submission from The Conservancy Association (Chinese version only))

4. The Subcommittee deliberated (Index of proceedings attached in **Annex**).
5. The Administration was requested to -
 - (a) provide written response (in tabular form) to views pertaining to the submissions from deputations; and
 - (b) re-consider the feasibility of mandatory application of the trip-ticketing system and global positioning system to private construction projects to monitor the flow of construction and demolition materials, as well as increasing the penalty for fly-tipping and illegal land filling activities.

III. Any other business

6. There being no other business, the meeting ended at 4:05 pm.

Panel on Environmental Affairs

Subcommittee on Combating Fly-tipping

**Proceedings of the meeting
on Tuesday, 13 April 2010, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000001 - 000500	Chairman	The minutes of the meeting held on 3 February 2010 (LC Paper No. CB(1) 1518/09-10) were confirmed.	
<i>Agenda Item II - Meeting with deputations and the Administration</i>			
000501 - 001100	Chairman Mr L C WONG, Kadoorie Farm and Botanic Garden (KFBG)	Expression of views. (LC Paper No. CB(1) 1560/09-10(01))	
001101 - 001410	Mr Russell JONES, Hong Kong Construction Association (HKCA)	Expression of views. (LC Paper No. CB(1) 1591/09-10(01))	
001411 - 002020	Miss Jo WILSON, Living Lamma (LL)	Expression of views. (LC Paper No. CB(1) 1560/09-10(02))	
002021 - 002540	Ms KWOK Ying-ying, Greeners Action	Expression of views. (LC Paper No. CB(1) 1598/09-10(01))	
002541 - 002748	Mr Eric KONG, Hong Kong Waste Disposal Industry Association	Expression of views. (LC Paper No. CB(1) 1560/09-10(03))	
002749 - 003120	Mr YEUNG Cheung-li, Sha Tin District Council	Expression of views (LC Paper No. CB(1) 1560/09-10(04))	
003121 - 003445	Mr LEE Chi-fai, Hong Kong Dumper Truck Drivers Association (HKDTDA)	Expression of views. (LC Paper No. CB(1) 1591/09-10(02))	

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003446 - 003906	Dr Alan LEUNG, WWF Hong Kong (WWFHK)	Expression of views. (LC Paper No. CB(1) 1591/09-10(03))	
003907 - 005049	Chairman Administration	<p>Administration's summary response to deputations' views -</p> <p>(a) concerted efforts from various departments were required to combat fly-tipping and illegal land filling activities which might involve violation of land use and planning control, environmental hygiene problems, drainage/watercourse blockage, noise/dust nuisance and pollution etc.;</p> <p>(b) the current section 16A of the Waste Disposal Ordinance (Cap. 354) (WDO) provided that a person committed an offence if he deposited waste on any land without the permission of the landowner. As the Environmental Protection Department (EPD) would not be informed of such depositing beforehand, it would take some time for EPD to ascertain whether the depositors had obtained the required permission under WDO. Therefore, the authority often faced difficulties in enforcement and adducing evidence;</p> <p>(c) the proposed amendments to WDO to require any person who intended to carry out depositing activity on private land to obtain prior written permission of all the landowner(s) concerned that bore the authority's seal aimed to enhance the enforcement effectiveness of the legislation;</p> <p>(d) the new notification mechanism under the proposal would also enable relevant departments to be notified in advance of possible</p>	

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		<p>depositing activities so that they could remind parties concerned of the relevant statutory requirements, thereby preventing the occurrence of illegal activities;</p> <p>(e) the existing penalties under section 16A of WDO would apply to the proposed amendments i.e. the offender would be liable to a fine of \$200,000 and imprisonment for six months on first conviction, and a fine of \$500,000 and imprisonment for six months on subsequent conviction;</p> <p>(f) for convicted cases on fly-tipping and illegal land filling activities, where appropriate, the Administration might apply to the Judiciary on a case-by-case basis for review of the penalty;</p> <p>(g) the Development Bureau was considering combining the CHIT system with the trip-ticket system (TTS); and</p> <p>(h) subject to views collected from the consultation on the proposed amendments to WDO, the draft written permission form would be refined to make it clear that enforcement actions would be taken if any deposition was found to have contravened the relevant legislation despite landowner's prior consent had been given for such activity.</p>	
005050 - 011255	<p>Ms Audrey EU Miss Jo WILSON/LL Chairman Administration Mr LC WONG/KFBG Mr LEE Chi-fai/ HKDTDA</p>	<p>Ms Audrey EU's question why LL considered that the proposed amendment to WDO could not improve the situation of Lamma Island.</p> <p>Miss Jo WILSON/LL's response that the amended WDO sought to protect the landowners' right to give consent to depositing activities carried out on their land. However, the legislation failed to</p>	

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		<p>protect the right of other residents to live in a waste-free environment.</p> <p>Ms Audrey EU's further enquiries -</p> <ul style="list-style-type: none"> (a) application of other existing legislation if depositing activities led to environmental nuisance or blockage of drainage/river; (b) how the level of penalty for fly-tipping and illegal land filling activities could be increased without interfering the court's autonomy; and (c) how the proposed amendments to WDO could be effectively enforced given the broad expanse of rural areas, and the fact that these activities usually took place at night. <p>Administration's response -</p> <ul style="list-style-type: none"> (a) the proposed amended WDO recommended exemption for notification if the depositing activity was carried out by the landowner himself and where the land concerned was held under single ownership. However, for a land with multiple ownership, if any one of the landowners intended to personally carry out the depositing activity himself, he should still comply with the amendment proposal to ensure that the deposition was permitted by all land owners concerned; (b) the Town Planning Ordinance (Cap. 131) did not confer enforcement authority in respect of areas currently or previously not covered by Development Permission Area (DPA) Plans, such as Lamma Island; (c) EPD had received complaints about depositing activities on Lamma 	

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		<p>Island. Relevant departments, including the Lands Department (LD), the Food and Environmental Hygiene Department etc, had inspected the sites concerned. It was found that most of the wastes involved were inert materials which would unlikely cause pollution. Depending on the merits of individual cases, LD had issued letters advising the landowners to remove the waste; and</p> <p>(d) there was no designated main watercourse under the Land Drainage Ordinance (Cap. 446) in Lamma Island. Nevertheless, the Drainage Services Department would, together with other departments, follow up on complaints about blockage of drainage/river by depositing activities.</p> <p>Mr LC WONG/KFBG's views that the Judiciary should endeavour to collect sufficient evidence to enable the court to decide the appropriate level of penalty for fly-tipping and illegal land filling activities.</p> <p>Mr LEE Chi-fai/HKDTDA's views that dump-truck drivers only acted according to instruction, particularly in respect of large-scale depositing activities. To this end, consideration should be given to extending TTS to private works projects.</p>	
011256 - 012355	<p>Chairman Ms Audrey EU Administration Mr Russell JONES/ HKCA</p>	<p>Chairman's enquiry on the difficulty in mandating the extension of TTS to and use of global positioning system (GPS) by private works projects.</p> <p>Administration's response -</p> <p>(a) it was understood that the trades were willing to implement TTS in private works project on a voluntary basis; and</p>	

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		<p>(b) an update on the latest progress of the voluntary scheme as considered by the Construction Industry Council would be provided after the meeting.</p> <p>Ms Audrey EU's view that it was not fair to hold drivers liable for overloading of dump trucks as they only acted according to instruction.</p> <p>Mr Russell JONES/HKCA's response that GPS could not only monitor the location, but also the weight of dump truck. He also stressed that unless TTS was made mandatory in private works projects, developers, particularly small developers, would not adopt the practice.</p>	
012356 - 013200	<p>Chairman Ms Audrey EU Dr Alan LEUNG/ WWFHK Miss Jo WILSON/LL Administration</p>	<p>Chairman's concern that landowners might not be aware of the illegal depositing activities if their land was far away from their homes.</p> <p>Ms Audrey EU's enquiry whether landowners would be held liable for illegal depositing activities.</p> <p>Dr Alan LEUNG/WWFHK's comment that planning enforcement could not be taken against land not covered by DPA Plans.</p> <p>Miss Jo WILSON/LL's support for the use of GPS to manage C&D waste. Assistance should be provided to landowners who were not able to remove the waste deposited on their land. The Administration should map out practical measures to help residents in Lamma Island to deal with fly-tipping and illegal land filling activities.</p> <p>Administration's response that concerted effort from local organizations and District Council was required to solve the problem at Lamma Island.</p>	

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013201 - 013620	Mr KAM Nai-wai Administration Chairman	<p>Mr KAM Nai-wai's enquiry on the time-frames for measures, including extension of TTS to and use of GPS in private works projects, as well as increase in penalty, to tackle the problems of fly-tipping and illegal land filling activities.</p> <p>Administration's undertaking that members would be informed of the outcome of consultation on the proposed amendment to WDO which was expected to be completed in May 2010.</p>	<p>The Administration to -</p> <p>(a) provide written response (in tabular form) to views pertaining to the submissions from deputations; and</p> <p>(b) re-consider the feasibility of mandatory application of TTS and GPS to private construction projects to monitor the flow of C&D materials, as well as increasing the penalty for fly-tipping and illegal land filling activities.</p>