

For discussion
On 3 February 2010

**Legislative Council Panel on Environmental Affairs
Subcommittee on Combating Fly-tipping**

Progress of Measures to Combat Land Filling and Fly-tipping Activities

INTRODUCTION

This paper aims to update Members on the progress of the Administration's enhanced control measures to combat illegal land filling and fly-tipping.

**ENHANCED CONTROL MEASURES AGAINST THE DEPOSITING OF
CONSTRUCTION AND DEMOLITION (C&D) MATERIALS**

2. In the previous legislative session, the Administration reported to the Panel on Environmental Affairs (EA Panel) and its Subcommittee on Combating Fly-tipping (Subcommittee) via LC Paper No. CB(1)807/08-09(05) and CB(1)1319/08-09(01) the progress of measures against activities related to illegal depositing of C&D materials. Government departments have been taking actions within their respective jurisdictions as well as making coordinated efforts to tackle the problems which often cut across different policy areas. Updated progress on actions and measures taken are set out in the following paragraphs.

Enhanced complaint handling procedures and inter-departmental coordination

3. The Environmental Protection Department (EPD) and other departments concerned have jointly drawn up enhanced complaint handling procedures to speed up the response to cases involving active and on-going C&D materials depositing activities, especially those that would pose risks to environmentally sensitive areas. To further facilitate information sharing and coordinated actions, EPD has collaborated with other departments to develop and maintain a database on information of those land filling cases that are under

constant monitoring and actions by various departments. In addition, a list of fly-tipping black-spots has been compiled and departments concerned would carry out regular patrol and other actions as appropriate to deter illegal depositing activities at these sites. Public can also access these basic information on EPD's website at <http://www.epd.gov.hk/epd/english/landfilling/introduction/blackspots.html>.

Inter-departmental liaison meetings

4. The EPD has convened ten regular inter-departmental liaison meetings since October 2008 to monitor the overall situation and review individual cases that are of public or environmental concern, at both territorial and district levels. In addition, a number of ad hoc meetings to discuss individual sensitive cases have been convened during the same period. The EPD and the relevant departments will continue to meet on a regular and as-needed basis.

Comprehensive guides

5. The EPD and the other departments concerned have jointly developed three sets of comprehensive guides respectively for rural landowners, construction waste transporters, property developers/contractors/managers. The guides, in the form of leaflets, provide useful information on the relevant statutory requirements and the steps to guard against illegal land filling and fly-tipping activities. These leaflets have been widely distributed to the various stakeholders through the relevant trade associations, Government departments and their public outlets, and are also available on the EPD website.

Stepping up publicity

6. Moreover, Government departments have joined hands to step up publicity measures to remind the public, the construction trade and the waste haulers of the legal requirement and possible penalty for illegal fly-tipping and land filling activities. These measures include holding regular site meetings, sending direct reminder messages and organizing training seminars to government contractors and the trade on good site practices and proper management and disposal of construction waste. Besides, departments concerned have also stepped up efforts to enhance public awareness through increasing the frequency of the announcement of public interest on "Unauthorized Developments in the Rural NT" to strengthen the publicity on the statutory planning requirements and possible penalty under the Town

Planning Ordinance for undertaking unauthorized land filling activities, as well as distributing and posting leaflets and posters on websites and notice boards and erection of warning signs at fly-tipping black-spots in country parks for wider publicity.

Trial fly-tipping control scheme

7. With the support from the Sha Tin and Tuen Mun District Councils, EPD has appointed the Electrical and Mechanical Services Department to install closed-circuit television (CCTV) system at the two fly-tipping black spots at Siu Lang Shui in Tuen Mun and Tai Po Road car park as pilot schemes. The CCTVs in both Tai Po Road and Siu Lang Shui were installed and came into operation in January 2010. Both systems will run for about a year to test out their effectiveness in collecting evidence on fly-tipping. Subject to the outcomes of the trial scheme, we will review the effectiveness and the feasibility of extending the CCTV installations to other fly-tipping black-spots.

Other measures

8. We relayed to the Construction Industry Council (CIC) the Subcommittee's suggestion for the trip-ticket system (TTS) to be adopted in major private works project to keep track of the movement and disposal of inert C&D materials and other suggestions such as the adoption of the global positioning system (GPS). The matter is being followed up by its Committee on Environment and Technology (ENT) which in general supports the application of TTS to major private works projects on a voluntary basis and shared the view that more effort should be made to promulgate it. They are working out a set of guidelines on the voluntary TTS.

LEGISLATIVE AMENDMENT PROPOSAL

9. In addition to the above enhanced control measures, the Administration is also reviewing relevant legislation and exploring the feasibility of strengthening the statutory control over depositing of C&D materials on private land.

Waste Disposal Ordinance (Cap 354) (WDO)

10. EPD has reviewed the scope of legislative control under its authority and proposes to amend the WDO to enhance the effectiveness of enforcing section 16A of the WDO against unauthorized depositing of abandoned C&D materials on private land. Under the proposal, a person who carries out unauthorized depositing activity on private land without owners' written consent will be held liable for prosecution. The proposal aims to prevent the carrying out of such activities that cause environmental problems. It also aims to safeguard the existing interest of private landowners by preventing the abuse of private land for depositing without the consent of the landowners. Under the proposal, a new notification mechanism is proposed to enable Government departments to be notified in advance of possible depositing of abandoned C&D materials on private land. As a result, the relevant departments could remind parties concerned of the relevant statutory requirements and thus preventing the occurrence of illegal activities. The proposal also enhances the enforcement effectiveness of the WDO and inter-departmental co-ordination in respect of enforcement actions.

Town Planning Ordinance (Cap 131) (TPO)

11. The Subcommittee in the previous legislative session reviewed the feasibility of amending the TPO to empower the Planning Authority to take enforcement action against land filling activities undertaken within areas covered by Outline Zoning Plans (OZPs) but previously not covered by Development Permission Area (DPA) Plans. The Planning Department (PlanD) has explained that TPO is not considered as the most appropriate tool to control land filling activities (vide paragraphs 16 to 18 of LC Paper No. CB(1) 2453/08-09). To overhaul the planning regime to forestall a particular form of illegal or unauthorized activities on the land would have far reaching implications. With regard to the area currently not covered by statutory plans or outside Country Parks, including frontier closed area, PlanD will determine the need, timing and priority for preparing statutory plans for these areas, taking into account factors such as conservation value, development pressure and vehicular access. The preparation of a number of DPA Plans has been programmed. However, the progress and the relevant information cannot be disclosed due to their sensitivity, particularly the need to prevent establishment of "existing uses" to circumvent subsequent planning enforcement.

FOLLOW-UP TO INDIVIDUAL CASES

12. We submitted to the Subcommittee in the previous legislative session a report on the latest situation of nine private land filling sites involving C&D materials (vide LC Paper No. CB(1)2086/08-09(04)). The report has been updated and is at **Annex I** for Members' information. In addition, a report on the updated situation on the Ho Sheung Heung case is at **Annex II** for Members' information.

ILLEGAL ROAD OPENINGS INTENDED FOR FLY-TIPPING

13. Road openings for land filling are usually formed at the boundary of public roads, including pavements as ingress/egress for vehicles entering/leaving the adjoining land filling sites. Unauthorized vehicular access may cause damages to road paving and street furniture, as well as potential hazards to road users. If the situation warrants, Transport Department will request the Highways Department to install necessary features on the pavement to prevent vehicles from using the unauthorized vehicular access.

14. Lands Department (LandsD) would take action if road openings involve unallocated government land under its control. If necessary, LandsD will carry out preventive measures, such as erection of fences/bollards on such land and in exceptional appropriate cases the temporary posting of a security guard. If private land is involved and the relevant lease conditions are in breach, LandsD will take lease enforcement action.

Environmental Protection Department
January 2010

Latest Situation of Private Land Filling sites (involving inert C&D materials)

| Location | Page |
|--|-------------|
| 1. Shing Mun Road, Kwai Chung | 1 |
| 2. DD96, Chau Tau, San Tin | 2 |
| 3. DD99, Hop Shing Wai, San Tin | 3 |
| 4. DD99, Chau Tau, San Tin | 4 |
| 5. DD115, Nam Sang Wai | 5 |
| 6. Ham Tin Kau Tsuen, Pui O, Lantau | 6 |
| 7. DD125 various Lots, Ha Tsuen | 7 |
| 8. DD129 various Lots, Lau Fau Shan | 8 |
| 9. DD129 various Lots, Sha Kiu Tsuen, Lau Fau Shan | 9 |

Latest Situation of Private Land Filling sites (involving inert C&D materials)

| District | Location | Approx Area (ha) | Land Use Zoning |
|------------|----------------|------------------|-----------------|
| Kwai Tsing | Shing Mun Road | 0.139 | Green Belt |



Photos taken in March 2008



Photos taken in November 2009



Aerial photo taken in December 2008

As the previous land filling activity involved illegal dumping of waste on Government Land , prosecutions were initiated under the Waste Disposal Ordinance (WDO) against a transportation company, two dump truck drivers and a person who arranged for the land filling. The offenders were convicted and fined HK\$10,000 each by the court after trials.

The private agricultural lots are held under a Block Government Lease (BGL) and it is not a breach of BGL for earth filling/dumping of C&D materials. The site was not previously covered by Development Permission Area Plan. Though not designated as the “Main Watercourse” under the Land Drainage Ordinance, with the consent of the land owners of the private lots concerned, a portion of the materials deposited near the stream was cleared and sand bags placed at the toe of filling to ensure the stream flow is not impeded. No blockage of the watercourse has been reported since the clearance. The Buildings Department and Civil Engineering and Development Department conducted joint inspection in June. No immediate and obvious landslip danger was identified. Latest inspections in November have not detected any further dumping of waste/land filling activity, environmental or sanitary nuisance.

| District | Location | Approx Area (ha) | Land Use Zoning |
|-----------|-------------------------|------------------|-----------------|
| Yuen Long | DD96, Chau Tau, San Tin | 0.08 | Green Belt |



Photo taken in November 2008



Photo taken in August 2009



Aerial photo taken on 8 July 2009

A public complaint was received in October 2008, and the subsequent site inspection conducted revealed that the site was vacant and planted with trees. The site was monitored and subsequent site inspection revealed that two containers have been deposited on the site. An Enforcement Notice under the Town Planning Ordinance requiring the discontinuation of the unauthorized storage use was issued on 4 August 2009. The compliance period of the Notice expired on 4 November 2009. Recent site inspection revealed that the site was still used for storage use. Consideration is being given to instigate prosecution action against the notice recipient for non-compliance with the Notice. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in November have not detected any dumping of waste/land filling activity, environmental or sanitary nuisance. The illegal box culvert in government land has been removed and the original natural streamcourse has also been reinstated. We will keep monitoring the site closely.

It is proposed to delete this case from the list since it is not a land filling case.

| District | Location | Approx Area (ha) | Land Use Zoning |
|-----------|------------------------------|------------------|---|
| Yuen Long | DD99, Hop Shing Wai, San Tin | 0.059 | Other Specified Uses (Comprehensive Development and Wetland Enhancement Area) |



Photo taken in May 2006



Photo taken in September 2009



Aerial photo taken on 8 July 2009

An Enforcement Notice under the Town Planning Ordinance requiring the discontinuance of the pond filling operation was issued on 18 May 2006. The unauthorised development was subsequently discontinued. Reinstatement Notice was issued on 6 July 2006 requiring the concerned parties to reinstate the damaged land by (i) removing the converted containers; (ii) removing the debris on the land; and (iii) grassing the land. Compliance Notice for the Enforcement Notice and Reinstatement Notice were issued on 9 February 2007. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in November have not detected any dumping of waste/land filling activity, environmental or sanitary nuisance. Noted that no streamcourse was affected.

Since the relevant statutory notices have been complied with, it is proposed to delete this case from the list.

| District | Location | Approx Area (ha) | Land Use Zoning |
|-----------|-------------------------|------------------|---|
| Yuen Long | DD99, Chau Tau, San Tin | 1.15 | Partly Conservation Area and partly Other Specified Uses (Comprehensive Development & Wetland Enhancement Area) |



Photo taken in December 2008



Photo taken in December 2009



Aerial photo taken on 8 July 2009

A Stop Notice under the Town Planning Ordinance requiring the discontinuation of the land filling and pond filling operations was issued on 12 November.2008. The unauthorised development was subsequently discontinued. Reinstatement Notice was issued on 9 December 2008 requiring the concerned parties to reinstate the damaged land by (i) removing the leftovers and debris on the land; (ii) grassing the land; and (iii) reinstating the natural watercourse on the land. Since then, the Notice recipient has taken active steps, including engagement of legal representative, contractors and close liaison with PlanD and DSD, to reinstate the watercourse. The reinstatement works are in progress. These on-going actions are being monitored in the consideration of prosecution action against the notice recipients. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in November have not detected any further dumping of waste/land filling activity, environmental or sanitary nuisance. We will keep monitoring the site closely.

| District | Location | Approx Area (ha) | Land Use Zoning |
|-----------|---------------------|------------------|-------------------|
| Yuen Long | DD115, Nam Sang Wai | 0.1 | Conservation Area |



Photos taken in December 2008



(Fishpond bund reinstated)



(Natural stream reinstated)

Photos taken on 21 September 2009 after the completion of removal works



Aerial photo taken on 13 November 2008

Site inspected and found entirely on government land. Clearance operation for the removal of the vehicular access was conducted on 31 December 2008 and completed, with the streamcourse reinstated on 2 January 2009. As the land filling activity involved illegal dumping of waste on government land, upon collecting sufficient evidence, prosecution was initiated under the Waste Disposal Ordinance against the responsible person. The offender was convicted and fined HK\$3,000 by the court after trial. The removal works was fully completed on 21 September 2009. The natural stream and the fishpond bund involved with the illegal land filling activity were reinstated. Latest inspections in November have not detected any further dumping of waste/land filling activity, environmental or sanitary nuisance. We will keep monitoring the site closely.

| District | Location | Approx Area (ha) | Land Use Zoning |
|----------|----------------------------------|------------------|--|
| Islands | Ham Tin Kau Tsuen, Pui O, Lantau | 0.5 | Partly Village Type Development and partly Coastal Protection Area |



Photo taken in January 2007



Photo taken in November 2009



Aerial photo taken in November 2008

We inspected the land filling site at Pui O Ham Tin Kau Tsuen from time to time over the past six months. There was no noticeable change of the site situation. Latest inspections in November have not detected any further dumping of waste/land filling activity, environmental or sanitary nuisance. Since the site is located just beside Pui O River, the site is not subject to high risk of flooding. We will keep monitoring the site closely.

| District | Location | Approx Area (ha) | Land Use Zoning |
|-----------|------------------------------|------------------|---|
| Yuen Long | DD125 various Lots, Ha Tsuen | 0.15 | Partly Green Belt and partly Recreation |



Photo taken in November 2008






Photo taken in November 2009



Aerial photo taken on 13 November 2008

An Enforcement Notice under the Town Planning Ordinance requiring the discontinuation of the pond/land filling operation was issued on 22 December 2008. The unauthorised development was subsequently discontinued. Reinstatement Notice was issued on 25 March 2009 requiring the concerned parties to reinstate the damaged land by (i) removing the leftovers, including construction wastes and debris on the land; and (ii) grassing the land. The land was subsequently reinstated with leftovers removed and land grassed. Compliance Notices for the Enforcement Notice and Reinstatement Notice were issued on 14. and 15 October 2009 respectively. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in November revealed that grass was grown over the site. No dumping of waste/land filling activity, environmental or sanitary nuisance was detected. Noted that no streamcourse was affected.

Since the relevant statutory notices have been complied with, it is proposed to delete this case from the list.

| District | Location | Approx Area (ha) | Land Use Zoning |
|--|----------------------------------|---|-----------------|
| Yuen Long | DD129 various Lots, Lau Fau Shan | 0.45 | Green Belt |
|  | |  | |
| Photo taken in May 2009 | | Photo taken in December 2009 | |
|  | | Aerial photo taken on 13 November 2008 | |
| <p>An Enforcement Notice under the Town Planning Ordinance requiring the discontinuation of the land filling operation was issued on 12 March 2009. The unauthorised development was subsequently discontinued. Reinstatement Notice was issued on 10 September 2009 requiring the concerned parties to reinstate the damaged land by (i) removing the leftovers and debris on the land; and (ii) grassing the land. The site condition is being monitored regarding the compliance with the Reinstatement Notice. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in November have not detected any dumping of waste/land filling activity, environmental or sanitary nuisance. Noted that no streamcourse was affected. We will keep monitoring the site closely.</p> | | | |

| District | Location | Approx Area (ha) | Land Use Zoning |
|-----------|---|------------------|-------------------------|
| Yuen Long | DD129 various Lots, Sha Kiu Tsuen, Lau Fau Shan | 0.05 | Coastal Protection Area |



Photo taken in June 2009



Photo taken in November 2009



Aerial photo taken on 31 October 2008

An Enforcement Notice under the Town Planning Ordinance requiring the discontinuation of the pond filling operation was issued on 1 September 2008. The unauthorised development was subsequently discontinued. Site inspection conducted on 17 November 2008 revealed that the site was already covered with vegetation. Compliance Notice for the Enforcement Notice was issued on 15 January 2009. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in November have not detected any further dumping of waste/land filling activity, environmental or sanitary nuisance. Noted that no streamcourse was affected. We will keep monitoring the site closely.

Since the relevant statutory notices have been complied with, it is proposed to delete this case from the list.

Latest Situation of Ho Sheung Heung Case

| District | Location | Approx Area (ha) | Land Use Zoning |
|---|---|---|-----------------|
| North | DD95 various Lots, Ho Sheung Heung, Sheung Shui | 0.7 | Agriculture |
|  | |  | |
| <p>Photo taken in July 2009</p> | | <p>Photo taken in November 2009</p> | |
|  | |  | |
| <p>Photo taken in January 2010</p> | | <p>Photo taken in January 2010</p> | |
|  | | <p>Aerial photo taken in July 2009</p> | |

| District | Location | Approx Area (ha) | Land Use Zoning |
|----------|---|------------------|-----------------|
| | <p>Public complaints were received between July and October 2009. Site inspections revealed that construction and demolition waste/waste soil deposition, earth moving works and turfing were carried out.</p> <p>Further to the serving of Enforcement Notices, Reinstatement Notices under the Town Planning Ordinance (TPO) were served to the concerned parties requiring them to remove all the fill materials and grass the land by 30 September 2009. The Secretary for Development received eight applications for review of the Reinstatement Notices under the TPO. Departmental responses to the review applications were issued by the Development Bureau to the review applicants in October 2009. Further submissions in support of six of the applications were received from early November 2009 to end December 2009. Responses to the further submissions are being processed.</p> <p>Summonses under the TPO were issued to the persons who undertook the unauthorized land filling at two lots. One of the defendants pleaded not guilty in early January 2010 and a pre-trial review is scheduled for March 2010, which would be consolidated for hearing with another charge by the Police on the same defendant for criminal damage. The plea hearing for another defendant is scheduled for February 2010. Prosecution was also instigated against some truck drivers/bulldozer operator for not complying with the requirements of the notice issued under the TPO requiring the provision of relevant information on the land filling case. The plea hearing is scheduled for February 2010.</p> <p>Two unauthorized buildings were found being constructed at the captioned site during the inspection conducted by the Buildings Department (BD) on 19 June 2009. One of the buildings is on private land and the other one is straddled on private and government lands. In this connection, BD served a removal order on the owners on 17 November 2009 requiring the removal of the 2 unauthorized buildings. On behalf of the owner, owner's solicitor lodged an application for an extension of time (EOT) on the ground that the owner has intention to remove the unauthorized buildings but needs more time for the arrangement. In view of this and also DLO/N has no objection, EOT till 31 January 2010 was given by BD.</p> <p>For land filling activity involving deposition of waste without landowners' consent, two summonses under Waste Disposal Ordinance had been issued to two truck drivers. One of them was convicted and fined HK\$3,000. In addition, a summons has been issued by the Authority to a person responsible for dumping at another lot. Further prosecution action will be initiated if there is sufficient evidence.</p> <p>It is not in breach of the lease conditions for Earth filling on Old Schedule private agricultural lot. Site inspection was carried out by the Geotechnical Engineering Office/Civil Engineering and Development Department (GEO/CEDD) on 17 July 2009. GEO/CEDD noted that no immediate and obvious landslip danger was identified.</p> <p>We will keep monitor the site situation closely.</p> | | |