

## **Living Lamma**

**Response to the Administration's Proposed Legislative Amendments to "Require any person who intends to carry out depositing activity on land held under private ownership to obtain the prior written permission of all the landowner(s) concerned that bears the authority's seal, failing which will be liable to prosecution."**

**Submitted to the Panel on Environmental Affairs on Combating Fly-tipping**

**30<sup>th</sup> March 2010**

### **Background**

It has been almost a year since the first Living Lamma submission to the Panel on the problem of fly-tipping on Lamma (see CB (1) 1503/08-09 (06) May 7<sup>th</sup> 2009). Since then, Government has been unable to act to stop the dumping and the situation has deteriorated.

Lamma Island is a residential area with a high proportion of families with young children. Many people chose to live on Lamma because of its rural character and green space. Both local and international visitors come to enjoy the countryside. Indeed, Lamma's ecological advantages have been used to promote the area for eco-tourism.

Yet all of this is under threat. Since the introduction of charges for the disposal of construction waste, there has been a notable increase in dumping activities by private landowners. Under current legislation, they are permitted to do this. It is not viewed as illegal dumping, rather it is the "storage" of personal property. Until existing loopholes are closed, unscrupulous landowners will continue to dump, destroying the ecological value of the land and in time applying to have the land rezoned for residential development.

The dumping is also occurring in residential areas, causing misery to those who overlook increasing environmental degradation of the land. It is also happening in more remote areas. Where locals and tourists come to hike, they are met with all manner of waste that has been dumped in the undergrowth.

In the case that Living Lamma has documented most closely, the dumping has occurred on land zoned for agricultural use under the Statutory Outline Zoning Plan for Lamma Island. It has filled in a beautiful lily pond, buried habitat of the Romer's Tree Frog and affected a natural stream. The area is surrounded by many properties that now overlook landfill instead of green space. It is also on the main path to the ferry for many residents and on one of the routes to the schools.

We were very disappointed with the outcome of the Panel last year. None of the measures suggested in the Report of the Subcommittee on Combating Fly-tipping for submission to the Panel on Environmental Affairs [CB (1)2453/08-09] issued on 17 August 2009) will prevent the dumping activities of a few people from destroying the environment for the majority of residents and visitors. The Administration seems to view the 10% of Hong Kong land that falls outside the DPAs as insignificant. However, like 100% of Lamma, these areas have little protection from dumping on private land. This 10% also represents some of Hong Kong's most ecologically important areas, as well as places that are residential or attract tourists.

### **Proposed Amendments to the WDO**

We would like to comment on the Administration's proposals as they pertain to Lamma Island:

1. The proposed amendment to require any person who intends to carry out depositing activity on land held under private ownership to obtain the prior written permission of all the landowner(s) concerned that bears the authority's seal, or face prosecution, will not improve the situation on Lamma at all.
2. Landowners are dumping all manner of waste, in essence creating unlicensed private landfill sites. The proposal will simply serve as a government-sanctioned green light for further dumping activities. It does nothing to protect the environment or protect the public from such activities.
3. The claim that it will protect private landowners from depositing activities carried out without the consent of the landowners is questionable. Presumably the landowners can contact the police if someone illegally enters their land and dumps waste there. In addition, the bureaucracy suggested by the Administration is likely to provide landowners with the means to escape reinstatement orders.

4. The Administration also proposes an exemption for aggregate areas of less than 100m<sup>2</sup> under the “principle of reasonableness”. This exemption will only lead to a greater number of smaller areas being dumped on, and these will be government sanctioned. On Lamma, there are already many areas of such small-scale dumping. We urge government to find ways to discourage this. If it is the government’s intention to grant an exemption for the purpose of depositing hardcore in order to build a village house, then this should be stated clearly. Dumping of any kind should only be permitted on plots where permission has been granted to build a house and the type of materials used should be controlled. Building works should be undertaken within a reasonable time frame in order to cause minimum disruption to neighbouring property owners.
5. The Administration says it is “committed to striking a balance between respecting private property rights and combating illegal depositing of abandoned C&D materials on private land”. It seems that the Administration takes a very narrow view of private property rights, protecting the right of landowners to do whatever they want with their land, including the right to pollute. However, other property owners and residents also have a right to live without landfill on their doorsteps. Furthermore, there are loopholes suggesting that much of the dumping on Lamma is not deemed “illegal” and government has proven powerless or unwilling to stop such activity.

### **Some Suggestions**

1. The Administration to use the story of the Yung Shue Long Valley as a test case for discussion of any further proposals in order to find ways to close existing loopholes that allow for this kind of activity.
2. The EPD to examine Yung Shue Wan and the surrounding villages to find ways in which waste can be better managed. For example, when the charges for the disposal of construction waste were introduced, a properly managed facility for the temporary storage of such waste should have been arranged. It makes no sense for contractors to pay to have this type of waste shipped off Lamma, when they may need it at a later date for building works. This

measure may have prevented the number of private dumping sites that have arisen in the last couple of years.

3. Thus, we invite members of the Panel to visit Lamma to see for themselves the extent of the problems and urge the members to take the views of the wider community into consideration. Though the Administration's proposed amendments concern only the depositing of construction waste, we have seen on Lamma that the dumping of any kind of waste leads to more dumping. The construction waste itself is not limited to rubble, but contains all manner of waste including plastic bottles, polystyrene, rusty metal, old paint/chemical cans, toilets, broken glass and plastic pipes. We end this submission with a question: **What would you like to see every time you open your front door?**









We hope you chose the last option – the lily pond, which has been buried under construction waste. The houses now overlook landfill and residents pass by the toilet bowl (as pictured left). We hope that you will work with us to find solutions to clean up our neighbourhood and prevent further environmental damage.

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30<sup>th</sup> March 2010