

For discussion

On 24 February 2011

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

Updates on the initiatives to Combat Land filling and Fly-tipping Activities

Purpose

This paper seeks to update Members on the progress of the Administration's measures in combating illegal land filling and fly-tipping activities. It also aims to brief Members on the recent alleged illegal land filling and arson cases in Hung Shui Kiu and Nam Sang Wai respectively.

Updates on the initiatives to combat illegal land filling and fly-tipping activities

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) 1026/09-10(01) and CB(1) 1094/09-10(01) the progress of measures against activities related to illegal depositing of construction and demolition (C&D) materials. Government departments have been taking actions within their respective jurisdiction as well as making coordinated efforts to tackle the problems which cut across different policy areas. Updated progress on actions and measures taken are set out in the following paragraphs.

3. Members have been briefed on the trial scheme conducted by the Environmental Protection Department (EPD) under which closed-circuit television (CCTV) system was installed at two fly-tipping black spots at Siu Lang Shui in Tuen Mun and Tai Po Road car park. With the aid of the CCTV and intensive enforcement effort made since January 2010, it is noted that the occurrence of fly-tipping activities at the two locations has become less frequent. While the CCTV system has been effective and useful in deterring fly-tipping activities at the two black spots in the trial scheme, further extension of the use of CCTV in other fly-tipping locations to collect evidence on fly-tipping activities should be carefully considered with regard to views of the neighbouring community and privacy concerns.

4. In the last legislative session, Members suggested that consideration should be given to including in the Basic Conditions of the application for a billing account for disposal of construction waste the need for contractors to ensure that dump trucks leaving construction sites are weighed and recorded in the chits for cross checking at public fill reception facilities to avoid overloading and possible fly-tipping activities.

The intention behind this suggestion was to revoke the contractor's account if the proposed basic condition was breached.

5. We have examined the operation of the Waste Disposal (Charges for Disposal of Construction Waste) Regulation and the Construction Waste Disposal Charging Scheme, which seeks to encourage, through financial disincentive, waste producers to reuse, reduce and recycle construction waste. Our view is that the existing mechanism under the Regulation does not provide any avenue for reinstating the billing account that has been revoked because of the breach of the proposed basic condition. The main contractor concerned would have no other alternative means to handle construction waste under such situation, and might be forced to transfer the construction waste delivery and payment responsibilities to his sub-contractors or vehicle drivers. This would increase the financial burden of other parties and would not be in line with the legal intent of the Charging Regulation.

6. To control overloading of dump trucks, the EPD will continue the existing practice to reject the entry of overloaded dump trucks at its disposal facilities, subject to the contingency allowance of 5%. The Civil Engineering and Development Department has also reminded dump truck trades not to overload their trucks.

7. On the Subcommittee's suggestion to set a deadline for the mandatory introduction of the trip-ticket system (TTS) for major private works projects to keep track of the movement and disposal of inert C&D materials, we have relayed it to the Construction Industry Council (CIC). The CIC has recently approved a set of Guidelines on TTS for Disposal of Construction & Demolition Materials in Private Sector Works which will tentatively be available in the second quarter of this year. The Committee on Environment and Technology under the CIC will monitor progress of the application after publication of the Guideline. Depending on the feedback from the industry on the Guidelines, the introduction of mandatory TTS to private works might be considered.

8. We briefed the EA Panel in the last legislative session on the proposal to amend the Waste Disposal Ordinance (WDO) (Cap. 354) to enhance the regulation against depositing abandoned construction and demolition materials on private land. The Administration has conducted a public consultation to solicit views on the proposal in 2010. The public and relevant stakeholders were generally positive and supportive towards the proposal. We have taken into account views and comments received during the public consultation in preparing the legislative proposal on amendment to the WDO with the aim to submit the amendment proposal to this Council as soon as possible.

9. The Subcommittee in the previous legislative session also reviewed the feasibility of amending the Town Planning Ordinance (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 preparation and review of statutory

plans has been an on-going task of the Planning Department (PlanD). Apart from OZP reviews for the built-up areas, PlanD is in parallel preparing DPA Plans/OZPs for the rural areas currently not covered by statutory plans so as to step up statutory planning control in areas of high conservation value, subject to development pressure, or susceptible to unauthorized use, etc. Since early 2010, PlanD has prepared 12 DPA Plans, covering the Frontier Closed Areas, some Country Park enclaves and other rural areas, amounting to about 2,550 hectares of land. The preparation of statutory plans for the rest of the rural areas is being followed up progressively.

Alleged illegal land filling and arson cases

10. The Administration has been requested to brief Members on the alleged land filling case in Hung Shui Kiu and arson case in Nam Sang Wai. Regarding the former case, complaints were received regarding illegal land filling activity at a location in Hung Shui Kiu in late December 2010. Relevant departments have followed up the case in accordance with respective ordinances. It has been found that the site concerned is a private land zoned as “green belt” in the Ping Shan OZP. Any land filling activities conducted at “green belt” zoned land should be conducted with the planning permission granted by the Town Planning Board. Besides erecting warning signs at the site, PlanD issued a warning letter to the persons concerned in December 2010. The Planning Authority later served Enforcement Notices to require the persons concerned to cease the illegal land filling activity. PlanD will consider serving Reinstatement Notices to the persons concerned after the cessation of the activity. Prosecution action will be instigated against non-compliance with the Reinstatement Notice.

11. EPD has also made site inspection in the area concerned. While the activity has not been found to violate any requirements under WDO or other environmental legislation, EPD has issued a letter to the landowners and legal occupiers concerned to remind them of the relevant requirements under relevant environmental legislation. The Lands Department has also conducted inspection and has not found any activity in breach of relevant lease conditions. The PlanD, LandsD and EPD will keep monitoring the site closely.

12. Regarding the alleged arson cases at Nam Sang Wai, according to the Police, all of these fires were attended by the Fire Services and the Police. The Fire Services and the Police have made enquiries at the scene and have come to a view that the fires were not suspicious. However, the Police will step up patrols in the Nam Sang Wai area to maintain law and order. PlanD and EPD have also conducted site inspection and have not found any activities contravening relevant legislation.

Follow-up to individual cases

13. We submitted to the Subcommittee in the previous legislative session a report on the latest situation of several private land filling sites involving C&D materials (vide LC Paper No. CB(1) 1026/09-10(01)). The updated report is attached at Annex I. In addition, a report on the updated situation on the Ho Sheung Heung case is at Annex II.

Environmental Protection Department
February 2011

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 January 2011







Photos taken in January 2011








Aerial photo taken on 17 December 2010

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 2009. No immediate and obvious landslip danger was identified. Latest inspections in January 2011 have not detected any further dumping of waste/land filling activity, environmental or sanitary nuisance. Since there has been no further dumping activity for nearly 3 years, it is proposed to delete this case from the list.

District	Location	Approx Area (ha)	Land Use Zoning
Yuen Long	DD96, Chau Tau, San Tin	0.08	Green Belt
<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;">  <p>Photo taken in November 2008 ←</p> </div> <div style="width: 30%;">  <p>Photo taken in January 2011 →</p> </div> <div style="width: 30%;"> <p>Aerial photo taken on 8 July 2009 →</p>  </div> </div> <div style="margin-top: 20px;">  <p style="text-align: center;">Photo taken on 19.1.2011</p> </div>			
<p>Upon investigation of a public complaint received in October 2008, the site was found vacant and planted with trees. Subsequent site inspection revealed that two containers were deposited there. An Enforcement Notice under the Town Planning Ordinance requiring the discontinuation of the unauthorized storage purpose was issued in mid-2009. Prosecution action against the concerned party for non-compliance with the statutory notice is in progress. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in January 2011 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 case involving dumping of construction and demolition materials.</p>			

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)
<div style="display: flex; justify-content: space-between;"> <div data-bbox="165 296 808 555">  <p>Photo taken in May 2006 ←</p> </div> <div data-bbox="808 296 965 555"> <p>Photo taken in January 2011 →</p> </div> <div data-bbox="976 296 1408 560">  </div> <div data-bbox="1413 296 1541 555"> <p>Aerial photo taken on 8 July 2009 →</p> </div> <div data-bbox="1543 288 2089 651">  </div> </div>			
<div style="display: flex; justify-content: space-between;"> <div data-bbox="165 663 846 1059">  </div> <div data-bbox="846 663 1420 1059">  </div> <div data-bbox="1435 874 1615 951"> <p>Photos taken on 19.1.2011</p> </div> </div>			
<p>An Enforcement Notice under the Town Planning Ordinance requiring the discontinuance of the pond filling operation was issued in mid-2006. The unauthorised development was subsequently discontinued. Reinstatement Notice was issued in mid-2006 requiring reinstatement of the damaged land. Compliance Notice for the statutory notice was issued in early 2007. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in January 2011 have not detected any dumping of waste/land filling activity, environmental or sanitary nuisance. It is 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.</p>			

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 2010



Photo taken in January 2011



Aerial photo taken on 8 July 2009
←

Photo taken on 19.1.2011
→



A Stop Notice under the Town Planning Ordinance requiring the discontinuation of the land filling and pond filling operations and a Reinstatement Notice were issued in late 2008. In considering the prosecution case, some steps taken by the notice recipients are being assessed. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in January 2011 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 (left) - Photos taken in January 2011 - Natural stream reinstated (right)



Aerial photo taken on 13 November 2008
←



Photos taken on 19.1.2011

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 stream bed and the embankment had been reinstated to their original width. DSD inspected the site after DLO/YL's reinstatement works and replied DLO/YL that the condition was satisfactory in October 2009. Latest inspections in January 2011 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 July 2010 showing the extended land filling area



Aerial photo taken in November 2008
←



Extension of the land filling area to Lot Nos. 2643, 2638 & 2639S.D as at May 2010
←



Aerial photo taken in November 2010
←

Soil laid over deposited



Photos taken on 14 January 2011
←



Photo taken in January 2011 showing the soil laid over the existing deposited material
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The site falls within Old Schedule private agricultural lots. It is interconnected with the Pui O River through a water gate and becomes flooded at high tides. Earth filling on the lots concerned is not a breach of the land lease conditions nor does it contravene the Waste Disposal Ordinance if lots owners' consent has been obtained. The area is not within the Development Permission Area and therefore is not enforceable under the Town Planning Ordinance. We inspected the site from time to time over the past six months. Site inspection in January 2011 revealed that there was no major change in the subject situation except a very thin layer of soil was newly deposited on the existing debris. There was no extension of the filled area and environmental nuisance was not detected. Since the site is located just beside Pui O River, its hinterland 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 January 2011



Aerial photo
taken on 13
November 2008
←



Photo
taken on
19.1.2011
→

An Enforcement Notice under the Town Planning Ordinance requiring the discontinuation of the pond/land filling operation was issued in late 2008. The unauthorised development was subsequently discontinued. Reinstatement Notice was issued in early 2009 requiring the concerned parties to reinstate the damaged land. Compliance Notices for the statutory notices were issued in late 2009. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in January 2011 revealed that grass was grown over the site. No further 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 January 2011



Aerial
photo taken
on 13
November
2008
←



Photo taken in January 2011



Photo taken 19.1.2011

An Enforcement Notice under the Town Planning Ordinance requiring the discontinuation of the land filling operation was issued in early 2009. The unauthorised development was subsequently discontinued. Reinstatement Notice was issued in late 2009 requiring the concerned parties to reinstate the damaged land. Site condition is being monitored for issuance of Compliance Notice as the site has broadly been covered by vegetation. It is not in breach of lease conditions for earth filling on Old Schedule private agricultural lot. Latest inspections in January 2011 have not detected any dumping of waste/land filling activity, environmental or sanitary nuisance. It is noted that no streamcourse was affected. We will keep monitoring the site closely. It is proposed to delete this case from the list.

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 on 19.1.2011
→




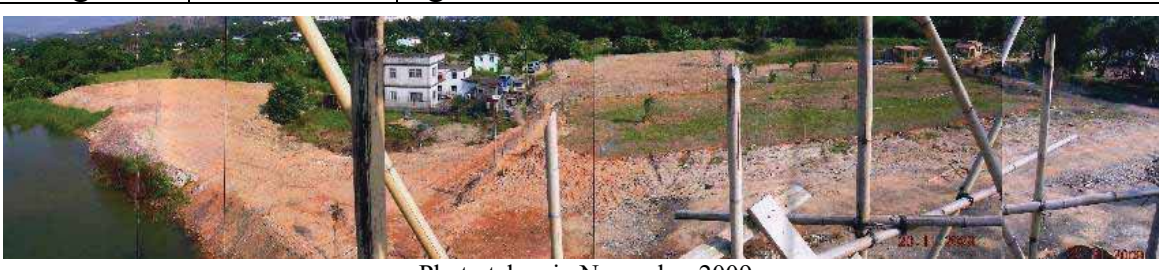




Aerial photo taken on 31 October 2008



Photo taken in January 2011

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 January 2011 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>Aerial photo taken in July 2009</p>		<p>Photo taken in November 2010</p>	
		<p>Photo taken in December 2010 ←</p>	 <p>Photo taken in January 2011 ←</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. Summonses under Town Planning Ordinance (TPO) were laid against two responsible persons who undertook the unauthorized land filling at part of the site in July 2009. One defendant had pleaded guilty to the offence and was convicted/fined \$10,000 by the court. Besides, prosecution was instigated against four 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 landfilling case. They were convicted and fined by court in mid-April 2010.</p>			
<p>On top of Enforcement Notices, Reinstatement Notices under the TPO were served to the concerned parties requiring the removal of the fill materials and grassing of the land by 30 September 2009. The Secretary for Development received eight applications for review of the Reinstatement Notices under the TPO. After considering the review applicants' submissions and Government department's responses, the Secretary for Development has in May 2010 confirmed the Planning Authority's decisions to serve the Reinstatement Notices. The respective notice recipients are thus required to undertake the required reinstatement works. Reinstatement works in parts of the site had commenced in mid-2010. So far, Compliance Notices (CN) have been issued to 15 notice recipients where the reinstatement requirements have been fulfilled. Reinstatement actions in some other lots are in good progress, with filled materials removed and vegetation found on the site. For those lots where the requirements of the Reinstatement Notice were not complied with, prosecution action against the concerned parties has been instituted accordingly. Three defendants had pleaded guilty and were convicted/fined by the court in late 2010. We are closely monitoring the reinstatement condition of the sites.</p>			
<p>Two unauthorized structures were found being constructed at the captioned site during the inspection conducted by the Buildings Department (BD) on 19 June 2009. One of the structures 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 structures. The concerned owner indicated to DLO/N that one of the unauthorized structures straddled his own private land and government land, and requested for joint demolition action. However, Government's demolition action on 29.1.2010 had encountered resistance (involving the elderly) and thus it was called off on safety grounds. Notwithstanding the above, BD urged the owner to try every possible means to comply with the above order. In response to the owner's request on another joint demolition action with the Government like the one taken on 29.1.2010 and in line with LandsD's reply to the owner, BD informed the owner that the proposed joint demolition action could not be considered as an excuse for withholding the action to demolish the other unauthorized building erected entirely on private land. BD would consider instituting prosecution proceedings if the owner should fail to complete the required works without a reasonable excuse. Afterwards, the Sheung Shui District Rural Committee approached Heung Yee Kuk (the Kuk) for assistance and the Kuk had taken up the case with Government. Development Bureau had advised the Kuk and Sheung Shiu District Rural Committee that the two unauthorized structures had to be demolished. BD issued a final warning letter to the owner on 31.1.2011. LandsD has taken parallel action by posting a notice on 31.1.2011 under S. 6(1) of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) requiring the occupier to cease occupation of the Government land before 3.3.2011.</p>			

District	Location	Approx Area (ha)	Land Use Zoning
<p>There were 8 convictions under the Waste Disposal Ordinance with fines of \$22,400 in total. Two truck drivers and two excavator/bulldozer operators were convicted for unlawful deposit of waste. A truck owner was convicted for not complying with the requirements of legal notices which requested the provision of information regarding the landfilling incident in July 2009.</p> <p>Another defendant was also convicted and fined (\$30,000 for charge under Town Planning Ordinance and \$5,000 under Waste Disposal Ordinance) after trial in late 2010 against three charges (namely undertaking unauthorized landfilling, dumping at a lot and committing criminal damage in part of the site) instituted by PlanD, EPD and Police.</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>			