

Subcommittee on Combating Fly-tipping

**List of improvement measures previously proposed by Members/deputations
(as at 22 April 2009)**

Member/deputation	Proposed improvement measure	Administration's response
1) Mr LEE Wing-tat	<p>1.1) To work out an estimate on the amount of waste to be generated from each works project taking into account past projects of similar scale to facilitate monitoring. To liaise with owners' corporation/management committee of residential developments to monitor the disposal of waste arising from renovation of domestic premises</p> <p>1.2) To identify a lead department to coordinate enforcement against fly-tipping activities</p>	<p>Public works projects are monitored through the trip ticket system, an early action of which is to inform the Civil Engineering and Development Department (CEDD) of the amount of inert construction and demolition (C&D) materials to be disposed of and to apply for the disposal capacity needed.</p> <p>The Administration maintains close liaison with management companies in monitoring the disposal of waste arising from renovation projects, whereby residents would be requested to register these projects with the management committee. The Environmental Protection Department (EPD) has issued practical guidelines for the property management bodies to manage the proper disposal of renovation waste by renovators and house owners in accordance with the Construction Waste Disposal Charging Scheme. EPD has also published posters and leaflets on deterring fly-tipping for the wide distribution by property management bodies to the renovators and house owners. In addition, EPD will continue to liaise with the owners' committees or building management of residential buildings in areas where fly-tipping has been discovered.</p> <p>The Administration has reviewed the procedures in controlling illegal fly-tipping and land filling activities and introduced enhanced measures and departmental coordination mechanism. All complaints involving urgent and sensitive cases of depositing of C&D</p>

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		<p>materials, such as active and on-going C&D materials depositing activities that are affecting environmentally sensitive areas would be referred to EPD for priority investigations. Where necessary, EPD will coordinate joint site visits and actions with other Government departments. In collaboration with other Government departments, EPD has developed and maintained a database of C&D materials cases on private land and a list of fly-tipping black-spots. Inter-departmental meetings are also convened to monitor the overall situations of illegal fly-tipping and land filling throughout the territory. Ad hoc urgent meetings will also be arranged to coordinate joint actions on specific cases that are of major public concern.</p>
<p>2) Miss CHOY So-yuk</p>	<p>2.1) To adopt a "cradle to grave" approach for the disposal of construction waste.</p>	<p>Public works projects are monitored through the trip ticket system (TTS), which seeks to ensure the proper disposal of C&D materials generated in public works. The Administration has followed up Members' request that TTS be voluntarily adopted in private works projects. The proposal was presented to the Committee on Environment and Technology of the Construction Industry Council on 26 March 2009. The Committee's response was generally supportive and would prepare guidelines on the TTS aiming for voluntary adoption by the industry. The Committee would further deliberate on the strategies to promulgate the guidelines.</p>

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	<p>2.2) To consider allowing land exchange or transfer of plot ratio for landowners so that they would not try to destroy the biodiversity of the land with a view to facilitating development</p> <p>2.3) To conduct more regular inspections at notorious black spots of fly-tipping, and to impose heavier penalties to deter such activities</p> <p>2.4) To consider using photographs showing the license plate number of the vehicles engaged in illegal dumping activities as evidence for prosecution</p>	<p>Landowners may apply to the Lands Department (LandsD) for land exchange if their proposal complies with the planning intention and requirements of the application site. In processing the application, LandsD will consult the relevant departments and if there is no objection to the proposal, seek the necessary approvals to the application. As to the suggestion of transfer of plot ratio (or exchange of a site at a different location), the relevant policy Bureau's advice or directive is required.</p> <p>The Administration will continue to carry out inspections on fly-tipping and land filling cases, and to step up site inspections particularly for black-spots and repeated cases.</p> <p>The Administration agrees that the sentence upon offenders should carry sufficient deterrence. In case the penalty imposed by the court is considered too lenient or insufficient to reflect the severity of the offence, the Administration will, where the circumstances of an individual case justify, apply via the Department of Justice for a court review of the sentence. Separately, the Advisory Council on the Environment wrote to the Judiciary Administrator in 2003 and 2008 to express their views on the sentencing of fly-tipping cases, that the sentences imposed should effectively deter such illegal activities.</p> <p>Any information in respect of the unauthorized activities collected during the site inspection for prosecution purpose would be reasonably adduced at court proceedings subject to the legal principle on admissibility of evidence. While photographs showing</p>

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	<p>2.5) To extend the TTS applicable to public works projects to cover private works projects.</p>	<p>the license plate number of vehicles can be useful evidence, photographs per se are not sufficient. The witness in relation to the photographs would have to go through the normal legal procedure of taking statement and appearing before the court as the prosecution witness. In any event, for every case, there has to be sufficient evidence before taking prosecution.</p> <p>Please see Administration's response to item 2.1 above.</p>
<p>3) Mrs Anson CHAN/ Mr SIN Chung-kai</p>	<p>3.1) To prevent unauthorized development or environmental degradation in the hope of getting approval from the Town Planning Board (TPB) for rezoning, consideration should be given to introducing a clean record system so that TPB could make reference to it in considering planning applications</p>	<p>The Development Bureau (DEVB) provided a written reply on this subject on 13 May 2008.</p> <p>To re-cap, this proposal was considered by the TPB in 2005 who did not agree to the proposal mainly for the following reasons: (i) it would not be difficult to get round the test by having someone with a 'clean record' to submit the application; and (ii) planning considerations should be those relating specifically to the use and development of land. Personal circumstances (such as personal misconduct) are rarely of relevance.</p> <p>The TPB has stressed in the Town Planning Board Guidelines on "Other Specified Uses" annotated "Rural Use" ("OU(RU)") that any unauthorised development or environmental degradation in hope of getting agreement from the TPB for rezoning the land for "OU(RU)" zone will be subject to enforcement by the relevant authorities, including the Planning Authority, and the TPB will not give sympathetic</p>

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	3.2) To consider setting up a standing committee to deal with fly-tipping so that the public could approach the committee for assistance in this regard	consideration when assessing the application for rezoning. Please see Administration's response to item 1.2 above.
4) Mr Jeffrey LAM Kin-fung	4.1) To work out a host of measures, including development of recycling industries in the EcoPark, to reuse and recycle inert C&D materials	CEDD operates a sorting facility at Tseung Kwan O and Tuen Mun to separate inert C&D material, steel bars and other useful materials for reuse and recycling. The inert materials which have been sorted are temporarily stockpiled at adjacent fill banks. Since 2007, the Mainland has received some of the inert C&D materials for beneficial reuse. Separately, 6 Short Term Tenancy sites at Pak Shing Kok, Tseung Kwan O were let out in 2006. They have been in the business of receiving C&D materials for some time. Useful materials such as wood, glass, metal, furniture, etc. are sorted out for further processing. As for EcoPark, it may not be suitable for handling inert construction material in view of the large area required.
5) Mr WONG Kwok-hing	5.1) LandsD should step up enforcement against depositing activities on private land which were not permitted under the land lease.	LandsD will step up lease enforcement action against depositing activities on private land if such activities are not permitted under the land lease.

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6) Mr Albert CHAN Wai-yip	<p>6.1) To consider requiring waste haulers to register their vehicles with the EPD to enable more effective monitoring of depositing activities</p> <p>6.2) To identify more sites to set up public fill banks for the deposit of inert C&D materials in the long run</p>	<p>To monitor the depositing of inert C&D materials, truck owners are required to apply for Dumping Licence for disposal of the materials to the Public Fill Reception Facilities, which include public filling areas, public filling barging points and public fill stockpiling areas. Application for Dumping Licences needs to be submitted to CEDD. Licences would be issued by the CEDD under Section 5 of the Land (Miscellaneous Provisions) Ordinance (Cap 28).</p> <p>CEDD initiated in March 2009 the site search for establishing a permanent fill bank as buffer storage for surplus public fill. An area of about 50 hectares with 500-meter marine frontage is required for the fill bank. So far, no suitable site in the territory could be identified in respect of the requirement. While the existing temporary sites in Tseung Kwan O Area 137 and Tuen Mun Area 38 may be used for such purpose, there are competing demands for setting up other permanent facilities in the area.</p>
7) Civic Party/ Tai Po District Council/ Advisory Council on the Environment	7.1) To set up an inter-departmental task force to handle complaints against fly-tipping and depositing of inert C&D materials, and to decide on the departments responsible for dealing with the complaints	Please see Administration's response to item 1.2 above.
8) Civic Party	8.1) In tandem with the establishment of a database on fly-tipping and depositing of C&D materials, consideration should be given to increasing the penalty for such activities to achieve better deterrent effect	Please see Administration's response to item 2.3 above.

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	8.2) To open up the market to allow private operators to develop and set up their own waste disposal facilities on suitable land and in accordance with the environmental legislation. Competitive price would provide incentives for waste producers to dispose of their waste in an environment-friendly manner. A self-regulated market would also help to eradicate illegal waste disposal sites and activities	Please see Administration's response to item 4.1 above.
9) Civic Party/ Island District Council	9.1) To amend the relevant legislation to clearly define illegal depositing of inert C&D materials, enhance control of land filling activities on agricultural land, and empower relevant departments, including EPD, to take prosecution action against these activities	The Environment Bureau (ENB) and EPD are examining the feasibility of introducing an authorization requirement under the Waste Disposal Ordinance (Cap 354) (WDO) to regulate the depositing of inert C&D materials on private land. ENB/EPD is working with relevant bureaux and departments to develop the details and look into a number of legal and practical issues of the proposal.
10) Kadoorie Farm & Botanic Garden Corporation/ Friends of the Earth/ Advisory Council on the Environment/ The Conservancy Association	10.1) To include all public utility and large-scale private works projects in TTS while tightening the waste management practice of small-scale private works projects at the same time	Please see Administration's response to item 2.1 above.
11) Kadoorie Farm & Botanic Garden Corporation	11.1) To introduce a licensing system for site formation of agricultural lands regardless of zoning status	Please see Administration's response to item 9.1 above.

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	<p>11.2) To compile a full list of dump trucks prior to the commencement of a works project to facilitate monitoring</p> <p>11.3) To introduce a blacklisting scheme under which non-compliant contractors will be barred from tendering public works projects</p> <p>11.4) To step up publicity and public education on land use issues and restrictions, particularly for residents in the rural community</p>	<p>The list will not be available prior to the commencement of a works contract, because contractors usually only employ dump trucks after commencement of the works contract. A dump truck is likely to serve more than one project at any period of time and the value of a list for monitoring may be limited.</p> <p>DEVB operates a contractor management system which could sanction contractors involved in illegal dumping, including suspension from tendering for public works contracts. Therefore, there may not be the need to establish a suspension list specifically for illegal dumping.</p> <p>PlanD has maintained publicity and public education to enhance the public awareness that unauthorised developments are subject to enforcement and prosecution action. These include distribution of pamphlets, warning posters, website, regular broadcast in television and radio, in form of an announcement of public interest as well as educational out-reach programme to secondary schools.</p>
12) Kadoorie Farm & Botanic Garden Corporation/ Advisory Council on the Environment	12.1) To increase the fine to achieve a better deterrence effect	Please see Administration's response to item 2.3 above.
13) Kowloon City District Council	13.1) To deploy more manpower resources to enforce against fly-tipping and depositing of inert C&D materials to achieve better deterrent effect	Please see Administration's response to item 2.3 above.

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14) Hong Kong Waste Disposal Industry Association	<p>14.1) To step up inspection at depositing black spots</p> <p>14.2) To provide land in the proximity of refuse transfer stations and landfills for the trades to handle waste before disposal</p>	<p>Please see Administration's response to item 2.3 above.</p> <p>Please see Administration's response to item 4.1 above.</p>
15) WWF Hong Kong	15.1) To amend Town Planning Ordinance (Cap. 131) (TPO) to empower the PlanD to have statutory control over Outline Zoning Plan areas not covered by Development Permission Area Plans	<p>To address public concerns on the depositing of inert C&D materials in the rural New Territories, TPB in mid-2005 extended the land filling control from the conservation-related zonings to "Agriculture" zone on the statutory plans for rural New Territories. This helps step up the planning control on land filling activities on private land under conservation-related zonings by requiring prior planning permission from TPB for undertaking or continuing such activities. Unauthorised land/pond filling activities are subject to planning enforcement.</p> <p>The TPO does not confer enforcement authority in respect of areas not covered by Development Permission Area plans. These areas comprise mainly the urban areas and new towns. In practice, for most parts of the urban areas and new towns where development is to be facilitated rather than prohibited, introducing control against land filling in the planning permission process would unnecessarily prolong the development approval process. After all, it is not considered that the TPO is the most appropriate tool to control land filling activities per se. To overhaul the planning regime to forestall a particular form of illegal or unauthorized activities on the land would have far reaching implications.</p>

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	<p>15.2) To increase the level of punishment and fine against unauthorized land filling and land excavation activities</p> <p>15.3) To incorporate a new clause into the TPB guidelines and inform the public that any unauthorized development or environmental degradation activity in the hope of rezoning for development will not gain sympathetic consideration from TPB</p>	<p>Please see Administration's response to item 2.3 above.</p> <p>The TPB Guidelines on "OU (RU)" promulgated in November 2005 has already stipulated that any unauthorised development or environmental degradation in hope of getting agreement from the TPB for rezoning the land for "OU(RU)" zone will be subject to enforcement by the relevant authorities, including the Planning Authority, and the TPB will not give sympathetic consideration when assessing the application for rezoning. Besides, in processing planning application, PlanD will submit to TPB comments regarding the site condition and its surrounding area and comments from the concerned departments on environmental and landscape issues.</p>
<p>16) The Conservancy Association</p>	<p>16.1) To amend WDO to require prior approval from the Government for depositing of inert C&D materials even with the consent of the landowners concerned</p>	<p>Please see Administration's response to item 9.1 above.</p>
<p>17) Advisory Council on the Environment</p>	<p>17.1) To suitably amend TPO to enhance planning and land use controls in both urban and rural areas, particularly in green belts and conservation zones where existing controls are often found to be inadequate</p> <p>17.2) To make reference to overseas experience in handling fly-tipping and depositing of inert C&D materials on private land.</p>	<p>Please see Administration's response to item 15.1 above.</p> <p>We have reviewed overseas practices on the control of land filling activity on private land. It is noted that in many overseas jurisdictions, land filling activity is a common soil replenishing practice for landscaping and agricultural purpose. Apart from the general</p>

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18) Heung Yee Kuk	18.1) To clearly define the terms "unauthorized", "disposal" and "waste" with due regard to the rights of landowners.	Please see Administration's response to item 9.1 above.