

立法會
Legislative Council

LC Paper No. CB(1)989/15-16

Ref. : CB1/SS/7/15

Paper for the House Committee meeting on 3 June 2016

Report of the Subcommittee on Waste Disposal (Designated Waste Disposal Facility) Regulation (Amendment of Schedule 1) Notice 2016 and Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Amendment of Schedule 4) Notice 2016

Purpose

This paper reports on the deliberations of the Subcommittee on Waste Disposal (Designated Waste Disposal Facility) Regulation (Amendment of Schedule 1) Notice 2016 and Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Amendment of Schedule 4) Notice 2016 ("the Subcommittee").

Background

Roadside skips

2. Cargo compartments (commonly known as "skips") are used by the construction and fitting-out trades for collection and temporary storage of construction waste generated from construction sites, renovation and refurbishment works in buildings and shops before delivering the collected waste to government landfills or fill banks for disposal. In comparison with placing construction waste on the roadside and pavement pending collection for disposal, using skips is an effective means to reduce environmental nuisance and facilitate disposal of construction waste in a tidy and orderly manner. However, roadside skips very often unlawfully occupy public roads, cause obstruction to traffic, and at times pose environmental, hygiene and safety risks to road users.

Management of roadside skips

3. Under the current streamlined enforcement procedures, the Hong Kong Police Force ("HKPF") takes enforcement actions against roadside skips which cause serious traffic obstruction or imminent danger to the public. In a warranted case, HKPF will take action to remove the skip, and may take prosecution action against the skip operator concerned under section 4A of the Summary Offences Ordinance (Cap. 228). If the roadside skip under complaint does not cause obstruction, inconvenience or danger to the public or traffic but illegally occupies government land,¹ the Lands Department ("LandsD") will conduct a site inspection within two working days after receiving the complaint or referral from HKPF. LandsD will post a notice according to section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) to require the concerned skip owner to remove the skip within one day after the notice is posted, or else the skip will be removed by LandsD's contractor.

4. In addition, the Environmental Protection Department ("EPD") and the Transport Department ("TD") have issued guidelines for voluntary compliance by skip operators. EPD's guidelines focus on measures to reduce environmental problems arising from skip operations, while TD's guidelines cover measures to reduce public safety risks and obstruction to pedestrian and vehicular traffic posed by roadside skips.

Proposed measures to enhance management of roadside skips

5. In recent years, the number of public complaints over the problems caused by roadside skips has increased significantly. In October 2013, the Director of Audit conducted a review of the Government's effort in managing roadside skips and a relevant report was published in the Director of Audit's Report No. 61 ("the Audit Report"). Following the Audit Report, a Joint Working Group on Management of Roadside Skips ("JWG") led by the Environment Bureau ("ENB") and EPD with participation of eight relevant bureaux and departments ("B/Ds") was set up in February 2014 to review the problems caused by skip operations and the effectiveness of the existing regulatory regime.²

¹ Under section 5 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28), a skip owner may apply for a licence from the Lands Department for temporary occupation of government land.

² Other participating B/Ds are the Transport and Housing Bureau, the Development Bureau, the Food and Environmental Hygiene Department, the Home Affairs Department (to attend on a need basis), the Highways Department, HKPF, LandsD and TD.

6. JWG's review found that most of the skips under complaint were being placed on the roadside for a prolonged duration by skip operators for convenience. Responses from the trade indicated it was due to a lack of storage sites for idling skips. In the light of the findings, JWG decided to first put in place the following short-term measures to tackle the problems caused by placement of skips on the roadside or in public places:

- (a) to identify suitable sites to be made available to skip operators through tendering on short-term tenancies for storing idling skips, with a view to reducing the number of such skips placed on the roadside or in public places; and
- (b) to enhance enforcement efficiency by engaging term contract service providers to speed up the removal of roadside skips by relevant government departments.

7. In respect of the proposed measure in paragraph 6(a) above, JWG has selected two sites for storage of skips, i.e. a site at the Tseung Kwan O Area 137 Fill Bank ("the TKO Fill Bank") in Sai Kung and another one at Siu Lang Shui ("SLS") in west Tuen Mun.³

Provision of a site at the Tseung Kwan O Area 137 Fill Bank for storing skips

8. The TKO Fill Bank is a designated waste disposal facility specified in Schedule 1 to the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354L) and a public fill reception facility specified in Part 1 of Schedule 4 to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Cap. 354N). According to the Administration, as the selected skip storage site at the TKO Fill Bank is within its boundaries as delineated by the relevant plan specified in the said Schedules, the related Plan numbered P 20332-3 has to be amended and updated to clearly define that the proposed skip storage site is no longer within the boundaries of the TKO Fill Bank. The updated Plan numbered P 20332-3-A is in **Appendix I**.

The Waste Disposal (Designated Waste Disposal Facility) Regulation (Amendment of Schedule 1) Notice 2016 and the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Amendment of Schedule 4) Notice 2016

9. Against the above background, the Government published in the Gazette the Waste Disposal (Designated Waste Disposal Facility) Regulation

³ The proposed skip storage site at SLS is located at a deserted section at the end of Siu Lang Shui Road.

(Amendment of Schedule 1) Notice 2016 and the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Amendment of Schedule 4) Notice 2016 ("the two Notices") on 29 April 2016.

10. The two Notices respectively amend Schedule 1 to Cap. 354L and Part 1 of Schedule 4 to Cap. 354N to update the number of the Plan delineating the boundaries of the TKO Fill Bank. The two Notices were tabled before the Legislative Council at its meeting of 4 May 2016 and are subject to the negative vetting procedure. They will come into operation on 23 June 2016.

The Subcommittee

11. At the House Committee meeting held on 6 May 2016, Members agreed to form a subcommittee to study the two Notices. The membership list of the Subcommittee is in **Appendix II**. Under the chairmanship of Dr Hon Kenneth CHAN Ka-lok, the Subcommittee held one meeting with the Administration on 18 May 2016 to examine the two Notices.

12. To allow more time for the Subcommittee to prepare a report on its deliberations for submission to the House Committee, the Subcommittee Chairman has given notice to move a resolution at the Council meeting of 25 May 2016 to extend the scrutiny period to the Council meeting of 22 June 2016. However, the agenda item on the proposed resolution was not reached at the Council meeting of 25 May 2016, and was carried over to the Council meeting of 1 June 2016. At the time of submission of this report to the House Committee on 2 June 2016, the proposed resolution has not yet been dealt with at the Council meeting.

Deliberations of the Subcommittee

13. The Subcommittee generally supports the two Notices and the Administration's proposal to make use of the land taken out from the boundaries of the TKO Fill Bank for leasing as a short-term tenancy site to skip operators for storage of skips. In the course of deliberations, the Subcommittee has examined JWG's proposed measures on enhancing management of roadside skips, the operation hours of the proposed skip storage site at the TKO Fill Bank and related matters. The deliberations are summarized in the ensuing paragraphs.

Effectiveness of the short-term measures proposed by the Joint Working Group on Management of Roadside Skips

Provision of storage spaces for idling skips

14. The Subcommittee notes that among the 3 500 skips in Hong Kong, about 1 500 are actively in use and placed at works sites and in proper storage areas, and about 2 000 are mobile/idling skips that are often placed on the roadside and in public places and cause many problems, including unlawful occupation of government land, obstruction and safety risks posed to road users, damage to roads, and environmental and public hygiene problems, etc. In this regard, members agree with the provision of storage sites for such mobile/idling skips.⁴ Given that the proposed two skip storage sites at the TKO Fill Bank and SLS can only provide about 200 skip storage spaces in total, which are far from adequate for storage of the mobile/idling skips, members has urged the Administration to identify more storage sites to meet the demand.

15. The Administration has advised that it will review the usage of the two sites, feedbacks from the skip operator trade, as well as whether there are any other suitable sites available, and consider in due course whether additional skip storage sites have to be provided.

Stepping up enforcement and expediting removal of skips

16. While supporting the provision of skip storage sites, members stress that it is incumbent upon the Administration to in parallel step up its efforts in regulating roadside skips. Some members are of the view that the root of the problems caused by roadside skips is the lack of effective regulation over skip operations. They have pointed out that many idling skips are placed on the roadside for a prolonged period without being removed by HKPF or LandsD. They have queried about the absence of a yardstick for determining how long a skip can be allowed to be placed on the roadside.

17. At present, skip operators are requested to comply with EPD's and TD's guidelines on a voluntary basis. Members of the Subcommittee have pointed out that many skip operations are not in compliance with the guidelines. For example, many skips are painted in dark colours instead of in bright yellow, most are not affixed with reflective strips, no yellow flash lights are attached at upper corners of skips during the hours of darkness, and some are even placed at improper locations like cul-de-sacs, or near roundabouts and road junctions, thus posing safety risks to road users and pedestrians.

⁴ JWG is drawing up the operational details and management plans for the two sites, taking into account suggestions from relevant stakeholders, with a view to making available the sites for the skip operator trade for storing idling skips as soon as possible within 2016.

18. The Subcommittee notes that the skip operator trade considers that some form of regulation can facilitate their operations and is generally in support of introducing a permit system for regulating skip operations.

19. The Administration has advised that HKPF and LandsD have been actively taking enforcement actions against roadside skips. Upon receiving a complaint over a roadside skip by HKPF, it will send a police officer to the scene to ascertain whether the skip is causing serious obstruction or imminent danger to the public. Depending on the assessment of the situation, the police officer might, if the skip operator is identified, issue advice and/or warnings to the concerned skip operator, requiring him to remove the skip immediately. In 2014 and 2015, about 80% of the skips concerned were removed by the skip operators within a few hours after issuance of the advice/warnings. In the case of a roadside skip under complaint which does not cause serious obstruction or imminent danger to the public but illegally occupies government land, LandsD officers will post a notice on the skip to require the skip operator to remove the skip within one day after the notice is posted. In 2014 and 2015, 99% of skips in such cases were removed by the skip operators within two days after posting of notices by LandsD.⁵

20. The Administration has further advised that both HKPF and LandsD may hire a contractor on an ad hoc basis to remove skips. However, it may take as long as four to six hours before the skips concerned are removed by a contractor. In this regard and with a view to enhancing enforcement efficiency, JWG has proposed to first engage a service provider under a dedicated service contract to support HKPF in speedy removal of skips at any time of the day upon request. The contract service will be commissioned when the proposed skip storage sites at the TKO Fill Bank and SLS are available for leasing as short-term tenancy sites for placing idling skips, so as to enhance enforcement efficiency at the same time.

Coordination among relevant bureaux and departments

21. Given that the management of roadside skips involves a number of B/Ds, members of the Subcommittee have expressed concern that if no B/D is taking up the overall responsibility for the relevant issues, the effectiveness of the Government's efforts in managing skips will be undermined. They have urged ENB and EPD to take the lead in coordinating efforts of various B/Ds through JWG to enhance management of skip operations.

⁵ The enforcement actions taken by HKPF are in accordance with section 4A of Cap. 228 which deals with obstruction of public places, and those by LandsD are in accordance with section 6 of Cap. 28 which deals with unlawful occupation of unleased land.

Operation hours of the skip storage site at Tseung Kwan O Area 137 Fill Bank

22. The Subcommittee notes the Administration's initial proposal to set the operation hours of the skip storage site at the TKO Fill Bank from 8:00 am to 10:00 pm each day, taking into account the manpower and resources required for managing the site, as well as the operation hours of other adjoining waste disposal facilities.⁶

23. Mr Frankie YICK has relayed the views of members of the skip operator trade that the closing time of the skip storage site at the TKO Fill Bank at 10:00 pm daily is too early to meet their operational needs. He has further explained that while some skips are used for collecting construction waste from construction sites by around 7:00 pm each day, some others are used for collecting construction waste from residential estates, shopping malls or commercial buildings at late night, such as around 9:00 pm to 10:00 pm, so as not to affect the normal daytime activities at such places. As it takes some time for the skip operators to transport the waste collected to the waste disposal facilities for disposal, it is likely that some skips will return to the skip storage site at the TKO Fill Bank as late as around 12:00 midnight. In this connection, he has urged the Administration to extend the operation hours of the skip storage site until 12:00 midnight.

24. The Administration has explained that the Civil Engineering and Development Department ("CEDD") is responsible for the management of the TKO Fill Bank, as well as a Temporary Construction Waste Sorting Facility ("TCWSF") located there. On-site staff are deployed to oversee site operations during the operation hours of the TKO Fill Bank and TCWSF, which normally close at 8:00 pm and 10:00 pm respectively. As the proposed skip storage site is within the area of the TKO Fill Bank, setting the closing time of the site beyond 10:00 pm has additional manpower and resource implications, and may involve adjustments of the physical settings of the facilities. Further, it is envisaged that only a small number of skips will need to be placed at the site at such late hours. That said, in the light of the skip operator trade's concerns, CEDD is actively studying the possibility of extending the operation hours of the skip storage site beyond 10:00 pm subject to availability of manpower and resources.

⁶ At present, the operation hours of other adjoining waste disposal facilities are as follows:

- TKO Fill Bank : 8:00 am-8:00 pm (Mondays to Saturdays, except General Holidays); and
- Temporary Construction Waste Sorting Facility : 8:00 am-10:00 pm (Mondays to Sundays, including General Holidays).

25. Some members, including Ms Cyd HO and Dr Elizabeth QUAT, have expressed concern that the use of the site at the TKO Fill Bank for storage of skips will give rise to an increase in the number and trips of waste collection vehicles passing through Wan Po Road,⁷ thus aggravating the problem of noise nuisance caused to residents living in the vicinity. As such, they consider that the site should avoid accepting skips at late hours so as to minimize the noise impact at night time. Ms Cyd HO has suggested providing incentives, such as storage fee discount, to encourage skip operators to place their skips at the site at an earlier time of the day.

26. Dr Elizabeth QUAT has indicated that some Tseung Kwan O residents affected by the noise nuisance generated from waste collection vehicles passing through Wan Po Road have expressed concern about the operation of the skip storage site at the TKO Fill Bank, which is immediately adjacent to the South East New Territories ("SENT") Landfill. She noted that the residents have previously requested closing the waste disposal facilities earlier in the night to reduce nuisance, and the operation hours of the TKO Fill Bank have been reduced in response.⁸ The residents have strongly requested the Administration to undertake that the operation hours of the SENT Landfill and adjoining waste disposal facilities will not be extended due to the operation of the skip storage site.⁹ Dr QUAT has suggested identifying another site which is far away from the residential area and can accommodate late night operations of skip operators.

27. The Administration has advised that as the proposed skip storage site is within the TKO Fill Bank, skip operators can place the skips at the site after delivering waste to the Fill Bank, TCWSF or landfill, without having to make additional trips along Wan Po Road. As such, it is envisaged that the use of the site for storage of skips will not cause additional nuisance to the local communities and road traffic. The skip storage site at the TKO Fill Bank can also facilitate skip operators to properly store idling skips, instead of placing the skips indiscriminately on the roadside at the Tseung Kwan O Industrial Estate. That said, the Administration will take into account the potential nuisance to residents living in the vicinity of Wan Po Road when deciding whether and how far the operation hours of the site can be extended beyond 10:00 pm. It has also confirmed that any extension of the operation hours of the site will not affect the current operation hours of the SENT Landfill and adjoining waste disposal facilities.

⁷ Wan Po Road in Tseung Kwan O is frequented by vehicles transporting waste to the South East New Territories Landfill.

⁸ The TKO Fill Bank closes on General Holidays from 1 January 2014 onwards, and from 1 April 2016 onwards, its daily closing time was changed from 9:00 pm to 8:00 pm.

⁹ The operation hours of the SENT Landfill are from 8:00 am to 10:00 pm (daily throughout the year).

Engaging the skip operator trade and local communities

28. Upon request of the Subcommittee, the Administration has undertaken to continue liaising with the skip operator trade and local communities in Tseung Kwan O regarding the operation details of the skip storage site at the TKO Fill Bank, with a view to addressing their concerns.

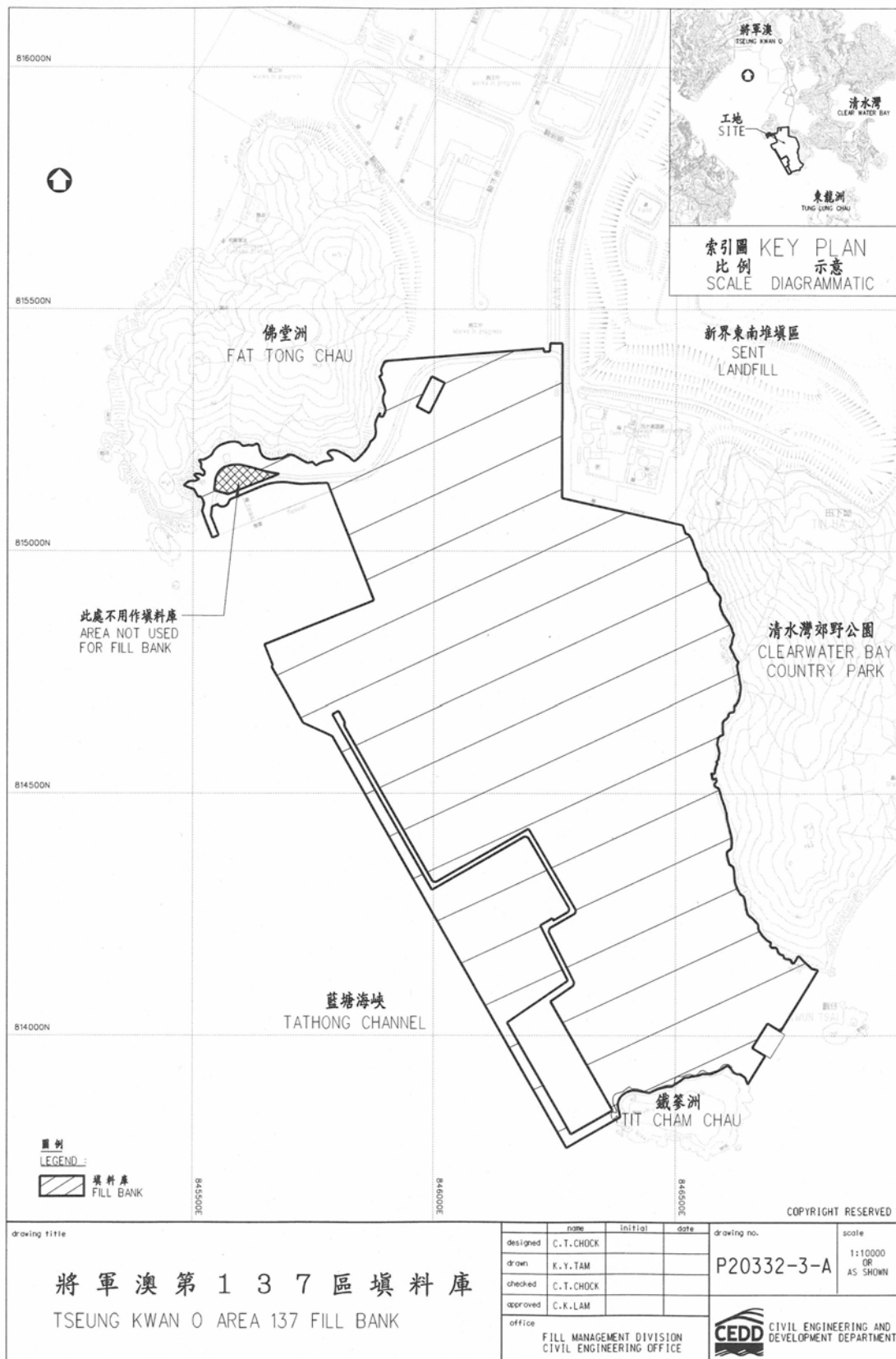
Recommendation

29. The Subcommittee is generally in support of the two Notices and will not propose any amendment. The Subcommittee notes that the Administration will not move any amendment to the two Notices.

Advice sought

30. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 1
Legislative Council Secretariat
2 June 2016



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Note: It is the Administration's proposal to make use of the land taken out from the boundaries of the Tseung Kwan O Area 137 Fill Bank (i.e. the area marked as "Area not used for Fill Bank" in the above plan) for leasing as a short-term tenancy site for storing idling skips.

Source: Annex to the Legislative Council Brief (File Ref. EP1014/P3/11) issued by the Environment Bureau on 27 April 2016

**Subcommittee on Waste Disposal (Designated Waste Disposal Facility)
Regulation (Amendment of Schedule 1) Notice 2016 and
Waste Disposal (Charges for Disposal of Construction Waste) Regulation
(Amendment of Schedule 4) Notice 2016**

Membership list

Chairman Dr Hon Kenneth CHAN Ka-lok

Members Hon Cyd HO Sau-lan, JP
Hon CHAN Hak-kan, JP
Hon Alan LEONG Kah-kit, SC
Hon Frankie YICK Chi-ming, JP
Dr Hon Elizabeth QUAT, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP

(Total : 7 members)

Clerk Ms Doris LO

Legal Adviser Ms Wendy KAN