

Joint statement regarding dumping and land filling

by concern groups and environmental NGOs

Dumping and land filling on land reserved for conservation and agricultural uses continues to impact Hong Kong's habitats, ecology and biodiversity. Concern groups and environmental NGOs are deeply concerned over the lack of preventive and enforcement action by government against unauthorized and unintended land uses.

We urge government to remove the following obstacles in respect of legislation, enforcement and open data:

1. Delete the Waste Disposal Ordinance s16 (2)(c) Cap 354

- Delete the exemption for dumping of "inert waste". All waste dumping including construction waste should require a permit.
- Require statutory permits which take into account environmental protection and conservation values prior to allowing any C&D waste disposal activities on private or government land

2. Enhanced control measures against C&D waste disposal

- Application of the mandatory trip-ticketing system to private projects and adopting GPS applications to track dump trucks
- Apart from landowners and drivers, the works site engineer should also be liable for any waste from the works site.

3. Amend the Town Planning Ordinance Cap 131, S20(2)

- *To delete S(20)2 entirely or to amend it as follows: "The Board shall not, **unless otherwise directed by the Chief Executive**, designate as a development permission area any area that is or was previously included in a plan under this Ordinance"*
- This change will enable the Town Planning Board to prepare Development Permission Area plans (DPAs), including for land already covered by an Outline Zoning Plan. Protection and conservation of rural land - defined as all land excluding existing and planned towns/town extensions, and excluding land already protected under the Country Park Ordinance - requires enforcement powers for the Planning Department. DPAs provide the Planning Department with such enforcement powers.

4. Establish a public and transparent database

Establish a comprehensive and transparent database with details such as land status, ownership, land use, habitat type, topography and ground features, so as to provide baseline information for the reinstatement of damaged sites.

5. Establish a Conservation Enforcement Task Force

Set up an inter-departmental nature conservation enforcement task force (including key implementing departments such as Agriculture, Fisheries and Conservation Department, Environmental Protection Department, Lands Department, Planning Department and the Food and Environmental Hygiene Department) to co-ordinate and oversee all enforcement cases and ensure all damaged sites are properly restored.

Furthermore, to increase budgets and headcount for the enforcement teams of government departments, including EPD, AFCD, PlanD, BD and LandsD.

6. Clarifications of the Town Planning Ordinance Cap 131 (TPO) are needed

- Soil is normally the upper layer of earth in which plants grow, a dark brown mixture of organic remains, clay and rock particles. Land filling with any substance other than soil should thus be considered a material change in the use of that land. How is that inert materials and paved surfaces are tolerated as soil?
- Leisure farms and hydroponic farms involve the filling and paving of land with C&D waste and erecting structures. Such use should not easily be allowed on land reserved for agriculture. Should land for such uses be reserved a separate dedicated zoning?
- When is reinstatement demanded? What reinstatement is considered appropriate and satisfactory? And when reinstatement is not implemented, when will the government enter and reinstate the land?
- The Magistrates Ordinance Cap 227 s26 deems that prosecution should commence within 6 months including for unauthorized land use offences under the TPO. As these offences are not indictable, prosecution can't be started if the crime took place more than six months earlier. What law reform is needed to improve the prosecution rate? What are other obstacles?

Co-signatories:

Land Justice League

The Conservancy Association

Designing Hong Kong

Save Lantau Alliance

Association of Geoconservation, Hong Kong

Hong Kong Bird Watching Society

Liber Research Community

Environmental Life Science Society, SS, HKUSU