

Unauthorized Works at Tung Chung Stream

Introduction

This note briefs Members on the recent incident involving unauthorized works at a section of the Tung Chung Stream (the Stream) and the suspected use of boulders and rocks taken from the Stream for constructing an artificial lake at Penny's Bay.

Background

The Stream

2. The Stream is an ecologically sensitive habitat of conservation value. It is about 3km in length and supports over 20 species of indigenous freshwater fish. Some rare fish species like Beijiang Thick-lipped Barb (*Accrossocheilus wenchowensis beijiangensis*) and Philippine Neon Goby (*Stiphodon atropurpureus*) were also recorded.

Unauthorized works

3. The Civil Engineering Department (CED) was given to understand that in June 2003, the Rural Committee of Tung Chung engaged a contractor (Contractor A) to carry out "flood protection" works for the Stream. Such works had not been submitted for approval of the Government. This contractor removed pebbles and boulders from the Stream and stockpiled the materials in a vacant land away from the Stream.

Impact

4. According to the on-site inspection conducted by the Agriculture, Fisheries and Conservation Department (AFCD), the unauthorized works have caused considerable damage to the lower course of the Stream between Shek Lau Po and

Shek Mun Kap. The affected section measures about one tenth of the total length of the Stream. An access road of 5-15m wide has been formed along the Stream for about 330m resulting in significant damage to the streambank. All boulders and rocks lying on the streambed were dug up and removed. There are also signs of filling activities and several temporary dams were seen along the Stream. The water quality has turned poor and muddy.

Suspected use of the Stream boulders for construction of an artificial lake at Penny's Bay

5. CED requires about 8000 tonnes of boulders, cobbles and pebbles to construct an artificial lake (the Lake) at Penny's Bay. In the course of sourcing these materials from the market, the CED's contractor (Contractor B) approached Contractor A in September 2003 to inspect the boulders and pebbles to see if these materials were acceptable for use. When asked by CED about legality of the materials, Contractor B submitted on 26 September 2003 a letter from the Rural Committee of Tung Chung instructing Contractor A to carry out flood protection works at the Stream. It should be noted that Contractor A and Contractor B are two different and unrelated contractors. The flood protection works undertaken by Contractor A is also unrelated to Penny's Bay development.

6. In late October 2003, Contractor B started to transport the materials from the stockpile at Tung Chung to Penny's Bay while CED was checking the land status of the material source. Because of the letter from the Rural Committee, CED was in a difficult position to stop its Contractor B from importing the materials. A total of 400 tonnes of materials were delivered to Penny's Bay.

7. CED continued to ask for more information and also check the land status with the District Survey Office of the Lands Department (Lands D). On 5 November 2003, it became apparent that the Stream and the adjacent land were mainly on Government land. CED then immediately stopped its Contractor B from delivery of such pebbles and boulders, and further production of mock-ups using such materials.

8. CED had also instructed its Contractor B to return such materials to Contractor A. Except 3 tonnes of the materials which had been used for mock-up on site, all the materials were sent back by 4 December 2003. No such materials have been used for construction of permanent works in Penny's Bay.

Enforcement Actions

9. On 11 November 2003, Lands D issued a warning letter to the Rural Committee of Tung Chung requiring a proposal for reinstating the Stream and an associated access track. Lands D had also notified the police requesting an investigation into the incident.

10. The Environmental Protection Department (EPD) has also examined the case and found that the unauthorized works at the Stream are not subject to the control of the Environmental Impact Assessment (EIA) Ordinance. The Environmental Monitoring and Audit (EM&A) Programme being implemented for the construction of the Lake at Penny's Bay by the Government, also imposes no requirement on the sourcing of boulders or other materials from outside the project site. The EM&A Programme mainly targets at the environmental monitoring of impacts arising from construction activities on-site. Only certain specific activities off Penny's Bay, such as marine sand borrowing in designated areas, are covered in the EM&A Programme.

Requirements for Re-instatement

11. The District Land Officer/Islands has demanded the concerned party to immediately undertake re-instatement works to restore the original physical setting of the affected section of the Stream. The re-instatement plan needs to be agreed by the relevant departments including AFCD and the Drainage Services Department. In conducting the re-instatement works, reference could be made from the undisturbed sections of the Stream further up at Shek Mun Kap. The filled materials should be removed to reinstate the width and depth of the Stream. The temporary dams should be demolished to restore the water flow. Boulders, rocks and pebbles should be returned to the streambed. There should also be replanting of riparian vegetation to restore the stream habitat. To protect the restored stream from sedimentation, the vegetation cover on the unauthorized access along the Stream should be reinstated as well.

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