

# **Executive Summary**

## **Direct investigation Report**

### **Government’s handling of two trees in front of Tang Chi Ngong Building of University of Hong Kong**

#### **Foreword**

There were originally two banyan trees (thereinafter referred to as “the Trees”) on the pavement in front of Tang Chi Ngong Building of the University of Hong Kong (“HKU”) on Bonham Road in the Central and Western District. Adjacent to the Trees was a low wall of the Building (“the Wall”), where part of the roots of the Trees were exposed and tangled. The Trees were located within unleased and unallocated Government land, and their non-routine maintenance was taken care of by the Lands Department (“LandsD”). On 20 May 2018, LandsD removed the Trees. The incident attracted wide media coverage and public debate. Some criticised that there was impropriety on the part of the departments concerned as they had neither taken due care of the health conditions of the Trees, nor sufficiently consulted relevant experts and the local community prior to the removal.

2. In this light, The Ombudsman initiated a direct investigation to examine whether the decisions and actions of LandsD, the Tree Management Office (“TMO”) of the Development Bureau (“DEVB”) and the Home Affairs Department (“HAD”) were in line with the relevant policies and procedures.

#### **Our Findings**

3. The follow-up work by LandsD, TMO and HAD regarding the Trees, and the major actions for removal of the Trees were detailed in **Annex I** to the investigation report.

4. Based on our findings, we have the following comments on the follow-up actions taken by LandsD, TMO and HAD in this incident.

## *LandsD*

### The Decision to Remove the Trees

5. The decision to remove the Trees was made by LandsD. Information showed that LandsD was first notified in 2015 of HKU's concern about the potential danger posed by the Trees. From 2015 to the removal of the Trees in May 2018, LandsD and the arborists of its contractor had made six assessments on the Trees apart from carrying out tree maintenance. Results of the assessments indicated that the health and structural conditions of the Trees were deteriorating.

6. As at December 2017, the Wall had been impacted by the Trees, showing signs of deformation and multiple cracks such that it apparently leaned towards Bonham Road, and was in danger of collapse. In case of torrential rains, huge amount of rainwater could wash away the soil around the tree roots through the cracks on the Wall, thereby taking out the support at the base of the Trees. That would result in imminent and apparent danger of overall failure of the Trees and the Wall. On grounds of the deteriorating health and structural conditions of the Trees, LandsD considered it necessary to remove the Trees. Before making the decision, LandsD had explored different mitigation measures such as pruning, application of chemicals, cabling or propping, and even transplanting the Trees. Nevertheless, the Department considered that none of them could eliminate the danger of failure of the Trees. TMO agreed with LandsD's assessments of the conditions of the Trees and the feasibility of those mitigation measures.

7. The LandsD and TMO staff concerned have acquired relevant qualifications and experience in tree management. Together with the tree experts from the Urban Forestry Advisory Panel ("the Advisory Panel") of DEVB, they agreed that the Trees had shown problems in their health and structural conditions, and that the Trees were in danger of failure, but there was no feasible mitigation measures. In such circumstances, we consider LandsD's decision to remove the Trees not unreasonable from an administrative perspective.

### Sensitivity Analysis and Notification Mechanism

8. LandsD had conducted the necessary Sensitivity Analysis for the proposal to remove the Trees ("the Proposal"). The purpose of Sensitivity Analysis was to increase the transparency of decisions to remove trees as well as to address the public's

concerns that might arise from the Government's removal of trees. The actions taken in this incident included exploring alternative mitigation measures and reporting to the directorate of LandsD about the Proposal, the directorate endorsing the Proposal and instructing the Department to consult TMO and communicate with stakeholders (including HKU and the Central and Western District Council ("DC")), consulting TMO on the Proposal, conducting local consultation and communicating with stakeholders (including HKU, DC members, nearby residents and schools).

9. LandsD had also carried out local consultation according to the relevant notification requirements stipulated by the Central and Western District Office ("DO") of HAD under the "Notification Mechanism on Tree Removal in Central and Western District" ("the Notification Mechanism"). In particular, LandsD forwarded, via DO, documents about the Proposal by email to members of the Food, Environment, Hygiene and Works Committee ("FEHW Committee") under DC (including all DC members and members of the Working Group on Environmental Improvement, Greening and Beautification Works in Central and Western District under the FEHW Committee). A site inspection was arranged for members of the FEHW Committee. LandsD also attended an FEHW Committee meeting to explain the Proposal and seek members' views.

### ***TMO***

10. TMO is responsible for assisting the departments concerned to conduct Sensitivity Analysis upon receipt of proposals from tree management departments to remove old and valuable trees, stonewall trees or trees of particular interest.

11. Information showed that in the removal of the Trees, TMO had assisted LandsD in conducting a Sensitivity Analysis regarding the Proposal, which included reviewing the tree risk assessment reports submitted by LandsD, studying the feasibility of mitigation measures, arranging for tree experts of the Advisory Panel to conduct a field visit, giving its views on the conditions of the Trees and the feasibility of the mitigation measures, and participating in the local consultation exercise.

12. We consider that TMO has duly followed up on the Proposal and participated in the relevant local consultation exercise within its scope of duties.

## ***HAD***

13. In matters of tree removal, HAD plays a supporting role and is responsible for notifying DC, under the Notification Mechanism, of decisions to remove trees made by tree management departments, and assisting in local consultations as requested by the departments concerned.

14. Information showed that in the removal of the Trees, at the request of LandsD, DO had arranged for LandsD's consultation with the FEHW Committee and a site inspection of the Trees by FEHW Committee members, and notified FEHW Committee members of the date on which LandsD would remove the Trees. It had also assisted LandsD in carrying out local consultation (including issuing letters to the buildings, schools and churches in the vicinity), arranged a briefing session to explain the reasons for removing the Trees and the traffic arrangements on the day of the removal works, and facilitated the Government's communication with concern parties at the scene on the day of the removal works.

15. We consider that DO has assisted LandsD in notifying DC of the Proposal according to the relevant procedures under the Notification Mechanism, assisted LandsD in carrying out local consultation, and communicated with concern parties. DO has by and large discharged its duties in a satisfactory manner.

## **Our Overall Comments**

16. Overall, we find LandsD's decision to remove the Trees not unreasonable from an administrative perspective. Before removing the Trees, LandsD, TMO and HAD had conducted Sensitivity Analysis and notified DC in accordance with the existing mechanism and procedures.

17. Nevertheless, the purpose of Sensitivity Analysis is to increase the transparency of decisions to remove trees as well as to address the public's concerns about tree removal. In this incident, many people were still surprised and shocked by the removal of the Trees. This reflected that the mechanism of Sensitivity Analysis was not entirely effective in achieving its purpose. While LandsD and TMO had asserted at the FEHW Committee meeting that it was necessary to remove the Trees and proposed to do so quickly before the typhoon season, they fell short of mentioning the date of the removal works at the meeting. Yet, the removal works were taken three days after the meeting.

It came as a surprise to many people. With hindsight, had LandsD obtained the weather forecast information and agreed on the most suitable date for the removal works with the Transport Department, the Hong Kong Police Force and the contractor before the FEHW Committee meeting, and then proposed with TMO and DO at the meeting the date for the removal works with reasons to members at the FEHW Committee meeting on 17 May, it would have allowed members to get prior information for discussion. This would have further increased the transparency of the whole decision-making process and predictability of the removal works, and hence better handling of the incident.

## **Recommendation**

18. The Ombudsman urges the Government to take reference from this incident. When notifying the public about tree removal works in the future, it should as far as practicable provide detailed information to the public and stakeholders in an open and accountable manner, so as to further enhance the transparency of its decision-making process.

**Office of The Ombudsman**  
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