

To: News and Features Editors

For Immediate Release

THREAT OF JUDICIAL REVIEW FOR SHEK KWU CHAU SUPER-INCINERATOR

30 DECEMBER 2011 : Formal notice was today issued that the Government will face a judicial review of its proposal to build a mass-burn super-incinerator on Shek Kwu Chau island if endorsed by the Advisory Council on Environment (ACE) at its committee meeting today without further and fuller investigation of issues raised by objectors to the project.

The notice, sent today by email to Secretary for Environment Edward Yau and ACE chairman Professor Lam Kwan-Sing, and copied to the Chief Executive office, references correspondence sent by objectors to the Environment Protection Bureau and ACE over the last month identifying substantive and procedural defects in the decision making process to date and then states:

'The EPD response and/or lack thereof [to the objector correspondence to date] is unsatisfactory and under all the circumstances manifestly unreasonable.'

The notice continues:

'Please therefore treat this email as formal notice that if ACE issues an endorsement of EPD's proposal as it now stands without further and fuller investigation of the alternative technologies and locations described in the objector correspondence, I and other like-minded persons intend to apply for judicial review of that decision and of any consequential final decisions of Government in relation to this project.

Such application must be initiated within 3 months of the relevant decision(s) and will in this instance be accompanied by consequential applications for suspension of the project pending the outcome of the judicial review, together with any other remedies or reliefs.'

The notice was authored by retired Hong Kong solicitor Tom Hope, whose 'High Tide' restaurant on Cheung Sha beach will be directly impacted by the proposed project.

Elaborating on what appears in the notice, Mr Hope said: 'Substantive defects in the Government proposal include its declaration to ACE that the technology proposed for the super incinerator is the 'best available' when it is clear from the objector correspondence that this is not so. There are also procedural defects such as the failure to consult the Hong Kong public on a sufficiently broad and informed basis.'

Mr Hope added: 'When I practised in Hong Kong as a partner in the international law firm Linklaters, I oversaw judicial review of HK Government decision-making which went to a court trial lasting several weeks. In the present circumstances, I have every reason to be confident of success should it prove necessary to maintain an action for judicial review.'

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