

LCQ21: Traffic problems at Pak Lok Path, Tai Wai

Following is a question by the Hon Dominic Lee and a written reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (May 25):

Question:

Pak Lok Path in Tai Wai is a private road belonging to a private housing estate, Pristine Villa, and it also serves as a main access road for daily use by residents near To Fung Shan. It is learnt that the vehicular flow at Pak Lok Path increases drastically every year around Ching Ming Festival and Chung Yeung Festival as many people go to Ching To Yuen (a columbarium that is still applying for a private columbarium licence) on To Fung Shan for ancestral worship. However, the owners of Pristine Villa have in recent years barred vehicles of non-Villa residents from entering Pak Lok Path during the aforesaid days, seriously affecting nearby residents' ways to get about. Some members of the Sha Tin District Council opine that the Government should explore the possibility of resuming Pak Lok Path. In this connection, will the Government inform this Council:

- (1) whether there are any precedents of resuming private roads for conversion into public roads; if so, of the number of such roads, and set out, by the name of road, the reasons for resumption and the government departments responsible for the resumption; if not, the reasons for that;
- (2) whether it has studied if the owners of Pristine Villa have the right to close off Pak Lok Path and deny access of outsiders; if it has studied and the outcome is in the affirmative, of the legal basis concerned; if the outcome is in the negative, the reasons for that;
- (3) whether it has plans to resume Pak Lok Path; if so, of the government department(s) responsible and the details of the relevant work (including the progress in the negotiations with the owners of Pristine Villa); if not, the reasons for that, and whether it will consider doing so; and
- (4) as some members of the public are of the view that the operation of the columbarium by Ching To Yuen is the main cause for the aforesaid traffic problems, and this issue has been bothering the residents near To Fung Shan for years, whether the Government will take appropriate actions against this unlicensed private columbarium within a short time, so as to improve the situation?

Reply:

President,

Pak Lok Path in Tai Wai falls within the private lot of the Pristine Villa (Sha Tin Town Lot No. 331) (the Lot). According to the lease conditions governing the Lot, the grantee was required to construct an access road within the stipulated area of the Lot (i.e. the existing Pak Lok Path). Currently, the said road is jointly owned by the owners of Pristine Villa.

In consultation with the Transport and Housing Bureau and the Food and Health Bureau (FHB), the co-ordinated reply to the questions raised by the Hon Lee is as follows:

(1) The Government has mechanisms to invoke applicable legislations/provisions to resume private roads when necessary having regard to the circumstances of individual private roads for tackling problems of the private roads concerned, e.g. environmental hygiene, traffic and road maintenance, etc. Since the circumstances of private road resumptions in the past and the departments responsible for the resumptions varied from case to case, the Government does not have complete statistics on the resumption of private roads for conversion into public roads.

(2) and (3) As mentioned above, Pak Lok Path falls within the private lot of Pristine Villa. There is no requirement under the lease of the lot that the grantees are obliged to open Pak Lok Path for public use.

The Government notes that since 2020, during the periods of Ching Ming and Chung Yeung Festivals, the Incorporated Owners (IO) of Pristine Villa would close Pak Lok Path during the daytime, and only allow its residents and vehicles authorised by the IO to use the road. As the traffic problem arising from Pak Lok Path has brought inconvenience to the local community, relevant government departments have been exploring different solutions. The Transport Department (TD) and other departments concerned have implemented special traffic arrangements in the vicinity of the lower section of To Fung Shan Road during the Ching Ming and Chung Yeung Festivals, under which the road was converted from one-lane one-way (uphill) traffic to one-lane two-way traffic in order to maintain smooth traffic. In addition, the TD is conducting a study on improving the section of To Fung Shan Road between Chung Ling Road and Pak Lok Path. If improvement works are feasible, uphill and downhill traffic can be routed through To Fung Shan Road without routing through Pak Lok Path after the improvement. Relevant departments will continue to monitor the traffic situation of Pak Lok Path and the effectiveness of the above measures before considering whether resumption of Pak Lok Path is necessary.

(4) According to the information from the FHB, the Private Columbaria Ordinance (Cap. 630) (the Ordinance) establishes a licensing regime to regulate the operation of private columbaria. Under the Ordinance, there would be a grace period (of nine months beginning on the gazettal date of the Ordinance, i.e. from June 30, 2017 to March 29, 2018) for a private columbarium in operation immediately before the Ordinance came into effect. If such a private columbarium applied for a Temporary Suspension of Liability (TSOL) on or before March 29, 2018, the grace period remains valid during the processing of the application, until it is finally disposed of or withdrawn.

During the grace period, the private columbarium concerned may continue to operate without a specified instrument (i.e. a licence, an exemption or a TSOL), but the operator must not sell or newly let out niches.

Ching To Yuen is a private columbarium already in operation immediately before the Ordinance came into effect. It submitted an application for the TSOL before the deadline in accordance with the requirement described above, and is therefore currently under the grace period under the Ordinance. The Private Columbaria Licensing Board is working in full swing to process applications for specified instruments from private columbaria (including Ching To Yuen). It aims to arrive at certain decisions (i.e. giving approval or approval-in-principle to or rejecting the licence/exemption/TSOL applications) by the middle of next year on all applications for specified instruments in respect of the pre-cut-off columbaria.

According to the lease governing the lot of Ching To Yuen, there are restrictions that no human remains should be deposited within the lot and no structures be erected within certain portion of the lot. As such, the columbarium is in breach of the relevant lease conditions. In the event that the licence application from Ching To Yuen is rejected by the Private Columbaria Licensing Board, the Lands Department will collaborate with the Food and Environmental Hygiene Department to take land lease enforcement actions against the columbarium concerned.