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12 November 2002

Clerk to Panel
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong
(Attn: Mrs Queenie YU)

(By Post and Fax - 2869 6794)

Dear Queenie,

LegCo Panel on Planning, Lands and Works

**Issues raised at LegCo Members' meeting with
Wan Chai District Council members on 23 May 2002**

Thank you for your letter of 22 October 2002.

The policy of tree preservation falls under the purview of the Secretary for the Environment, Transport and Works. You may wish to note that at the LegCo sitting on 29 May 2002, the former Secretary for the Environment and Food replied in detail an oral question raised by the Hon. Choy So-yuk on the matter. A copy of the relevant extract from the Hansard is attached for ease of reference.

As far as the land management side of the issue is concerned, we wish to inform Members that most land leases granted after 1970s, where applicable, have a clause on preservation of trees. This clause provides that any tree growing on the lot or adjacent to it should not be

interfered with without the prior written consent of the Director of Lands. In granting such consent, the Director may impose such conditions on transplanting, compensatory landscaping or replanting as he may deem appropriate.

A LegCo Member is of the view that the Administration should require contractors for slope maintenance service to preserve the trees while undertaking maintenance works for slopes on private land. Please note that where a land lease has the tree preservation clause, the clause applies also to the slopes within the private land concerned.

For old leases granted before 1970s, although they do not have the modern tree preservation clause, if there is redevelopment of the lot concerned requiring lease modification, the Lands Department will consider including appropriate conditions for tree preservation in the lot.

As regards the suggestion that a mechanism should be put in place to require developers and land owners to notify the relevant District Council of any tree felling proposal in the district, the Government does not have any authority, under the land leases, to impose such requirement on the developers and land owners. In this respect, we, therefore, regret that there is not much we can do under the current circumstances.

Yours sincerely,

(Miss Wong Yuet-wah)
for Secretary for Housing, Planning and Lands

c.c.

SETW (Attn: Mr K K Ho) [2810 8502]

D of L (Attn: Mr G M Ross) [2868 4707]

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MISS CHOY SO-YUK (in Cantonese): Madam President, I would first like to say something. It seems that my Honourable colleagues has not yet received the main reply to my main question.

PRESIDENT (in Cantonese): Miss CHOY, please ask your main question.

Protection of Large Trees from Damage Caused by Works

2. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, a large banyan tree at Kadoorie Road fell down this month, crushing a man to death. It was reported that the fall was allegedly caused by maintenance works on the slope near the tree because workers had trimmed away part of its main roots and covered the trunk bottom tightly with concrete paste, resulting in the withering of the roots. In this connection, will the Government inform this Council whether:*

- (a) *officers will be deployed to inspect big trees in the territory which may be affected by the works of any projects, and to provide proper treatment and conservation when necessary; if so, of the details; if not, the reasons for that; and*
- (b) *more effective conservation measures will be formulated to ensure that the trees within construction sites can grow normally and not be affected by the works?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, as the tree toppling accident at Kadoorie Road is still under investigation by the police, we believe that it would not be appropriate to comment on the causes of the accident at this stage.

- (a) We do not consider it necessary to conduct a territory-wide inspection exercise of trees that may be affected by works projects.

The Government has already put in place a set of comprehensive measures to preserve trees. For government projects, the Works Bureau Technical Circulars state clearly that government officers are responsible for protecting trees from unnecessary pruning, damage or felling. Notwithstanding engineering and financial constraints, the relevant departments need to consider different options for tree preservation when designing and implementing works projects.

If there are trees on a government works site, the department carrying out the works needs to inspect and make a record of them during the design stage regardless of whether the trees would be affected by the project. Should the trees need to be transplanted or felled, the department concerned is required to submit to the Lands Department a tree inspection report, together with a treatment plan and a compensatory planting proposal. The Leisure and Cultural Services Department (LCSD) and the Agriculture, Fisheries and Conservation Department (AFCD) will examine the proposals and provide professional advice to the Lands Department to assist the vetting of applications.

Where trees are retained on sites but might be affected by the projects, the relevant department must adopt appropriate preservation measures to properly protect the trees from damage. The LCSD and AFCD will provide professional advice for the department to effectively protect the trees. Project supervisors also need to conduct regular site inspections to ensure that the trees will not be affected by the works.

As for private works, authorized persons of the projects are responsible for ensuring that trees would not be affected by the

works. The Lands Department conducts regular site inspections to ensure that the projects are implemented according to the lease conditions. It also takes follow-up actions upon receiving public complaints. If interference with trees on sites that have a tree protection clause is evidenced, the Lands Department may impose a fine on the landowner pursuant to the lease conditions, or impose additional conditions requiring the landowner to carry out compensatory replanting or landscaping works.

- (b) The Government has already put in place a set of effective measures to ensure that the trees within the project areas will not be affected by the works.

MISS CHOY SO-YUK (in Cantonese): *Madam President, in part (a) of her main reply, the Secretary said the Government has already put in place a set of comprehensive measures to preserve trees, so as to ensure that they would not be subject to unnecessary pruning. I would like to cite an example to seek the Secretary's explanation. In Tai Hom Village, Diamond Hill, on a site managed by the Lands Department, an old big banyan tree was rotten to death and fell to the ground. In response to our query, the Lands Department said it was only responsible for managing the land but not the trees. We made an inquiry with the AFCD but were told that actions could only be taken to protect the trees, subject to referral and authorization by the Lands Department. Right now, the banyan tree is still lying on the spot where it fell. We approached the LCSD but were told that it was not within its jurisdiction for the tree was not within 5 m of the roadside. In this case, may I ask the Secretary, how could it be said that the Government has put in place a comprehensive policy on protecting trees from being damaged or felled?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I will follow up on this specific case with the relevant departments for the crux of the problem is whether special measures should be in place to protect trees on works sites when construction works are in progress. In fact, I have explained in my main reply which are the parties that should protect trees affected by construction works on works sites. However, as regards the specific case Miss CHOY So-yuk talked about earlier, I would take up the matter with the relevant departments and give Members a written reply to explain the cause of the problem. (Annex I)

MR WONG YUNG-KAN (in Cantonese): *Madam President, with reference to part (b) of the Secretary's main reply to Miss CHOY So-yuk's main question, may I ask over the past several years, how many cases of unlawful damaging or felling of trees inside or outside the works sites were caused by contractors for various reasons in order to carry out the construction works? What has been done to follow up with such situations?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, the Buildings Department have not keep any statistics on the number of trees felled by contractors in construction projects. However, in the course of private construction works, if there were tree protection clauses in the land lease and the relevant party did not compile with the clause and failed to take proper care of trees, then the Lands Department may impose a fine on the landowner pursuant to the lease conditions. I understand that during the period from 1992 to 2001, there were 21 such cases involving landowners being fined by the Lands Department for failing to take proper care of trees in the course of private construction works.

MR JASPER TSANG (in Cantonese): *Madam President, when the Secretary said in her main reply that government departments should protect trees when construction projects are underway, she used terms like "responsible for", need to consider", what should be done "during the design stage" and "must adopt" certain measures. In relation to things that the Government is "responsible for" or "must do", may I ask what kind of monitoring system is there? What would be the consequences if the relevant departments did not perform or neglect to perform certain things?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, in fact, different departments have different shares of responsibilities in adopting such preventive measures. Though the vetting authority lies with the Lands Department, the AFCD and the LCSD are responsible for providing professional advice. If necessary, a District Lands Conference, chaired by an Assistant Director of the Lands Department may also be conducted. At present, we have established a mechanism to co-ordinate the greening efforts, including the planting and maintenance of trees, of all relevant departments. In the event of any problems, the case could be referred to an

inter-departmental working group for actions. The Chairman of this working group is the incumbent Secretary for the Environment and Food who is vested with the powers to deal with relevant issues.

PRESIDENT (in Cantonese): Mr TSANG, has your supplementary question not been answered?

MR JASPER TSANG (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. My question is, if relevant departments did not adopt tree protection measures they "must adopt", what would be the consequences?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, under the existing mechanism, it could be said that the departments are monitoring one another and a mechanism is also in place to supervise the work of every department.

MS MIRIAM LAU (in Cantonese): *Madam President, many slopes in Hong Kong are actually tightly sealed in concrete paste, that is, they have been strengthened by means of "shotcreting" where tree roots are often covered with concrete paste. And, the banyan tree in question might have been caused to collapse for this reason. However, in Hong Kong, many slopes are actually strengthened in this way. In view of this incident, will the Government conduct a comprehensive review to see whether such a method of shortcreting the slopes would have an impact on environmental protection and trees conservation?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, according to information at hand, the Civil Engineering Department (CED) has been conducting researches on the latest technology for strengthening slopes in Hong Kong and the works department of the CED has been instructed through Works Bureau Technical Circulars that shotcreting should be avoided as far as possible in dealing with slopes. I believe that the relevant works department would certainly adopt the latest technology and observe the principle that trees growing on slopes should not be affected.

However, I would also like to take this opportunity to explain that in general, if the trees are healthy, their roots would have a tight grip on the soil, and this is helpful in maintaining the stability of the slope to a certain extent. However, if there were problems with the health of trees, the safety of the slope would be affected.

DR RAYMOND HO (in Cantonese): *Madam President, I understand that during the design stage of a project, it is often necessary to take photographs to record the locations of trees. Would the Secretary inform us whether the persons-in-charge of government projects or in the case of outsourcing works, related persons of relevant consultancies, are provided with sufficient information to let them know which trees should be protected or the depth and width of the roots of trees that should be protected?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, in fact, in the case of both government and private projects, a tree inspection report should be compiled before the commencement of works to list the location of trees on works sites for record purposes even if it is not necessary for trees to be felled. Upon receipt of such reports, the works department concerned would, depending on their needs, seek professional advice from the AFCD or LCSD.

MR HOWARD YOUNG (in Cantonese): *Madam President, the Wanchai District Council raised the issue of the felling of trees on private works sites last week. Our impression was that due to legal implications, it seems that the Government cannot do anything about it. Therefore, even though the Government said that it has already got a comprehensive policy, it may actually be impossible to offer comprehensive protection for trees. If there were simply no conservation measures for certain lots, then is it true that the Government cannot do anything in the area of trees protection? Furthermore, what is the proportion taken up by private land in a similar situation in Hong Kong?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, as regards this issue, I had consulted the Lands Department to acquire an understanding of the relevant situation. As Mr Howard YOUNG

said, if the land lease were drawn up before 1972, there would not be any tree preservation clause. However, if it were necessary to modify the lease conditions in the course of development, the Lands Department would, in accordance with the prevailing conditions, add in relevant clauses on tree preservation where possible. I have tried to seek information on relevant figures from the Lands Department. Though the Lands Department could not provide me with any figures, we could see from the information it provided that there are clauses on tree preservation in most of the land leases in Hong Kong. The general situation is, even if there are no tree preservation clauses in the land lease, before the commencement of private works projects or when applications have to be submitted to the Buildings Department, it would consider whether other means, such as by imposing restrictions on the design and height, could be employed to achieve the target of trees preservation. When I said such measures are comprehensive and effective, we could not unilaterally alter the terms of such leases due to restrictions in the land lease.

PRESIDENT (in Cantonese): We have spent 16 minutes on this question and will now move onto the last supplementary question.

MISS CHOY SO-YUK (in Cantonese): *Madam President, in the last paragraph of her main reply, the Secretary emphasized that the Government has already put in place a set of effective measures to ensure that the trees within the work sites will not be affected. I would like to tell the Secretary that a big tree in Lung Wah Street, Sai Wan, placed under government protection and should not be affected by the works projects, has now had a substantial part of felled and not much of it were left. As regards to this specific case, I would like to ask the Secretary how has the set of effective measures operated? Why has the tree become what it is today?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I would follow up on the specific cases mentioned by Members one by one. What I would like to say is that we have already got an effective mechanism to deal with these issues. Furthermore, the inter-departmental working group would conduct a clause-by-clause study on the internal guidelines to see whether certain clauses should be enhanced and whether the duties of relevant departments should be more clearly defined. The

most important thing is we would conduct regular checks to see whether there are problems and loopholes in policy enforcement; if so, we would see how the existing mechanism could be improved.

WRITTEN ANSWER**Written answer by the Secretary for the Environment and Food to Miss CHOY So-yuk's supplementary question to Question 2**

During a regular inspection of the vacant government lot at Tai Hom Village on 28 May 2002, officers of the District Lands Office (Kowloon East) (DLO) found that a tree had toppled and subsequently sought professional advice from the Agriculture, Fisheries and Conservation Department (AFCD) as to the method to treat the tree. On the same day, the DLO received a telephone enquiry about the incident from Miss CHOY's assistant, and replied that the incident was noted and appropriate follow-up action would be taken.

The DLO and the AFCD conducted a joint site inspection on 30 May 2002 to examine the cause of the incident and the feasibility of replanting the tree. According to the AFCD's professional advice, the growth of the fallen tree was hindered by the restricted environment, and the roots were disproportionate to the crown and the height of the tree and failed to keep the tree firmly in the soil. In view of the poor conditions of the root system, it is quite possible that it would fall down again if replanted, the AFCD therefore considered it undesirable to replant or transplant the tree as it might endanger pedestrians and the trees nearby. As such, the DLO removed the tree in question on 7 June 2002.