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23 February 2009

Miss Becky YU
Clerk to Panel on Environmental Affairs
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Miss YU,

Re: Request for further information on progress of measures to enhance control on the depositing of construction and demolition materials

We write in response to the Honorable LEE Wing-tat's letter dated 19 February 2009, requesting the Administration to provide further information on the progress of measures to enhance control on the depositing of construction and demolition (C&D) materials. Our response is as follows:

- 1) The enhanced complaint handling arrangement developed by the Environmental Protection Department (EPD) and other Government departments mainly deals with active and on-going land filling or fly-tipping activities. The enhanced arrangement enables the EPD and other departments concerned to take prompt actions to collect evidence and curb such activities. For individual one-off incidents that the public may come during night time, they may inform the Police for referral to EPD and other departments for follow-up actions. The public may also note down details of the incidents, such as the location, time, source of C&D materials, car registration number, etc. and report to the EPD and other departments concerned to facilitate their further actions. An incident report form is available at EPD's website for reference. To enhance enforcement at individual fly-tipping black-spots, the EPD has also been collaborating with

other Government departments in taking joint actions. Apart from regular patrol, the EPD will also arrange inspections and ambush operations at the black-spots outside office hours to deter such activities.

- 2) Out of the four applications, three were for land filling activities in relation to New Territories Exempted House (NTEH) developments within "Village Type Development" ("V") zone in Pat Heung area. The other one was for agricultural use (organic farm) within "Conservation Area" ("CA") and "Coastal Protection Area" ("CPA") zones in Sai Kung District.

For the three applications concerning land filling for NTEH developments, they were approved with conditions, considering that the proposed land filling was small in scale and the development of a NTEH was always permitted within the "V" zone. The Government departments concerned had assessed these applications and indicated that no adverse impacts were expected from the proposed land filling activities.

For the application concerning land filling for agricultural use falling within "CA" and "CPA" zones, the Town Planning Board (the Board) considered that the extent of ploughing and the adding of organic materials were reasonable for the proposed organic farm which was a use always permitted. In order to closely monitor the proposed activities, the Board, upon review, decided to give temporary approval to the application for 3 years only, in addition to a number of conditions attached.

Planning applications submitted to the Board would be carefully scrutinized, taking into account all relevant planning considerations and the likely impacts on the surrounding areas.

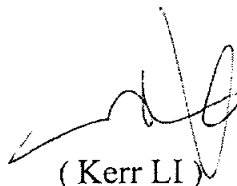
In fact, out of a total of seven similar applications considered by the Board in the last 5 years, three applications were rejected mainly on the grounds that the proposed land filling would likely cause adverse drainage impacts on the surrounding area. The approval of the four cases mentioned above would unlikely encourage the proliferation of illegal land filling activities as each case would be considered on its individual merits. Besides, enforcement action will be taken against any unauthorised filling of land under the planning enforcement system.

- 3) In the Shing Mun Road incident, there were four convictions after trial at the court. Three convicted dump truck drivers and the principal offender of the case were each fined \$10,000. The Department of Justice has agreed that EPD should seek to recover the cost for removal of the C&D materials on the Government land from the principal offender via civil proceedings. The

relevant claim procedures are underway. As for the Ting Kok Tsuen incident, the defendant pleaded guilty, expressed remorse and had no previous conviction record. The defendant pleaded with the court that the land filling was meant for mosquito prevention and he had also removed the dumped materials subsequently. As such, we consider that there are insufficient legal grounds to apply for a review of sentence.

The Administration agrees that the sentence upon offenders should have sufficient deterrence and will, where the circumstances of an individual case justify, apply for a review of the sentence. Separately, the Advisory Council on the Environment had written to the Judiciary Administrator in 2003 and 2008 to express their views on the sentencing of fly-tipping cases, such that the sentences imposed would effectively deter such illegal activities.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Kerr LI', written in a cursive style.

(Kerr LI)
for Secretary for the Environment

c.c. Secretariat of Legislative Councillors of the Democratic Party
(fax: 2537 4874)