

(Translation)

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發展局  
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21 June 2013

Secretariat of the Legislative Council  
Panel on Development  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong  
(Attn: Ms Sharon Chung)

Dear Ms Chung,

**Media Report of Unauthorised Pond Filling  
and Development of Small Houses in Shan Pui Village, Yuen Long**

In a letter addressed to the Chairman of the Legislative Council Panel on Development dated 14 March, Hon. James To quoted a media report of unauthorised pond filling and development of small houses in Shan Pui Village, Yuen Long, and requested that the Panel discuss the matter. This Bureau would like to respond as follows.

The unauthorised pond filling works as quoted by Hon. To from the media report is located in Shan Pui Village, Yuen Long. The relevant site is covered by the approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8, and the development on it is subject to development control under the Town Planning Ordinance (TPO). In August 2012, the Planning Department (PlanD), in accordance with the TPO, issued an Enforcement Notice (EN) to the parties concerned requiring for the discontinuance of the unauthorised development on the relevant lot. Subsequently, PlanD conducted site inspections which revealed that such unauthorised development had been discontinued. In November 2012, PlanD took further action to issue a

Reinstatement Notice (RN) to the parties concerned in accordance with the TPO. The notice recipients had already carried out reinstatement works as required by the RN. PlanD will continue to monitor the site conditions.

Although the small house development as reported by the media quoted by Hon. To and the above-mentioned unauthorised pond filling activity are both located in Shan Pui Village, they are not on the same lot. In 2009, District Lands Office / Yuen Long (DLO/YL) received applications for the small house development concerned, and processed the applications according to the applicable procedures, including consultations with relevant departments. Having regard to the fact that the subject land was situated in the "Village Type Development" zone of the approved Nam Sang Wai OZP No. S/YL-NSW/8, and development of New Territories Exempted Houses (including small houses) was always permitted in the "Village Type Development" zone, PlanD did not object to such applications. Site inspections were also conducted by DLO/YL, confirming that the lots under application were flat land. Since no objection was received from the relevant departments or the local community, DLO/YL granted building licences for the development of two small houses in July 2012. When these two small house applications were being processed by DLO/YL, there was no outstanding EN issued by PlanD concerning the lots under application.

With regard to the present situation of the fish ponds in the New Territories, including their location and respective land use zoning, due to the need of going through a considerable amount of records, we apologise that the relevant departments are unable to provide the relevant information. Filling of pond may or may not require planning permission from the Town Planning Board (TPB), depending on whether there are relevant stipulations in statutory plans. Hence, the question on whether filling of pond would require planning permission from TPB cannot be generalised. In case filling of pond would require planning permission from TPB, TPB will take into account the land use zoning in which the land involved is situated in considering such application. In general, the planning intention of the "Village Type Development" zone is primarily to reflect existing recognised villages and other villages, and land considered suitable for village expansion and reprovision of village houses affected by government projects. Land within this zone is primarily intended for development of small houses by indigenous villagers. As such, planning applications for filling of ponds to effect the construction of small houses may not necessarily be disapproved.

As regards processing of small house applications, the relevant District Lands Office (DLO) in general checks the land lease concerned, inspects the condition of the land under application to consider whether the proposed small house can be built on that land, and consults the relevant departments during the processing of a small house application. If no objection is received from the relevant departments, the DLO will continue to process the application. Apart from complying with the small house policy and the relevant lease conditions, the proposed small house development shall also comply with the relevant ordinances and other applicable government requirements. If the proposed development does not comply with the TPO and the relevant OZP, an application for planning permission should be made to TPB under TPO. Approval from TPB shall be obtained before the commencement of the development.

The Central Enforcement and Prosecution Section of PlanD regularly inspects the rural areas of the New Territories, including locations the environment of which is more vulnerable to damage, or those which are subject to frequent complaints. Complaints by members of the public as well as referrals of suspected unauthorised development by other departments and organisations will also be actively investigated and followed up. If such development is confirmed as unauthorised under TPO, PlanD will issue an EN to the parties concerned (including land owner, occupier and the responsible person of the relevant works), requiring for the discontinuance of the unauthorised development within a prescribed timeframe. If the relevant unauthorised development involves government land or is suspected to have contravened other ordinances, PlanD will refer such case to the relevant departments for follow-up as well, so as to enable those departments to take appropriate actions to curb illegal activities. As for cases whereby ENs have been served, PlanD will closely monitor site situations to confirm whether the relevant persons are dealing with the matter in accordance with the requirements as set out in the ENs, and will issue letters to the relevant persons before expiry of the prescribed compliance period to remind them of the requirement to discontinue the unauthorised development according to the ENs. If the unauthorised development is found not discontinued after expiry of the compliance period and therefore not dealt with in accordance with the requirements as set out in the ENs, PlanD may institute prosecution action against the relevant persons in accordance with TPO.

According to information provided by PlanD, there are 288 cases whereby the requirements as set out in the respective ENs has not yet been complied with as at 31 March this year. The percentage of compliance for

complied with as at 31 March this year. The percentage of compliance for issued ENs in the past three years (i.e. 2010 – 2012) is on average 73%.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Law Kin-wai', is positioned above the printed name.

(LAW Kin-wai)  
for Secretary for Development