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24 March 2016

Hon Tony TSE Wai-chuen, Chairman  
Legislative Council Panel on Development  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Chairman,

(Translation)

**Illegal Soil Dump in Tin Shui Wai**

With regard to the letter from the Honourable LEUNG Che-cheung on 9 March 2016 about the soil dump and fill opposite Kingswood Villas in Tin Shui Wai as relayed by the Secretariat of the Legislative Council Panel on Development, our reply is as follows.

The Government is highly concerned with the potential impact of the soil fill mentioned in the letter of the Honourable LEUNG Che-cheung. The Environmental Protection Department (EPD) held inter-departmental meetings on 8 and 16 March 2016 to discuss the joint enforcement action. Relevant departments are taking appropriate enforcement action to safeguard public safety. Follow-up action will be taken against all illegal activities in accordance with the law.

On the abovementioned case, the Buildings Department (BD) served Dangerous Hillside Orders on 8 March to the owners of the concerned pieces of land under section 27A of the Buildings Ordinance (BO), requiring them to appoint professionals to undertake an investigation of the land and submit a remedial proposal to ensure public safety. BD will closely monitor the progress of the works. If necessary, BD will appoint its contractor to carry

out the shotcreting works in default of the owners under section 27A(3) of BO and then recover the cost from the owners. If the landowners fail to comply with the Dangerous Hillside Orders, the Building Authority will also consider instigating prosecution against the landowners. BD and the Civil Engineering and Development Department will continue to monitor the said spot to ensure that no hazards would be posed to the public due to soil fill collapse.

At the same time, the Planning Department (PlanD) has taken enforcement action in accordance with the Town Planning Ordinance (TPO). The concerned site is mainly zoned "Recreation" on the Ping Shan Outline Zoning Plan (OZP). Any recreational or other developments, including filling of land/excavation of land for such developments in the said zone require prior planning permission from the Town Planning Board (TPB) or may constitute an unauthorised development under TPO. As the site was used for open storage of sand before the first gazettal of the draft Ping Shan Development Permission Area Plan on 18 June 1993, storage of sand at the site is regarded as an "existing use" under TPO and does not constitute an unauthorised development. Nevertheless, PlanD noticed that the site used for open storage of sand was covered by vegetation in recent years. The vegetation was, however, removed early this year and the original appearance as open storage of sand has been shown. PlanD also noticed that there were excavation and bulldozing activities at the site and is conducting further investigations on the current use of the site. The Planning Authority has served on 21 March 2016 a Notice to Require Provision of Information under section 22(7) of TPO to the landowners and the responsible person to collect more information on the use of the site. Should there be sufficient evidence to prove an unauthorised development occurred on site, appropriate enforcement actions will be taken by PlanD.

Besides, PlanD's recent site inspection revealed that filling of land was observed in an area to the east of the site which is beyond the boundary of open storage of sand. The said filling of land involves an area which is largely zoned "Green Belt" on the Ping Shan OZP. Such operation constitutes an unauthorised development under TPO as no planning permission has been granted by TPB. The Planning Authority on 21 March 2016 issued an Enforcement Notice under section 23(1) of TPO to the concerned landowners requiring discontinuance of the unauthorised filling of land in the said area within seven days. PlanD also found signs of further unauthorised filling of land expanding to the west. PlanD is collecting evidence on this incident. There may be new suspected unauthorised development cases. PlanD will continue to follow up and take appropriate enforcement action, and would, depending on circumstances, consider

prosecuting the landowners of the lot concerned in accordance with TPO.

Regarding environmental protection measures, EPD found that the site formation works there did not observe the regulations stipulated under the Air Pollution Control (Construction Dust) Regulation to prevent dispersion of dust. EPD has warned the responsible person and is now preparing for instituting prosecutions in accordance with the law. EPD also said that appropriate deposition or reuse of construction waste is not in breach of the Waste Disposal Ordinance (WDO). WDO is aimed at combating against illegal dumping of waste without the consent of landowner or lawful occupier. At the same time, these activities will also have to be carried out in accordance with all relevant legal requirements, including the environmental laws. In 2007 and 2008, the land occupier had confirmed to EPD that the site was to be used for deposition of large quantities of construction materials, and that the land occupier would also conduct greening works projects there. EPD will continue to collaborate with other government departments to step up inspection to combat any illegal dumping of construction waste.

On the other hand, the lots concerned are private agricultural land held under Block Government Lease. According to a court ruling in respect of a case in early 1980s, there was no restriction on the land use under the Block Government Lease. It is not in breach of the conditions of Block Government Lease for private agricultural land to be used for open storage. Therefore, the Lands Department cannot take enforcement actions according to the conditions of land lease. Nevertheless, the lot owners concerned are responsible for complying with the laws of Hong Kong. As mentioned above, the law enforcement departments are taking enforcement actions according to relevant legislations applicable to specific situations.

The Government will continue to take action against suspected unauthorised developments in the New Territories in accordance with the law. Government departments will jointly take appropriate enforcement action as authorised by the existing law with no tolerance.

Yours sincerely,

Original signed

( Miss Cheryl CHOW )  
for Secretary for Development

**c.c.**

Director of Buildings

Director of Planning

Director of Civil Engineering and Development

Director of Lands

Director of Environmental Protection