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HPLB(PL)CR 1-150/07

9 June 2004

By post and by fax 2845 5964

Ms Christine Loh

Chairperson

Society for Protection of the Harbour Limited

2006, One Pacific Place

Admiralty, Hong Kong

Dear Ms Loh,

I refer to your open letter to the Legislative Council (“LegCo”) Members dated 8 June 2004 concerning the Central Reclamation Phase III (“CRIII”) and its works contract. In view of the factual inaccuracies therein, we would like to make the following clarifications.

First of all, the Secretary for Housing, Planning and Lands (“SHPL”) gave a factual reply when he answered the Hon. Martin Lee’s oral question on Central Reclamation on 2 June 2004. SHPL has pointed out clearly that according to the preliminary information provided by the CRIII Contractor, the amount claimed is estimated to be \$280 million, which is about 7% of the awarded contract sum. Territory Development Department has asked the Contractor to provide detailed information and justifications, and will consider and process the claim in accordance with the established procedures. The reply provided by SHPL was factual and he had not made any further comment.

The main contract of the CRIII works was awarded on 10 February 2003 and the works commenced on 28 February 2003. The Town Planning Board (“TPB”) received a notification from the Society for Protection of the Harbour Limited (“SPH”) on 27 February 2003, saying that SPH had already applied to the High Court for judicial review over the draft Wan Chai North Outline Zoning Plan (“OZP”). The application was targeted at the decisions made by the TPB on the draft Wan Chai North

OZP and had nothing to do with the CRIII works. On 28 February 2003 the High Court granted leave to the SPH's application for judicial review.

It was on 25 September 2003 that SPH applied to the High Court for judicial review and an interim injunction against the CRIII works. Before that, the Government had not received any notification from any organization claiming that judicial review would be lodged on CRIII. The CRIII works follows a due process in accordance with established procedures. The Central District (Extension) OZP was approved in February 2000; funding for the detailed design and tender preparation of CRIII was approved by LegCo in April 2000; CRIII's reclamation and roadworks were authorized in December 2001; funding for construction of CRIII was approved by LegCo in June 2002; tenders were invited in August 2002, and the contract was awarded on 10 February 2003. We need to reiterate that when SPH commenced legal proceedings on 27 February 2003 by applying for judicial review against the TPB's decisions over the draft Wan Chai North OZP, no reference had been made about the CRIII works. Therefore, the Government has not awarded the CRIII works contract in a hasty manner. Neither is it an attempt to create a *fait accompli* so as to affect the hearing of the judicial review on Central reclamation, which was not an issue at the time.

We have in the Government submission to the Court fully explained the chronology of events as listed above. We deeply regret that the criticisms made by the SPH on the Government in its 8 June letter are factually incorrect and groundless.

Lastly, we would like to point out that in his judgment of 9 March 2004 on the judicial review on CRIII, Mr Justice Hartmann had clearly pointed out that "the executive cannot always bow to the pressure of threatened litigation and it is always a question of policy whether an approved plan should be fulfilled without delay or whether delay is prudent" (paragraph 91 of the judgment).

Yours sincerely,

( Christine Chow )  
for Secretary for Housing, Planning and Lands

c.c. Legislative Council Secretariat