

中華人民共和國
香港特別行政區政府
政務司司長辦公室



CHIEF SECRETARY
FOR ADMINISTRATION'S OFFICE
Government of the Hong Kong
Special Administrative Region
of the People's Republic of China

29 June 2017

The Hon CHAN Kin-por, BBS, JP
Chairman, Finance Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Chairman,

**Member's Motions on Kai Tak Sports Park Project
moved under Paragraph 21 of the Finance Committee Procedure**

I refer to your ruling of 22 June 2017 on the seven motions proposed by Hon CHU Hoi-dick under paragraph 21 of the Finance Committee (FC) Procedure of the Legislative Council of the Hong Kong Special Administrative Region. According to the ruling, Hon CHU may move his Seventh Motion proposing that the Financial Secretary may only expend the moneys after 1 July 2018. While respecting the ruling, the Government has in-principle objection to the Seventh Motion due to its restrictive nature in respect of the implementation schedule of Government works.

When seeking approval for funding a project under the Capital Works Reserve Fund ("the Fund"), the Government essentially invites FC to scrutinise the funding application, so as to upgrade the project to Category A with the project estimates approved by FC. Once the funding application is approved, the execution and implementation details (including the time to expend the moneys) are vested in the Government.

In the course of project delivery, the Government needs to exercise flexibility with regard to actual circumstances. While the approved project estimates and project scope set out in the funding proposal are not to be changed, the projected schedule and expenditure position are for reference only and will normally vary from the actual

situation. Since the establishment of the Fund, it has been the Government's understanding that a project can be delivered in accordance with the actual circumstances without being rigidly bound by the details set out in the funding proposal, providing that the approved project estimates are not exceeded and the scope approved by FC is adhered to.

The Seventh Motion restricts the Government from expending the moneys until after a specified date, while the funding proposal is to commence expending the moneys at any time during the 2018-19 financial year instead of specifying an exact date. Since the Seventh Motion is inconsistent with the Government's financial proposal, it is considered as falling outside the scope of paragraph (c) of Cap. 2A.

In the Government's view, if the conditions or restrictions (including when to expend the moneys) proposed by Members in respect of the Government's funding proposals impede the discharge of the Government's duties, or severely distort the original intent or compromise the integrity of the project, or incur additional Government's expenditure, it is unlikely that they will comply with the original intent of paragraph (c) of Cap. 2A. They are therefore considered as falling outside the scope of the provision.

The Government has in-principle objection to the Seventh Motion due to its restrictive nature in respect of the implementation schedule of Government works. If FC approves the funding proposal on one hand and restricts the Government from expending the moneys until after a specified date on the other, the Government's plans to take forward public works projects may be seriously disrupted. This goes beyond the scope of FC's approval responsibility and also usurps the Government's execution responsibility. Hence, the Government is of the view that any motion restricting the time for the Government to expend the moneys should be ruled as being out of order under the FC Procedure and the Rules of Procedure of the Legislative Council.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Matthew Cheung Kin-chung', written in a cursive style.

(Matthew Cheung Kin-chung)
Chief Secretary for Administration