



立法會

LEGISLATIVE COUNCIL

來函檔號 YOUR REF :
本函檔號 OUR REF : CB1/F/1
電話 TELEPHONE :
圖文傳真 FACSIMILE :

7 July 2017

Hon CHU Hoi-dick
Dr Hon YIU Chung-yim
Room Nos. 903 and 905
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr CHU and Dr YIU,

**Two motions proposed by members
under paragraph 21 of the Finance Committee Procedure
on item FCR(2017-18)15**

"Tung Chung New Town Extension–Reclamation and Advance Works"

By a letter dated 22 June 2017 (**Appendix I**), you requested the Chairman of the Finance Committee ("FC") to include in the agenda for FC meeting(s) two motions proposed to be moved under paragraph 21 of the Finance Committee Procedure ("FCP") and paragraph (c) of the Resolution on Capital Works Reserve Fund (Cap. 2A) in respect of FCR(2017-18)15. The purpose of FCR(2017-18)15 is to seek FC's approval to upgrade part of 786CL to Category A at an estimated cost of \$20,568.9 million in money-of-the-day prices for "Tung Chung New Town Extension–Reclamation and Advance Works" ("item FCR(2017-18)15").

In considering whether the two motions are in order, I invited the Administration to comment on the motions, and invited Mr CHU and Dr YIU to respond to the Administration's comments.

The Administration's views are detailed in its letter of 28 June 2017 (**Appendix II**). The Administration considers that the First Motion concerns how the Government should enter into contracts with contractors, and does not relate to how the Financial Secretary ("FS") may expend the moneys approved for item FCR(2017-18)15. As for the Second Motion, it relates to the completion and submission of the design of the eco-shoreline but the design fees will not be covered by the moneys to be spent on the construction of the

eco-shoreline under item FCR(2017-18)15. Therefore, these two motions are not relevant to how the moneys from the Capital Works Reserve Fund as approved by FC may be expended by FS on the project under the Government's proposal in the Public Works Subcommittee ("PWSC") paper and do not fall within the scope of paragraph (c) of Cap. 2A. Owing to the aforesaid reasons, these two motions should be ruled out of order.

In addition, regarding the issue in the First Motion, the Administration has pointed out that the Government will set out the specifications of sand blanket materials in the works contracts. The materials used by the contractors, as long as they can meet the specifications as set out in the works contracts, will be regarded as suitable materials for laying the sand blanket, be they marine sand or artificial sand. With regard to the issue in the Second Motion, the Administration has pointed out that the design of the eco-shoreline has already been completed, with the relevant fees having been paid from another project, i.e. 799CL "Tung Chung New Town Extension—Detailed Design and Site Investigation". Regarding the design of the eco-shoreline, the Administration has pointed out that reference may be made to the diagrams attached to PWSC223/16-17(01) submitted to PWSC on 23 June 2017. The current funding application submitted by the Administration to FC merely covers the part relating to the construction of the eco-shoreline.

Your response to the Administration's views is detailed in your letter dated 30 June 2017 (**Appendix III**). In gist, you do not subscribe to the Administration's views that the two motions do not fall within the scope of paragraph (c) of Cap. 2A and are hence out of order. In your view, the First Motion directly specifies how FS may expend the moneys approved for item FCR(2017-18)15 by stating that the approved moneys for procuring sand blanket materials may only be expended on the purchase of marine sand, not artificial sand. As for the Second Motion, you have stated that it specifies a condition under which completion of the design of eco-shoreline is required before FS may expend the approved moneys for the construction of eco-shoreline. Regarding the Administration's response that the detailed design has already been completed, you are of the view that the condition specified in the Second Motion can be fulfilled simply by submitting the detailed design to the Legislative Council for approval. Therefore, you consider that the two motions fall within the scope of paragraph (c) of Cap. 2A and should be ruled as being in order.

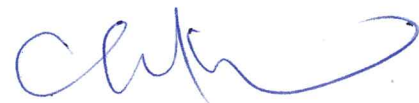
Given that I have already stated in my previous relevant rulings¹ the legal and procedural issues as well as other relevant factors which I have to take into account in considering whether the motions proposed by members under FCP 21 are in order, I am not going to repeat such considerations here.

¹ LC Paper Nos. FC63/16-17(01), FC109/16-17(01) and FC185/16-17(01).

I note that the First Motion proposes that "in expending the approved moneys for procuring sand blanket materials, FS may expend such moneys on the purchase of marine sand only, not artificial sand". In substance, this motion seeks to specify the type of sand blanket materials that the Government must use in the reclamation works. According to the Administration, the Government will provide in the works contracts to be entered into with contractors that the sand blanket materials to be used by contractors must meet the prescribed specifications. In my view, the proposal in the First Motion concerns the mode of procuring sand blanket materials by the Government and how the Government should enter into contracts with contractors in respect of "Tung Chung New Town Extension—Reclamation and Advance Works", and does not relate to how FS may expend the moneys approved for item FCR(2017-18)15 within the meaning of paragraph (c) of Cap. 2A.

The Second Motion proposes that "the Government must complete the detailed design for the 'construction of eco-shoreline' and submit it to FC before FS may expend the sum of \$161.7 million approved for the 'construction of eco-shoreline' (according to paragraph 15 of LC Paper No. PWSC(2017-18)3) in the funding proposal concerned". I note that the funding proposal for the project "Tung Chung New Town Extension—Detailed Design and Site Investigation", as recommended in the paper FCR (2016-17)25, was approved by FC of the last Legislative Council on 27 May 2016, and the project included, inter alia, the detailed design of the eco-shoreline. According to the Administration, the design of the eco-shoreline has been completed, and the relevant design is not within the scope of item FCR(2017-18)15 which is currently under consideration. In my view, the Second Motion intends to stipulate requirements regarding the completion of the detailed design of the eco-shoreline and the submission of such design to FC, but the detailed design itself does not fall within the scope of funding for item FCR(2017-18)15. As such, the motion does not relate to how FS may expend the moneys approved for item FCR(2017-18)15.

For the aforesaid reasons, I consider that the two motions fall outside the scope of paragraph (c) of Cap. 2A. I rule that the two motions are out of order. In accordance with Rule 30(3)(c) of the Rules of Procedure, the notices of these motions shall be returned to you.



(CHAN Kin-por)
Chairman
Finance Committee

Encls.

敬啟者

關於：就東涌擴展新市鎮填海工程按會議程序第 21 段提出議案

如題。按財委會會議程序第 21 段，我等動議：

議案一

按《財務委員會會議程序》第 21 段及《基本工程儲備基金》(第 2 章，附屬法例 A) 立法局決議(C)款，就立法會文件 FCR(2017-18)15 所載項目建議把 786CL 號工程計劃的餘下部分提升為甲級，稱為「東涌新市鎮擴展一填海及前期工程」，財政司司長可由基本工程儲備基金支用款項作為「東涌新市鎮擴展一填海及前期工程」的用途，但須按照財務委員會所指明的以下條件、例外情況及限制行事：

財政司司長支用是項撥款，採購砂墊層物料時，只限把款項用於採購海砂 (marine sand) 而非機砂 (artificial sand)。

議案二

按《財務委員會會議程序》第 21 段及《基本工程儲備基金》(第 2 章，附屬法例 A) 立法局決議(C)款，就立法會文件 FCR(2017-18)15 所載項目建議把 786CL 號工程計劃的餘下部分提升為甲級，稱為「東涌新市鎮擴展一填海及前期工程」，財政司司長可由基本工程儲備基金支用款項作為「東涌新市鎮擴展一填海及前期工程」的用途，但須按照財務委員會所指明的以下條件、例外情況及限制行事：

政府須先完成「建造生態海岸線」詳細設計並交付財務委員會，財政司司長方可支用是項撥款中用於「建造生態海岸線」的 1.617 億 (按立法會文件 PWSC(2017-18)3 號第 15 段)。

懇請接納及處理。萬分感謝。

此致
財委會主席陳健波議員

立法會議員姚松炎
立法會議員朱凱迪
謹啟

2017 年 6 月 22 日

財 經 事 務 及 庫 務 局
(庫 務 科)



FINANCIAL SERVICES AND THE
TREASURY BUREAU
(The Treasury Branch)

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電話號碼 Tel. No. : 2810 2668
本函檔號 Our Ref. : TsyB LT 00/700-2/15 (2016-17)
來函檔號 Your Ref. :

28 June 2017

Clerk to the Finance Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms Anita SIT)

Dear Ms SIT,

**Motions on Tung Chung New Town Project
proposed under Paragraph 21 of the Finance Committee Procedure**

Thank you for your email of 22 June seeking the Government's views on the two Motions proposed by Dr Hon YIU Chung-yim and Hon CHU Hoi-dick on 22 June. Our reply is set out at **Enclosure**.

Yours sincerely,

(Alfred ZHI)
for Secretary for Financial Services
and the Treasury

**Government's Response to Motions Proposed by
Hon CHU Hoi-dick and Dr Hon YIU Chung-yim on 22 June 2017**

The Motions

Hon CHU Hoi-dick and Dr Hon YIU Chung-yim proposed two Motions as detailed at **Appendix 1**. The Government's response is set out in the ensuing paragraphs.

The Motions are out of order

2. In pursuance of paragraph (c) of the Resolutions of the Legislative Council on Capital Works Reserve Fund ("the Fund") (Cap 2, sub. Leg. A), Hon CHU Hoi-dick and Dr Hon YIU Chung-yim proposed the Motions at Appendix 1 in respect of the funding proposal on the reclamation and advance works of Tung Chung New Town Extension ("the Project").

3. Motion 1 concerns how the Government should enter into a contract with the Contractor, which does not relate to how the Financial Secretary (FS) may expend the moneys approved for the Project. Hence, it is not relevant to how the moneys from the Fund as approved by the Finance Committee (FC) may be expended by FS on the Project under the Government's proposal in the PWSC Paper and does not fall within the scope of paragraph (c) of Cap 2A.

4. Motion 2 concerns the completion and submission of an eco-shoreline design which is not covered by the moneys to be spent on the construction of the eco-shoreline under the Project. Hence, it is not relevant to how the moneys from the Fund as approved by the FC may be expended by FS on the Project under the Government's proposal in the PWSC Paper and does not fall within the scope of paragraph (c) of Cap 2A.

Other policy considerations

(i) Motion 1

5. To reduce the impact of the reclamation works on water quality, the Government will lay down specifications, including particle size and fines content, of the filling materials to be used for the sand blanket in the works contract. This will ensure that suspended solids generated during sand blanket laying can be contained by silt curtains to prevent dispersion, thereby reducing the impact on surrounding water quality. Hence, any filling materials used by the Contractor, be they marine sand or artificial sand, are suitable for the sand blanket as long as they comply with the specifications laid down in the contract.

6. Subject to contractual requirements, the Contractor of the reclamation works is allowed to choose any filling materials that are suitable for the sand blanket. This will give the Contractor greater flexibility in procuring filling materials, enable the reclamation works to be carried out in a more cost-effective way, and in return help reduce the project cost, secure a stable supply of sand and lower the risk of project delays.

7. Hence, in our opinion, the above arrangement should be retained to allow greater flexibility for the Contractor to choose suitable filling materials for the sand blanket subject to contractual requirements. We do not agree to restricting the use of the moneys to procuring marine sand only.

(ii) Motion 2

8. In respect of the eco-shoreline design, the Government commissioned an expert consultant to produce the design. Reference was also made to overseas experience and discussions were held with other experts. The design work has been completed and payment will be made under 799CL “Tung Chung New Town Extension – Detailed Design and Site Investigation”. Members may refer to the attachments of PWSC223/16-17(01) submitted to the Public Works Subcommittee by the Government on 23 June 2017 for the design of the eco-shoreline design. Our funding proposal on the reclamation works only covered the construction works of the eco-shoreline.

Conclusion

9. As both of the Motions proposed are not relevant to how the moneys from the Fund (approved by the FC) may be expended by FS on the reclamation and advance works of Tung Chung New Town Extension, we consider that the two Motions should be deemed as being out of order.

敬啟者

關於：就東涌擴展新市鎮填海工程按會議程序第 21 段提出議案

如題。按財委會會議程序第 21 段，我等動議：

議案一

按《財務委員會會議程序》第 21 段及《基本工程儲備基金》(第 2 章，附屬法例 A) 立法局決議(C)款，就立法會文件 FCR(2017-18)15 所載項目建議把 786CL 號工程計劃的餘下部分提升為甲級，稱為「東涌新市鎮擴展一填海及前期工程」，財政司司長可由基本工程儲備基金支用款項作為「東涌新市鎮擴展一填海及前期工程」的用途，但須按照財務委員會所指明的以下條件、例外情況及限制行事：

財政司司長支用是項撥款，採購砂墊層物料時，只限把款項用於採購海砂 (marine sand) 而非機砂 (artificial sand)。

議案二

按《財務委員會會議程序》第 21 段及《基本工程儲備基金》(第 2 章，附屬法例 A) 立法局決議(C)款，就立法會文件 FCR(2017-18)15 所載項目建議把 786CL 號工程計劃的餘下部分提升為甲級，稱為「東涌新市鎮擴展一填海及前期工程」，財政司司長可由基本工程儲備基金支用款項作為「東涌新市鎮擴展一填海及前期工程」的用途，但須按照財務委員會所指明的以下條件、例外情況及限制行事：

政府須先完成「建造生態海岸線」詳細設計並交付財務委員會，財政司司長方可支用是項撥款中用於「建造生態海岸線」的 1.617 億 (按立法會文件 PWSC(2017-18)3 號第 15 段)。

懇請接納及處理。萬分感謝。

此致
財委會主席陳健波議員

立法會議員姚松炎
立法會議員朱凱迪
謹啟

2017 年 6 月 22 日

致立法會財務委員會主席：

回覆東涌擴展新市鎮填海工程所提出議案之政府意見

就本年六月二十八日財經事務及庫務局局長的覆函，政府指姚松炎議員和朱凱迪議員於六月二十二日所建議的兩項議案不合規程，以及涉及其他政策考慮。我們謹此向立法會財務委員會主席作以下回應，指出我們的議案是與相關項目有關連，而且有其政策迫切性，應被視為合乎規程。

議案一就是關乎財政司如何支用該項目獲批的款項，填海工程購買泥沙填海材料的款項只准支付海砂，而不准支付給機砂，是直接指明如何支用該項目的款項，正是第 2A 章第 (c) 款的範圍內。

政府的回覆只考慮海砂和機砂是否合適作砂墊層，卻沒有考慮兩者對生態和環境的影響，與生態海堤設計的目的自相矛盾。

議案二就財政司支用該項目用於建造生態海岸線的款項支付訂下條件，而設計是建造的前提，沒有設計就不應建造，所以議案二是為財政司支用建造生態海岸線的款項支付訂下必須先完成設計的條款，避免建造出錯，有實際需要，亦屬第 2A 章第 (c) 款的範圍內。

而且根據政府回覆，設計本身已經完成，只需把詳細設計交上立法會審議通過便可。

由是觀之，鑒於姚松炎議員和朱凱迪議員所提出的兩項議案，均與財政司司長可如何支用經財委會批准的基本工程儲備基金用於東涌新市鎮擴展的填海及前期工程有關，我們認為該兩項應視為合乎規程。

姚松炎立法會議員辦事處
朱凱迪立法會議員辦事處