

**Ruling of the Chairman of the Finance Committee
on the motion proposed by
Hon CHU Hoi-dick and Dr Hon YIU Chung-yim
in their letter dated 9 March 2017
relating to block allocations under the Capital Works Reserve Fund**

By a letter dated 9 March 2017, Hon CHU Hoi-dick and Dr Hon YIU Chung-yim requested me to include in the agenda of the Finance Committee ("FC") meeting on 17 March 2017 a motion to be proposed under paragraph 21 of the Finance Committee Procedure ("FCP"). Their letter is in **Appendix I**.

2. To assist me in considering whether the Motion is in order, I invited the Administration to comment on the proposal and the two Members concerned to respond to the Administration's comments.

The Administration's views

3. The Administration's views are detailed in its letter of 14 March 2017 (**Appendix II**). In gist, the Government considers that there is no legal basis for the Motion which seeks to rely on two provisions in the Public Finance Ordinance (Cap. 2) and the Resolution on Capital Works Reserve Fund (Cap. 2A), i.e. section 8(3) of Cap. 2 and paragraph (c) of Cap. 2A. The change proposed under the Motion refers to a change in the procedure to be followed at FC meetings in approving the block allocations under the Capital Works Reserve Fund ("CWRF"), and is therefore not related to the matters prescribed by the two aforesaid provisions. As such, the Motion falls outside the permitted scope of the two provisions and should not be included in the agenda of an FC meeting as being out of order.

4. The Administration has also elaborated, in its letter, on the historical background of the CWRF block allocations mechanism, the objectives of establishing the mechanism, how the Government holds itself accountable to FC regarding CWRF block allocations, etc. The Administration has also set out its views on the possible implications of the Motion which seeks to change FC's approval mechanism for block allocations under CWRF.

Members' response

5. Mr CHU Hoi-dick and Dr YIU Chung-yim's response to the Administration's views is detailed in their letter (**Appendix III**).

6. In gist, the two Members consider that the Motion proposed by them is concerned with the delegation of power by FC to the Financial Secretary ("FS") in relation to making changes to the approved estimates of expenditure, or the specified "conditions, exceptions and limitations" for expenditure proposals under CWRF, and that the Motion seeks to add the contents proposed by them to the existing "conditions, exceptions and limitations".

7. The two Members also consider that as the existing "CWRF block allocations mechanism" is established under the delegation of power pursuant to section 8(3) of Cap. 2 and/or Cap. 2A, the Motion proposed by them only seeks to update such delegation of power along the lines of past delegations. As such, there is no justification for saying that the Motion is not related to the two pieces of legislation. In saying that the Motion is not related to section 8(3) of Cap. 2 and/or Cap. 2A, the Government has de facto denied FC's power in amending the delegation of its own accord, which is against the principles of the relevant legislation.

8. After considering the Administration's views, the two Members advise that they have, on the premise that the original motion will not be withdrawn, prepared several revised motions modelled on the original motion for my consideration of the admissibility of the revised motions and

the original motion, so that all such motions can be considered by FC at a joint debate.

My opinion

9. Under Rule 30(3)(c) of the Rules of Procedure ("RoP"), a notice of motion or amendment will be returned to the Member as being in the opinion of the President out of order. By virtue of paragraph 37 of FCP, RoP 30(3)(c) applies to the FC proceedings in dealing with motions with necessary modifications, subject to the decisions of FC made from time to time. In considering the admissibility of the Motion, I have looked at the President's past rulings. I note that motions which are inconsistent with statutory provisions¹ or are meaningless or ultra vires² have been ruled to be out of order under RoP 30(3)(c).

10. Mr CHU and Dr Yim seek to rely on section 8(3) of Cap. 2 and/or paragraph (c) of Cap. 2A as the legal basis for the Motion. I note that under section 8(1) of Cap. 2, no changes shall be made to the approved estimates of expenditure except with FC's approval upon a proposal of FS. Under section 8(2), such changes may provide, among others, the creation of new heads or subheads and increases in the limit to the commitments which may be entered into in respect of non-recurrent annual expenditure. Section 8(3) allows FC to delegate to FS the power to approve changes to the approved estimates of expenditure subject to such conditions, exceptions and limitations as are specified in the delegation. I also note that CWRF was established in 1982 under section 29 of Cap. 2. Under section 29(1) of Cap. 2, moneys credited to CWRF may be expended by FS for the purposes of the Fund subject to such conditions, exceptions and limitations as may be specified in Cap. 2A. Under paragraph (c) of Cap. 2A, FS may expend moneys from the Fund for purposes including the

¹ President's ruling dated 20 March 2012 on Hon LEE Wing-tat's proposed resolutions to amend the six Orders made under section 5(1) of the Public Bus Services Ordinance (Cap. 230) and gazetted on 20 January 2012.

² President's ruling dated 18 June 2012 on the amendments proposed by Hon Albert CHAN and Hon WONG Yuk-man to the proposed resolution under section 54A of Cap. 1.

Government's public works programme in accordance with such conditions, exceptions and limitations as may be specified by FC.

11. The Motion seeks to amend the conditions, exceptions and limitations to the power delegated by FC to FS in respect of the block allocations under CWRF pursuant to section 8(3) of Cap. 2 and/or paragraph (c) of Cap. 2A by providing that if not fewer than 20 Members request in writing during scrutiny by FC of a proposal for CWRF block allocations, the Government must withdraw individual items from the relevant proposal and submit them separately to FC for approval. In my view, the Motion, as drafted, seeks to introduce a new procedure for FC's scrutiny or examination of CWRF block allocations which is not provided in FCP. I do not consider that what is proposed in the Motion is a condition, exception or limitation to the FC's delegation to FS to approve changes of the approved estimates of expenditure under section 8(3) of Cap. 2. Nor does the Motion relate to conditions, exceptions or limitations in accordance with which FS may expend moneys from CWRF.

12. On account that the Motion does not fall within the scope of section 8(3) of Cap. 2 and/or paragraph (c) of Cap. 2A, and having regard to the President's past rulings as mentioned in paragraph 9 above, I consider that the Motion is out of order pursuant to RoP 30(3)(c) and paragraph 37 of FCP.

My ruling

13. I rule that the Motion proposed by Hon CHU Hoi-dick and Dr Hon YIU Chung-yim in their letter dated 9 March 2017 relating to block allocations under CWRF is out of order, and in accordance with RoP 30(3)(c), the notice of the Motion shall be returned to Mr CHU and Dr YIU.

Others

14. In the letter that set out their response to the Administration's views, Mr CHU Hoi-dick and Dr YIU Chung-yim have remarked that they have prepared three "revised motions modelled on the original motion", i.e. the three motions under the headings of "Revised Motion One", "Revised Motion Two" and "Revised Motion Three" in the letter. Since these motions are newly proposed motions, I will deal with them separately.



(CHAN Kin-por)
Chairman
Finance Committee

Encls.

17 March 2017

敬啟者

關於：就 2017 年 3 月 17 日財務委員會提出議程項目

如題。按《財務委員會會議程序》第 21 段，我等謹提出議程項目及建議如下：

緩解基本工程儲備基金「整體撥款」爭議之建議

背景

基本工程儲備基金，乃立法會於 1982 年決議成立（見香港附屬法例第 2A 章）。1983 年開始，財務委員會根據決議內容授權時任財政司，容許當局將低於一定金額的工程項目以及「土地徵收」開支，以網綁形式交予財委會每年一次批出款額，此機制稱為「整體撥款」（Block Allocations）。

整體撥款機制原意是增加審批效率，但隨着立法會的組成日漸民主化，沒有任何「鬆綁」機制的整體撥款，極容易引起爭議，最終欲速不達，因快得慢。本年度涉及 9400 多個項目、撥款總額約 124 億的整體撥款，就因為包括了「元朗橫洲徵地」等具爭議項目，令審議陷入膠著狀態。

我等認為，解決矛盾的方法是在立法會建立共識，然後根據香港法例第 2 章《公共財政條例》第 8 條第 3 款，及／或附屬法例第 2A 章《基本工程儲備基金》，給予財務委員會的權力，修訂整體撥款安排，一方面讓機制維持效率，又可以讓具爭議項目「鬆綁」。

議案

根據香港法例第 2 章《公共財政條例》第 8 條第 3 款，及／或香港附屬法例 2A 《基本工程儲備基金》中的註 1 所提述的臨時立法會於 1997 年 12 月 17 日根據《公共財政條例》(第 2 章)第 29(1)條提出和通過的決議中的(c)款，自 2017/18 立法年度開始，財務委員會就基本工程儲備基金整體撥款機制中，轉授財政司司長權力的「指明條件、例外情況及限制」，加入修訂如下：

如不少於 20 名立法會議員於財務委員會審議基本工程儲備基金整體撥款建議期間提出書面要求，政府須將個別項目從有關撥款建議中抽出，提交財務委員會另行審批。

考慮理由

1. 整體撥款之網綁機制須加入「鬆綁機制」，作為緩衝，以體現《基本法》第 73 條賦予立法會之職能及責任。
2. 將「鬆綁」門檻訂定在 20 名議員，參考了立法會大會提交呈請書的門檻，以維持整體撥款機制的效率。

3. 抽出爭議項目後，讓基本工程儲備基金整體撥款從速通過，加快工務工程效率。
4. 承上，財務委員會之會議時間得以善用。
5. 此修訂亦可紓緩政府與議會衝突，改善行政立法關係。

對財政的影響

無論任何項目因此修訂得以抽出，也只是分拆審議及表決過程，而不會影響撥款款額。

其他意見

1. 2014年1月，政府從基本工程儲備基金整體撥款中，抽出爭議性之堆填區項目。時任自由黨黨魁田北俊透過媒體表示，自由黨質疑政府原本的做法是把具爭議項目「斬件上」，似是在行之有效的機制中「走罅」，應檢討做法。
2. 輿論普遍認為，目前橫洲項目爭議頗多，由程序公義到廉政，皆有疑點。透過此抽出具爭議項目的機制，政府可有更多時間準備，回答公眾質詢，理順橫洲項目；亦不會妨礙基本工程儲備基金整體撥款中其餘項目之進度。

懇請主席閣下，將上述納入2017年3月17日財委會議程。萬分感謝，順祝春安。

此致
立法會財務委員會主席陳健波議員

立法會議員 朱凱迪
立法會議員 姚松炎 謹啟

2017年3月9日

財 經 事 務 及 庫 務 局
(庫 務 科)

香 港 金 鐘 添 美 道 二 號
政 府 總 部 二 十 四 樓



FINANCIAL SERVICES AND
THE TREASURY BUREAU
(The Treasury Branch)

24/F, Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

傳真號碼 Fax No. : 2530 5921
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. :

14 March 2017

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

Dear *Anita*,

Proposal from Hon Chu Hoi-dick and Hon Yiu Chung-yim

Thank you for your email of 10 March seeking Government's view on a joint letter dated 9 March 2017 from the Hon CHU Hoi-dick and the Hon YIU Chung-yim proposing to move a motion under paragraph 21 of the Finance Committee Procedure. Our response is set out at Annex.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Zhi'.

(Alfred Zhi)

for Secretary for Financial Services and the Treasury

Government Response
to
Motion proposed by Hon CHU Hoi-dick and Hon YIU Chung-yim
on 9 March 2017

The Motion

The Hon Chu Hoi-dick and the Hon Yiu Chung-yim intend to move a motion (the Motion) (**Enclosure 1**) under paragraph 21 of Finance Committee (FC) Procedure at the coming FC meeting on 17 March 2017 to invoke the power of FC under section 8 (3) of the Public Finance Ordinance (PFO) (Cap. 2) and/or under paragraph (c) of the Resolution on Capital Works Reserve Fund (CWRP) (Cap. 2A) of PFO to impose *conditions* on the CWRP block allocations.

2. The Motion proposes that starting from 2017-18, if no fewer than 20 FC Members request in writing during the scrutiny of a funding proposal for the block allocations under CWRP, the Government must withdraw the individual items from the relevant proposal and submit them to the FC for separate consideration.

Legal Basis of the Motion

3. For the reasons explained in paragraphs 4 to 7 below, Government considers that the Motion should not be included in the agenda of an FC meeting as being out of order under Rule 30(3)(c) of the Rules of Procedures of the Legislative Council which is applied to the FC proceedings by virtue of paragraph 37 of the Finance Committee Procedure.

Section 8(3) of Cap. 2 and Paragraph (c) of Cap. 2A

4. Government considers that there is no legal basis for the Motion which seeks to rely on the two provisions in Cap. 2 and Cap. 2A.

5. The change proposed under the Motion refers to a change in the procedure to be followed at FC meetings in approving the CWRF block allocation. On the other hand, section 8(3) of Cap. 2 is related to the *conditions* which may be specified in the FC's delegation to the Financial Secretary (FS) to approve changes of the "approved estimates of expenditure" under section 8(1) of Cap. 2.

6. Likewise, the change proposed under the Motion is not related to how the moneys from the CWRF as approved by the FC may be expended by the FS under paragraph (c) of Cap. 2A.

7. As such, the Motion falls outside the permitted scope of section 8(3) of Cap. 2 and paragraph (c) of Cap. 2A and should not be included in the agenda of an FC meeting as being out of order.

Importance of Upholding the Established CWRF Block Allocations Mechanism

8. The CWRF was established in 1982 and was deemed to be a fund established under section 29 of Cap. 2 upon its enactment in 1983. The Memorandum Note of the CWRF in the Estimates 2017-18 is at **Enclosure 2** for reference.

Delegated authorities

9. Over the years, for the efficient and effective administration of the Fund, Government has secured the approval of the FC to delegate certain authorities to FS and government officials. These include the delegation to allow designated officials to approve the inclusion of new Category D projects (i.e. minor works projects) in the Public Works Programme subject to prescribed conditions, limitations and exceptions specified by the FC (being a project estimate ceiling of no more than \$1,500,000 in March 1983, subsequently adjusted by the FC six times and currently stands at \$30 million for a wide variety of minor works projects, minor site investigations and feasibility studies etc. and \$75 million for the Universal Accessibility Programme) so as to reduce the number of minor items requiring approval by the FC.

CWRF Block Allocations mechanism

10. The FC also approved the CWRF block allocations mechanism effective from 1984-85. As explained in the relevant FC agenda item (FCai) (see **Enclosure 3**), the minor works or land resumption items created by Government under delegated authority would still be subject to the FC approving an aggregate funding provision for the relevant block allocations subheads of expenditure on a yearly basis. The division of responsibility is such that Government is authorised to approve minor items whereas the FC can focus more on other substantial works items (so called Category A items) exceeding the limits of delegated authority (currently \$30 million for most block allocations subheads).

11. The above division of responsibility has been **efficient and effective**. Taking 2015-16 as example, the number of items processed under the CWRF block allocations mechanism and by the FC is as follows –

2015-16	Number of project items	Value of project items (\$ Billion)
CWRF Block Allocations items	Around 9 000	\$9.6
Other CWRF items	69	\$78.7
Total	Over 9 000	\$88.2

12. The CWRF block allocations mechanism also reflects a division of responsibility between the FC and Government premised on **proper checks and balances** to ensure adequate accountability.

Government accountability

13. When seeking FC's funding approval for the CWRF block allocations subheads each year, Government would set out key items in the funding application. A full list of proposed items would also be provided to the LegCo Secretariat for Members' reference. Government would report on the expenditure for all the CWRF block allocations subheads on a quarterly basis. In addition, Government would provide an annual report around second/third quarter each year to account for

major deviations from the proposed programme in the original FCai. Government remains fully accountable for and highly transparent in the delivery of all the items funded under delegated authorities.

14. Government must secure the **funding approval** of the FC before continuing with or creating new block allocations items. The **ambit** of each CWRP block allocations subhead of expenditure is approved by the FC. If Government seeks to exceed the **funding ceilings** for a block allocations subhead of works-related expenditure, it can only do so up to a limit of \$15 million for each subhead, also in line with the FC's approval.

15. Many of the minor works items straddle a number of years. Land resumption exercises pursued in line with statutory procedures may also straddle across financial years. As such, the majority of items (more than 8 000 in 2017-18) to be funded under the CWRP block allocations mechanism are on-going ones. Government and all the contractors and stakeholders concerned (e.g. clearers of land resumption exercises) would have a legitimate expectation that once initiated, a minor CWRP item should be allowed to continue. It would also not be reasonable for items under planning, where these have gone through duly authorised procedures and are within FC-approved ambits, to be curtailed by the FC.

Implications of upsetting the established mechanism

16. The proposal for individual CWRP block allocations items to be subject to separate voting by the FC where so requested by no fewer than 20 FC Members would create **enormous uncertainties** for Controlling Officers, contractors and other stakeholders. It is a fundamental change to the long-established division of responsibility between Government and the FC under the CWRP block allocations mechanism. If on-going CWRP block allocations items could risk being overturned subsequently, many small and medium enterprises taking up minor works items could have legitimate concerns about the ability of Government to fund their contracts to completion. Over 11 000 jobs would be at stake.

17. Further, in case of land resumption exercises having completed statutory due processes and proceeding on compensation terms strictly in accordance with FC-approved compensation packages could risk being overturned subsequently, the **disruption to land resumption and clearance processes** and **status of planned projects** could have serious financial implications.

18. In all cases, there could be serious risks of delay in completion of works or land resumption exercises with **abortive costs** and risks of **legal actions** by affected parties. The additional cost to public funding – triggered unilaterally by the FC, is hard to justify.

19. As has been demonstrated, Government would heed the advice of LegCo Panels. In the case of CWRP proposals, there have also been full discussions in the Public Works Subcommittee. Where justifiable and practicable, Government would moderate our funding proposals before seeking the FC's approval.

Conclusion

20. All said, according to the manner in which funding proposals have been processed and approved by the FC in the past, the stakeholders and the general public would expect the FC to approve the aggregate funding provision for each of the CWRP block allocations subheads on a yearly basis while offering advice to Government on the merits of individual items. Government should be allowed to exercise its delegated authority to create and pursue minor works items provided within ambit and funding ceilings set by the FC, and land resumption items provided having completed statutory procedures and in strict accordance with FC-approved compensation/ex-gratia packages.

21. The proposal to subject certain items to separate voting by the FC implies that the FC may then unilaterally revisit or even disapprove such items regardless of the fact that they have been legitimately created and pursued in the first place. This would seriously undermine the fundamental design and spirit of the CWRP block allocations mechanism and upset the long-held division of responsibility between the FC and Government. At the practical level, it would create

undue uncertainties and risk of legal challenges by those who have legitimate expectation that the items already approved by the FC should be allowed to continue. The proposal would not be in the public interest.

The Treasury Branch
Financial Services and the Treasury Bureau
March 2017

敬啟者

關於：就 2017 年 3 月 17 日財務委員會提出議程項目

如題。按《財務委員會會議程序》第 21 段，我等謹提出議程項目及建議如下：

緩解基本工程儲備基金「整體撥款」爭議之建議

背景

基本工程儲備基金，乃立法會於 1982 年決議成立（見香港附屬法例第 2A 章）。1983 年開始，財務委員會根據決議內容授權時任財政司，容許當局將低於一定金額的工程項目以及「土地徵收」開支，以綑綁形式交予財委會每年一次批出款額，此機制稱為「整體撥款」（Block Allocations）。

整體撥款機制原意是增加審批效率，但隨着立法會的組成日漸民主化，沒有任何「鬆綁」機制的整體撥款，極容易引起爭議，最終欲速不達，因快得慢。本年度涉及 9400 多個項目、撥款總額約 124 億的整體撥款，就因為包括了「元朗橫洲徵地」等具爭議項目，令審議陷入膠著狀態。

我等認為，解決矛盾的方法是在立法會建立共識，然後根據香港法例第 2 章《公共財政條例》第 8 條第 3 款，及／或附屬法例第 2A 章《基本工程儲備基金》，給予財務委員會的權力，修訂整體撥款安排，一方面讓機制維持效率，又可以讓具爭議項目「鬆綁」。

議案

根據香港法例第 2 章《公共財政條例》第 8 條第 3 款，及／或香港附屬法例 2A 《基本工程儲備基金》中的註 1 所提述的臨時立法會於 1997 年 12 月 17 日根據《公共財政條例》(第 2 章)第 29(1)條提出和通過的決議中的(c)款，自 2017/18 立法年度開始，財務委員會就基本工程儲備基金整體撥款機制中，轉授財政司司長權力的「指明條件、例外情況及限制」，加入修訂如下：

如不少於 20 名立法會議員於財務委員會審議基本工程儲備基金整體撥款建議期間提出書面要求，政府須將個別項目從有關撥款建議中抽出，提交財務委員會另行審批。

考慮理由

1. 整體撥款之綑綁機制須加入「鬆綁機制」，作為緩衝，以體現《基本法》第 73 條賦予立法會之職能及責任。
2. 將「鬆綁」門檻訂定在 20 名議員，參考了立法會大會提交呈請書的門檻，以維持整體撥款機制的效率。

3. 抽出爭議項目後，讓基本工程儲備基金整體撥款從速通過，加快工務工程效率。
4. 承上，財務委員會之會議時間得以善用。
5. 此修訂亦可紓緩政府與議會衝突，改善行政立法關係。

對財政的影響

無論任何項目因此修訂得以抽出，也只是分拆審議及表決過程，而不會影響撥款款額。

其他意見

1. 2014年1月，政府從基本工程儲備基金整體撥款中，抽出爭議性之堆填區項目。時任自由黨黨魁田北俊透過媒體表示，自由黨質疑政府原本的做法是把具爭議項目「斬件上」，似是在行之有效的機制中「走罅」，應檢討做法。
2. 輿論普遍認為，目前橫洲項目爭議頗多，由程序公義到廉政，皆有疑點。透過此抽出具爭議項目的機制，政府可有更多時間準備，回答公眾質詢，理順橫洲項目；亦不會妨礙基本工程儲備基金整體撥款中其餘項目之進度。

懇請主席閣下，將上述納入2017年3月17日財委會議程。萬分感謝，順祝春安。

此致
立法會財務委員會主席陳健波議員

立法會議員 朱凱迪
立法會議員 姚松炎 謹啟

2017年3月9日

CAPITAL WORKS RESERVE FUND

Memorandum Note

The Capital Works Reserve Fund (CWRF) was established with effect from 1 April 1982 by Resolution of the Legislative Council on 20 January 1982 for the purpose of financing the Public Works Programme and the acquisition of land. The first Resolution was subsequently replaced by a second Resolution on 27 July 1983. For the purpose of giving effect to arrangements for implementing paragraph 6 of Annex III to the Joint Declaration of the Government of the United Kingdom and the Government of the People's Republic of China signed in Beijing on 19 December 1984, the 1983 Resolution was replaced by a third Resolution passed by the Legislative Council on 15 May 1985. On 13 January 1988, the Legislative Council passed an amendment to the Resolution which effected the transfer of the financing of capital subventions and major systems and equipment from the General Revenue Account to the Fund with effect from 1 April 1988. On 6 November 1991, the Legislative Council passed an amendment to the Resolution to include provisions for government borrowings to be credited to the Fund and for repayments, and payment of interest and expenses relating to such borrowings, to be made from the Fund. As consequential amendments to the New Territories Land Exchange Entitlements (Redemption) Ordinance enacted on 12 December 1996, the Resolution was amended to include provisions for the payment of redemption money payable in respect of land exchange entitlements and of interest payable thereon under the New Territories Land Exchange Entitlements (Redemption) Ordinance. These amendments took effect when the Ordinance came into operation on 27 June 1997. Following the handover on 1 July 1997, the Resolution was amended by the Provisional Legislative Council on 17 December 1997 to remove provisions concerning the sharing of land premium under paragraph 6 of Annex III to the Joint Declaration as these provisions had become obsolete. The amended Resolution came into effect on 1 January 1998.

2 The Resolution provides that—

- (a) the Fund be administered by the Financial Secretary, who may delegate his power of administration to other public officers;
- (b) there be credited to the Fund—
 - (i) premium income received from land transactions;
 - (ii) all moneys received arising from works or commitments entered into for the purposes of the Fund;
 - (iii) unclaimed deposits in respect of moneys referred to in subparagraph (ii) which have been unpaid for 5 years;
 - (iv) such appropriations from general revenue as may be approved by the Provisional Legislative Council or Legislative Council;
 - (v) sums borrowed under section 3 of the Loans Ordinance (Cap. 61) where the resolution of the Provisional Legislative Council or Legislative Council approving the borrowing so stipulates;
 - (vi) all moneys received by way of interest or dividends earned in respect of moneys held in the Fund; and
 - (vii) such donations and other moneys as may be received for the purposes of the Fund;
- (c) the Financial Secretary may expend moneys from the Fund for—
 - (i) the purposes of the Government's public works programme;
 - (ii) the purchase and installation of equipment consequential on implementing the public works programme;
 - (iii) the development, purchase and installation of major systems and equipment used by the Government;
 - (iv) capital subventions;
 - (v) the acquisition of land; and
 - (vi) the payment of redemption money payable in respect of land exchange entitlements and of interest payable thereon under the New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap. 495);

in accordance with such conditions, exceptions and limitations as may be specified by the Finance Committee;
- (d) the Financial Secretary may—
 - (i) transfer from the Fund to the general revenue any balance in the Fund which is not required for the purposes of the Fund;
 - (ii) repay the principal, interest thereon and expenses incurred in relation to sums borrowed under section 3 of the Loans Ordinance (Cap. 61) where such sums have been credited to the Fund; and
 - (iii) in his discretion, authorise the investment in such manner as he may determine of any moneys held in the Fund at any time; and
- (e) the Director of Accounting Services shall, under the authority of a funds warrant issued by the Financial Secretary, pay from the Fund such sums as may be required to meet expenditure from the Fund.

CAPITAL WORKS RESERVE FUND

3 In accordance with the terms of the Resolution, all revenue from land transactions has been paid into the Fund from 1 January 1998.

4 Expenditure from the Fund is limited in respect of each subhead by the allocation shown under the column headed 'Estimate 2017-18' in the Fund estimates, and this may not be exceeded in 2017-18 without the prior approval of the Financial Secretary. For all Category A projects, the approved project estimate of each project was that approved by the Finance Committee of the Legislative Council or the Financial Secretary acting under delegated power. Approvals up to 31 December 2016 are included. The total commitment incurred may not exceed the approved project estimate, which in turn may not be altered without the prior approval of the Finance Committee or the Financial Secretary acting under delegated power. For block allocations under the various expenditure heads, the approved allocation for each block allocation for 2016-17 was that approved by the Finance Committee or the Financial Secretary acting under delegated power. Expenditure of any amount in excess of the approved allocation requires prior approval of the Finance Committee or the Financial Secretary acting under delegated power. As at 31 December 2016, the provisions for block allocations for 2017-18 are subject to funding approval of the Finance Committee.

5 The balance available in the Fund as at 1 April 2017 is estimated to be about \$87,180 million. It is estimated that during 2017-18, about \$101,000 million will be paid into the Fund from premium income received from land transactions. In addition, about \$2,750 million is expected to accrue to the Fund from investment income on its balances during 2017-18, and about \$38 million from donations and contributions. The Fund will thus have receipts of about \$103,788 million in 2017-18 which, taken together with the opening balance and the transfer of \$4,500 million from general revenue, will have available about \$195,468 million to meet estimated payments of about \$91,654 million, including about \$77 million of estimated interest and other expenses on government bonds issued in July 2004, during 2017-18. The Fund will have an estimated balance of about \$103,814 million as at 31 March 2018.

6 There are 11 heads of expenditure under the Fund, covering the following—

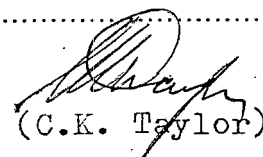
- (a) Land Acquisition (Head 701),
- (b) Public Works Programme (Heads 702 to 707, 709 and 711),
- (c) Capital Subventions and Major Systems and Equipment (Head 708), and
- (d) Computerisation (Head 710).

EXTRACT

9

**FROM THE NOTES ON DECISIONS
OF THE
FINANCE COMMITTEE OF THE LEGISLATIVE COUNCIL**

The following is an extract from the notes on decisions taken at/~~points raised after~~ the meeting of the Finance Committee held on 21 DEC 1983


(C.K. Taylor)

Deputy Clerk of Councils

Date:

Item No. B.98

- HEAD 701 - LAND ACQUISITION
- HEAD 703 - BUILDINGS
- HEAD 705 - ENGINEERING
- HEAD 707 - NEW TOWNS AND PUBLIC HOUSING
(OTHER THAN HOUSING AUTHORITY)
- HEAD 709 - WATERWORKS

BLOCK ALLOCATIONS

CAPITAL WORKS RESERVE FUND

Members approved allocations totalling \$1,220,850,000 for the financial year 1984-85 under the Capital Works Reserve Fund as outlined at Enclosure (8).

FIN P6/258

*22.03 4 blocks allocated
27.04 17 blocks total payment
28.04 28 blocks*

- 1 -
- 25 -

Item B.98 HEAD 701 - LAND ACQUISITION
(FIN P6/258) HEAD 703 - BUILDINGS
HEAD 705 - ENGINEERING
HEAD 707 - NEW TOWNS AND PUBLIC HOUSING
(OTHER THAN HOUSING AUTHORITY)
HEAD 709 - WATERWORKS

BLOCK ALLOCATIONS

CAPITAL WORKS RESERVE FUND

Members are invited to approve allocations totalling \$1,220,850,000 for the financial year 1984-85 under the Capital Works Reserve Fund as listed at Enclosure 3.

Introduction

The Capital Works Reserve Fund (CWRF) was established on 20 January 1982 for the purpose of financing the Public Works Programme (PWP) and the acquisition of land. The Resolution of the Legislative Council setting up the CWRF stated, inter alia, that the Financial Secretary may expend moneys from the Fund for the purposes of the Government's PWP and for the acquisition of land in accordance with such terms and conditions as are approved by Finance Committee.

2. Only projects in Category A of the PWP are funded; each such project has a project estimate which is submitted to Members for approval on the recommendation of Public Works Sub-Committee. Expenditure against each project may not in total exceed the approved project estimate without Members' further approval of an increase in the approved project estimate.

3. A small number of items under each Head of the CWRF - the block allocations - are funded on a year-to-year basis and have no approved project estimate. Expenditure against each block allocation in one year may not exceed the allocation approved for it by Members annually. Before the CWRF was established in 1982, this was done in the context of the Estimates.

/4. The ..

4. The estimated expenditure under the CWRF, as shown in the blue pages of the 1983-84 Estimates, was noted by Members on 23 February 1983. However, it is now considered that, to accord with the Resolution setting up the CWRF, Members' specific approval should be sought each year for the funds to be shown in the Estimates for each block allocation. This item seeks Members' approval for block allocations to be shown in the 1984-85 Estimates.

HEAD 701 - LAND ACQUISITION

5. Allocation of \$35,000,000 is sought for compensation for surrenders and resumptions: miscellaneous for resumption costs for projects to be undertaken by the Urban Council and the Housing Authority. Expenditure against this allocation up to 30 November 1983 was \$7,339,118 and the revised estimate for 1983-84 is \$29,000,000 against an allocation of \$35,000,000.

6. Allocation of \$50,000 is sought for demolition expenses and ex-gratia compensation for dangerous buildings for emergency works on dangerous buildings on land that has reverted to the Crown and for the payment of ex-gratia compensation to tenants in the event of demolition being necessary. There has been no expenditure against this allocation up to 30 November 1983 and the revised estimate is \$50,000 against an allocation of \$50,000.

7. Allocation of \$1,100,000,000 is sought for compensation and ex-gratia allowances for the PWP to meet all land acquisition costs, other than direct works costs, in respect of projects in the PWP. Expenditure against this block allocation up to 30 November 1983 was \$601,673,677 and the revised estimate for 1983-84 is \$1,100,000,000 against an allocation for 1983-84 of \$1,557,450,000.

HEAD 703 - BUILDINGS

8. Allocation of \$500,000 is sought for minor outstanding building items as an arbitrary amount which may be used initially for urgent payments in respect of minor outstanding works to a value not exceeding \$100,000 on any building project which has been substantially completed and for which there is no subhead in the CWRF estimates. New subheads will be created for such projects during the year, and once these are created, the expenditure will be transferred to the new subheads. The total debit against this block allocation as at 30 November 1983 was \$32,606. This will have been cleared by 31 March 1984, and there will thus be no net expenditure during the current financial year.

/9. Allocation ...

- 4 -

9. Allocation of \$18,000,000 is sought for minor building works selected from items in Category D of the PWP. Projects approved for inclusion in Category D by the Financial Secretary under delegated authority will be funded up to the limit of the allocation agreed by Members on a first-come-first-served basis. Projects included in Category D after the approved allocation has been fully committed will be held over until the following year. Works funded under this block allocation include fitting-out of leased government office accommodation, minor improvements to existing buildings and small recreation facilities and amenities in the urban areas and rural New Territories. Expenditure up to 30 November 1983 on minor works selected from Category D of the PWP was \$6,036,194 and the revised estimate for 1983-84 is \$13,245,000. The estimate of \$18,000,000 for the funds required in 1984-85 compares with \$14,000,000 approved for 1983-84. The increased allocation sought is to recognize the increase in the financial limit from \$500,000 per project to \$1,500,000 per project agreed by Members on 9 March 1983.

10. Allocation of \$3,000,000 is sought for minor investigations for building projects for expenditure on minor site investigation works costing not more than \$250,000 in respect of each site. For 1983-84, the financial limit for individual investigations to be charged to this block allocation was \$100,000. This limit has not proved realistic, and it has not been possible to fund the majority of investigations needed within it. As site investigations are now required for all projects before detailed design can begin, it is proposed that the limit be raised to \$250,000 so that all investigations other than very major ones (for which separate projects in Category A will be sought) can be charged to this block allocation. Expenditure on minor investigations up to 30 November 1983 was \$152,799 and the revised estimate for 1983-84 is \$1,000,000 against an allocation of \$3,000,000.

HEAD 705 - ENGINEERING

11. Allocations of \$200,000 each are sought for minor outstanding civil engineering items and minor outstanding highways items as arbitrary amounts which may be used for these purposes and in accordance with the procedures described in paragraph 8. There has been no debit against either of these block allocations up to 30 November 1983, and none is anticipated during the current financial year.

/12. Allocations ...

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12. Allocations of \$2,800,000 and \$6,000,000 respectively are sought for minor civil engineering works selected from items in Category D of the PWP and minor highway works selected from items in Category D of the PWP, to be applied in accordance with the procedures described in paragraph 9. Works funded under these block allocations include minor civil engineering and highway works, including improvements to existing facilities, in Hong Kong, Kowloon and the rural New Territories. Expenditure up to 30 November 1983 on minor civil engineering works selected from Category D of the PWP was \$417,723 and the revised estimate for 1983-84 is \$1,186,000. The estimate of \$2,800,000 for the funds required in 1984-85 for minor civil engineering works compares with \$1,800,000 approved for 1983-84. Expenditure up to 30 November 1983 on minor highway items selected from Category D of the PWP was \$764,572 and the revised estimate for 1983-84 is \$2,811,000. The estimate of \$6,000,000 for the funds required in 1984-85 for minor highway works compares with \$4,500,000 originally approved for 1983-84. The increased allocations sought are to recognize the increase in the financial limit from \$500,000 per project to \$1,500,000 per project agreed by Members on 9 March 1983.

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13. Allocations of \$1,000,000 and \$500,000 respectively are sought for minor investigations for civil engineering projects and minor investigations for highway projects for expenditure on minor site investigation works costing not more than \$250,000 in respect of each site. As with the allocation described in paragraph 10, the financial limit for individual investigations to be charged to these block allocations is currently \$200,000 and it is similarly proposed to raise the limit to \$250,000. Expenditure on minor investigations for civil engineering projects up to 30 November 1983 was \$195,481 and the revised estimate for 1983-84 is \$763,000 against an allocation of \$1,000,000. There has been no expenditure up to 30 November 1983 on minor investigations for highway projects, and the revised estimate for 1983-84 is \$350,000 against an allocation of \$450,000.

10

14. Allocation of \$14,000,000 is sought for traffic engineering works for pedestrian and vehicular aids and Mass Transit Railway traffic management and associated works. Expenditure against this allocation up to 30 November 1983 was \$2,648,114 and the revised estimate for 1983-84 is \$10,500,000 against an allocation of \$10,500,000.

/15. Allocation ...

11 15. Allocation of \$7,500,000 is sought for minor roads and bridges for minor reconstruction, improvements (street widening, bus bays and traffic islands) and construction of footpaths in Hong Kong, Kowloon and the rural New Territories. Expenditure under this allocation up to 30 November 1983 was \$2,084,420 and the revised estimate for 1983-84 is \$6,800,000 against an allocation of \$7,500,000.

12 16. Allocation of \$12,000,000 is sought for works contingent on development for modifications to public roads, drains and sewers contingent on development. Expenditure under this allocation up to 30 November 1983 was \$4,226,619 and the revised estimate for 1983-84 is \$11,000,000 against an allocation of \$12,000,000.

HEAD 707 - NEW TOWNS AND PUBLIC HOUSING (OTHER THAN HOUSING AUTHORITY)

13 17. Allocation of \$500,000 is sought for minor outstanding new towns and public housing (other than Housing Authority) items as an arbitrary amount which may be used in the same way as the allocation described in paragraph 8. There has been no debit against this block allocation up to 30 November 1983, and none is anticipated during the current financial year.

14 18. Allocation of \$8,900,000 is sought for minor new towns and public housing (other than Housing Authority) works selected from items in Category D of the PWP as described in paragraph 9. Works funded under this block allocation include minor development works and small recreation facilities and amenities in the new towns. Expenditure up to 30 November 1983 against this allocation was \$181,369 and the revised estimate for 1983-84 is \$2,122,000. The estimate of \$8,900,000 for the funds required in 1984-85 compares with \$3,237,000 approved for 1983-84. The increased allocation sought is to recognize the increase in the financial limit from \$500,000 per project to \$1,500,000 per project agreed by Members on 9 March 1983.

16 19. Allocation of \$2,000,000 is sought for minor investigations for new towns and public housing (other than Housing Authority) projects for expenditure on minor site investigation works costing not more than \$250,000 in respect of each site. As with the allocation described in paragraph 10, the financial limit for individual investigations to be charged to this block allocation is currently \$100,000, and it is now proposed to raise the limit to \$250,000. Expenditure on minor investigations up to 30 November 1983 was \$121,452 and the revised estimate for 1983-84 is \$605,000 against an allocation of \$900,000.

/20. Allocation ...

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20. Allocation of \$5,600,000 is sought for minor landscaping works in the New Towns for minor amenity planting and landscaping to unallocated Crown Land within the New Town lay-outs, costing less than \$200,000 for each site. In previous years, this block allocation was entitled "minor development works each costing less than \$200,000". The change in ambit of this allocation is proposed to reflect the type of works most frequently funded by it, and to exclude works for which funds are provided from other sources. Expenditure up to 30 November 1983 on minor development works was \$1,513,325 and the revised estimate for 1983-84 is \$4,872,000. The estimate of the allocation required in 1984-85 is \$5,600,000, which is the same as that approved for 1983-84.

HEAD 709 - WATERWORKS

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21. Allocation of \$100,000 is sought for minor outstanding waterworks items as an arbitrary amount which may be used for this purpose in accordance with the procedures described in paragraph 8. The total debit against this block allocation as at 30 November 1983 was \$12,897. This will have been cleared by 31 March 1984, and there will thus be no net expenditure during the current financial year.

18

22. Allocation of \$2,000,000 is sought for minor waterworks selected from items in Category D of the PWP as described in paragraph 9. Works funded under this block allocation include minor local supplies works and minor improvements to existing facilities. Expenditure up to 30 November 1983 on minor works selected from Category D of the PWP was \$10,011 and the revised estimate for 1983-84 is \$648,000. The estimate of \$2,000,000 for the funds required in 1984-85 compares with \$415,000 approved for 1983-84. The increased allocation sought is to recognize the increase in the financial limit from \$500,000 per project to \$1,500,000 per project agreed by Members on 9 March 1983.

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23. Allocation of \$1,000,000 is sought for minor investigations for waterworks projects for expenditure on minor site investigation works costing not more than \$250,000 in respect of each site. As described in paragraph 10, the financial limit for individual investigations of this kind is \$100,000 and it is proposed that the limit be raised to \$250,000. There has been no expenditure on minor investigations up to 30 November 1983 as it has not been possible to undertake any investigations within the present limit of \$100,000 per site.

<u>Head</u>	<u>Title</u>	<u>Allocation for 1983-84</u>	<u>Expenditure from 1.4.83 to 30.11.83</u>	<u>Revised estimate for 1983-84</u>	<u>Estimate 1984-85</u>
		\$	\$	\$	\$
701 - Land Acquisition	Compensation for surrenders and resumptions : Miscellaneous	35,000,000	7,339,118	29,000,000	35,000,000
	Demolition expenses and ex-gratia compensation for dangerous buildings	50,000	-	50,000	50,000
	Compensation and ex-gratia allowances for the Public Works Programme	1,557,450,000	601,673,677	1,100,000,000	1,100,000,000
	Sub-total	1,592,500,000	609,012,795	1,129,050,000	1,135,050,000
703 - Buildings	Minor outstanding building items	500,000	32,606*	-	500,000
	Minor building works selected from items in Category D of the Public Works Programme	14,000,000	6,036,194	13,245,000	18,000,000
	Minor investigations for building projects	3,000,000	152,799	1,000,000	3,000,000
	Sub-total	17,500,000	6,221,599	14,245,000	21,500,000
705 - Engineering	Minor civil engineering works selected from items in Category D of the Public Works Programme	1,800,000	417,723	1,186,000	2,800,000
	Minor outstanding civil engineering items	200,000	-	-	200,000
	Minor investigations for civil engineering projects	1,000,000	195,481	763,000	1,000,000
	Traffic engineering works	10,500,000	2,648,114	10,500,000	14,000,000
	Minor roads and bridges	7,500,000	2,084,420	6,800,000	7,500,000
	Works contingent on development	12,000,000	4,226,619	11,000,000	12,000,000

<u>Head</u>	<u>Title</u>	<u>Allocation for 1983-84</u>	<u>Expenditure from 1.4.83 to 30.11.83</u>	<u>Revised estimate for 1983-84</u>	<u>Estimate 1984-85</u>
		\$	\$	\$	\$
	Minor highway engineering works selected from items in Category D of the Public Works Programme	4,500,000	764,572	2,811,000	6,000,000
	Minor outstanding highway items	300,000	-	-	200,000
	Minor investigations for highway projects	450,000	-	350,000	500,000
	Sub-total	<u>38,250,000</u>	<u>10,336,929</u>	<u>33,410,000</u>	<u>44,200,000</u>
707 - New Towns and Public Housing (other than Housing Authority)	Minor investigations for new towns and public housing (other than Housing Authority) projects	900,000	121,452	605,000	2,000,000
	Minor landscaping works in the new towns	5,600,000	1,513,325	4,872,000	5,600,000
	Minor new towns and public housing (other than Housing Authority) works selected from items in Category D of the Public Works Programme	3,237,000	181,369	2,122,000	8,900,000
	Minor outstanding new towns and public housing (other than Housing Authority) items	500,000	-	-	500,000
	Sub-total	<u>10,237,000</u>	<u>1,816,146</u>	<u>7,599,000</u>	<u>17,000,000</u>

<u>Head</u>	<u>Title</u>	<u>Allocation for 1983-84</u>	<u>Expenditure from 1.4.83 to 30.11.83</u>	<u>Revised estimate for 1983-84</u>	<u>Estimate 1984-85</u>
		\$	\$	\$	\$
709 - Waterworks	Minor waterworks selected from items in Category D of Public Works Programme	415,000	10,011	648,000	2,000,000
	Minor outstanding waterworks items	100,000	12,897*	-	100,000
	Minor investigations for waterworks projects	100,000	-	-	1,000,000
	Sub-total	615,000	22,908	648,000	3,100,000
	Total	<u>1,659,102,000</u>	<u>627,410,377</u>	<u>1,184,952,000</u>	<u>1,220,850,000</u>

* These represent the current debits against the allocations, which will be cleared on creation of the necessary subheads by debiting the new subheads and crediting the subheads with token allocations for this purpose.

敬啟者

關於：『緩解基本工程儲備基金「整體撥款」爭議之建議』議程項目

3月9日，我等向財務委員會主席閣下致函，題為「關於：就2017年3月17日財務委員會提出議程項目」，內容為要求主席閣下，於即將舉行之財委會，加入『緩解基本工程儲備基金「整體撥款」爭議之建議』此一議程項目，並討論我等草擬之議案。

日前，我等就此收到本會秘書處轉交之政府信件，現謹回覆及補充如下。

【甲：關於原議案是否符合法例、議事程序及會議規則】

(一) 議案絕對與財委會權責相關，並有先例

查我等之議案，原文為：

根據香港法例第2章《公共財政條例》第8條第3款，及／或香港附屬法例2A《基本工程儲備基金》中的註1所提述的臨時立法會於1997年12月17日根據《公共財政條例》(第2章)第29(1)條提出和通過的決議中的(c)款，自2017/18立法年度開始，財務委員會就基本工程儲備基金整體撥款機制中，轉授財政司司長權力的「指明條件、例外情況及限制」，加入修訂如下：

如不少於20名立法會議員於財務委員會審議基本工程儲備基金整體撥款建議期間提出書面要求，政府須將個別項目從有關撥款建議中抽出，提交財務委員會另行審批。

而政府信件則回覆：

4. 政府認為議案援引題述第2章和第2A章的兩項條文，並無法律依據。
5. 議案所提修訂，是指修訂財委會會議在審批基金整體撥款時所依循的程序。至於第2章第8(3)條，則關於財委會在轉授權力予財政司司長根據第2章第8(1)條核准修改“核准開支預算”時可指明的條件。
6. 同樣，議案所提修訂，與財政司司長可如何根據第2A章(c)段支用財委會所批准的基金款項，兩者並不相關。
7. 因此，議案不屬第2章第8(3)條和第2A章(c)段的准許範圍，由於不合規程，議案不應被納入財委會會議的議程。

我等之議案（下稱「原議案」）其實已於正文中清楚指出，我等之議案，是針對既有財委會就轉授予財政司司長修改核准預算權力，或就《基本工程儲備基金》開支建議所設定之「條件、例外情況及限制」，並建議在現時的「條件、例外情況及限制」加入我等提出的內容。

而財委會就「條件、例外情況及限制」之審議權力，正正是來自《公共財政條例》第8條及／或附屬法例第2A章《基本工程儲備基金》。

本委員會自1983年以來，已多次討論和審議，至少包括1983年3月9日、1987年12月9日、1989年4月12日、1991年8月9日、1995年3月9日、2007年11月2日、2012年7月13日的立法會財委會，俱曾討論此等「條件、

例外情況及限制」的內容，絕對有先例可援。主席閣下理應接納。

(二) 參考手冊有明文涵蓋

同時，查《香港特別行政區立法會歷史、規則及行事方式參考手冊》第 12.77 段，指出：

「《財務委員會會議程序》第 21 段提及的議案，可包括有關修訂委員會及／或其轄下小組委員會的會議程序的議案、以及對根據《公共財政條例》(第 2 章)第 8(3)條轉授予財政司司長的權力施加條件、例外情況或限制的議案，或就根據第 2 章第 29 條設立的各項基金的相關決議下的開支建議指明條款及條件的議案」。

我等提出的議案，至少屬於第三種情況「根據第 2 章第 29 條設立的各項基金的相關決議下的開支建議指明條款及條件的議案」，對財政司司長提出新的授權，故此並非如政府回信第五段所指，是為了修訂財委會會議在審批基金整體撥款時「所依循的程序」。

(三) 議案符合法例原意

政府回信的第六段指，「議案所提修訂，與財政司司長可如何根據第 2A 章(c)段支用財委會所批准的基金款項，兩者並不相關」。我等認為政府的理解並不正確，查香港附屬法例 2A《基本工程儲備基金》所指，「財政司司長可由基金支用款項.....但須按照財務委員會所指明的條件、例外情況及限制行事」，說明(1)提出「條件、例外情況及限制」的主導權在財委會；(2)「條件、例外情況及限制」的範圍亦可由財委會決定。

由於目前「基本工程儲備基金整體撥款機制」是根據第 2 章第 8 條第 3 款及／或第 2A 章的授權而設立，我等提出的議案只是遵循過去的授權方式，更新授權，因此沒有理由說議案與兩條法例不相關。政府指議案與第 2 章第 8 條第 3 款及／或第 2A 章無關，實際上是否定了財委會主動修訂授權的權力，與法例的原則相違背。

我等認為，政府回覆之解釋，行文十分粗疏，法律理據有欠闡述，對於何謂不相關之說明亦欠奉。在反對我等議案前，政府實應先行釐清，於財委會就轉授予財政司司長權力之「條件、例外情況及限制」一事而言，財委會權責如何，相關及不相關的範圍又如何。

(四) 權責屬財委會，故財委會須先有決議，方可考慮是否修改任何議事程序

就政府之信件，立法會助理秘書長薛鳳鳴小姐今天(3月15日)向我等口頭提及，從修訂議事程序的方法去改革現行機制，或者亦是一個可能。

就此，我等希望指出，按《公共財政條例》第 8 條及／或附屬法例第 2A 章《基本工程儲備基金》，指明財委會轉授予財政司司長修改核准預算權力之「條件、例外情況及限制」之權力，屬財務委員會。

即，若要修訂「條件、例外情況及限制」之內容，無論「原議案」是否牽涉修訂《財務委員會議事程序》，本委員會必須先行審議，方可交議事規則委員會討論、考慮或建議，因為議事規則委員會，並無權責，決定上述「條件、例外

情況及限制」之內容。

即，財委會有權力及責任，按照法例，討論及修訂「條件、例外情況及限制」之內容（「原議案」）。而財委會主席閣下，亦可按照《議事規則》第 92 段，以主席剩餘權力，主持相關會議。至於是否需要修訂《財務委員會議事程序》，令將來之操作更順暢，則可容後再議。

（五）措辭之輕微修訂

今午（3 月 15 日）助理秘書長薛小姐建議「原議案」之措辭，應稍為修訂如下，我等願意接納。

根據香港法例第 2 章《公共財政條例》第 8 條第 3 款，及／或香港附屬法例 2A 《基本工程儲備基金》中的註 1 所提述的臨時立法會於 1997 年 12 月 17 日根據《公共財政條例》（第 2 章）第 29(1)條提出和通過的決議中的(c)款，自 2017/18 ~~立法財政~~年度開始，財務委員會就基本工程儲備基金整體撥款機制中，轉授財政司司長權力的「指明條件、例外情況及限制」，加入修訂如下：

如不少於 20 名立法會議員於財務委員會審議基本工程儲備基金整體撥款建議期間提出書面要求，政府須將個別項目從有關撥款建議中抽出，提交財務委員會另行審批。

【乙：原議案的修訂版本】

考慮到政府信件意見，我等在不撤回原議案的前提下，亦願意提出以下數個原議案之修訂版本，即意涵與原議案接近，以供主席閣下考慮。我等理解，主席可連同原議案，全數接納，供本委員會參詳，並作合併辯論。

（一）修訂議案一

財務委員會就基本工程儲備基金下，開支總目 701 分目 1004CA、總目 701 分目 1100CA、總目 705 分目 5001BX，維持財政司司長現有授權上限，即不設撥款限額；就開支總目 706 分目 6101TX，亦維持財政司司長現有授權上限，即 7,500 萬元；就開支總目 710 分目 A007GX，亦維持財政司司長現有授權上限，即 1,000 萬元；就基本工程儲備基金整體撥款所包括的其餘 21 個開支分目，亦維持財政司司長現有授權上限，即 3,000 萬元；以便財政司司長可批准把各類丁級工程項目納入工務計劃。然而，自 2017/18 財政年度基本工程儲備基金開始，以上授權項目，不可包括不少於 20 名立法會議員於財務委員會審議基本工程儲備基金整體撥款建議期間，提出書面要求從整體撥款建議中抽出之個別項目；已簽訂承辦合約的項目除外。

（二）修訂議案二

財務委員會就基本工程儲備基金下，開支總目 701 分目 1004CA、總目 701 分目 1100CA、總目 705 分目 5001BX，維持財政司司長現有授權上限，即不設撥款限額；就開支總目 706 分目 6101TX，亦維持財政司司長現有授權上限，即 7,500 萬元；就開支總目 710 分目 A007GX，亦維持財政司司長現有授權上限，即 1,000 萬元；就基本工程儲備基金整體撥款所包括的其餘 21 個開支分目，亦維持財政司司長現有授權上限，即 3,000 萬元；以便財政司司長可批准把各類丁級工程項目納入工務計劃。然而，自 2017/18 財政年度基本工程儲備基金開

始，以上授權項目，不可包括不少於 35 名立法會議員於財務委員會審議基本工程儲備基金整體撥款建議期間，提出書面要求從整體撥款建議中抽出之個別項目；已簽訂承辦合約的項目除外。

(三) 修訂議案三

財務委員會就基本工程儲備基金下，開支總目 701 分目 1004CA、總目 701 分目 1100CA、總目 705 分目 5001BX，維持財政司司長現有授權上限，即不設撥款限額；就開支總目 706 分目 6101TX，亦維持財政司司長現有授權上限，即 7,500 萬元；就開支總目 710 分目 A007GX，亦維持財政司司長現有授權上限，即 1,000 萬元；就基本工程儲備基金整體撥款所包括的其餘 21 個開支分目，亦維持財政司司長現有授權上限，即 3,000 萬元；以便財政司司長可批准把各類丁級工程項目納入工務計劃。然而，自 2017/18 財政年度基本工程儲備基金開始，對以上授權項目，財務委員會委員可按《財務委員會議事程序》第 21 段，於預告時間不得少於 2 整天的情況下提出議案表決，抽出個別項目；已簽訂承辦合約的項目除外。

【丙·小結】

我等在 2017 年 3 月 9 日向財委會提交的信件，是根據《財務委員會會議程序》第 21 段加入「議程項目」。我等認為，無論財委會主席就議案內容有何判斷，都沒有合理理由禁止將「議程項目」加入 3 月 17 日及／或 3 月 18 日的財委會會議。

我等希望再次強調，即使預算案亦設有修訂機制，然而基本工程儲備基金整體撥款，卻須綑綁審議及表決。此情況顯然是剝奪了《基本法》第 73 條賦予立法會之職能及權責，既不合理，更不合法，令相關審議的公信力長期面臨挑戰，亦造成更多政府與民間的衝突。

無論如何，盼請主席閣下正面回覆，為目前撥款危機，及往後機制之潛在爭議解困，改善行政立法關係，造福香港市民。

此致
財委會主席陳健波議員



立法會議員朱凱迪

立法會議員姚松炎

謹啟

副本抄送：全體財委會委員
財經事務及庫務局局長陳家強教授

2017 年 3 月 15 日