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28 July 2026

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Dear Mr Lam,

Northern Metropolis Development Bill

Thank you for your letter dated 16 July 2026. Our reply to your observations on the Northern Metropolis Development Bill ("the Bill") listed in Appendix to your letter is set out in the Enclosure to this letter.

(Apple LAU)
for Secretary for Development

Encl.

<u>Enclosure</u>

<u>Clause 1(2) and (3) of the Bill</u>

1. It is intended that the following provisions in the Bill are to come into operation on the day on which the Bill (if passed) is published in the Gazette as an Ordinance ("NM Ordinance") –

(i) **Part 1** setting out the short title, commencement and definitions for the interpretation of the Bill, including the definition of the Northern Metropolis ("NM");

(ii) **Part 2 and Schedule 1** declaring certain areas as the NM and providing for the amendment of the areas declared as the NM under specified circumstances; and

(iii) **Clauses 14 and 16** providing for the issuance of Technical Memoranda ("TMs") in relation to specified NM construction work ("NM-TMs"), as well as the related interpretation applicable to Division 4 of Part 3 of the Bill.

2. The reason for the proposed commencement arrangement is that clauses 14 and 16 of the Bill need to commence upon gazettal of the Bill as an Ordinance, so as to enable the Secretary for Environment and Ecology to issue the first NM-TM and specify a date for its commencement. The first NM-TM provides for the operational arrangements of applications for NM construction noise permits, and should take effect **on the same date** as the related subsidiary legislation on noise control in order to complement the relevant provisions in the subsidiary legislation. However, under current arrangement, section 12 of the Noise Control Ordinance (Cap. 400) requires that all TMs shall come into operation

upon the expiration of a vetting period of 28 days or as extended[1], or if a resolution amending the TMs is passed by the LegCo, upon the expiration of the day next preceding the day of the publication in the Gazette of such resolution. This would mean that we cannot specify the commencement date of the NM-TM. Although it is our intent to table both the subsidiary legislation on noise control and the first NM-TM to the LegCo on the same date, there may be scenarios where different commencement dates may arise. For example, the commencement date of the subsidiary legislation on noise control is specified to be a date after the expiration of the full negative vetting period of 49 days, while the NM-TM will take effect immediately upon the expiration of the 28-day vetting period (if not extended). This will cause undue confusion to the public.

3. Hence, for the sake of certainty and clarity, clause 16 of the Bill expressly provides that the first NM-TM comes into operation on the date specified in the NM-TM but not in accordance with section 12 of Cap. 400. This clause needs to come into operation before the first NM-TM is issued.

4. As for the remaining provisions of the Bill, it is intended that they should come into operation on a day to be appointed by notice published in the Gazette, which is to be the same day on which the relevant subsidiary legislation comes into operation. This would allow the core operative provisions of the Bill to come into operation together with the subsidiary legislation, which is necessary for the implementation because the exercise of power given in the Bill will highly hinge on the operational details to be elaborated in the subsidiary legislation. In the event that these provisions of the NM Ordinance and the subsidiary legislation take effect on different dates, the interim period in between will again cause confusion to the public.

5. We expect the commencement date for the remaining provisions of the Bill, the relevant subsidiary legislation and the first NM-TM will likely be in Q1

[1] Section 11 of Cap. 400 requires that all TMs issued shall be published in the Gazette and shall be laid on the table of the Legislative Council ("LegCo") at the next sitting thereof after such publication. Where a TM has been laid on the table of the LegCo, the LegCo may, by resolution passed at a sitting of the LegCo held before the expiration of a period of 28 days after the sitting at which it was so laid, provide that such TM shall be amended in any manner whatsoever consistent with the power to issue such TMs. The LegCo may also by resolution in relation to a TM specified therein, extend that period to the first sitting of the LegCo held not earlier than the 21st day after the day of its expiration.

2027, subject to the timing of passage of the Bill. The commencement date will be set at a date after the completion of the negative vetting period for the subsidiary legislation and the first NM-TM[2].

Clause 3(2) of the Bill

6. The plan as referred in Schedule 1 to the Bill is to be uploaded onto the website of the Development Bureau. While it is not intended for the Secretary for Development to specify such website by a Gazette notice, upon passage of the Bill, we will make known to the public the website in the related press release to ensure that the public know the website on which the plan could be found. In fact, the plan in draft form has already been uploaded onto the website of the Development Bureau, as mentioned in paragraph 5 of the LegCo Brief (see https://www.devb.gov.hk/en/issues_in_focus/planning-lands/dedicated-legislation-to-accelerate-the-developm/index.html).

Clause 4 of the Bill

7. The proposed definition of "Northern Metropolis subsidiary legislation" is only used in Part 4 of the Bill. It is not meant to cover all subsidiary legislation that may be made under the Bill. Rather, only the subsidiary legislation that needs to be covered for the purposes of clauses 24 and 25 of the Bill are included in the definition. Clause 4 of the Bill concerns amendment to the NM area as a whole. A notice made under clause 4 would not provide that it only applies to a specified area within the NM or specified works within the NM. Therefore, we consider it inappropriate to include a notice made under clause 4 in the proposed definition for the purposes of clauses 24 and 25 of the Bill.

8. The proposed definition is only used in Part 4 of the Bill, and does not affect whether notices not mentioned in the definition would be subsidiary legislation or not. Taking into account the definition of "subsidiary legislation" in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), it is clear that a notice made under clause 4 of the Bill would be subsidiary legislation.

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[2] The maximum scrutiny period for subsidiary legislation under negative vetting is 49 days (i.e. 28 + 21 days). For the subsidiary legislation regarding the flow of personnel, we will also take into account the actual opening of the Western Cross-River Link Bridge in determining the commencement date.

In accordance with established practice, it is unnecessary to expressly provide in the Bill that such a notice is subsidiary legislation.

<u>Clause 6(1) of the Bill</u>

9. Clause 6(1) of the Bill provides that the Town Planning Board may, in accordance with the related subsidiary legislation, grant permission for any use or development of any land or building that falls wholly within an area in the NM that is included in a plan under the Town Planning Ordinance (Cap. 131) ("Cap. 131 plan") regardless of whether the relevant Cap. 131 plan for the land or building provides for the grant of such permission. In this relation, the term "use" in clause 6(1) of the Bill is intended to carry its general meaning similar to the usage under Cap. 131. It should be noted that the term "use" is not defined in Cap. 131 as well. We therefore consider it not necessary to expressly provide for the meaning of "use" in the Bill.

<u>Clause 7, 21(6)(b) and 22(1) of the Bill</u>

<u>Clause 7</u>

10. Clause 7 of the Bill provides for the power of the Chief Executive in Council ("CE-in-C") to make regulations on, amongst others, matters relating to the grant of permission under clause 6(1) of the Bill, including the imposition of any limitations or conditions on such grant of permission. We would like to clarify that "limitations or conditions" here refers to the limitations or conditions in exercising the power when granting a permission. For example, this may include a limitation on the maximum period of use or development that may be granted under such permission, or a condition that such permission may only be granted if the application site falls within certain geographical location. As these limitations or conditions may differ across scenarios and change from time to time to cope with the latest development circumstances of the NM, we consider it appropriate to set out these technical details in the subsidiary legislation in order to provide more flexibility for amendment in the future.

11. Separately, for the purpose of imposing conditions to the permission, as in the example of the Environmental Impact Assessment Ordinance (Cap. 499) as quoted in your letter, section 16(5) of Cap. 131 provides that *"any permission*

granted under subsection (3) [of section 16 of Cap. 131] may be subject to such conditions as the Board thinks fit". Since it will be provided in the subsidiary legislation on town planning that the provisions of Cap. 131 apply in relation to the grant of permission under clause 6(1) of the Bill as they apply in relation to the grant of permission under section 16 of Cap. 131, section 16(5) of Cap. 131 shall apply to any permission granted under clause 6(1) of the Bill such that the Town Planning Board may impose any conditions to the permission as it thinks fit.

Clause 21(6)(b)

12. We would like to reiterate that the prescribed financial penalty level in clause 21(6)(b) of the Bill is only the **maximum level** that we may consider to impose, and whether to impose and if so, what the mechanism on financial penalty would be, such as details of the penalty involved, procedures for assessment of such penalty and whether there is any appeal procedures, etc., would be considered at the subsidiary legislation stage for cross-boundary flows later. The implementation details for cross-boundary flows may vary under different scenarios (e.g. different types of cross-boundary flows) and may require executive authorities' continuous review and improvements. We consider it appropriate to leave such detailed matters to be set out in the subsidiary legislation. In this regard, we note that section 7(6A) of the Electoral Affairs Commission Ordinance (Cap. 541) also provides that regulations made under that section may provide for the imposition of a financial penalty and the enforcement of such financial penalties in court.

Clause 22(1)

13. The Government has been promoting industry development in the NM by diversified implementation approaches, and establishing statutory bodies corporate is one of the tools that we may adopt. Although there is no concrete plan for establishing statutory bodies corporate at this stage, to prepare for future needs, we take the opportunity of this legislative exercise to also include an empowering provision in the Bill so that the CE-in-C may establish statutory bodies corporate by making subsidiary legislation when needed in the future.

14. To accelerate and facilitate the development of NM, statutory bodies corporate may have different purposes and powers in response to the prevailing market and development needs, and therefore flexibility should be allowed. As such, it is intended that the CE-in-C may make regulations for establishing statutory bodies corporate for such purposes and with such powers as specified in the relevant subsidiary legislation. This enabling provision will allow the Government to establish statutory bodies corporate in a timely manner and in response to such need which may arise in the future.

Clause 10(2) and (4) of the Bill

(a) Existing practice in handling resumption of tso/tong land

15. Under the existing practice of the Lands Department in handling the resumption of land held in the name of a clan, family or t'ong ("tso/tong"), in the event of objections by any member of the tso/tong, the release of the resumption compensation will normally be withheld pending the resolution or withdrawal of the objections. This existing practice was a decision made to exercise caution in handling resumption compensation in relation to tso/tong land, given the peculiar nature and characteristics of tso/tong, the lack of direct case authorities for the proposition that the consent of all members of the tso/tong must be required for the receipt of resumption compensation by the registered manager(s), and the lack of universally recognised and applicable rules or principles governing the issues that are involved. It has been adopted in the past to minimise the risk of legal challenge that may be faced by the Government.

16. As a result of this state of affairs, some compensation payment in respect of resumed tso/tong land has been held up for many years due to objections from member(s) of the tso/tong. To this end, the Government has explored whether there would be legally viable ways to modify the existing practice with a view to facilitating earlier release of the held up compensation. In view of the lack of direct case authorities for the proposition that the consent of all members of the tso/tong must be required for the receipt of resumption compensation by the registered manager(s) and the lack of other legally viable solutions for resolving the held up cases, it is considered that appropriate legislative amendments would be a legally defensible way to provide the much needed certainty in handling these cases. This would help resolve backlog cases over the years where

compensation payment has been held up, for which interest of the payment accrues since land reversion, as well as similar future cases. Earlier release of the held up compensation will help alleviate the Government's interest burden, so as to better concentrate resources in the actual development of the NM.

(b) and (c) Receipt of land compensation by registered manager(s)

17. We would first clarify that clause 10 of the Bill only concerns the ***receipt*** of payment in relation to land resumption compensation from the Government, which is in the context where the land concerned has already been resumed. Clause 10 of the Bill does not concern the registered managers' dealing with or disposition of tso/tong land (such as sale of tso/tong land), nor the distribution of the land resumption compensation by the registered manager(s) after receiving the same from the Government.

18. As mentioned in paragraphs 15 and 16 above, the problem the Government is facing is largely due to the lack of direct case authorities for the proposition that the consent of all members of the tso/tong must be required for the receipt of resumption compensation by the registered manager(s), and the lack of universally recognised and applicable rules or principles governing the issues that are involved. Clause 10(3) of the Bill therefore expressly provides that the receipt of the compensation by the registered manager(s) is to be regarded as a valid and effectual discharge for the payment of compensation in respect of the resumption of the land.

19. We would also like to clarify that clause 10(3) and (4) of the Bill only provides for the ***effect*** of the receipt of the compensation by the registered manager(s) (if any). Tso/tong are by nature private organisations. The handling or distribution of resumption compensation received from the Government by the registered manager(s) on behalf of the tso/tong are their internal business. The Government does not intend, by the introduction of provisions under clause 10 of the Bill, to alter the legal position regarding the rights between managers and members of the tso/tong. We therefore do not consider it necessary to provide for exemption of liabilities for the registered manager(s) concerned under the Bill.

(d) Consistent with Article 105 of the Basic Law

20. Article 105(1) and (2) of the Basic Law ("BL 105(1) & (2)") requires deprivation of property to be carried out in accordance with law, and requires the provision of real value compensation without undue delay.

21. We would like to reiterate that clause 10 of the Bill concerns the receipt of payment in relation to land resumption compensation from the Government, where clause 10(3) expressly provides that the receipt of the compensation by the registered manager(s) is to be regarded as a valid and effectual discharge for the payment of compensation in respect of the resumption of the land. Clause 10 does not concern the assessment of compensation for resumption of land, or in other words, whether a full and fair compensation has been made.

22. We consider that after the land has been lawfully resumed by the Government, and the Government has paid real value compensation without any undue delay, the requirements for the lawful deprivation of property under BL 105 would have arguably been fulfilled.

(e) Detailed arrangement for effecting compensation payment

23. It is intended that clause 10(2) and (4) of the Bill would apply to all NM land resumed under any specified enactment whether before, on or after the commencement of the Bill. Upon enactment of the NM legislation, the Lands Department will review the outstanding resumption compensation cases where the land resumed is NM land and the land was held in the name of tso/tong immediately before resumption, and identify the eligible cases (i.e. cases with no vacancy in the office of registered manager(s) of the tso/tong but with objection(s) received from members of the tso/tong). For these eligible cases, the Authority may direct payment of compensation (including by way of provisional payment where appropriate) for the resumption of the land to be made to the registered manager(s) of the tso/tong pursuant to clause 10 of the Bill.

Clause 21(4)(o), (p) and (q) of the Bill

24. The giving of directions and the issuance of codes of practice will depend on the nature of the specific cross-boundary flow and related regulation concerned.

For example, in respect of data and bio-samples, it is currently anticipated that directions or codes of practice would be introduced, but the detailed implementation arrangements are still being discussed with the relevant Central Authorities. The directions or codes of practice referred to in the Bill are not subsidiary legislation per se, but the exact implementation arrangements and consequences for failing to comply with a direction or provisions set out in the codes of practice would be finalised at the subsidiary legislation stage later. Clause 21(4)(q) of the Bill has already provided that the regulation may provide for the consequences concerned.

25. For the sake of clarity, the draft subsidiary legislation on the flow of personnel (as enclosed in Annex B5 of the LegCo Brief) will not involve any formulation or issuance of code of practice.

Clause 21(6)(a) of the Bill

26. Clause 21(6)(a) of the Bill sets out the maximum penalty that may be imposed for an offence under the subsidiary legislation on cross-boundary flow, so as to facilitate implementation of the subsidiary legislation. When setting the prescribed penalty level, reference has been made to the Import and Export Ordinance (Cap. 60) where section 6C and 6D of Cap. 60 has provided that the import or export of specified prohibited article without a related import or export licence is an offence, and shall be liable on conviction on indictment to a fine of $2 million and to imprisonment for 7 years at the most. We consider that any contravention or breach of regulation in respect on flow of data, goods or other articles shall be of similar nature and similar seriousness as the import or export of prohibited articles.

Development Bureau
July 2026