

Civil Engineering and Development Department to lodge appeal against judicial review judgment regarding development at former Fanling Golf Course

A spokesman for the Development Bureau (DEVB) said today (December 30) that the Court of First Instance (CFI) had earlier quashed the decision of the Director of Environmental Protection to approve the Environmental Impact Assessment (EIA) report for the development at the former Fanling Golf Course. The Civil Engineering and Development Department (CEDD), as an Interested Party in this judicial review, has lodged an appeal against the judgment to the Court of Appeal.

The spokesman said, "CEDD cannot agree to some parts of the judgment and has therefore decided on the necessity to lodge an appeal. The grounds for the appeal have been set out in detail in the Notice of Appeal. Among other things, while the court's established practice is for the acceptability of an EIA report to be judged by its compliance with the requirements of the Technical Memorandum (TM) and Study Brief (SB), CFI seems to have imposed additional requirements outside the legislation regarding the way an EIA should be conducted and the assessment methodologies adopted. While the TM and SB did not explicitly require an assessment of the potential Old and Valuable Trees, CFI considered that such an assessment should be carried out during the EIA stage; while the court agreed on one hand that the former Fanling Golf Course was not a site of cultural heritage as specified in the TM, on the other hand, it held that the golf course had significant cultural heritage value which could only be fully preserved if it would continue to be used as a golf course and not be used for housing development; besides, CFI held that the EIA of the former Fanling Golf Course development did not take into account the EIA of the Northern Metropolis, but the obvious fact is that the Northern Metropolis belongs to a broad policy initiative covering many aspects and projects at different development stages. The development of the entire Northern Metropolis would span over 20 years or more. Individual projects (such as land development and transportation projects), according to their scale and nature, can only have their EIA conducted at an appropriate time, subject to the progress of their studies and substantial developments as well as actual circumstances.

The spokesman pointed out that the issues above involve the legal and reasonable interpretations of the EIA Ordinance. They do not only concern the EIA report of the proposed housing project at the former Fanling Golf Course, but also widely affect the EIA of other development projects with far-reaching implications. The Government sees the need to lodge an appeal in view of the public interest at large.

Regarding the way forward of the proposed public housing development, the spokesman of DEVB pointed out that the CFI judgment will have substantial impact on the housing yield and the completion date. The progress of review by the Court of Appeal in due course may further affect the proposed housing project. DEVB and CEDD will conduct comprehensive study and assessment based on the latest circumstances, including the housing yield and timetable of the proposed project, the progress of the appeal process, etc. As such, the CEDD would need extra time to conduct the review on the scale of the housing development that was originally scheduled for completion this year.

The spokesman said, "The public housing flat production that can be provided by the land we have secured so far has already exceeded the public housing supply target under the Long Term Housing Strategy for the next 10 years. The Government stressed that this appeal is not solely for the proposed housing project but, more importantly, for seeking clarifications from the Court of Appeal on important subjects concerning the principles and legal issues of the EIA framework. The government policy is to strike a balance between environmental protection and development for the overall benefit of Hong Kong."