

**LegCo Panel on Planning, Lands and Works
Follow-up to the special meeting on 20 February 2002**

**List of information to be provided by the Administration on the
Proposed Charging and Penalty System for Road Opening Works**

1. Proposed fees and charges

- (a) Members note that the proposed charging scheme would recover the full administrative costs incurred by government departments in processing and monitoring Excavation Permits (EPs) based on the "user-pays" principle, and that an additional charge based on the economic cost of traffic delay would be levied for such delay caused by road excavation works carried after expiry of the original permit period. To facilitate Members' consideration of whether the proposed fees and charges are reasonable, please provide a breakdown of each item of the proposed fees and charges showing its cost components, e.g. a breakdown of \$1,860 (Proposed fee for issue of an EP), a breakdown of \$18,000 (Proposed additional daily charge for traffic delay caused to Strategic Roads).
- (b) Please consider contracting out the processing and monitoring of EPs for the purposes of:
 - (i) cost reduction, thus lowering the level of the fees and charges involved; and
 - (ii) enhancing the credibility of the proposed charging and penalty system, as the applications for EPs from government departments and private companies will be processed and monitored by a third party.

2. Criminal liability for breach of EP conditions

Members and the industry strongly believe that government departments should not be above the law. If government departments have committed any criminal act or serious offence, they should be prosecuted. As utility undertakers and other road works promoters will be prosecuted for breach of EP conditions, it is not fair if government departments are exempted from prosecution.

- (a) Please provide the justifications for the Administration's proposal that should government departments breach EP conditions, they will not be prosecuted but will be subject to a reporting mechanism to the Secretary for Works.

- (b) Please provide the details of the "reporting mechanism" mentioned in item (a) above.
- (c) Please provide the legal advice obtained by the Administration on the issue.
- (d) To address the industry's concern, please set out clearly the circumstances under which criminal liability will be imposed on a permittee for breach of EP conditions.

3. Appeal mechanism

Members and the industry consider it essential to have an effective and fair appeal mechanism. Please provide more detailed information about the proposed appeal mechanism, in particular on the following points:

- (a) Different levels of appeal and the proposed composition of the respective Panel/Board handling the appeal; and
- (b) Operation of the appeal mechanism.

4. Possible role conflict of Highways Department

Members note that while the Highways Department would be the authority for processing and monitoring EPs, it would also be a permittee, and the authority for taking law enforcement action against breach of EP conditions. To facilitate Members' consideration of whether there is a role conflict among the various roles of the Highways Department, please provide a comparison table showing several relevant examples of licences/permits issued by the Administration, with the following information:

- (a) the nature of the licences/permits;
- (b) the authorities responsible for issuing the licences/permits; and
- (c) the authorities responsible for taking enforcement action for breach of the conditions of the licences/permits.

5. Cost implications

Please provide an estimate of the additional manpower resources and annual costs required for implementing the proposed charging and penalty system.