

For the meeting
on 16 May 2002

Legislative Council
Panel on Planning, Lands and Works

Speeding Up of Public Works Projects –
Proposed Legislative Amendments

Foreshore and Sea-bed and Roads
(Miscellaneous Amendments) Bill 2002

Introduction

Government is facing increasing expectation from the community to expedite the delivery of public works projects. One of the more time-consuming pre-construction activities involves gazetting of projects under their respective Ordinances/Regulation. This paper sets out our proposal to amend the law so as to shorten the statutory periods for the raising of objections to public works projects and resolving them, and seeks Members' views on it.

The Case for Legislative Amendments

2. Bringing new projects to the construction stage involves a number of inter-related activities, many of which are complex and time consuming. For an average medium-sized civil engineering project, it used to take six years or more for a project to progress from initial concept to commencement of construction.

3. In 2001, Works Bureau together with other bureaux reviewed the procedures. It resulted in the introduction of a number of streamlined pre-tender planning and administrative measures and adoption of accelerated procedures for the selection and award of works consultancies and contracts. As a result, we have successfully reduced the pre-construction leadtime for an average medium-sized civil engineering project to less than four years from inception. Details of the streamlined

programme are set out in Paper no. PWSCI(2001-2002)37. However, this period still falls short of public expectations.

4. Under the existing procedures, works projects involving roadworks, reclamation or sewerage works, except for minor works, are required to be gazetted under the Roads (Works, Use and Compensation) Ordinance (Cap 370) (R(WU&C)O), Foreshore and Sea-bed (Reclamations) Ordinance (Cap 127) (F&S(R)O), and Water Pollution Control (Sewerage) Regulation (Cap 358 sub. leg.) (WPC(S)R) respectively to allow the public to raise objections within a period of two months. Upon expiry of the objection period, Government has a period of nine months, with further extension of six months as may be granted by the Chief Executive (CE), to resolve the objections. If the objections remain unresolved, the relevant Policy Secretary/Department Head will submit the scheme together with details of the objections for consideration by the CE in Council before the expiry of the nine-month period or within the approved extension period as appropriate. Details of the relevant provisions under the existing Ordinances/Regulation are given in the “Background” section of the paper below.

5. The periods stipulated for lodging and resolving objections under the existing legislation can therefore take as much as 11 to 17 months to complete. This makes up a significant portion of the pre-construction leadtime for public works projects. Moreover, many inter-related activities, such as detailed design of projects and land resumption cannot commence until these statutory procedures have been completed and the project scheme duly authorized under the relevant Ordinances/Regulation. Legislative amendments will be necessary if we are to speed up the statutory process for the lodging and resolving of objections.

Proposal

6. Under the existing public consultation procedures, Works Departments are required to present their proposed public works schemes to the relevant District Councils and other concerned parties prior to finalizing the project schemes for gazettal. The public would therefore have sufficient advance knowledge of the project to enable them to raise any objections quickly after a scheme is gazetted. As regards the period

for resolving objections, experience shows that discussions to resolve objections are normally carried out during the initial few months of the nine-month period. Objections that are unresolved during this early period tend to drag on to the end of the nine-month period. The latter part of the nine-month objection resolving period contributes little to reducing the number of unresolved objections that are eventually submitted to the CE in Council for consideration. On the other hand, it causes unnecessary delays to the implementation of public works projects.

7. To meet the public expectation to expedite the delivery of public works projects, we propose to shorten the period for the lodging of objections under the relevant Ordinances/Regulation from two months to one month and the objection resolution period from the maximum of nine months to four months. Furthermore, we also propose to shorten the extension period for resolving objections as may be granted by the CE from the maximum of six months to three months. The shortened periods should still provide adequate time for the public to raise their objections to any works schemes and for their views to be properly considered. A line diagram showing the existing and proposed timeframes for lodging and resolving objections is at **Annex A**.

8. We propose the following transitional arrangements for project schemes that are already gazetted under the relevant Ordinances/Regulation as at the date the legislative amendments come into effect -

- (a) The period for objection shall remain as two months;
- (b) The new four-month period for resolving objections shall be calculated from the date the legislative amendments come into operation or from the expiry of the period of objection whichever is the later, provided that if the expiry of the four-month period so calculated is more than nine months from the expiry of the time for the lodging of objections, the period for resolving objections shall expire on a date nine months from the expiry of the time for the lodging of objections; and
- (c) Any further period for resolving objections that have been granted by the CE prior to the operation of the legislative

amendments shall not be affected. For gazetted projects and objections to which are being dealt with, the further period that may be granted by the CE for the resolution of objections will be limited to three months.

A line diagram demonstrating the proposed transitional arrangements is at **Annex B**.

9. The success in expediting the resolution of objections will depend largely on the mutual co-operation and efforts of both the Government and the objectors. Although the Government can take administrative steps to speed up their part of work, the existence of the nine-month objection resolution period is not conducive to securing an early response of objectors. Legislative amendments are therefore necessary to secure observance of the expedited timeframes by all concerned parties.

Benefits of the Legislative Amendments

10. The proposed legislative amendments will shorten the pre-construction leadtime of public works projects by about six to nine months. During the present economic downturn, an expedited works programme will mean that job opportunities associated with public works could be made available earlier for professional staff and workers. In addition, early completion of public works means that the public could realize the benefits of works (e.g. improved transportation/sewerage) earlier than the original schedule. Thus Government will be able to respond more quickly to the needs of society for improved infrastructure which will also help boost the economy.

Timing for Introduction of the Amendment Bill

11. We are working on a draft Bill to give effect to the proposed legislative amendments. We are planning to complete the drafting and gazette the Bill in June 2002 with a view to introducing it to LegCo on 10 July 2002.

Interim Arrangements

12. Pending the enactment and coming into operation of the amendment Bill, Works Bureau issued a technical circular on 6 May 2002 requiring the relevant Policy Secretary/Department Head to take appropriate administrative steps to resolve objections as far as possible within the proposed expedited timeframe of four months, with an extension of further three months for the more difficult cases. This ensures that the benefits of the expedited procedures are realized as soon as possible.

Background

13. The relevant provisions on the time periods for the raising of objections to public works projects and resolving them under the existing Ordinances/Regulation are as follows:

- (a) Section 10(1) of Roads (Works, Use and Compensation) Ordinance (Cap 370) provides that any person may object to any works or use in connection with a road within a period of 60 days from the date when the works or use is published in accordance with section 8 of that Ordinance. Section 11 provides that the Secretary for Transport may then within a period of nine months submit to the CE in Council the road scheme or use and any unresolved objections for consideration and the CE in Council may decide whether to authorize the scheme or use, with or without conditions. The same section 11 also provides that the CE may, upon application by the Secretary for Transport, extend the nine-month period for resolving objections by not more than six months.
- (b) Similar to the provisions of the R(WU&C)O as described in paragraph (a) above, section 6(1) of the Foreshore and Seabed (Reclamations) Ordinance (Cap 127) provides that any person may object to a reclamation within a period of two months from the date when the reclamation is published.

If an objection cannot be resolved, the Director of Lands may, in accordance with 8(1) of the F&S(R)O, submit the proposed reclamation together with the unresolved objections to the CE in Council for consideration within a period of nine months. Pursuant to the same section, the nine-month period may be extended by the CE for not more than six months.

- (c) Section 26 of the Water Pollution Control (Sewerage) Regulation (Cap 358 sub. leg.) provides that the same procedures for lodging and resolving objections to project schemes as laid down in the R(WU&C)O (including sections 8, 10 and 11 as described in paragraph (a) above) shall apply to sewerage works, except that the duties and powers of the Secretary for Transport under the relevant sections of the R(WU&C)O shall be vested in the Director of Environmental Protection for the purpose of the WPC(S)R.

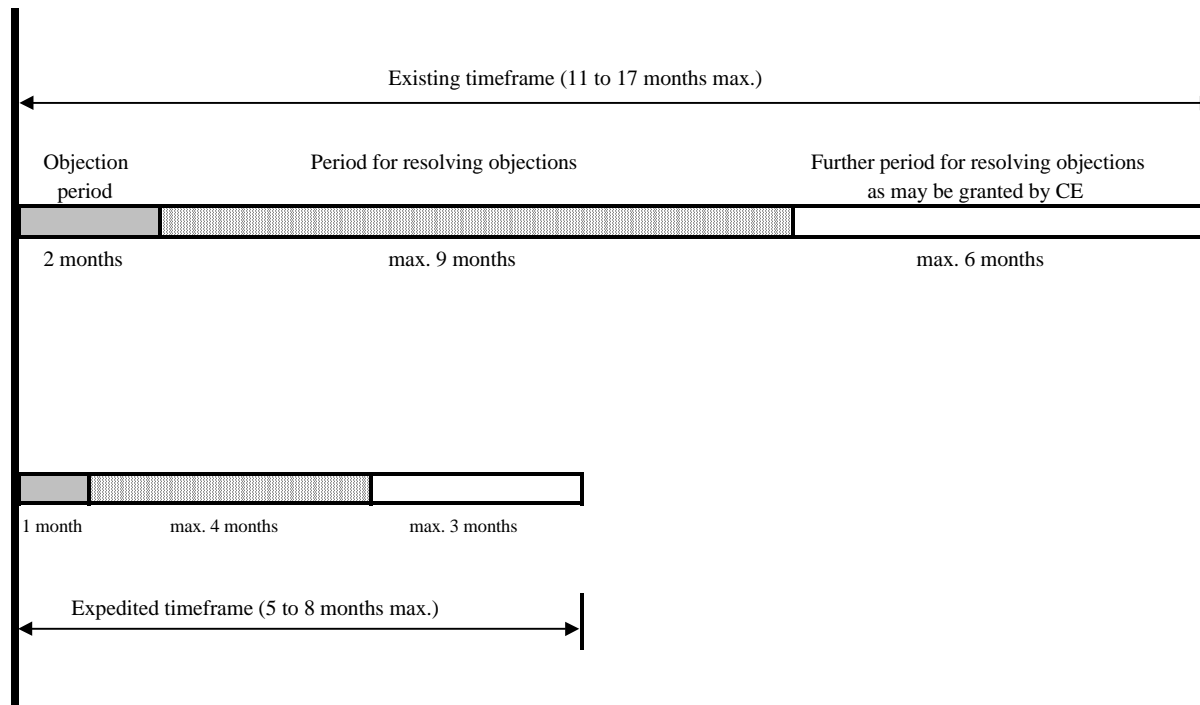
Advice Sought

14. Members are requested to express their views on the above proposal to amend the existing legislation relating to the raising of objections to public works and their resolution.

Works Bureau
May 2002

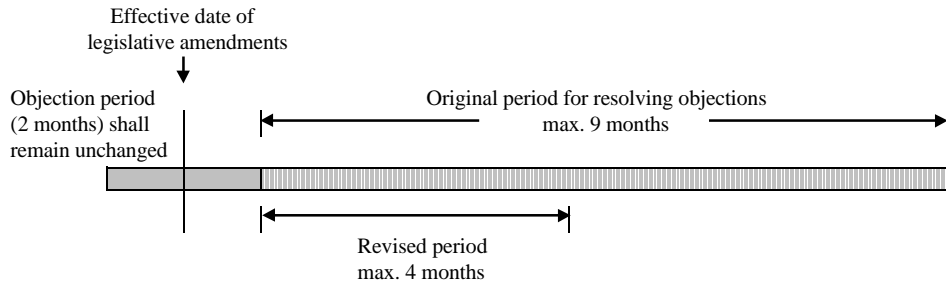
PROPOSED LEGISLATIVE AMENDMENTS

Effective date of
legislative amendments



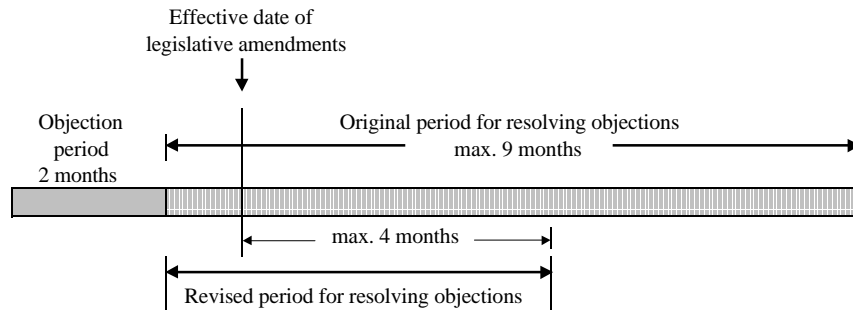
TRANSITIONAL ARRANGEMENTS

Case (a) Projects under objection period

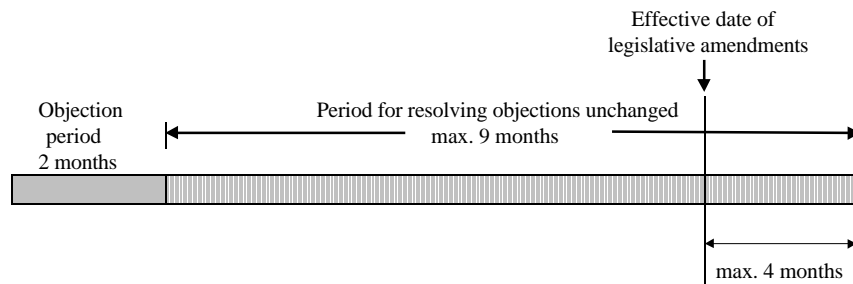


Case (b) Projects in objection resolution stage

Scenario 1

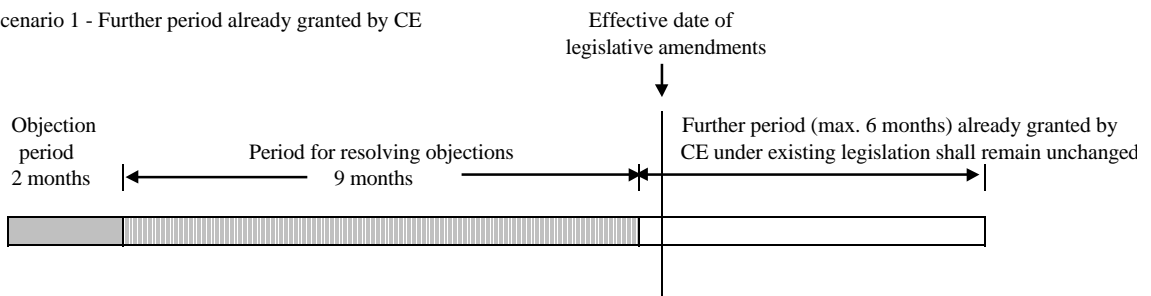


Scenario 2



Case (c) Further period for resolving objections

Scenario 1 - Further period already granted by CE



Scenario 2 - Further period yet to be granted by CE

