

For the meeting
on 6 December 2002

Legislative Council
Panel on Planning, Lands and Works

The Foreshore, Seabed and Roads (Amendment) Bill

Discussion at the Panel Meeting on 16 May 2002

We proposed to amend the Foreshore and Seabed (Reclamations) Ordinance (Chapter 127) (F&S(R)O) and the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (R(WU&C)O) to shorten the periods for raising and resolving public objections to road and reclamation projects with a view to speeding up public works. At the Panel meeting on 16 May 2002 when the proposed amendment Bill¹ was discussed, Members welcomed the speeding up of public works but were concerned that the shortened periods might not be adequate for the public to raise objections and for the Government to resolve the objections.

The Administration's Response -

Proposed Collaborative Measures

2. We have thoroughly considered the Members' views. We agree that there is a need to ensure that members of the public are informed of public works projects being proposed in good time and to allow adequate time for the raising and resolving of objections before a project is authorized. Under these principles, we are looking at the following measures:

¹ Under the proposed Foreshore, Seabed and Roads (Amendment) Bill, we plan to shorten the statutory period for raising objections to a gazetted road or reclamation project from two months to one month; the objection resolution period from the maximum of nine months to four months; and the time extension for resolving objections as may be granted by the Chief Executive from the maximum of six months to three months. By shortening the periods, the delivery of projects can be advanced by about six to nine months.

- (i) enhance the notification of works projects to the public before and during gazetting;
- (ii) enhance the process of resolving objections; and
- (iii) ensure that time extensions for resolving objections will be sought for cases where the specified time period for resolving objections may be considered inadequate by the objectors.

3. Under proposal (i), we will consider the adoption of an administrative procedure requiring the works departments to consult the District Councils (DC) on projects, except for minor works projects, at least three months in advance of the date of gazettal. This will allow adequate time for deliberating a project publicly before gazettal. Second, we will enhance the sounding out of a project to the parties directly affected before the gazettal. The methods may include the posting of draft work plans at prominent locations on site, meetings with residents' representatives or holding public hearings for large projects. Third, when gazetting a project, we will display more notices on site for public information. The notices and relevant documents will also be published on the internet.

4. Under proposal (ii), each works department will set up a dedicated project steering group headed by a directorate officer to oversee and make speedy decisions on the resolution of objections for each project. The function of the steering group is to ensure that necessary information sought by objectors is provided promptly; the objectors' views are handled within the department or through necessary cross-departmental consultations efficiently and effectively; and timely decisions on necessary project changes could be made to resolve an objection.

5. Under proposal (iii), where an objection is unlikely to be resolved within the original time allowed, we will ask the objectors for their views on whether a time extension will be useful to achieve resolution of an objection. Upon receiving the objectors' views, the project steering group to oversee the resolution of objections will consider whether a time extension should be sought.

6. The above measures will improve the notification of our works projects and substantially raise the efficiency and effectiveness of the objection resolution process. By adopting these measures together with the proposed amendment Bill together, the overall net effect of the packaged proposals is that we will be able to streamline the public works procedures while enhancing the involvement of the public in the deliberations of public works projects.

Justifications of the Shortened Periods

7. In the Panel meeting on 16 May 2002, Members queried the need for shortening the periods for the raising and resolving of objections. In that connection, we would like to provide the following further information for Members' consideration -

- (i) Hong Kong needs to improve its competitiveness in the delivery of projects compared with our neighbouring economies. In particular, with the increasing linkage between the development of Hong Kong and the Pearl River Delta, we need to dovetail the programme of our cross-boundary infrastructure projects with the rapid expansion of the infrastructure on the Mainland.

For this purpose, the former Works Bureau introduced in 2001 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 significantly reduced the pre-construction leadtime for an average medium-sized civil engineering project from six years to about 3½ years from inception.

The current statutory period for raising and resolving objections (11 to 17 months) plus the period for land resumption (8 months) alone take up about half of the overall pre-construction leadtime. As there is practically no scope for a further cut in the already tight schedule for the Administration's procedures, shortening of the period for raising and resolving objections is the only feasible and practical means to achieve further expediting of projects.

- (ii) In the present climate of economic downturn, there are strong public expectations for further shortening the leadtime to project delivery. 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 demand of the community for improved infrastructure which will also help boost the economy. An expedited works programme will also mean that job opportunities associated with public works could be made available earlier for professional staff and workers.

- (iii) The current lengthy process of raising and resolving objections is critical to a project programme. The Government alone cannot speed up the public works without shortening the statutory periods. To illustrate, we now require 11 to 17 months to authorize a project whereas, broadly in parallel with this process, we only require about 8 to 12 months for completing the detailed design of a medium-size project. Moreover, as we can start to finalize a detailed design only upon finalization of the project scheme, the last three months of design must normally take place after scheme authorization. This shows that while we take 11 to 17 months for scheme authorization, we only utilize about 5 to 9 months within this period on the detailed design of the project. The rest of the period is not used effectively.

- (iv) Under the existing procedures on the initialization of infrastructure projects, such as the preparation of town plans or the carrying out of strategic studies on major developments, we will have completed extensive public consultations on the strategic layout of major projects. Since the gazetting of projects under the R(WU&C)O and F&S(R)O is a downstream process, the schemes announced at this stage are rarely new to the public. Most of the parties affected by a gazetted project should have been given the chance of knowing the broad project scheme beforehand. Furthermore, we consult District Councils and other relevant parties upon completion of the feasibility study, Environmental Impact Assessment Study or other reviews for all projects (including smaller scale projects). These consultations would have provided ample opportunities for the public to understand the

project well before it is gazetted.

- (v) The objections to be submitted in response to a gazetted project are no more than brief statements of the objections and the objectors' interests. Our experience is that most of the objections are indeed simple, since the objector needs to focus its consideration on only those aspects of the scheme that may affect his private rights or interests. Hence, it is our view that the proposed shortened period of one month should still be adequate for raising objections.
- (vi) Our analysis shows that the last few months in the existing nine-month period for resolving objections are not conducive to the resolution of objections as illustrated in the figures below.

Among 108 projects gazetted in the past five years, a close analysis of the time spent on resolving objections is as follows –

- (a) 31 projects (29%) - no objections
- (b) 14 projects (13%) - objections resolved within 4 months
- (c) 9 projects (8%) - objections resolved within 4 to 7 months
- (d) 2 projects (2%) - objections resolved within 7 to 9 months
- (e) 52 projects (48%) - objections cannot be resolved, even with time extensions for some of the projects

It can be seen that the time period exceeding seven months has helped only to resolve the objections for two projects (i.e. item (d)) out of 108 projects. We are confident that the speeding up of resolution of objections will help shorten the time for resolving objections even for this group of projects in the future to less than seven months.

The figures show that most of the objections capable of resolution were resolved within either the first four months or the first seven months (i.e. items (b) and (c)). Since the proposed amendment Bill will allow four to seven months for resolving objections, there will be adequate time for resolving objections under (b) and (c).

At the moment, most of the projects for which objections cannot be resolved, i.e. item (e) above, drag on to the end of the nine-month period or the 15-month period if a six-month time extension is granted, before they are submitted to the Executive Council. Under our proposed amendment Bill, since the maximum period for resolving objections is shortened, this group of projects will be submitted to the Executive Council earlier thereby advancing the project programmes.

- (vii) Our close analysis of the nature of objections shows that many unresolved ones are compensation-related or “not-in-my-backyard” type of reaction rather than having any fundamental problems with the proposed schemes. As compensation issues should be dealt with under other provisions of the R(WU&C)O or the F&S(R)O, works departments will hardly be able to resolve objections of this sort anyway during the final stage of objection resolution. It is also not normally feasible to amend the layout of a proposed scheme for the purpose of avoiding a particular lot, because this would affect other lots or detract from the overall layout of the schemes. Furthermore, some objectors tend to simply maintain their objections without submitting further arguments or details of alternative proposals for consideration by the Administration. Therefore, a lengthy period for resolving objections will not help the resolution of these types of objections.

Views Sought

8. Having regard to the justifications mentioned above and the proposed administrative measures to improve publicity of gazetted schemes and streamline the resolution of objections, we request Members to further consider the proposal to amend the existing legislation relating to the raising of objections of public works and their resolution. .

Environment, Transport and Works Bureau
November 2002