

**立法會**  
**Legislative Council**

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the Administration)

**Panel on Constitutional Affairs**

**Minutes of special meeting**  
**held on Tuesday, 15 May 2012, at 9:00 am**  
**in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon TAM Yiu-chung, GBS, JP (Chairman)  
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon CHEUNG Man-kwong  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, SBS, JP  
Hon LAU Kong-wah, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon LEE Wing-tat  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon CHEUNG Hok-ming, GBS, JP  
Hon WONG Ting-kwong, BBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Hon Cyd HO Sau-lan  
Dr Hon LAM Tai-fai, BBS, JP  
Hon CHAN Kin-por, JP  
Hon WONG Kwok-kin, BBS  
Hon IP Kwok-him, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon WONG Yuk-man

- Member attending** : Hon KAM Nai-wai, MH
- Members absent** : Dr Hon Margaret NG  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon WONG Kwok-hing, MH  
Dr Hon Priscilla LEUNG Mei-fun, JP  
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP  
Dr Hon Samson TAM Wai-ho, JP
- Public Officers attending** : Office of the Chief Executive-elect
- Mrs Fanny LAW FAN Chiu-fun  
Head of the Chief Executive-elect's Office
- Ms Alice LAU Yim  
Secretary-General of the Chief Executive-elect's Office
- Constitutional and Mainland Affairs Bureau
- Mr Raymond TAM Chi-yuen  
Secretary for Constitutional and Mainland Affairs
- Mr Gordon LEUNG Chung-tai  
Deputy Secretary for Constitutional and Mainland Affairs
- Mr Freely CHENG Kei  
Principal Assistant Secretary for Constitutional and Mainland Affairs
- Civil Service Bureau
- Mrs Ingrid YEUNG HO Poi-yan  
Deputy Secretary for the Civil Service
- Clerk in attendance** : Miss Flora TAI  
Chief Council Secretary (2)3
- Staff in attendance** : Mr Arthur CHEUNG  
Senior Assistant Legal Adviser 2
- Miss Cindy HO  
Senior Council Secretary (2)3

Ms Wendy LO  
Council Secretary (2)3

Mrs Fanny TSANG  
Legislative Assistant (2)3

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**I. Re-organisation of the Government Secretariat**

[CMAB F19/6/3/2, LC Paper Nos. IN25/11-12, CB(3)735/11-12, CB(2)1908/11-12(01)]

Implementation of the proposed re-organisation

The Chairman said that at its meeting on 11 May 2012, the House Committee endorsed the Panel's proposal of forming a Subcommittee to study the proposed legislative amendments relating to the re-organisation of the Government Secretariat ("the Subcommittee"). During the discussion, some Members raised queries as to whether it was in order for the Administration to seek funding approval for the proposed re-organisation before the relevant resolution was passed by the Legislative Council ("LegCo"). Ms Miriam LAU, Chairman of the House Committee had undertaken to raise the issue with the Chief Secretary for Administration ("CS") when they met in that afternoon meeting.

2. Secretary for Constitutional and Mainland Affairs ("SCMA") advised that the sequence of the procedural steps to seek approval of Establishment Subcommittee ("ESC")/ Finance Committee ("FC") before passage of the resolution was adopted for the re-organisation exercise in 2007 and was similar to a recent example regarding the creation of the post of Head of Office of Create HK in 2009. SCMA further explained that the proposed re-organisation exercise entailed creation of posts and changes in post titles (and thereby the need to transfer statutory functions), and changes to the 2012-13 Estimates of the affected bureaux before 1 July 2012.

3. Noting that the proposed re-organisation was regarded as a top priority of the fourth-term Government and that the incumbent Chief Executive ("CE") had promised to provide full support to the exercise in the interest of ensuring a smooth transition, Mr Alan LEONG said that, in order to facilitate its early deliberation at LegCo, the Administration might consider according a higher priority to the re-organisation proposals than the Legislative Council (Amendment) Bill 2012. SCMA advised that both issues were priorities of the incumbent Government and had to be completed before 30 June 2012.

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4. In respect of appointment of Principal Officials ("POs") under Article 48(5) of the Basic Law, Mr WONG Yuk-man said that if the resolution was to be moved by the Administration at the Council meeting of 20 June 2012, he could not rule out the possibility of introducing amendments to the resolution by Members. As such, he queried whether it would be appropriate for CE to make nominations to the Central People's Government ("CPG") for appointment before passage of the resolution. Mr WONG further asked whether new statutory powers would be sought by the Administration to enable the CE-elect to implement his new policies.

5. SCMA said that in accordance with the Basic Law, CE shall exercise powers and functions to nominate and report to CPG for appointment of the POs including Deputy Secretaries of Department ("DSODs") and Directors of Bureaux ("DoBs"). As such, the nomination and appointment procedures were in conformity with the Basic Law. SCMA said that the re-organisation proposals would entail transfer of statutory functions of public officers pursuant to section 54A of the Interpretation and General Clauses Ordinance (Cap. 1). The proposed resolution provided that, with effect from 1 July 2012, the functions currently exercisable by a certain public officer by virtue of the ordinances set out in the resolution would be transferred to another public officer who would take charge of the relevant policy responsibilities following the re-organisation of the Government Secretariat. SCMA further advised that no new statutory power was sought in the present exercise.

Timetable and public consultation

6. Some members, including Ms Emily LAU, Mr LEE Wing-tat, Mr CHEUNG Man-kwong and Ms Audrey EU considered that the Administration should consult the public on the proposed re-organisation before implementation. They said that public consultation had been conducted when the positions of Under Secretaries and Political Assistants were newly created. They queried why there was no public consultation for the posts of DSODs, which were of even higher positions. Mr KAM Nai-wai asked for explanation as to why SCMA had considered consultation impracticable at the present stage. In the absence of public consultation on the proposed re-organisation of such an immense scale, Mr LEE Wing-tat and Mr CHEUNG Man-kwong were of the strong view that it was a serious neglect of duty of the current-term Government and the public accountability of Political Appointment System ("PAS") would be called into question.

7. SCMA explained that according to local legislation, the CE Election had to be conducted roughly 100 days before 1 July of an election year.

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Upon a change of CE and his Government every five years, if there should be massive consultation, it would actually prevent the CE-elect to restructure any Government Secretariat and hence it was considered not practical to do so. SCMA emphasized that the proposals had incorporated the views of civil servants and those of senior management of the relevant policy bureaux as well as the relevant sectors.

8. Regarding the concerns about the lack of public consultation, Head of the CE-elect's Office ("H/CEEO") supplemented that the CE-elect's Office had refined the re-organisation proposals after discussion with the current government and civil service bodies. The proposals had therefore incorporated the views of civil servants. The manifesto of the CE-elect, which covered the proposed re-organisation, was drawn up after consultation and visits to local districts. Amongst some 600 responses received from the public on the re-organisation proposal, there was no negative feedback on the proposed creation of two DSoDs. She considered that LegCo was the appropriate forum to give heed to public views and to deliberate on the proposals as the views of Members who were returned by elections could represent the public.

9. Ms Audrey EU cautioned that despite the overwhelming responses from the public to present views to the Panel on the proposed re-organisation, the executive authorities should not be absolved from its responsibilities of consulting the public on issues of public concerns which were controversial in nature; and it should by no means set a precedent that public consultation could be dispensed with.

Review of the Political Appointment System

10. Some members, including Mr CHEUNG Man-kwong, Mr Alan LEONG and Mr Albert HO, were of the view that the Administration should have reviewed the PAS before seeking its further expansion because no significant improvement was made insofar as livelihood issues were concerned despite the substantial financial commitment for the implementation of PAS over the decade. They also considered that there should be a clearer delineation of the role of Political Assistants; and that Under Secretaries and Political Assistants should be remunerated at a level commensurate with their duties and responsibilities. Mr Albert HO said that without evaluating the efficiency and effectiveness of the system, it was unreasonable for the Administration to propose creating an additional layer of politically appointed officials ("PAOs") for the new governing team. Ms Miriam LAU enquired about the specific measures to be introduced so that

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PAOs would bear their political accountability at varying degrees in accordance with their performance.

11. H/CEEO stressed that the re-organisation proposals did not seek to bring a fundamental change to PAS. Instead, the re-organisation proposals would bring about improvements to PAS by strengthening policy planning and coordination which would be conducive to the long-term development of Hong Kong. PAS would be improved in the short term, and there would be an interim review in the light of operational experience.

12. Noting the proposal that Principal Officials in the fourth-term Government could engage one or more Political Assistants subject to a ceiling of \$100 000 per month, Ms Audrey EU enquired whether the arrangement was in line with the prevailing civil service practice; and whether the arrangement would be extended to Executive Council ("ExCo") Members. H/CEEO advised that the appointment of Political Assistants would not be extended to ExCo Members. SCMA said that the Independent Commission on Remuneration for Members of ExCo and the Legislature, and Officials under the PAS of the Hong Kong Special Administrative Region ("the Independent Commission") had taken note of the view of the CE-elect that there was a need to provide for flexibility to engage a number of Political Assistants and the Administration had also subscribed to that view. He advised that there was no such precedent as far as civil service or political appointments were concerned. SCMA added that under the present arrangement, an Appointment Committee chaired by CE would look at the candidates' qualifications, experience and abilities as a whole to ensure consistency in the recruitment process.

13. Mr Ronny TONG noted with concern the substantial increase in size of the political appointment team as the proposed re-organisation would create nearly a hundred new posts. He queried that the problems of the current governing team might be caused by inefficiency of relevant PAOs. SCMA explained the need for engaging a number of Political Assistants (e.g. two or three Assistants) in each Bureau to provide support for DoBs. It was expected that Political Assistants serving in the fourth-term Government would take up more public engagement and lobbying work at district level, assist in gauging views from the community on issues of public concern, and take up more work in explaining government policies during consultation exercises. H/CEEO reiterated that the purposes of the proposed re-organisation were: (a) to enhance the capacity of the team of PAOs in reaching out and feeling the pulse of the community and stakeholders, so that policies would align more closely with public aspirations; (b) to strengthen the

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co-ordination of policy formulation and implementation that cut across policy programmes, and develop long-term plans; and (c) to step up efforts in expanding the economic base of Hong Kong by capitalising on the opportunities arising from the rapid economic development on the Mainland and nurturing competitive industries. Addressing the concern of Mr TONG, H/CEEEO said that existing manpower was tight and therefore PAOs had to work exceptionally long hours; their attention sometimes was preoccupied with urgent issues, and hence work related to long-term development might be accorded with lower priority.

14. Ms Cyd HO enquired about the appointment criteria for the political appointments. H/CEEEO advised that the CE-elect had made explicit that vision, commitment and ability and political capability were the basic selection criteria. The team should be able to engage members of the public and stakeholders, explain to them various policies and solicit their support through communication and interaction. Ms HO said that the public would keep monitoring the appointment process in accordance with the above-mentioned criteria.

15. Mrs Sophie LEUNG considered that expansion of the political appointment team would help build up a pool of political talents to facilitate the political development of Hong Kong, and the appointment of Political Assistants would be conducive to nurturing political talents by encouraging young talents to pursue a career in politics through political appointments. Ms Emily LAU, however, opined that the proper way to groom political talents should be through development of political parties and constitutional development.

Performance pledges

16. Mr LEUNG Kwok-hung said that the CE-elect, as returned by a "small-circle election", did not have public mandate. He considered that the CE-elect should have set out ten major pledges for improving the welfare of Hong Kong people to be delivered by the fourth-term Government in order to obtain the necessary funding approval of the current LegCo. Mr LEUNG also queried why the CE-elect could not implement his pledges with the existing organisation structure. Ms Cyd HO urged that amongst the livelihood issues, the restructuring proposals should come along with specific targets on housing supply in the short, medium and long term of which the CE-elect had all along stressed the importance.

17. H/CEEEO said that in his manifesto, CE-elect had made pledges in relation to shortening the average waiting time of non-elderly single public

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housing applicants aged over 35 etc. However, the fourth-term Government would have to work out the long-term housing strategy, taking into account the relevant statistics on land reserve and housing supply, before providing an undertaking on public housing production. H/CEEQ stressed the importance to have the new organisation structure of the fourth-term Government to take effect on 1 July 2012 so that the new governing team would be in its full complement for vision alignment and work prioritisation during the summer break of LegCo. She added that this would facilitate early formulation and implementation of policy measures for the delivery of the CE-elect's pledges in his election manifesto.

Proposed creation of two new Deputy Secretaries of Department

18. Ir Dr Raymond HO noted that there had been criticism over the years about the lack of coordination amongst policy bureaux and government departments. He expressed support for the proposed creation of the two DSoD posts on the ground that it would help improve the coordination of bureaux in achieving the desired results when cross-cutting policy issues were involved. He, however, considered that the respective workload of CS and Financial Secretary ("FS") could be more evenly distributed. Mr WONG Yung-kan said that the new Administration would be able to rationalise its work under the proposed structure so as to better meet the needs of the public. Dr LAM Tai-fai said that while he supported the creation of DSoDs to share the work of CS and FS, he suggested that the proposal of appointing deputies might be extended to the office of CE for greater work efficiency.

19. H/CEEQ said that creation of the two DSoDs would strengthen coordination of cross-cutting policy areas so as to formulate comprehensive and long-term projects. The two DSoDs would have specific responsibilities and directly supervise the operation of two or three closely related bureaux. In response to the public expectation on enhancing coordination work amongst policy bureaux on cross-cutting policy issues, the coordination work of DSoDs would be mission-driven and not necessarily limited to the policy bureaux directly under their purview.

20. Ms Miriam LAU and Ms Emily LAU said that the work of the two proposed DSoDs would inevitably overlap to some degree with that of CS and FS, and might cause a delay in policy decision as the policy secretaries would need to route through an additional layer of administration. H/CEEQ said that under the leadership of CE, CS was still the head of PAOs and would continue to chair the Policy Committee every week to discuss and co-ordinate



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formulation of important policies with all DoBs. CS would work with FS on the priority of resource allocation in preparation for the annual Budget. Creation of the two DSoD posts would not affect the contact and communication of DoBs with the two SoDs, nor would it attenuate CS's role in maintaining oversight of the Government Secretariat.

21. Ms Cyd HO expressed concern that once policy responsibilities of housing and transport were transferred from CS to FS, relevant essential social and livelihood issues would be considered from the perspective of the management of public finance and public interests would be compromised in case of conflicts of interests with the financial considerations. Ms HO elaborated her view that when property prices fell due to fluctuations in economic conditions, FS would not deal with it as a social issue. H/CEEEO said that both the CS and FS would need to balance the interests of stakeholders and give regard to the prevailing public policies; and with the assistance of DSoDs, views could be exchanged with political parties and Members at the early stages of formulating policy and legislative proposals.

Responsibilities amongst policy bureaux

*Housing, planning and land portfolio*

22. Ir Dr Raymond HO noted that there had been views from civil servants that it was undesirable to have them provide support, in their daily routines, to different policy bureaux, namely the Development Bureau and the Transport and Housing Bureau. Hence, the proposed re-organisation, in his view, would rationalise the staffing provision and it was reasonable to put housing, planning and land under the same bureau for more focused efforts on housing and solve the housing problem as soon as possible by means of thorough planning, increased housing supply and expedited provision of public housing. Ms Miriam LAU also indicated support to consolidate these portfolios under the same bureau. She, however, cautioned that land use for purposes other than housing should not be overlooked as well.

23. Mr Albert HO and Mr LEE Wing-tat queried the rationale for the CE-elect's remark that if the proposed re-organisation could not be implemented on 1 July 2012, it would have an adverse impact on the housing development of Hong Kong because the housing and land portfolios were at present under two different policy bureaux. They pointed out that land supply was highest between 1995 and 1998 and the supply of housing units was found to have little or no relation with the issue of whether the portfolios of land planning and housing were under the same bureau or two bureaux. The decrease in housing supply was due to adjustments made to the housing

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policies in view of the sluggish property market at that time, including the suspension of the construction and sale of Home Ownership Scheme flats, suspending land sale and the land application list system before late 2003 etc. All these stemmed from the policy decisions of the top administration. Therefore, it was misleading for the CE-elect to say that delay in re-organisation would have an adverse effect on the supply of housing. Ms Cyd HO said that allocation of land for construction of public housing units had nothing to do with the organisation structure.

24. H/CEEO said that the land planning portfolio had been transferred from the former Housing, Planning and Lands Bureau ("HPLB") reporting to CS to Development Bureau which reported to FS since 2007, while the housing portfolio had been kept under the purview of Transport and Housing Bureau reporting to CS. The proposed re-organisation which sought to combine the portfolios of land planning and housing under the new HPLB (reporting to FS) would help achieve better coordination in the timing of land supply to meet the demand for both public and private housing. HPLB would also assume policy responsibilities for developing a long-term housing strategy and urban renewal as well as building maintenance and safety. SCMA added that the proposals of combining the portfolios of housing, planning and land had taken into account the views of the senior management in the relevant policy bureaux in the light of operational experience.

*Commerce and Industries portfolio*

25. Dr LAM Tai-fai said that the Administration had all along failed to devise a long-term and positive industrial policy. He urged that the fourth-term Government should attach greater importance to the industries. He enquired about the specific improvements which would be conducive to promote the development of industries and commerce; and how the concerned sectors would be adversely affected if the re-organisation could not take place on 1 July 2012.

26. H/CEEO advised that the restructuring of Commerce and Economic Development Bureau into two bureaux, namely Technology and Communications Bureau and Commerce and Industries Bureau, was in recognition of the importance of industrial development and technology in economic development, and to provide more dedicated high level leadership in developing Hong Kong's trade and key service industries. In the absence of the two new bureaux to lead and promote the related developments, she was of the view that interests of the relevant sector would have to be pursued in much the same way as the current Administration.

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*Culture portfolio*

27. Ms Emily LAU referred to the media reports that there had been intervention on the prospective appointment to the post of the Secretary for Culture by a political party. She suggested that disclosure of the choice of candidates might help gain public confidence if the candidates were widely accepted by the public. H/CEEO said that nomination would be disclosed only after the re-organisation proposals had been approved and those media reports were mere speculation. The Chairman and Mr IP Kwok-him clarified that the alleged involvement of the Democratic Alliance for the Betterment and Progress of Hong Kong was unfounded. Mr IP also considered it improper for matter of mere speculation by the media to be raised at the meeting.

28. Ms Cyd HO declared that she and Ms Ada WONG Ying-kay were affiliated to the same local body, namely Civic Act-Up; and that she had received an election donation from Ms WONG for the 2008 LegCo Election. Ms HO stressed that it was important to devise a comprehensive cultural policy, but it would not be effective to transfer existing responsibilities from other policy bureaux to the new Culture Bureau as currently proposed.

29. H/CEEO advised that the policy platform of the CE-elect had taken into account the concerns raised by the cultural sector. Responding to these concerns, the CE-elect considered that there was a need to create a Culture Bureau in order to provide a focal point and champion within the Government to devise a comprehensive cultural policy, promote cultural activities and exchanges, nurture talents and cultural groups, and encourage community participation, i.e. to develop both the hardware and software for Hong Kong as a cultural hub. Ms Cyd HO cautioned that the new Culture Bureau should not turn into a propaganda agent of the Government.

Remuneration of Politically Appointed Officials

30. Ms Audrey EU asked if the financial implication of the re-organisation proposal of the Government Secretariat would be affected consequent upon the proposed increase in remuneration package for PAOs serving in the fourth-term government. She also asked why the current-term Government would propose at this stage an increase to the remuneration for PAOs serving in the next-term Government. Ms Emily LAU was concerned about possible conflict of interests. Ms Miriam LAU said that the political appointees' remuneration should be justified by performance for ensuring value-for-money for the public money.

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31. SCMA said that the reason for the current-term rather than the next-term Government proposing an increase to the remuneration for PAOs serving in the next-term Government was to avoid a conflict of interests. It was an established practice for the Independent Commission to carry out a review of the remuneration package for PAOs about a year before the start of a new term Government. SCMA further said that the Independent Commission had recommended that the cash remuneration for DoBs should be increased by the same rate as the cumulative increase in the Consumer Price Index (C) ("CPI(C)") from 2002 to 2011, namely 15.3 per cent. The Administration noted that in making the recommendation, the Independent Commission had considered a basket of factors, including performance of Hong Kong's economy, changes in the CPI(C) and market pay practices for positions in the private sector with responsibilities comparable to politically appointed officials over the past 10 years, etc. The Administration noted that since the level of cash remuneration for DoBs was approved by FC and took effect in October 2002, the salary of civil servants had been adjusted upwards and downwards several times, resulting in a cumulative increase of 8.1 per cent. He said that the item would be discussed in details at the Panel's meeting on 21 May 2012.

32. Ms Audrey EU and Mr Ronny TONG enquired about the financial implication of the proposed remuneration package on the re-organisation proposal of the Government Secretariat, as the original budget sought was around \$72 million which had not taken into account the proposed increase. SCMA advised that the recommendations on the cash remuneration would lead to an increase in the staff costs for PAOs from Under Secretaries and above, which would be more than offset by the reduction in requirements for Political Assistants. SCMA undertook to revert to the Panel on the financial implication on the re-organisation proposal consequent upon the proposed remuneration package for PAOs.

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33. Mr WONG Yuk-man, Mr Ronny TONG and Ms Emily LAU expressed dissatisfaction that the Independent Commission was not adopting the same yardstick while considering the recommendations of the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement for increasing the level of operational expenditure of Members' Offices despite the fact that full justifications had been provided. They considered that the salary of their staff was too low to retain good quality and experienced staff. They suggested that the salary of Political Assistants and Members' staff should be broadly in line with each other as the nature of their work was quite similar. SCMA took note of the concerns and suggested that the relevant

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issue might be further explored in future. As the subject matter was outside the remit of Constitutional and Mainland Affairs Bureau, he would relate the concerns to the relevant authority for consideration.

Other proposals

34. Ms Audrey EU asked why the re-organisation proposal did not bring in changes to the portfolio of environmental protection. In her view, the post of Director of Environmental Protection should be filled by a qualified environmental professional given the professional input required. She also considered that it was unreasonable for the protection of animals' welfare to be put under the policy remit of Food and Health Bureau. H/CEEEO said that the present exercise sought to deal with changes to the organisation structure, and hence the above were not included.

**II. Any other business**

35. The Chairman reminded the meeting that the deadline to join the Subcommittee was the midnight of 15 May 2012 and the Subcommittee would hold its first meeting on 17 May 2012.

36. The Chairman also added that the next special meeting would be held on 19 May 2012 for the Panel to receive views of the public from 9 am until 6 pm. In view of the large number of requests to present views to the Panel, another full-day meeting to receive public views was scheduled for 26 May 2012.

37. There being no other business, the meeting ended at 11:55 am.

Council Business Division 2  
Legislative Council Secretariat  
27 September 2012