

# **The Administration's Response to Comments Made in Submissions to the Bills Committee on the Urban Renewal Authority Bill**

## **I Urban Renewal Strategy**

- (1) Comment : There is no definition of the urban renewal strategy (URS) in the Urban Renewal Authority Bill. It is not clear from the Bill how the URS is formulated. The public should be involved in the formulation of the URS.

Response : When preparing the 5-year Corporate Plan, the Urban Renewal Authority (URA) has to follow the guidelines set out in the URS prepared by the Secretary for Planning and Lands (SPL) and to include as far as practicable priority projects set out in the URS.

The URS is a document prepared by SPL and issued to the URA. Clause 18(3) of the Bill provides that:

“The Authority, when preparing its programme of proposals and its programme of implementation for projects –

- (a) shall follow any guidelines set out in an **urban renewal strategy prepared from time to time by the Secretary for the purposes of this section** in relation to the implementation of those proposals and projects;
- (b) shall, as far as is practicable, include proposals of projects of the description mentioned in section 6(2)(d) to the extent as may be set out in such an urban renewal strategy;
- (c) may suggest, for the approval of the Financial Secretary, for inclusion in its corporate plan any other proposal or the implementation of any other project as it thinks fit.”

The URS sets out the Government's strategic and planning framework for urban renewal. The formulation of the URS involves two stages:

- (a) the conduct of an urban renewal strategy study; and

- (b) the preparation of an urban renewal strategy policy document.

In the urban renewal strategy study completed by the Planning Department (PlanD) in September 1999, 200 projects have been identified for priority redevelopment. On the basis of the geographical clustering of these projects, 9 urban renewal target areas (target areas) have also been delineated for comprehensive restructuring and replanning. These target areas cover relatively large areas ranging from 10 hectares to 130 hectares.

On the basis of the PlanD's study, the Planning and Lands Bureau (PLB) will set out in a policy document a comprehensive planning framework for urban renewal in Hong Kong. We will take into account the views and comments gathered during the public consultation on the Urban Renewal Authority White Bill (White Bill) and the public views put forward during the discussion of the Urban Renewal Authority Bill (Blue Bill) when we prepare this document. We will issue this document for public information when it is ready.

The URS will be reviewed and updated regularly. PlanD will update its urban renewal strategy study to tie in with the review of the policy document. The public and the professional institutes will be involved in the updating exercise of the urban renewal strategy study and the urban renewal strategy policy document.

- (2) Comment : The Housing Bureau should be involved in the formulation of the URS.

Response : The Housing Bureau has been involved in the formulation of the URS.

- (3) Comment : A policy paper on the URS should be published incorporating the "promises" made by the Government during the consultation exercise.

Response : The policy document on the URS will be issued for public information.

## **II Purposes of the URA (Clause 5)**

- (1) Comment : Urban renewal should be people-oriented and should not focus solely on restructuring the physical environment. Addressing the social needs of affected residents and the community should be one of the main purposes of the URA.

Response : The Government's strategy is to continuously renew the fabric of Hong Kong's built-up areas through timely urban redevelopment. Urban renewal is not a "slash and burn" process. A comprehensive and holistic approach will be adopted to rejuvenate our city.

Our policy is based on a people-oriented approach to urban renewal. Our goal is to improve the quality of life of residents in older urban areas. The Government's policy is to balance the interests and needs of all sectors of the community and not to sacrifice the lawful rights of any particular group. The social needs of affected residents will be catered for as far as practicable.

- (2) Comment : Urban renewal should aim at achieving optimal land use and a more effective road and transport system at the territory-wide level and the district level.

Response : The key elements of the URS include:

- (a) restructuring and replanning designated older built-up areas, in particular the 9 target areas;
- (b) designing more effective and environmentally-friendly local transport and road networks;
- (c) rationalizing land uses which are incompatible with the surrounding areas;
- (d) redeveloping dilapidated buildings into new buildings of modern standard and environmentally-friendly design;
- (e) rehabilitating buildings in need of repairs within the 9 target areas;
- (f) redeveloping or revitalizing under-utilized industrial areas;
- (g) preserving buildings, sites and structures of historical, cultural or architectural interest within the priority project areas and target areas;
- (h) preserving as far as practicable the local characteristics of older neighbourhoods;
- (i) preserving the social networks of the local community;
- (j) providing purpose-built housing for groups with special needs, such as the elderly and the disabled;
- (k) providing more open space and community facilities;
- (l) enhancing the townscape with attractive urban design and by the provision of landscaping, open space and suitable street furniture;

- (m) providing appropriate and affordable rehousing for tenants affected by URA's redevelopment projects; and
- (n) providing fair and reasonable compensation to owners whose properties are resumed for the implementation of redevelopment projects.

As can be seen above, rationalizing land use and improving the road and transport systems are key elements of the URS.

- (3) Comment : The URA's main purpose should be to assist owners in maintaining and redeveloping their buildings.

Response : The main purposes of the URA are:

- (a) redevelopment of old and dilapidated buildings which are beyond repair or not economical to repair;
- (b) rehabilitation of buildings which are still structurally sound and maintainable; and
- (c) preservation of buildings of historical, cultural or architectural interest.

The URA would assist owners within the 9 target areas to rehabilitate their buildings under the preventive maintenance of buildings scheme.

Due to the lack of resources, the difficulty of land assembly and title problems, it would be difficult for owners to redevelop their buildings themselves. The establishment of the URA is a way to overcome the problems faced by owners.

- (4) Comment : Clauses 5(a) to (e) should be amended to make express reference to the needs of the community.

Response : Clauses 5(a) to (e) of the Bill do address the needs of the community. It would not be practicable to precisely define what are the needs of the community and draw up an exhaustive list of such needs.

- (5) Comment : Clause 5(f) provides the URA with extremely wide powers to engage in other activities which the Chief Executive may assign.

Response : Clause 5(f) of the Bill provides that the URA may:

“engage in such other activities, and to perform such other duties as the Chief Executive may, after consultation with the Authority, permit or assign to it by order published in the Gazette.”

Clause 5(f) enables the Chief Executive in Council to make subordinate (subsidiary) legislation, ie, the confer by order further functions and duties on the URA. Any such order is to be published in the Government Gazette and is subject to the scrutiny of the Legislative Council (LegCo) under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1). This is what is commonly known as “negative” vetting.

Clause 5(f) type of devices are quite common in our Ordinances which create statutory corporations. Its purpose is to avoid having to enact an amending Ordinance, that is, primary legislation, whenever a further function or duty is required to be conferred. Instead, such function or duty may be conferred through subsidiary legislation.

When making an order, the Chief Executive is confined to the objects and purposes of the Bill, ie, the other activities and duties must be “for the purposes of carrying out urban renewal and for connected purposes”. The order can only be made after consultation with the URA and, as with all subordinate legislation, must be made in consultation with the Executive Council and is subject to the scrutiny of the LegCo.

### **III Rehabilitation of Buildings**

- (1) Comment : The Bill has not mentioned the mechanism for the rehabilitation

of buildings.

Response : Under the URS, urban renewal includes 3 aspects:

- (a) redevelopment;
- (b) rehabilitation; and
- (c) conservation.

Proper maintenance of buildings is an essential aspect of the comprehensive regeneration of old urban areas. The rehabilitation of buildings improves the built environment and reduces the need or urgency for the demolition and redevelopment of older buildings.

We are formulating a new proposal for the preventive maintenance of buildings and will consult the public shortly. If this proposal is supported, a statutory scheme would be introduced to require owners of older buildings which are not properly maintained to carry out preventive maintenance and proper repairs of their buildings. Financial assistance would be provided to those who have difficulties in paying for the repairs.

The task of implementing this scheme would be shared between the Buildings Department (BD) and the URA. The URA would be empowered to implement the scheme within the 9 target areas. Amendments to the Buildings Ordinance (Cap. 123) would be required to implement this scheme. The provisions for the preventive maintenance of buildings scheme are not set out in the Urban Renewal Authority Bill. Such provisions would be set out in a Buildings (Amendment) Bill.

- (2) Comment : The Government should repair buildings in target areas which are found to be dangerous.

Response : It is the responsibility of owners to maintain their properties. If the Building Authority finds any imminent danger in a building, he will by order under section 24, section 26 or section 26A of the Buildings Ordinance, as appropriate, require the owners corporation/owners to carry out detailed investigation and/or remedial works. In case of default of an order, the BD

will carry out the remedial works for the owners and charge them for the work.

- (3) Comment : The Government should facilitate development of technology in building maintenance.

Response : The Government aims to facilitate the development of building technology and to encourage innovations in building maintenance, design and construction.

- (4) Comment : Co-ordination between the URA and the BD on the maintenance of buildings is important.

Response : The BD and the URA would work closely on the maintenance of buildings. PLB would coordinate the work of the two where necessary.

- (5) Comment : Relevant departments should facilitate (and not hinder) the undertaking of improvements or minor alterations to buildings.

Response : The Government will:

- (a) promote proper building management;
- (b) mobilize owners' participation in building maintenance;

- (c) re-examine the relevant legislation to facilitate building maintenance;
- (d) encourage and facilitate owners to carry out timely maintenance; and
- (e) review existing enforcement policies.

#### **IV Preservation of Buildings**

- (1) Comment : The Bill has not mentioned the mechanism for the preservation of heritage buildings.

Response : One of the principal purposes of the URA is to “preserve buildings, sites and structures of historical, cultural or architectural interest” (clause 5(e) of the Bill).

The principle of “heritage preservation” should be incorporated into all redevelopment projects of old urban areas. The resources of the URA would be used for preserving our heritage in redevelopment projects.

- (2) Comment : Preservation of our cultural heritage should be done on a community basis.

Response : Under the URS, conservation would include:

- (a) preservation and restoration of buildings, sites and structures of historical, cultural or architectural interest;
- (b) retention of the inherent characteristics of different districts; and
- (c) preservation of the local flavour and historical characteristics of older neighbourhoods.

As far as practicable, the preserved historical buildings would be put to proper community, public or other beneficial use. The aim is that these buildings should be a living and functional part of the community and not mere historical artifacts for display. Consideration should also be given

to using heritage buildings as a means to promote tourism.

- (3) Comment : A subcommittee under the URA should be set up to undertake preservation work.

Response : The URA would require a new unit to deal with conservation projects. The URA would consider setting up a subcommittee to deal with preservation work.

- (4) Comment : The URA should be required to include proposals concerning the preservation of Hong Kong's heritage in target areas in the 5-year Corporate Plan and the annual Business Plan.

Response : In the urban renewal strategy study conducted by PlanD, a number of historical buildings and buildings of cultural or architectural interest have been identified for preservation. The preservation of these buildings would be included in the Corporate Plan as conservation projects if and when the areas where they are located are incorporated into a proposed project.

The URA could also initiate other preservation projects. It would be required to include these other conservation proposals in the Corporate Plan and the Business Plan.

- (5) Comment : The URA should put in place a regular maintenance programme for historical buildings and declared monuments.

Response : The URA would put in place a regular maintenance programme for historical buildings and declared monuments under its management.

- (6) Comment : Sheung Wan and Sai Ying Poon should be preserved on a district basis.

Response : We will try to retain the inherent characteristics of different districts in our planning for conservation projects and will endeavour to preserve the local flavour and historical characteristics of older neighbourhoods.

## **V Role of the Government vis-à-vis the Private Sector in Urban Renewal**

- (1) Comment : The private sector should play a major role in urban renewal. The URA should be a facilitator of urban renewal and should not take on the role of developer unless strictly necessary.

Response : The URA could implement an urban renewal project either:

- (a) on its own;
- (b) in association with a joint venture partner; or
- (c) by selling the land to a private developer.

We envisage that the URA would implement most of the projects in association with joint venture partners.

- (2) Comment : Sale of resumed land should be the principal mode of implementing URA redevelopment projects.

Response : As mentioned above, the URA would likely implement most of its projects in joint venture partnership with private developers.

- (3) Comment : Redevelopment projects should be undertaken by the URA itself and joint venture partnership with large developers should be avoided.

Response : The URA might have to undertake on its own some projects which are not financially viable. However, we envisage that the URA would implement most of the projects in joint venture partnership with private developers.

- (4) Comment : The URA should not act as a land assembly agency only.

Response : The URA would not act as a land assembly agency only.

- (5) Comment : The URA should act as a land resumption agent only.

Response : The URA would not act as a land resumption agent for private developers.

- (6) Comment : Individual building owners should be given an opportunity to participate in redevelopment projects.

Response : Where the conditions are suitable, the URA could introduce an owners' participation scheme for a redevelopment project. However, the owners must be prepared to take on risks and share in the profits. The details of such a scheme would have to be worked out. Issues, such as the payment of land premium for the assembled site, would also have to be resolved.

- (7) Comment : Quasi-government organizations should be allowed to propose and participate in redevelopment projects.

Response : Although the URA would be charged with implementing the Government's URS, it would not have a monopoly on urban renewal projects. Other public corporations and bodies, such as the Housing Authority (HA), the Housing Society (HS), the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation may also put forward proposals for urban renewal. The Government will consider these projects on a case-by-case basis and provide assistance where appropriate.

## **VI General Power of the URA (Clause 6)**

- (1) Comment : Clause 6(1) should be reviewed as the URA could decide on its own whether any specific exercise of its powers would fall within clause 5.

Response : Clause 6(1) of the Bill provides that:

“The Authority shall have power to do anything which is expedient for or conducive or incidental to the attainment of the purposes declared in or permitted or assigned under section 5 and shall exercise that power so as to improve the standard of housing and the built environment of Hong Kong by way of development.”

As explained in section II of this paper, we do not see any problem with clause 5(f). We also see no problem with clause 6(1).

- (2) Comment : The URA’s power to improve the built environment by “development” in clause 6(1) is not congruent with its purpose under clause 5(d) of preventing the decay of existing buildings by maintenance and improvement.

Response : There are 3 aspects of urban renewal:

- (a) redevelopment;
- (b) rehabilitation; and
- (c) conservation.

We do not see any incongruity between clause 5(d) and clause 6(1).

- (3) Comment : The power of the URA to “improve” or “rehabilitate” buildings should be specified in clauses 6(2)(e) and (f).

Response : Amendments to the Buildings Ordinance would be required to implement the preventive maintenance of buildings scheme. Consequential amendments to the Urban Renewal Authority Ordinance (if enacted) would also be necessary if the task of implementing this scheme is to be shared between the BD and the URA. New provisions would be necessary to

empower the URA to implement the scheme within the 9 target areas.

- (4) Comment : The URA should have the power to “license” its land and buildings under clause 6(2)(k).

Response : Under clause 6(2)(k) of the Bill, the URA has the power to let any land or building owned or held by it.

- (5) Comment : The URA should be empowered to carry out freezing surveys on non-residential premises under clause 6(2)(m).

Response : The URA is empowered to carry out freezing surveys on both residential and non-residential premises under clause 6(2)(m) and clause 26 of the Bill.

- (6) Comment : The URA should be empowered to grant mortgages and reverse mortgages.

Response : Under clause 12 of the Bill, the URA may lend money on such terms and conditions as the URA thinks fit to any person or persons for the purposes of implementing a URA project. However, we do not think that the URA should grant mortgages or reverse mortgages and this would be outside the ambit of URA’s purposes.

## **VII Structure of the URA (Clause 4)**

- (1) Comment : The non-executive Chairman model should be adopted to provide a system of checks and balances.

Response : The executive Chairman model is more appropriate for the URA. We believe that the executive Chairman would be more effective in steering projects and would be directly accountable for the performance of the URA.

- (2) Comment : Members of the URA Board should be representative of various sectors and should include LegCo Members and District Council members.

Response : The future URA Board would be representative and would have directors from different walks of life.

- (3) Comment : Residents' representative should sit on the URA Board.

Response : As mentioned above, the future URA Board would be representative and would have directors from different walks of life.

- (4) Comment : The Chairman of the URA Board should be a directly elected LegCo Member.

Response : Under clause 4(1) of the Bill, the Chairman of the URA Board is at the same time an executive director and is not a public officer. Under clause 9, he or she has to attend the committees and subcommittees of the LegCo and to answer questions raised by LegCo Members. It would not be appropriate to appoint a LegCo Member as the URA Chairman.

- (5) Comment : The term of appointment of members of the URA Board should be longer than 3 years and should be staggered to avoid the replacement of the whole Board at the same time.

Response : Under clause 4(2) of the Bill, all members of the URA Board are appointed for a term not exceeding 3 years. We will consider terms of varying lengths for members to avoid the replacement of the whole Board at the same time.

- (6) Comment : The URA should employ conservation architects to preserve the built heritage.

Response : The URA would employ conservation architects and other conservation specialists to plan and implement conservation projects.

## **VIII Public Accountability (Clause 8)**

- (1) Comment : "Public interest" (clause 8) should be defined.

Response : Under clause 8 of the Bill, it is the duty of the 4 non-executive

directors on the URA Board who are public officers to state the public interest should they consider that the public interest may conflict with the interest of the URA. Clause 8(a) requires a non-executive director who is a public officer to state to the URA Board what in his or her opinion is the public interest, the relation between the public interest and the matter under discussion by the URA Board and the actual or potential conflict between the public interest and the matter under discussion.

## **IX Answer to the LegCo (Clause 9)**

- (1) Comment : The Chairman and Executive Directors of the URA should attend LegCo meetings.

Response : Under clause 9 of the Bill, the committees and subcommittees of the LegCo may request the Chairman and the two Executive Directors of the URA to attend its meetings and they have to comply. The Chairman and the Executive Directors have to answer questions raised by LegCo Members at the meetings. However, only public officers can reply to questions on behalf of the Government during the question period at LegCo meetings.

- (2) Comment : The URA should be bound by the decision of the LegCo.

Response : It may not be appropriate to provide in the Bill that the URA should be bound by the decision of the LegCo.

- (3) Comment : Committees under the District Councils should be set up to monitor the progress of redevelopment projects in their own district.

Response : We understand that the District Councils of the urban area are closely monitoring the progress of urban renewal projects in their districts. We will continue to work closely with the District Councils and their subcommittees.

## **X Financial Provisions**

- (1) Comment : There is no need for linked projects.

Response : The Government is considering a package of both financial and non-financial measures to facilitate the URA in implementing its projects.

One measure is to package financially viable and non-viable projects together to make the overall package commercially attractive to private developers. Such “linked projects” would be considered on a need basis.

(2) Comment : Options other than nil premium should be explored.

Response : The Government is prepared to consider the following financial and non-financial measures to enable the URA to implement its 20-year urban renewal programme:

- (a) waiver of land premia for redevelopment sites;
- (b) waiver of land premia for rehousing sites;
- (c) exemption of Government/Institution/Community facilities within URA project areas from the calculation of Gross Floor Area;
- (d) relaxation of plot ratio controls for priority project areas; and
- (e) Government loans to the URA.

The aim is to develop an arrangement that will be self-financing in the long-run.

- (3) Comment : Owners participating in a redevelopment project should not be exempted from paying land premium.

Response : We need to consider whether owners taking part in an owners' participation scheme should pay their share of the land premium.

- (4) Comment : The Government should inject capital into the URA if necessary.

Response : The Government is prepared to consider injecting capital into the URA if there is a justifiable need. Such a financial arrangement is provided for under clause 10(1)(a) of the Bill.

- (5) Comment : Measures to enhance the financial viability of redevelopment projects should be expressly stipulated in the Bill.

Response : Part IV of the Bill (clauses 10 – 17) deals with the financial side of the operations of the URA. The provisions are:

- (a) clause 10 deals with resources; the Government may inject funds into the URA;
- (b) clause 11 sets out the borrowing powers of the URA; the URA may borrow from the Government or other financial institutions;
- (c) clause 12 deals with lending powers; the URA may lend money to its joint venture partners or other persons;
- (d) clause 13 enables the Government to guarantee URA's borrowings;
- (e) clause 14 provides for the use of surplus funds;

- (f) clause 15 relates to the debt of the URA;
- (g) clause 16 provides for accounts, audit and annual reports; and
- (h) clause 17 exempts the URA from taxation.

We do not think that it is appropriate to set out the proposed financial and non-financial measures to enhance the financial viability of URA projects in the Bill.

## **XI Clause 10(4)**

- (1) Comment : The URA should consider the public interest in handling finances.

Response : Clause 10(4) of the Bill provides that:

“The Authority shall exercise due care and diligence in the handling of its finances.”

It would not be appropriate to stipulate in the Bill that the URA should consider the public interest in handling its finances since the legislative effect of such a provision is not clear. Furthermore, under clause 8 of the Bill, it is already the duty of public officers to state the public interest.

## **XII Power to Lend Money (Clause 12)**

- (1) Comment : The Bill should stipulate that the URA may lend money to affected owners and tenants.

Response : Under clause 12 of the Bill, the URA may lend money to any person for the purposes of implementing an urban renewal project.

## **XIII Use of Surplus Funds (Clause 14)**

- (1) Comment : Any investment proposed by the URA should be endorsed by the LegCo.

Response : This proposal is neither appropriate nor practicable.

#### **XIV Clauses 15 and 16**

- (1) Comment : The accounting and auditing requirements as presently drafted are too brief and loose.

Response : Clause 16 of the Bill is adequate for the purposes of the URA.

- (2) Comment : A time-frame should be specified in respect of any certificate issued by the Financial Secretary concerning the indebtedness of the URA to the Government.

Response : A certificate may be issued by the Financial Secretary under clause 15 of the Bill concerning the indebtedness of the URA to the Government. A time limit for the issue of such certificates is not appropriate.

#### **XV Planning Procedures (Clauses 18 and 19)**

- (1) Comment : The public should have the opportunity to participate in the planning and execution process of redevelopment projects.

Response : The public would have an opportunity to comment on individual redevelopment projects. Affected owners and residents would also have an opportunity to object. However, it would not be practicable to announce a project before publication in the Government Gazette.

- (2) Comment : Public hearings/public consultation should be held to gather views on redevelopment plans. The URA should send staff to explain the projects to affected residents.

Response : The URA would consult the community and affected owners and tenants on proposed projects after they are published in the Government Gazette.

- (3) Comment : Corporate plans and business plans once approved by the Financial Secretary should be made public.

Response : The 5-year Corporate Plan and the annual Business Plan would contain sensitive information, such as the boundaries of priority projects and the likely timing of freezing surveys. To help prevent “imposters” from taking up residence in project areas, it would not be appropriate to issue the Corporate Plan and the Business Plan for public information. However, an annual report of the URA would be published.

- (4) Comment : Residents will have to endure a long period of uncertainty if corporate plans and business plans are not made known to the public.

Response : As some of the information in the Corporate Plan and the Business Plan is sensitive, it would not be appropriate to publish the Corporate Plan and the Business Plan.

- (5) Comment : The URA should refrain from publishing prospective redevelopment projects unofficially as this would prolong the shadow period, ie, the period between the publication of a redevelopment project and the actual implementation of the project.

Response : The URA would not announce the proposed redevelopment projects unofficially. It would only first publish a proposed project in the Government Gazette.

- (6) Comment : The District Council concerned should be consulted on redevelopment projects.

Response : The District Council concerned would be consulted after a redevelopment project is published in the Government Gazette.

- (7) Comment : A redevelopment project should only proceed with the support of the District Council concerned.

Response : The views of the District Council concerned would be taken into consideration before a decision is taken to approve a proposed project or not.

- (8) Comment : Notices of redevelopment projects should be posted in redevelopment areas and at the properties concerned.

Response : The URA would publicize a redevelopment project by various means, including the posting of a notice at the project site.

- (9) Comment : A written notice should be served on each owner affected by a redevelopment project.

Response : We would consider the practicability of this proposal.

- (10) Comment : A social impact assessment should be conducted for each project.

Response : As the URA would have to conduct a freezing survey of the residents within the project area to determine eligibility for rehousing and ex-gratia compensation, it would not be possible to conduct a social impact assessment of a project before the publication of the proposed project. However, the URA would fully assess the social impact of the proposed project and the social and rehousing needs of the residents in the course of the planning for the project.

- (11) Comment : A sustainability impact assessment should be conducted for each project and the assessment should be exhibited for public inspection under clause 20(3).

Response : The URA would assess the impact of a proposed project on sustainable development in Hong Kong and other sustainability issues and implications. Clause 20(3) of the Bill provides that the URA must exhibit for public inspection the following information:

- “(a) a description of the general nature and effects of the project;  
and
- (b) a plan delineating the boundaries of the project.”

Significant sustainability issues would be included in the document to be exhibited for public inspection.

- (12) Comment : A social impact mitigation assessment report should be provided on each redevelopment project.

Response : The URA would assess the social impact of a proposed project and propose the necessary mitigation measures.

- (13) Comment : Freezing surveys should be conducted at different periods of time to ensure the registration of all affected residents.

Response : On the same day as the publication of a proposed project in the Government Gazette, the URA would conduct a freezing survey of the residents within the project area to determine the eligibility of the residents for rehousing and ex-gratia payments. The freezing survey would be completed within a short period of time. However, the survey would be comprehensive.

## **XVI Clause 21(1)**

- (1) Comment: The objection period for a development project should be increased to 2 months.

Response: We are considering extending the objection period for a proposed development project to 2 months.

## **XVII Clause 21(4)**

- (1) Comment: The criteria for approving development projects and the time required for considering objections by SPL should be spelt out.

Response: In considering a proposed development project and any objections to it, SPL would have regard to the public interest and the rights and interests of the residents in the project area. Each case would be considered on its own merit.

The major considerations are:

- (a) whether the project area is old and dilapidated and requires urgent redevelopment; relevant factors include the age of the buildings in the project area; the structural conditions of the buildings and the integrity of their external finishes and the fire safety conditions of these buildings;
- (b) whether rehabilitation of the buildings in the project area is a practicable and viable option;
- (c) the living conditions of the residents in the project area; relevant factors include the availability of basic amenities (e.g. flush toilets); the degree of overcrowding; hygiene and sanitation conditions, etc.;
- (d) whether the objections are valid and reasonable;

- (e) whether the proposed development project will improve the area by replanning and restructuring, such as the provision of a better local transport network and other infrastructure and community facilities;
- (f) whether the proposed development project will achieve better utilization of land in the project area or eliminate incompatible uses;
- (g) the local characteristics of the neighbourhood;
- (h) the existence of buildings of historical, cultural or architectural interest and whether they should be preserved;
- (i) the views of the residents in the project area; and
- (j) the views of the local community.

SPL would normally take about 1 to 2 months to consider objections to a proposed project.

- (2) Comment : A public hearing should be held to consider objections.

Response : The URA is required under clause 20 of the Bill to publish in the Government Gazette the commencement date of a project and to exhibit general information about the proposed project for public inspection. The URA would hold public meetings to inform local residents of its proposed project and to gather public views on it.

- (3) Comment : An independent panel should be set up to hear objections to development projects.

Response : Under clause 21(3) of the Bill, the URA will consider all objections to a proposed development project and will submit the proposed project, together with a report on the objections received, to SPL for his consideration. We do not consider it necessary to set up an independent panel to hear objections to a proposed project. However, we are reconsidering the need for an independent appeal channel for reviewing SPL's decision on a proposed project.

### **XVIII Clauses 21(6) and (7)**

- (1) Comment : If a development project is amended to meet an objection, this would mean that the hardship is transferred to other residents.

Response : SPL would consider all factors before making an amendment to a proposed development project. Under clause 21(7), the owner of the land affected by an amendment will also have an opportunity to object.

- (2) Comment : An appeal channel should be provided for redevelopment projects.

Response : We are reconsidering the need for an independent appeal channel for development projects.

- (3) Comment : The time required for processing objections to development projects should be reduced. Redevelopment should be implemented by way of a development scheme as far as possible.

Response : We agree that the objection procedures should be expedited so as to minimize any “shadow period”. During the shadow period (i.e. from the publication of the proposed development project in the Government Gazette to the issue of the land resumption notice), owners may find it difficult to sell their properties.

The URA could implement a project either by way of a development project or a development scheme. A development project does not require any amendment to the zoning of the project area on the relevant outline zoning plan. On the other hand, a development scheme requires such amendment. The URA would decide whether it is more appropriate to undertake a project as a development project or a development scheme in view of the circumstances of the project.

## **XIX Clause 22(2)**

- (1) Comment : An objection mechanism for development schemes should be provided under the Bill.

Response : As in the case of a development project, before implementing a development scheme, the URA is required to publish in the Government Gazette the commencement date of the implementation of the scheme and to exhibit general information about the scheme for public inspection.

As mentioned before, a development scheme requires an amendment to the zoning of the project area on the relevant outline zoning plan. Accordingly, objections to a proposed development scheme are dealt with by the Town Planning Board (TPB) under the Town Planning Ordinance (Cap. 131), instead of under this Bill. Under the Town Planning Ordinance, the TPB is responsible for considering all objections to a “draft plan” (in this context, a proposed development scheme). The TPB will take all relevant factors and planning considerations into account. Each objection to a development scheme will be considered on its own merit. After consideration of all objections, the TPB will submit the draft plan, with or without amendments, to the Chief Executive in Council for approval. A schedule of the objections not withdrawn and a schedule of the amendments made to meet such objections will also be submitted to the Chief Executive in Council for consideration.

## **XX Land Resumption (Clause 24)**

- (1) Comment : The expedited land assembly process should not compromise owners’ interest.

Response : As regards land resumption for urban renewal, the Government's policy is to balance the interests of all sectors of the community and not to sacrifice the lawful rights of any particular group. The guiding principles for land assembly for urban renewal are:

- (a) owners whose properties are resumed for redevelopment should be fairly and reasonably compensated;
- (b) tenants who are affected by redevelopment should be provided with appropriate and affordable rehousing; and
- (c) the entire district should benefit as a result of replanning and restructuring.

We will ensure that owners are fairly and reasonably compensated and that their lawful interest is not compromised by land resumption for urban renewal.

- (2) Comment : The criteria for compulsory land resumption should be set out.

Response : In the urban renewal strategy study completed by the PlanD in September 1999, 200 projects have been identified for priority redevelopment under the urban renewal programme. These projects have been selected on the basis of the age, physical conditions and fire safety design of the individual buildings and the opportunities for improving the local infrastructure, the built environment and community facilities in the project areas. Accordingly, only buildings which are old and/or dilapidated would be resumed for redevelopment by the URA.

- (3) Comment : Affected lot owners should have the right to request resumption of the whole lot if only part of the lot is resumed by the Government.

Response : Section 10(2)(c) of the Lands Resumption Ordinance provides that the Lands Tribunal should determine the compensation payable by the Government to an owner on the basis of "the amount of loss or damage suffered by any claimant due to the severance of the land resumed or any building erected thereon from any other land of the claimant, or building

erected thereon, contiguous or adjacent thereto". However, under the Ordinance, the owner has no right to request the Government to resume his or her entire lot if only a part of that lot is resumed.

- (4) Comment : An appeals committee should be set up to handle land resumption matters.

Response : The Lands Tribunal has jurisdiction to determine the amount of compensation payable by the Government in respect of any claim submitted to it under the Lands Resumption Ordinance (Cap. 124).

## **XXI Disposal of Land Resumed (Clause 25)**

- (1) Comment : Any disposal of resumed land must accord with the public interest.

Response : Approval would only be given to the URA to dispose of resumed land if and only if it is in the public interest to do so.

- (2) Comment : Affected owners should have the right to share the benefits obtained from the selling of land to the private sector by the URA.

Response : Owners whose properties are resumed for urban renewal projects would be fairly and reasonably compensated. However, they would not be entitled to share in the proceeds obtained from the sale of the land.

- (3) Comment : The Bill should make it clear that land given by Government to the URA is regrant land.

Response : The Government would resume private land for a URA project and then make a subsequent grant of land to the URA.

## **XXII Compensation**

- (1) Comment : Owners should be given an opportunity to negotiate the compensation for the resumed land.

Response : The time-consuming land assembly process is the main reason

why it takes the Land Development Corporation (LDC) such a long time to implement urban renewal projects. Under the existing mechanism, the LDC is first required to take all reasonable steps to acquire affected properties within the project area. This usually involves protracted negotiations with the owners. If there are any properties which the LDC is unable to acquire, the LDC may then request SPL to recommend to the Chief Executive in Council the resumption of such outstanding properties.

In order to expedite the land assembly process, instead of requiring the URA to first negotiate and acquire the land needed for an urban renewal project, the URA is empowered under the Bill to apply direct to SPL to recommend resumption of the land by the Chief Executive in Council. Affected property owners will be compensated fairly and reasonably under the Lands Resumption Ordinance.

If the URA is required to conduct protracted negotiations, the 20-year urban renewal programme would not be viable.

- (2) Comment : The principles of compensation should be stipulated in the Bill.

Response : The principles of assessment of statutory compensation are set out in sections 10, 11 and 12 of the Lands Resumption Ordinance. The policy on the payment of Home Purchase Allowance (HPA) is set out in Finance Committee paper FCR(97-98)7 which was approved by the Finance Committee of the LegCo on 25 April 1997.

- (3) Comment : The guidelines on valuation of properties should be contained in a policy paper.

Response : We intend to issue a booklet on land resumption and compensation in the urban area for public information.

- (4) Comment : An independent hearing/appeal mechanism should be set up to deal with compensation matters.

Response : We plan to establish an appeal mechanism for considering appeals against the decisions of the Director of Lands (D of L) on HPA cases.

We propose that a non-statutory Appeals Committee be set up consisting of non-officials. An owner of residential property who is aggrieved by the D of L's decision would be allowed to submit an appeal to the Appeals Committee. The appellant would be heard if he or she is prepared to attend a hearing. The Appeals Committee would then make a determination on the case. If the D of L does not accept the determination, the case would then go to SPL who would review the case and make a decision on it.

- (5) Comment : Compensation should take into account the development value of a site.

Response : For a lot in single ownership, the existing use value and the development value will be assessed. The higher value of the two will be offered as statutory compensation to the owner.

- (6) Comment : Compensation for blight should be provided to owners.

Response : There is no provision for compensation for blight under existing legislation.

- (7) Comment : The current policy of calculating the cost of a replacement flat on the basis of a 10 years' old flat of a size similar to the one being resumed and in the same locality should be maintained.

Response : The amount of HPA payable is the difference between the cost of a replacement flat and the amount of statutory compensation. Under the current policy, we estimate the cost of a replacement flat on the basis of a 10 years' old flat of a size similar to the one being resumed and in the same locality. It has been suggested that the cost of the replacement flat should be estimated on the basis of a newer flat. We are reviewing the current policy to see whether there is a case for enhancing the HPA.

- (8) Comment : To prevent speculation, the length of ownership of the premises concerned should be considered as an eligibility criterion for compensation. Compensation rules for multiple flats ownership should also be spelt out.

Response : A freezing survey will be conducted to determine eligibility for

the HPA. We intend that any person who acquires a flat after the freezing survey would not be eligible for the HPA. Under the existing policy, no more than two HPA payments to an owner is allowed for a resumption exercise.

- (9) Comment : The compensation formula for the HPA should be improved. The cost of a replacement flat should be based on the value of a 1 to 5 years' old flat of the same size and in the same locality.

Response : We are reviewing the current policy to see whether there is a case for enhancing the HPA.

- (10) Comment : The HPA should be improved. The cost of a replacement flat should be based on the value of a new flat.

Response : We do not think that the cost of a replacement flat should be estimated on the basis of a new flat. However, we are reviewing the current policy to see whether there is a case for enhancing the HPA.

- (11) Comment : "Flat for flat" compensation should be an option.

Response : The compensation package (based on fair market value, plus an ex-gratia allowance) would enable an owner to buy a replacement flat of about 10 years' old, of a size similar to the one being resumed, and in the same locality. In-situ "flat for flat" compensation or "old flat for new flat" compensation within the same district is not considered appropriate. Our proposal is that the replacement flat should be a relatively modern flat (about 10 years' old) and not a brand new flat.

- (12) Comment : The HPA should be paid in full to owners of tenanted flats as well as owner-occupiers.

Response : Under the existing policy, the main eligibility criteria for HPA are as follows:

- (a) a single owner-occupied flat  
full HPA for the flat;

- (b) 1 owner-occupied flat and 1 flat occupied by the owner's immediate family  
full HPA for both flats;
- (c) 1 owner-occupied flat and 1 wholly tenanted flat  
full HPA for the first flat and 50% HPA for the second flat;
- (d) 1 wholly tenanted flat  
50% HPA for the flat; and
- (e) more than 1 wholly tenanted flat  
50% HPA for 1 flat and no HPA for the others.

- (13) Comment : Owners should be given “green form” status to buy the Home Ownership Scheme flats.

Response : The owners will be fairly and reasonably compensated. They should not enjoy “double benefits” by having “Green Form” status for buying a Home Ownership Scheme flat.

- (14) Comment : Compensation for non-residential premises should be based on prevailing market rate plus business loss.

Response : Under the Lands Resumption Ordinance, an owner of non-residential premises is entitled to the fair market value of the premises resumed, plus any business loss (if substantiated) and disturbance payment. He or she will also be offered the option of the fair market value of the premises resumed, plus an ex-gratia allowance.

- (15) Comment : Ex-gratia payments should be released expeditiously to affected persons.

Response : It has been the Government's policy to disburse the ex-gratia payments in a timely manner.

- (16) Comment : The proposed appeal mechanism for dealing with the HPA should be stated in the policy paper on urban renewal.

Response : We intend to set up an Appeals Committee for considering appeals against the decision of the D of L on HPA cases. We will announce the details of the scheme shortly.

### **XXIII Rehousing Arrangements**

- (1) Comment : The principles of rehousing should be stated in the Bill, in particular the details concerning the handling of special cases.

Response : The Government has made a commitment that no one will be rendered homeless as a result of the urban renewal programme. We do not think that it is appropriate to set out the rehousing arrangements in the Bill. The rehousing arrangements would be set out in the policy document on the URS.

- (2) Comment : Residents should be rehoused in-situ or in nearby districts.

Response : Affected residents will be given a choice of flats in different housing estates. As far as practicable, the available flats will be provided from housing estates in the same district. However, we cannot guarantee that all affected residents will be rehoused in-situ.

- (3) Comment : In-situ rehousing is an ideal objective but difficult to achieve.

Response : Although we cannot guarantee that all affected residents will be rehoused in-situ, we will try to accommodate the preferences of affected residents. They will be offered a number of choices.

- (4) Comment : Affected tenants should not be subject to the means test or other eligibility tests.

Response : Affected tenants need to comply with either the prevailing eligibility criteria of the HA for rehousing or those of the HS. However, the URA will be flexible in making rehousing arrangements for displaced tenants, having regard to the circumstances of special cases.

- (5) Comment : The eligibility criteria for rehousing should be relaxed.

Response : Affected tenants by land resumption for URA projects would be rehoused according to the prevailing eligibility criteria of the HA and the HS.

- (6) Comment : Cash compensation in lieu of rehousing should be offered as an option to tenants.

Response : A cash allowance may be given by the URA to affected tenants who do not qualify for public rental housing and other rehousing assistance (eg, a housing loan scheme or the Home Ownership Scheme).

- (7) Comment : Affected tenants should be eligible for various loan schemes to purchase private flats as an alternative to rehousing.

Response : The HA would consider offering Green Form status to eligible affected tenants for the purpose of applying for various subsidized home ownership schemes administered by the HA, including the Home Purchase Loan Scheme.

#### **XXIV Power to Enter and Inspect (Clause 26)**

- (1) Comment : Clause 26 should be deleted because it infringes a person's human rights.

Response : The Bill, including clause 26, is consistent with the human rights provisions of the Basic Law.

#### **XXV Power to Make Bylaws (Clause 29)**

- (1) Comment : Bylaws made by the URA should be gazetted and made available for public inspection.

Response : Clause 29(2)(c) of the Bill provides that:

“all bylaws so made shall be subject to the approval of the LegCo”.

Accordingly, the bylaws are subsidiary legislation. By virtue of section 35 of the Interpretation and General Clauses Ordinance, this is what is commonly known as “positive” vetting and the LegCo can amend them in whole or in part.

Under section 28(2) of the Interpretation and General Clauses Ordinance, all subsidiary legislation is required to be published in the Government Gazette.

### **XXVI Transitional Arrangements (Clauses 31 and 32)**

- (1) Comment : The URA should expeditiously implement redevelopment projects already announced by the LDC.

Response : On the establishment of the URA and the dissolution of the LDC, the URA would take over all the assets and liabilities of the LDC, including any uncompleted redevelopment projects. The URA would give priority consideration to the projects already announced by the LDC.

- (2) Comment : Clause 31(8) should be deleted to preserve the existing right of owners within an LDC scheme area to be offered a “fair and reasonable price” for their properties.

Response : Clauses 31(5) and (8) are necessary to provide flexibility for the URA in planning its projects. Otherwise, some announced projects could not be implemented.

### **XXVI Others**

- (1) Comment : The name “Urban Renewal Authority” should be changed as the word “urban” covers Hong Kong Island and Kowloon only. However, old buildings in Tsuen Wan and the other New Territories areas may be included for redevelopment in future.

Response : The word “urban” is descriptive of both the city and the town. There is no real need to change the name of the URA.

- (2) Comment : A Strategic Planning Authority should be set up.

Response : We do not think that there is need for a Strategic Planning Authority at this time.

- (3) Comment : The principles regarding the fair distribution of the benefits of urban renewal should be published.

Response : We will further study this suggestion.

- (4) Comment : A multi-disciplinary urban renewal team should be established for each redevelopment area.

Response : The LDC is funding two social service teams. The experience has been that such teams facilitate the urban renewal process and act as a bridge between the LDC and owners and tenants affected by the land resumption in relation to LDC projects. The URA should consider setting up an urban renewal social work team for each of the 9 target areas to provide assistance and advice to residents affected by URA’s redevelopment projects. Such a team should preferably be set up before the first redevelopment project actually commences in a target area.

- (5) Comment : Services catering for the low income group should be retained in redeveloped areas.

Response : The URA target areas would be replanned and restructured. We would ensure that adequate facilities and services are provided for all income groups.

- (6) Comment : The Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) should be reviewed to lower the threshold for compulsory sale to facilitate redevelopment by the private sector.

Response : The Land (Compulsory Sale for Redevelopment) Ordinance

only came into operation last year. We will review the Ordinance after it has operated for some time.

- (7) Comment : The Lands Resumption Ordinance should be reviewed to provide compensation for blight.

Response : We are reviewing the Lands Resumption Ordinance and will take into account the Bar Association's view.

- (8) Comment : Other legislation/schemes, for example the Buildings Ordinance and the Building Safety Improvement Loan Scheme, should be reviewed to facilitate the work of the URA.

Response : A Task Force has been formed to conduct a comprehensive review of the policies and enforcement action on building safety and preventive maintenance. We will also review the Buildings Ordinance and the Building Safety Improvement Loan Scheme.

Planning and Lands Bureau

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