

**立法會**  
**Legislative Council**

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**Bills Committee on  
Foreshore, Sea-bed and Roads (Amendment) Bill 2003**

**Background Brief on  
Foreshore, Sea-bed and Roads (Amendment) Bill 2003**

**Purpose**

This paper sets out the background of the Foreshore, Sea-bed and Roads (Amendment) Bill 2003, and summarizes the major concerns raised by Members when the Panel on Planning, Lands and Works (PLW Panel) was consulted on the relevant legislative proposals at its meetings on 16 May and 6 December 2002.

**Background**

2. The Foreshore and Sea-bed (Reclamations) Ordinance (FS(R)O) (Cap. 127) provides that where a reclamation is proposed in relation to any foreshore and sea-bed, any person who considers that he has an interest, right or easement in or over the foreshore and sea-bed described in the notice published in the Gazette may object to the proposed reclamation within 2 months. The Roads (Works, Use and Compensation) Ordinance (R(WUC)O) (Cap. 370) provides that any person affected by the proposed works or the use in relation to a road scheme may lodge an objection within 60 days after the notice covering the road scheme has been published in the Gazette.

3. Before any objection is submitted to the Chief Executive in Council, the Government would try to resolve the objection through discussion with the objector concerned. Originally, both FS(R)O and R(WUC)O did not stipulate any time limit for resolving objections. Since the Government was obliged to provide objectors with a fair and reasonable opportunity to say their "last word" concerning the objections, there were cases which the Administration believed certain objectors had deliberately deployed a delaying tactic by producing further arguments, alternatives, or new requirements. To address this problem,

the Administration introduced three bills<sup>(Note 1)</sup> into the Provisional Legislative Council (PLC) in early 1998 to provide a statutory time limit of 9 months for dealing with objections under FS(R)O, R(WUC)O and the Town Planning Ordinance (Cap. 131). The 9-month statutory time limit followed that for dealing with objections in the Railways Ordinance (Cap. 519) enacted in July 1997.

4. The Bills Committee formed by PLC to study the three bills in 1998 noted that most of the objection cases in the past had been resolved within 9 months. The Bills Committee also noted that under exceptional circumstances, the Chief Executive (CE) might allow a further period for dealing with complicated objection cases after the expiration of the 9-month period. Since the circumstances under which an extension of the period could be granted were not specified, members of the Bills Committee were concerned that this open-ended provision might defeat the purpose of the three bills. They suggested that the extension period as might be allowed by CE should be restricted to 6 months. In fact, the provision to limit the extension period to 6 months was originally proposed in the Town Planning White Bill. The Administration accepted members' suggestion and moved amendments to the three bills at the Committee Stage.

5. The three bills, as amended, were passed by PLC on 25 March 1998.

### **Purpose of the Bill**

6. Following a review in 2001, the Administration has reduced the pre-construction lead time for an average medium-sized civil engineering project from six years or more to less than four years. To further expedite the delivery of public works projects, the Administration introduced the Foreshore, Sea-bed and Roads (Amendment) Bill 2003 into the Legislative Council in February 2003 to amend FS(R)O and R(WUC)O:

- (a) to shorten the period for the lodging of objections against any proposed reclamations, plans or schemes under the two relevant Ordinances from 2 months/60 days to 30 days;
- (b) to shorten the objection resolution period from 9 months to 4 months;

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(Note 1)

The three bills were:

- (a) Foreshore and Sea-bed (Reclamations) (Amendment) Bill 1998;
- (b) Roads (Works, Use and Compensation) (Amendment) Bill 1998; and
- (c) Town Planning (Amendment) Bill 1998.

- (c) to shorten the extension period for resolving objections as may be granted by CE from 6 months to 3 months; and
- (d) to provide for transitional provisions.

### **Major concerns raised by Members**

7. At the PLW Panel meeting on 16 May 2002, a majority of the Members present did not support the legislative proposals mentioned in paragraph 6 above and two of them requested the Administration to withdraw the proposals. As a whole, Members expressed three major concerns, as follows:

- (a) Whilst appreciating the need to expedite the delivery of public works projects, Members considered that the right approach would be for the Administration to streamline the internal consultation process, rather than to shorten the periods for the lodging and resolving of public objections;
- (b) The shortened periods would be inadequate for the public to raise objections and the Government to resolve the objections; and
- (c) The Administration should put in place improvement measures to ensure that the general public, in particular the affected persons, would be aware of the proposed projects.

8. At the PLW Panel meeting on 6 December 2002, the Administration put forward further justifications for the legislative proposals and some proposed administrative measures to be implemented in conjunction with the legislative proposals to enhance public consultation. Two Members indicated their objection to the proposal mentioned in paragraph 6(a) above.

9. Extracts from the minutes of the two relevant Panel meetings (LC Paper Nos. CB(1)240/02-03 and CB(1)726/02-03) are attached in **Appendices I and II**.

**Extract from the minutes of special meeting  
of the LegCo Panel on Planning, Lands and Works  
held on 16 May 2002**

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**III. Speeding up of public works projects — proposed legislative amendments**

(LC Paper No. CB(1)1630/01-02(13) — Paper provided by the Administration)

Administration's proposed legislative amendments

17. The Deputy Secretary (Programme and Resources) of Works Bureau (DS/WB) advised that following a review in 2001, the Administration had successfully reduced the pre-construction lead time for an average medium-sized civil engineering project from six years or more to less than four years. To meet the public expectation to further expedite the delivery of public works projects, the Administration proposed to amend the Roads (Works, Use and Compensation) Ordinance (Cap. 370), Foreshore and Seabed (Reclamations) Ordinance (Cap. 127) and Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg.):

- (a) to shorten the period for the lodging of objections under the relevant Ordinances/Regulation from two months to one month;
- (b) to shorten the objection resolution period from the maximum of nine months to four months; and
- (c) to shorten the extension period for resolving objections as might be granted by the Chief Executive from the maximum of six months to three months.

18. DS/WB also briefed members on the background and benefits of the proposal and the interim arrangements as detailed in the paper provided by the Administration.

19. Mr Albert CHAN expressed that the Democratic Party strongly objected to the proposed legislative amendments, as the amendments would greatly affect the right of the public to lodge objections to proposed public works projects. At present, the Roads (Works, Use and Compensation) Ordinance provided that any person might object to any works or use in connection with a road within a period of 60 days from the date when the works or use was published on the Gazette. Similarly, the Foreshore

and Seabed (Reclamations) Ordinance provided that any person might object to a reclamation within a period of two months from the date when the reclamation was published on the Gazette. Mr CHAN pointed out that the general public, being normally unaware of the contents of the Gazette, would only come to know about the works or reclamation if the project in question was widely publicized by the media. They then needed time to study and discuss the project before finalizing their views. The existing two-month objection period was not too long and therefore should not be shortened.

20. DS/WB pointed out that under the existing public consultation procedures, the Works Departments were required to present their proposed public works projects to the relevant District Councils and other concerned parties prior to finalizing the project schemes for gazettal. The public should therefore have sufficient advance knowledge of the project to enable them to raise any objections quickly after it was gazetted. As regards the proposal to shorten the period for resolving objections, it would mainly affect the Administration.

21. Mr Albert CHAN considered that the Administration should appreciate that it would take time for the general public to study public works proposals in detail because they could not afford to do so on a full-time basis. In fact, the two-month objection period was too short for some complex projects. The Chairman also considered the two-month objection period too short. DS/WB advised that prior to 1998, there had been no fixed statutory period for objection. To address the concern raised by the public and government departments about the endless process for resolving objections, fixed statutory periods for resolving objections were then introduced to expedite the delivery of public works projects.

22. While recognizing the need to expedite the delivery of public works projects, Miss CHAN Yuen-han considered the Administration's proposed legislative amendments not the right way forward. She recalled that when the subject was discussed at the Public Works Subcommittee (PWSC) meeting on 14 November 2001, Members had expressed support for expediting the delivery of public works projects but stressed that the relevant statutory procedures must be complied with and public consultation must not be compromised. In Miss CHAN's view, the Administration should streamline internal procedures and introduce measures to enhance the coordination among various bureaux and departments involved in public works projects. The Chairman, Mr LAU Ping-cheung and Ir Dr Raymond HO shared her views. They did not support the proposed legislative amendments, as the amendments would affect the interests of the public. Ir Dr HO considered that the right approach would be for the Administration to streamline the time-consuming process for internal consultation at the early planning stage of a project. As far as he knew, it was not uncommon for the department proposing a project to wait for a long period of time for the comments from other departments concerned.

23. DS/WB clarified that the proposed legislative amendments would only affect the periods for lodging and resolving objections after a public works project was gazetted, but not the public consultation process before gazettal. DS/WB also pointed out that since 2001, the Administration had already introduced a number of streamlined pre-tender planning and administrative measures and adopted accelerated procedures for the selection and award of works consultancies and contracts. Moreover, a Project Manager (PM) had been assigned for each project to enhance coordination among various bureaux and departments involved in a public works project.

24. Ir Dr Raymond HO enquired whether officials of more senior levels would be designated for the coordination of public works projects after the implementation of the accountability system for principal officials on 1 July 2002. DS/WB said that as a general practice, monitoring of public works projects had been delegated to the Works Departments and a PM ranked at directorate level would assume the coordinating role for each project. As regards large-scale public works projects, special committees comprising representatives of the relevant bureaux and departments would be set up to monitor the progress. Ir Dr HO considered the ranking of a PM too low to perform the coordinating role effectively. He was concerned that the practical problems would remain unresolved. The Chairman suggested the Administration to consider Ir Dr HO's views.

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25. Responding to Miss CHAN Yuen-han, DS/WB advised that 2% of the 108 public works projects published on the Gazette in the past five years required seven to nine months for resolving objections and 8% required from four to seven months. The rest of the projects took less than four months for resolving objections or involved unresolved objections which required submission to ExCo. The Administration therefore considered it justified to shorten the period for resolving objections to four months. Miss CHAN disagreed with the Administration's view. The fact that 10% of the projects required more than four months for resolving objections demonstrated that a four-month period was too short for the purpose. She considered that a reasonable time period should be provided for the public to lodge objections to public works projects regardless of the number of projects involved.

26. Being unconvinced of the Administration's explanations, Miss CHAN Yuen-han and Mr Albert CHAN requested the Administration to withdraw its proposed legislative amendments. DS/WB reiterated that the proposed amendments aimed to expedite the delivery of public works projects by shortening the periods for lodging and resolving objections. The public consultation process before the gazettal of a public works project would not be affected.

27. The Chairman requested the Administration to take account of Members' views and reconsider its proposals for expediting the delivery of public works projects.

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Informing the affected parties and general public of public works projects

28. Mr Albert CHAN and Mr LAU Ping-cheung considered that improvement measures should be put in place to ensure that the parties affected by a proposed public works project and the general public were aware of the proposed project. Apart from publishing the proposed project on the Gazette, the Administration should consider informing the affected parties in writing and posing notices at the sites in question.

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**Extract from the minutes of meeting  
of the LegCo Panel on Planning, Lands and Works  
held on 6 December 2002**

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**VI. Speeding up of public works projects — Proposed Foreshore, Sea-bed and Roads (Amendment) Bill**

(LC Paper No. CB(1)379/02-03(05) — Paper provided by the Administration for the Panel meeting on 6 December 2002

LC Paper No. CB(1)1630/01-02(13) — Paper provided by the Administration for the special Panel meeting on 16 May 2002

LC Paper No. CB(1)379/02-03(06) — Extract from the minutes of the special Panel meeting on 16 May 2002)

46. The Chairman pointed out that the Administration had, at the Panel meeting on 16 May 2002, briefed Members on the legislative proposals to amend the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) and the Roads (Works, Use and Compensation) Ordinance (Cap. 370) to shorten the period for the lodging of objections from two months to one month, and to shorten the objection resolution period from the maximum of nine months to four months, etc. The Members who had attended that meeting considered the shortened periods inadequate for the lodging and resolving of public objections and therefore did not support the legislative proposals. To address Members' concern, the Administration would put forward at this meeting further justifications for the legislative proposals and some proposed administrative measures to be implemented in conjunction with the legislative proposals.

47. The Secretary for the Environment, Transport and Works (SETW) recapitulated that at the Panel meeting on 16 May 2002, Members had expressed three major concerns on the legislative proposals, as follows:

- (a) Whilst appreciating the need to expedite the delivery of public works projects, Members considered that the right approach would be for the Administration to streamline the internal consultation process, rather than to shorten the periods for the lodging and resolving of public objections;

- (b) The Administration should put in place improvement measures to ensure that the general public, in particular the affected persons, would be aware of the proposed project; and
- (c) The shortened periods would be inadequate for the public to raise objections and the Government to resolve the objections.

48. On paragraph 47(a) above, SETW pointed out that the former Works Bureau had 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, the pre-construction lead-time for an average medium-sized civil engineering project had been significantly reduced from six years to less than four years from inception. SETW further pointed out that the current statutory period for raising and resolving objections (11 to 17 months) plus the period for land resumption (eight months) took up about half of the overall pre-construction lead-time. As there was 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 was the only feasible and practical means to further expedite the delivery of public works projects.

49. On paragraph 47(b) above, SETW advised that the Administration would strengthen the existing publicity mechanism to notify the public of works projects before and during gazettal of the projects. In this connection, the works departments would be required to consult the District Councils (DCs) on projects, except for minor works projects, at least three months in advance of the date of gazettal. Moreover, the Administration would sound out a project to the parties directly affected by the project before gazettal. These could be done by the posting of draft work plans at prominent locations on the site, meetings with residents' representatives or holding public hearings for large projects. When gazetting a project, the Administration would display more notices on the site for public information. The notices and relevant documents would also be published on the internet.

50. On paragraph 47(c) above, SETW pointed out that under the existing procedures, the Administration would consult DCs and other relevant parties upon completion of the feasibility study, Environmental Impact Assessment (EIA) Study or other reviews for all projects. These consultations would have provided ample opportunities for the public to understand the project well before it was gazetted. SETW also pointed out that according to past experience, most of the objections were simple statements focusing on the aspects of the project that would affect the objectors' private rights or interests. The Administration was therefore of the view that the proposed shortened period of one month should be adequate for raising objections. As regards the resolving of objections, while the objection resolution period was proposed to be shortened to four months, the period might be extended by the Chief Executive (CE) by three months. In other words, a total of seven months would be allowed for resolving objections. Among the 108 projects gazetted in the

past five years, only two projects (2%) required seven to nine months to resolve the objections. The Administration was therefore confident that the shortened period would be adequate for a majority of cases. SETW assured members that where necessary, additional staff would be deployed within government departments to process the objections.

51. SETW said that in the present economic downturn, there were strong public expectations for further shortening the lead-time for project delivery. Early completion of works projects would mean that the public could realize the benefits of the projects earlier than the original schedule. Moreover, an expedited works programme would provide job opportunities for professional staff and workers. SETW called for Members' support for the legislative proposals.

#### General views

52. Mr James TIEN Pei-chun said that the Liberal Party supported the spirit of the legislative proposals to expedite the delivery of public works projects. He considered it important for the Administration to ensure that the general public, in particular the affected persons, would be allowed sufficient time to put forward their views on public works projects, and that the objections received would be processed or resolved as quickly as possible.

#### Shortening the period for lodging objections

53. Mr Albert CHAN Wai-yip indicated his strong objection to the Administration's proposal to shorten the period for the lodging of objections by the public from two months to one month. He considered it extremely difficult, if not impossible, for members of the public to study relevant documents and reports about works projects and prepare their objections within the one-month period. He urged the Administration to retain the two-month period.

54. Ir Dr Raymond HO shared Mr Albert CHAN's view. Referring to the Administration's advice that the pre-construction lead-time for an average medium-sized civil engineering project had been reduced from six years to less than four years from inception, Ir Dr HO was concerned about the number of projects which had actually achieved this target. As far as he knew, a majority of projects took ten years to twenty years to complete. He therefore considered that the proposed shortening of the period for the public to lodge objections by one month would not serve any meaningful purpose. In his view, there was scope for the Administration to further streamline the internal consultation procedures in the delivery of public works projects. In this connection, he suggested that a time period be specified for relevant government departments to comment on public works projects, and that the length of the report on feasibility study be reduced.

55. SETW appreciated members' views. She pointed out that the Administration

Admin and the public needed to work together for expediting the delivery of public works projects. She assured members that the Administration would continue to review the relevant procedures and put in place other improvement measures.

#### Extension period for resolving objections

56. Referring to the Administration's proposal to shorten the extension period for resolving objections as might be granted by CE from the maximum of six months to three months, Mr IP Kwok-him sought clarification on the circumstances under which CE's approval would be sought to extend the period for resolving objections. The Deputy Secretary for the Environment, Transport and Works (Transport and Works) W1 (DSETW(TW)W1) advised that if the Administration anticipated that an objection would unlikely be resolved within the original time allowed, the Administration would seek the objector's view on whether a time extension would be useful to achieve resolution of the objection. Upon receiving the objector's view, the Administration would consider whether a time extension should be sought. Responding to Mr IP, DSETW(TW)W1 advised that an objector could take the initiative to request the extension of the period for resolving the objection and his request would be subject to the final decision of CE.

#### Consultation with District Councils

Admin 57. Mr WONG Yung-kan criticized that the Administration had rarely consulted Tai Po DC on EIA reports for public works projects. Citing the example that mariculturists had disputed the assessment of the EIA report for the Penny's Bay reclamation works and claimed compensation for fish loss due to the dredging works of the project, Mr WONG considered that the Administration should implement measures to avoid recurrence of similar incident and to ensure that the relevant DCs would be consulted on EIA reports for public works projects. SETW pointed out that consultation with DCs was an important channel for the Administration to seek the views of the local community on public works projects during the planning stage. The works departments were required to consult the relevant DCs on EIA reports for public works projects. The Administration would monitor closely to ensure that the consultation was conducted.

58. Citing another example about the poor aesthetic design of the noise barriers installed along the Tolo Highway, Mr WONG Yung-kan said that Tai Po DC would have disagreed with the design of the noise barriers if they had been consulted by the Administration. DSETW(TW)W1 said that under the current proposal, the works departments would be required to consult District Councils (DCs) on projects, except for minor works projects, at least three months in advance of the date of gazettal. Admin Mr WONG welcomed the proposed measure and urged the Administration to ensure that it would be implemented. Responding to Mr IP Kwok-him, DSETW(TW)W1 advised that "minor works projects" referred to those minor projects which were not required to be published on the Gazette, such as maintenance works in a park or alteration works to government buildings.

59. Mr Albert CHAN pointed out that despite strong objection from Tsuen Wan DC on two public works projects, the Administration had still decided to proceed with the projects. He considered that the Administration should not only consult DCs, but should also take account of their views. He also considered that publication of a project on the Gazette was not an effective means to notify the public of the project. Admin He suggested that large notice boards be put up at prominent locations on and near the site to attract public attention.