

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 726/02-03  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/PLW/1

**Panel on Planning, Lands and Works**

**Minutes of meeting**  
**held on Friday, 6 December 2002 at 8:30 am**  
**in Conference Room A of the Legislative Council Building**

**Members present** : Dr Hon TANG Siu-tong, JP (Chairman)  
Hon James TIEN Pei-chun, GBS, JP  
Ir Dr Hon Raymond HO Chung-tai, JP  
Hon James TO Kun-sun  
Hon WONG Yung-kan  
Hon LAU Wong-fat, GBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Albert CHAN Wai-yip  
Hon IP Kwok-him, JP

**Members absent** : Hon LAU Ping-cheung (Deputy Chairman)  
Hon CHOY So-yuk  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon WONG Sing-chi

**Member attending** : Hon Margaret NG

**Public officers attending** : Agenda Item IV  
Mr Michael SUEN, GBS, JP  
Secretary for Housing, Planning and Lands

Mr Thomas TSO, JP  
Deputy Secretary for Housing, Planning and Lands

Mr Bosco FUNG, JP  
Director of Planning

Ms Jacinta WOO  
Senior Town Planner  
Planning Department

**Agenda Item V**

Mr CHENG Chung-wai, Daniel  
Principal Assistant Secretary for  
Housing, Planning and Lands

Mr YIP Sai-chor  
Assistant Director  
Civil Engineering Department

**Agenda Item VI**

Dr Sarah LIAO, JP  
Secretary for the Environment, Transport and Works

Mr Keith KWOK, JP  
Deputy Secretary for the Environment, Transport and Works  
(Transport and Works) W1

**Clerk in attendance :** Miss Salumi CHAN  
Chief Assistant Secretary (1)5

**Staff in attendance :** Ms Bernice WONG  
Assistant Legal Adviser 1

Mrs Queenie YU  
Senior Assistant Secretary (1)6

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**I. Confirmation of minutes of meeting and matter arising**

- (LC Paper No. CB(1)380/02-03 — Minutes of the meeting held on 8 November 2002
- LC Paper No. LS22/02-03 — Legal Service Division's report on "Removal of Stopped Deeds - Proposed amendments to Land Registration Regulations"
- LC Paper No. CB(1)446/02-03(01) — Administrations' response to the Legal Service Division's report on "Removal of Stopped Deeds - Proposed amendments to Land Registration Regulations")

Confirmation of minutes

The minutes of the meeting held on 8 November 2002 were confirmed.

Matter arising from the Panel meeting on 8 November 2002

2. The Chairman recapitulated that at the meeting on 8 November 2002, members had expressed concern about the different opinions of the Hong Kong Bar Association (the Bar Association) and the Department of Justice (D of J) on whether amendments could be made to the Land Registration Regulations (Cap. 128 sub. leg.) for the removal of stopped deeds as proposed by the Administration. Members had then requested the Administration to provide its correspondence with the Bar Association and the Law Society of Hong Kong (the Law Society) on the issue, and the Legal Service Division (LSD) of the Legislative Council (LegCo) Secretariat to provide written advice.

3. Members noted the correspondence provided by the Administration, the LSD's report and the Administration's response to the LSD's report. They noted that D of J, having reviewed the matter and in view of the doubts raised by LSD, agreed that:

- (a) there could be a risk of legal challenge on the vires of the proposed Regulations as far as the question of priority was concerned; and
- (b) for the complete avoidance of doubt, the priority issue arising out of the proposed removal of stopped deeds should best not be dealt with in the Regulations.

4. Members also noted that the Administration would, in view of the latest legal advice, consider how best to deal with the removal of stopped deeds proposal and revert to the Panel once a decision had been reached on the issue.

5. Miss Margaret NG welcomed the Administration's decision to reconsider the issue. She however expressed disappointment that the issue remained unresolved after such a long time. She said that the Bar Association, in its submission dated 14 June 2002 to the Administration, had already pointed out that substantive rights of priority would be affected under the proposed Regulations in the event that the court were to find that the Land Registrar was wrong to have removed the particulars in the first place, and that as a matter of principle, provisions affecting substantive property rights as opposed to merely procedural matters ought not to be included in subsidiary legislation. In view of the need for the early implementation of the legislative proposal on the removal of stopped deeds, Miss NG strongly urged the Administration to deal with the issue expeditiously and revert to the Panel as soon as possible. Mr Albert CHAN Wai-yip supported her views. The Chairman directed the Clerk to convey Members' concern to the Administration in writing.

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*(Post-meeting note: The Clerk issued a letter conveying Members' concern to the Secretary for Housing, Planning and Lands (SHPL) on 6 December 2002.)*

## **II. Information papers issued since last meeting**

6. Members noted the following information papers issued since the last meeting -

- (a) Information paper on issues raised by Wan Chai District Council members at the meeting with LegCo Members on 23 May 2002 (LC Paper No. CB(1) 288/02-03); and
- (b) Information paper on proposed creation of a permanent directorate post as Administrative Assistant to the Secretary for the Environment, Transport and Works (LC Paper No. CB(1) 341/02-03).

7. On the information paper mentioned in paragraph 6(b) above, the Chairman pointed out that the Administration planned to submit the relevant proposal to the Establishment Subcommittee for consideration at its meeting on 11 December 2002.

**III. Proposed discussion items for the Panel meetings to be held from January to July 2003**

- (LC Paper No. CB(1)379/02-03(01) — List of outstanding items for discussion
- LC Paper No. CB(1)379/02-03(02) — List of information papers to be presented to the Panel
- LC Paper No. CB(1)379/02-03(03) — List of follow-up actions)

8. The Chairman reported that he, together with the Deputy Chairman and Ir Dr Raymond HO Chung-tai, had discussed with the Secretary for the Environment, Transport and Works (SETW) and SHPL on 22 and 29 November 2002 respectively on the work plans of the Panel for the current session. He referred members to the discussion items proposed by members and the Administration set out in LC Paper No. CB(1) 379/02-03(01), and the three information papers to be presented to the Panel by the Administration as detailed in LC Paper No. CB(1) 379/02-03(02).

9. The Chairman drew members' attention that the Administration had not proposed any discussion items for the Panel meeting in January 2003. As regards the discussion items proposed for the Panel meetings from February to July 2003, they were tentative and would be updated in due course to meet the needs of the Panel and the Administration.

Regular meeting in January 2003

10. Referring to item 7 of the list of outstanding items for discussion, the Chairman recapitulated that at the last meeting, the Panel had agreed that the Member's Bill on conservation of tree proposed by Ms CHOY So-yuk be tentatively scheduled for discussion at the regular meeting on 3 January 2003. The Chairman informed members that Ms CHOY requested on 4 December 2002 that the discussion of the Bill be postponed to a later date to be confirmed.

11. The Chairman advised that the Committee on Rules of Procedure had recommended that as in last year, individual Panels should decide on the need for conducting policy briefings on the Policy Address and whether such briefings should be held before or after the debate on the Motion of Thanks. He then invited members' views on the issue. Members considered that SHPL and SETW should be invited to brief the Panel on the relevant policy initiatives featuring in the Chief Executive's 2003 Policy Address after the debate on the Motion of Thanks scheduled for 15 to 17 January 2003. Members agreed that the regular meeting originally scheduled for 3 January 2003 be deferred to Friday, 24 January 2003 at 8:30 am for the policy briefings.

### Joint meeting with the Panel on Housing

12. Referring to item 6 of the list of outstanding items for discussion, the Chairman drew members' attention that after meeting with representatives of Aggrieved Owners of Rooftop Structures in Tsuen Wan District on 20 November 2002, the Duty Roster Members (DRMs) had referred the issues relating to the procedures and priority for demolition of rooftop structures and rehousing policy for affected occupants to the Panel and the Panel on Housing for follow up. The DRMs had also suggested that a subcommittee be formed to discuss the issues. Members considered it not necessary to form a subcommittee for the purpose. They however agreed that a joint meeting with the Panel on Housing be arranged to discuss the issues.

#### **IV. Proposed Town Planning (Amendment) Bill**

(LC Paper No. CB(1)379/02-03(04) — Paper provided by the Administration)

13. The Chairman recapitulated that the Administration had introduced a Town Planning Bill to LegCo in February 2000 proposing an overhaul of the statutory planning system. Due to the complexity of the issues involved, the Bills Committee formed to study the Bill was not able to complete scrutiny of the Bill within the last term of LegCo. The Bill lapsed upon the end of the last term. Having examined the views of the public and the Bills Committee, the Administration then proposed to amend the Town Planning Ordinance (TPO) (Cap.131) in stages. The Administration would brief members on Stage One Amendments at the meeting. It planned to introduce the relevant legislative proposals into LegCo in March 2003.

14. The Secretary for Housing, Planning and Lands (SHPL) briefed members that the Administration would put forward amendments to TPO in stages, giving priority to those amendments which had general consensus and would produce more immediate benefits to the community. Stage One Amendments included amendments that would streamline and shorten the town planning process, enhance openness of the planning system, and strengthen enforcement control on unauthorized developments. The proposed amendments would expedite the development approval process in respect of both public and private developments and enable greater public participation in the planning process to enhance public accountability. Moreover, the strengthened enforcement provision would help improve the rural environment. SHPL also pointed out that the Administration and the Town Planning Board (TPB) would endeavor to streamline and expedite the town planning process through introducing not only legislative proposals, but also administrative measures.

15. The Senior Town Planner of Planning Department (STP/PD) then gave a power-point presentation on the Stage One Amendments.

(*Post-meeting note:* The presentation materials were issued to members vide LC Paper No. CB(1)484/02-03 on 9 December 2002.)

### General views

16. Mr LAU Wong-fat considered it necessary and timely to amend TPO. Mr TAM Yiu-chung and Mr IP Kwok-him supported the general direction to streamline the town planning process.

### Time schedule for implementing the proposed amendments

17. Whilst indicating no objection to amend TPO by stages, Mr Albert CHAN Wai-yip expressed concern that the Administration might first put forward those proposed amendments supported by private developers, and defer those not supported by private developers to the last stage. The Deputy Secretary for Housing, Planning and Lands (DS/HPL) stressed that the Administration would not favour any parties. Priority would be accorded to those amendments which had general consensus and would produce more immediate benefits to the community. Responding to Mr CHAN's enquiry on the timetable for introducing the remaining stages of amendments, DS/HPL advised that the Administration planned to introduce the Town Planning (Amendment) Bill covering the Stage One Amendments into LegCo in the 2002/03 session, and to introduce another Bill covering the Stage Two Amendments immediately after passage of the Stage One Amendments. Subject to the progress of scrutiny of the first Bill, the second Bill might be introduced in the 2004/05 session.

### Expediting the plan-making process

#### *Publication of draft plan*

18. Mr Albert CHAN considered it unreasonable to shorten the publication period for new plan or amendment to approved plan from two months to one month. He pointed out that the general public needed time to study the voluminous documents relating to the draft plans before finalizing their views. A one-month period would be too short for them to raise objections. DS/HPL advised that under the proposed revised procedure, the public would have another four weeks after the expiry of the one-month period to provide supplementary information to support their objections.

19. Mr IP Kwok-him considered that the crux of the matter was not the length of the publication period. In his view, the most important of all was to ensure that the public, in particular the affected persons, would be timely informed of the planning applications. Under the present arrangement, TPB was required to notify in the Gazette the place and hours at which the draft plans might be inspected. As it was uncommon for the public to read the Gazette, the affected persons might not be aware of the publication of the draft plans. To improve the situation, Mr IP suggested that

the role of District Councils (DCs) be enhanced in the consultation process. The Director of Planning (D of P) said that conscious efforts had been made by the Administration to enhance communication and consultation with the public. For example, forums were arranged to consult the public on planning proposals and studies. All along, the Administration had played high regard to the role of DCs as evidenced by the requirement for the relevant DCs to be consulted on the draft plans before publication. Mr IP pointed out that in most cases, the relevant DCs were consulted at a very late stage. He requested the Administration to ensure that the relevant DCs would be properly consulted on the draft plans before publication and that the views of DCs would be taken into account by TPB.

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### Streamlining the planning approval process

#### *Minor amendments to approved development schemes*

20. Referring to the proposal that further planning permission would not be required for certain minor amendments to approved development schemes, Mr TAM Yiu-chung considered that the meaning of "minor amendments" should be clearly defined to avoid disputes. D of P advised that under the existing TPO, TPB had delegated its authority to the District Planning Officer (DPO), Chief Town Planner/Urban Renewal (CTP/UR) and D of P to consider planning applications for the minor amendments to development proposals with planning permission previously granted by TPB under section 16 of TPO. In this connection, TPB had issued a set of guidelines stipulating the types of minor amendments to be considered by DPO, CTP/UR or D of P. D of P undertook to provide the guidelines for members' reference.

### Enhancing the fairness and openness of the planning system

#### *Owner's consent*

21. Mr LAU Wong-fat pointed out that one of the major deficiencies of the current system was that owners' consent or notification to owner was not required for submission of an application. Referring to the Administration's proposal to require an applicant for planning permission or amendment to statutory plan who was not the owner of the application site to obtain the consent of or notify the owner, Mr LAU considered it essential to require the applicant to obtain the written consent of the owner.

22. Mr Albert CHAN pointed out that for cases involving multiple ownership, it was not practicable for the applicant to notify all the owners, not to say obtaining their consent. For those cases involving hundreds of owners, the cost for conducting land search on the owners concerned would be substantial. Moreover, some of the owners might not be located. In the circumstance, the applicant would not be able to apply for planning permission or amendments to statutory plan. D of P advised that for cases

Admin involving multiple ownership, it would be acceptable for the applicants to notify the owners concerned by publishing notices in newspapers. Mr CHAN requested the Administration to reflect this point in the proposed amendments.

Admin 23. Whilst appreciating Mr Albert CHAN's concern, Mr James TO Kun-sun considered it important to ensure that the owners of the application site were aware of the application. He was concerned that the publication of notices in newspapers might not serve the purpose. He suggested the Administration to further look into this point.

24. Mr TAM Yiu-chung enquired about the actions required to be taken by an applicant in order to fulfil the requirement for notifying the owners of the application site, in particular for those cases where the owners concerned were residing in overseas countries. D of P advised that the details had yet to be worked out by the Administration.

#### *Publication of planning applications for public consultation*

Admin 25. Mr Albert CHAN supported the proposal to require TPB to publicize all planning applications for planning permission and amendment to statutory plan by posting notices on or near the site or publishing notices in local newspapers for public comment. He however considered that an A4-sized notice might not be able to attract public attention. Referring to the practice adopted by major overseas cities, Mr CHAN suggested that TPB be required to put up large notice boards at prominent locations on the site and that the size of the notice boards be clearly specified in the legislation. D of P pointed out that the form and size of notices involved technical considerations. In his view, Mr CHAN's concern could be addressed through administrative measures. The Administration would work out the detailed requirements in due course.

Admin 26. Mr James TO suggested that the Administration should consider, as an established practice, notifying local organizations, such as Mutual Aid Committees or Owners' Corporations, of planning proposals and applications in writing.

#### Recovering costs for processing planning applications

27. On the Administration's proposal that applications for planning permission and amendment to statutory plan should be subject to a fee prescribed by SHPL, Mr LAU Wong-fat noted that the objective of the proposal was to recover the cost of services provided by the Administration. In this connection, he sought clarification on the definition of "cost recovery" and the basis for calculating the cost. Mr LAU considered it unfair for the Administration to recover the full administrative costs involved in handling the applications, as the levels of civil service pay were higher than those of private sector pay. DS/HPL and D of P advised that it was the Government's policy to charge fees on a cost recovery basis to recover the full

administrative costs incurred by the departments concerned. For the present case, the Administration would work out the cost in due course.

Admin 28. Whilst supporting the cost recovery principle, Mr Albert CHAN pointed out that there were cases in which an applicant applied for amendments to statutory development plans for the benefits of the community, not for his own benefits. He suggested the Administration to consider exempting these applicants from the payment of fees.

Strengthening planning enforcement control

*Enforcement notice against unauthorized development in rural areas*

29. On the proposal that compliance with an enforcement notice should be confined to discontinuing the unauthorized development, Mr LAU Wong-fat considered the proposal unreasonable. D of P advised that under the existing TPO, where there was unauthorized development, the Administration might, in a notice served on the land owner, an occupier or a person who was responsible for the unauthorized development, specify a date by which if the unauthorized development had not been discontinued, the Administration required it to be discontinued or permission for the development to be obtained under section 16 of TPO. Normally, the person concerned who did not wish to discontinue the unauthorized development would apply for permission under section 16 of TPO in order to comply with the enforcement notice. Under TPO, if he was aggrieved by the decision of TPB under section 16, he might apply for a review of the decision, and if he was aggrieved by the outcome of the review, he might lodge an appeal to the Appeal Board. It took more than one year for completing the review and appeal process. Past experiences revealed that during that process, the continuance of the unauthorized development had caused nuisances to the rural areas and local residents. To plug the loophole, the Administration proposed to amend TPO to the effect that compliance with an enforcement notice should be confined to discontinuing an unauthorized development. However, the Administration would consider the actual circumstances of each case before deciding whether enforcement action should be taken. For example, if the application of the person concerned for permission for the development had already been approved by TPB, enforcement action would not be taken against him.

30. The Chairman suggested that consideration be given to streamlining the review and appeal process. D of P advised that while the Administration aimed to streamline the town planning process, a reasonable period should be allowed for the persons concerned to submit their applications for review or appeal.

*Enforcement notices served to run with the land*

31. To strengthen the enforcement control against unauthorized developments in rural areas, Mr James TO expressed support for the proposal that enforcement notices served should run with the land and be binding on successors of land titles.

*Managers of "Tso/Tong"*

32. Mr James TO expressed support for the proposal that managers of "Tso/Tong" should be regarded as land owners liable to offences in relation to unauthorized development.

33. Mr LAU Wong-fat however pointed out that managers of "Tso/Tong" might not be fully aware of the unauthorized development on rural land, particularly when the size of the land involved was very large and the land boundary was unclear. Moreover, managers of "Tso/Tong" were not owners of "Tso/Tong" and therefore should not be liable to offences in relation to unauthorized development if they were unaware of such development. D of P pointed out that while TPO did not expressly provide that "owners" included managers of "Tso/Tong", such managers were regarded as owners of the land under the New Territories Ordinance (Cap. 97). Moreover, the Court of Appeal had ruled on an enforcement case in 1996 that managers of "Tso/Tong" were also land owners liable to planning enforcement action. At the request of Mr LAU, D of P agreed to provide details of the case to the Panel.

34. The Chairman shared Mr LAU Wong-fat's view. He pointed out that whenever any land was held from the Government under lease or other grant, agreement or licence in the name of a clan, family or "Tong", such clan, family, or "Tong" would appoint a manager to represent it. Given that the land boundary in rural areas was unclear, it was difficult for managers of "Tso/Tong" to ascertain the actual boundary of the land. It was therefore unreasonable to hold them responsible for the unauthorized development on the land. He requested the Administration to further consider this point.

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*(Post-meeting note: The information provided by the Administration in response to members' requests in paragraphs 20 and 33 above were issued vide LC Paper No. CB(1)491/02-03 on 10 December 2002.)*

**V. Tai O Development, Package 4, Stage II engineering works**

- (LC Paper No. CB(1)193/02-03(01) — Information paper provided by the Administration on "236CL - Tai O Development, Package 4, Stage II engineering works"
- LC Paper Nos. CB(1)271/02-03(01) — Submissions from Islands District Council and Lantau Island Association of Societies)
- and CB(1)271/02-03(02)

35. The Chairman advised that at the invitation of the Panel, the Administration would brief members on its proposal to construct a sheltered boat anchorage (SBA) area and a mangrove replanting area at Tai O. The Administration planned to submit the relevant proposal to the Public Works Subcommittee for consideration in due course.

36. The Chairman referred members to the submissions from the Islands District Council (IDC) and the Lantau Island Association of Societies. Both organizations indicated their support for the proposed project.

37. The Principal Assistant Secretary for Housing, Planning and Lands (PAS/HPL) briefed members on the proposed project. He also pointed out that IDC, Tai O Rural Committee and local residents, being in support of the proposal project, had all along urged for its early implementation.

General views

38. Mr WONG Yung-kan and Mr TAM Yiu-chung said that they had all along supported the fisheries industry to pursue their request for the early construction of the SBA area in Tai O. They considered that the proposed project would not only enhance the safety of fishermen, but also the development of Tai O. They hoped that the proposed project would be implemented as soon as possible.

39. Mr LAU Wong-fat also expressed support for the proposed project.

Proposed sheltered boat anchorage area

40. As Tai O was a historical base for fishing boats in the western approaches of Lantau Island and Pearl River Estuary, Mr Albert CHAN Wai-yip appreciated the need for the construction of a SBA area in Tai O. Pointing out that the proposed project would cost a substantial amount of \$289.3 million, Mr CHAN urged the Administration to ensure that the SBA area would serve its purpose of providing sheltered anchorage spaces for fishing vessels homing at Tai O. In this connection, he noted that the number of fishing vessels homing at Tai O was 103, and the proposed SBA area of about four hectares would provide a sheltered basin for about 110 fishing

vessels. While the proposed SBA area should be able to meet the current demand, Mr CHAN was concerned that it would not be able to meet the increase in demand for sheltered anchorage spaces for larger types of vessels, such as barges, after completion of two other projects, namely, the provision of a cross-border bridge linking Hong Kong, Macau and Zhuhai and the development of a container port at the north-west of the Lantau Island.

41. PAS/HPL advised that the proposed SBA area was constructed for the provision of a sheltered basin for fishing vessels homing at Tai O. This was in line with the development strategy for Tai O, i.e. to maintain the characteristics of a fishing village. The Assistant Director of Civil Engineering Department (AD/CED) added that the proposed SBA area could only accommodate small to medium-sized vessels from 3 to 28 metres in length. Moreover, the shallow water in Tai O would be a barrier for entry of barges. As regards the two other projects mentioned by Mr Albert CHAN, PAS/HPL pointed out that during internal consultation within the Administration, it was confirmed that the proposed cross-border bridge linking Hong Kong, Macau and Zhuhai would not have any implications on the proposed project in Tai O. AD/CED also pointed out that after the completion of the container port project, compatible facilities should be available to provide anchorage areas for vessels.

42. Mr Albert CHAN asked whether the Administration would put in place administrative measures to ensure that fishing vessels homing at Tai O would be accorded priority to use the proposed SBA area. PAS/HPL assured members that the proposed SBA area was constructed for the fishing vessels homing at Tai O. If there were any future changes which would affect the use of the SBA area by the fishing vessels homing at Tai O, the Administration would consider the need for the suggested administrative measures.

#### Leisure fishing area

43. On the proposed restoration of the existing historic seawall with the provision of a pedestrian link, Mr WONG Yung-kan asked whether the Administration would construct a leisure fishing area along the seawall for the public to carry out fishing activities. AD/CED advised that railings would be installed on the seawall to enable the public to walk safely on the seawall through the promenade. Apart from walking on the seawall, members of the public might also carry out fishing activities. Mr WONG suggested the Administration to consider extending part of the seawall for fishing activities. AD/CED agreed to look into the feasibility of the suggestion.

### Environmental impact of the proposed project

44. Mr WONG Yung-kan expressed concern about the environmental impact of the proposed project on the water quality in the surrounding areas. He urged the Administration to put in place proper measures to guard against the release of mud from dredging works. AD/CED advised that according to the Environmental Impact Assessment (EIA) report for the proposed project, the environmental impact arising from the project could be controlled to within established standards and guidelines through the implementation of the recommended mitigation measures. The key measures included restricting the number of grab dredgers to not more than two per day, restricting the quantity of dredged mud to not more than 6 000 cubic metres per day, and the use of silt curtain for water quality control.

### Provision of mangrove replanting area

45. Referring to paragraph 4 of the paper provided by the Administration, Mr LAU Wong-fat noted that the purpose of providing the mangrove replanting area was to compensate for the loss of mangroves as a result of the construction of the Chek Lap Kok airport and the associated development on the north shore of Lantau Island. Mr LAU was concerned whether it was a new policy to make such a compensation arrangement and if so, whether consultation had been conducted by the Administration. PAS/HPL advised that the compensation for the loss of mangroves was not a new policy. It was made in accordance with the recommendation set out in the EIA report for the Chek Lap Kok airport project.

## **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.

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

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

Admin 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.

Admin 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. 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.

Admin 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. He suggested that large notice boards be put up at prominent locations on and near the site to attract public attention.

**VII. Any other business**

60. There being no other business, the meeting ended at 10:35 am.