

# 立法會 *Legislative Council*

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## **Report of the Panel on Planning, Lands and Works for submission to the Legislative Council**

### **Purpose**

This report gives an account of the work of the Panel on Planning, Lands and Works from October 2002 to June 2003. It will be tabled at the meeting of the Legislative Council (LegCo) on 2 July 2003 in accordance with Rule 77(14) of the Rules of Procedure of LegCo.

### **The Panel**

2. The Panel was formed by resolution of LegCo on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to lands, buildings and planning matters, works and water supply, and Public Works Programme. The terms of reference of the Panel are in **Appendix I**.

3. For the 2002-2003 session, the Panel comprises 14 members. Dr Hon TANG Siu-tong and Hon LAU Ping-cheung were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

### **Major work**

#### Planning and development

#### *Sustainable development*

4. Following the establishment of the Council for Sustainable Development in March 2003, the Panel deliberated on the Administration's proposal to establish a Sustainable Development Fund (SDF) to provide a central source of funding to support initiatives aimed at developing a strong public awareness of the concept of sustainability and its importance, in

particular, activities that promoted public understanding of the importance of advancing the economic, social and environmental interests of the community in a balanced and integrated manner. Noting that certain existing funds, such as the Environment and Conservation Fund, also aimed at funding environmental and social-related projects, the Panel considered that clear funding guidelines should be formulated to avoid duplication and to ensure effective allocation of resources. Moreover, SDF should not be limited to environmental projects but should apply to projects with broader perspectives, such as those relating to population policy. The Administration agreed to review the funding guidelines with a view to clarifying the scope of SDF. As regards the Panel's call for a monitoring mechanism, the Administration advised that the project proponent would be required to submit regular progress reports, and a report setting out the income and expenditure of the project as well as details on how the stated objectives had been achieved. Action against the project proponent might be considered if there were deviations from the stated objectives and funding arrangements in his approved application.

#### *Town Planning Ordinance and Town Planning Board*

5. Given that the existing Town Planning Ordinance (TPO) (Cap. 131) was first enacted in 1939 and the need to amend the Ordinance to improve the statutory planning system, the Panel called for the early introduction of the proposed amendments. In this connection, the Panel noted that the Administration planned to put forward the amendments in stages, giving priority to those amendments which had general consensus and would produce more immediate benefits to the community.

6. Whilst supporting the general direction of the Stage One Amendments to TPO to streamline the town planning process and to enhance openness of the planning system, the Panel expressed concern over the Administration's proposal to shorten the publication period for new plan or amendment to approved plan from two months to one month. As the general public needed time to study the voluminous documents relating to the plans before finalizing their views, the Panel considered a one-month period too short for them to raise objections. On 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, the Panel was concerned 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 involving multiple ownership or where the owners concerned were residing in overseas countries. As regards the Administration's proposal that managers of "Tso/Tong" should be regarded as land owners liable to offences in relation to unauthorized development, some members did not support the proposal because managers of "Tso/Tong" were not owners of "Tso/Tong" and 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. The Administration agreed to consider members' views.

7. The Panel also expressed concern about the timetable for introducing the remaining stages of proposed amendments to TPO and their coverage. The Panel was advised that subject to the progress of LegCo's scrutiny of the Stage One Amendments, the Stage Two Amendments including the amendments relating to the operation of the Town Planning Board (TPB) might be introduced in the 2004/05 LegCo session. Given the significant role of TPB in the town planning process, the Panel strongly called for the early introduction of the amendments relating to TPB. In this connection, the Panel examined the composition and operation of TPB as well as the criteria for appointment of its members.

8. On the composition of TPB, the Panel considered that TPB should have a balanced membership representing all sectors concerned so as to ensure that it represented the interests of the community. There was a need to stipulate clearly the criteria for the appointment of members of TPB and to cap the number of members from each sector. Membership of TPB should be changed regularly so as to minimize conflict of interests arising from any person holding TPB membership for a long period of time. Noting that seven members of TPB had been serving on the Board for more than six years, the Panel was concerned that this contravened the current practice of appointing members of Government advisory boards for not more than six years.

9. On the operation of TPB, the Panel saw the need to enhance its transparency through conduct of open meetings and considered that this should be arranged through administrative measures as soon as possible. The Panel also considered that the quorum (five members) of TPB should be enlarged to enable meaningful deliberation. To minimize conflict of interests, the Panel pointed out the need to put in place clearer and more stringent requirements on declaration of interests of the Chairman, Vice-chairman and members of TPB. To expedite the planning process, the Panel considered that the time taken by TPB to consider applications for permission in respect of plans and applications for review under sections 16 and 17 of TPO respectively should be shortened as far as practicable, and that a statutory timeframe should be provided for fixing a date for the hearing of an appeal by the Town Planning Appeal Board, e.g. to provide in TPO that the date should be a day not more than two months of the receipt of an application. The Administration agreed to consider the Panel's views.

#### *Tamar Development Project*

10. When consulted on the Administration's proposal to upgrade the Tamar Development Project (the Project for the development of the new Central Government Complex, new LegCo Complex and Exhibition Gallery at the

Tamar site) to Category A, a majority of members of the Panel indicated their support of the proposal. The Panel was however surprised to note that after seeking the Public Works Subcommittee (PWSC)'s endorsement of the proposal on 7 May 2003, the Administration announced on 26 May 2003 that it had decided to temporarily put the Project on hold in order to review its spending priorities and that the review would be completed within six months. Members criticized the Administration for its way of handling the Project. They opined that the Administration should have considered the financial implications of the Project before submitting it to PWSC. If the Project was considered financially not viable, the Administration should have withdrawn the proposal before the PWSC meeting. Members also expressed their concern about the impact of the Administration's abrupt decision on the faith of the public in the Government, the local economy, the construction industry, the five prequalified applicants for the Project, LegCo, and progress of construction of the Shatin to Central Link. The Panel was advised by the Administration that putting the Project temporarily on hold pending the review should not have significant impact on the local economy and the construction industry. The Administration was aware of the concern of LegCo Members, in particular their concern about the need for a new LegCo Complex by the third quarter of 2008, and would decide on the way forward after the completion of the review.

#### *Further development of Tseung Kwan O*

11. The Panel examined the various development themes proposed for Tseung Kwan O (TKO) Town Centre South and Pak Shing Kok. In general, the Panel did not support further reclamation and further housing development in TKO. As TKO was flooded with housing blocks, the Panel was of the view that in planning for the further development of TKO, consideration should be given to improving the urban design and quality of life, and reducing the population density. The provision of additional open space and amenity facilities was preferable. The Panel also considered it important to strengthen the transport network of TKO to cope with the long-term traffic demand and to facilitate its further development. The Panel urged the Administration to take into account the projected population and traffic demand in planning for the form and design of the Western Coast Road (WCR), as they could hardly be upgraded after construction. The Administration was requested to plan for a dual four-lane, or at least a dual three-lane, WCR. The Administration agreed to consider the Panel's views.

#### Land supply

12. The Panel was briefed on the measures announced by the Administration in November 2002 to stabilize the property market. To rectify the supply and demand imbalance, the Administration decided to stop all scheduled land auctions, and to suspend the Application List until the end of

2003. While some members supported these measures, other members were concerned that the measures would result in a loss of revenue, which would in turn aggravate the fiscal deficit problem, lead to tax increases and further reduce welfare expenditure. The Panel urged for a consistent policy on land supply to restore public confidence in the property market.

#### Land registration

13. The Panel deliberated on the Administration's proposed amendments to the Land Registration Regulations (Cap. 128, sub. leg.) to empower the Land Registrar to remove the entry that had become stopped deeds six months after the delivery of the instrument for registration into the land register. Noting the Hong Kong Bar Association's view that the legislative proposal should be effected through amendments to the principal ordinance because the removal of stopped deeds was outside the scope of section 28 (Regulations) of the Land Registration Ordinance (LRO) (Cap.128) and provisions affecting substantive property rights ought not be included in subsidiary legislation, the Panel sought advice from the Legal Service Division of the LegCo Secretariat. The Panel was advised that providing for the priority of the instruments if a decision of removal was subsequently overturned by the court did not seem to come within any of the matters listed in section 28(1) of LRO nor was it reasonably incidental to any of those matters. The Panel then requested the Administration to review the issue. Upon review, the Administration agreed that 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 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. The Administration undertook to 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. The Panel welcomed the Administration's decision to reconsider the issue and urged for its early response.

#### Land management issues

14. Given that disorderly display of roadside publicity materials had affected traffic safety and the streetscape of Hong Kong, and given rise to complaints from the public and disputes among different groups of users, the Panel supported the Administration's proposal to implement a management scheme for the display of roadside non-commercial publicity materials on a trial basis with effect from 1 April 2003. The Panel noted that there were three major groups of users under the management scheme, namely, LegCo Members, District Council (DC) members and other users (DCs and their committees, Government departments, and non-profit making bodies). As the Administration had already consulted the 18 DCs and relevant Government departments on the management scheme, the Panel focused its discussion on the part of the scheme involving LegCo Members and measures to enhance the

effective implementation of the scheme. In this connection, the Panel put forward a number of suggestions in respect of the number of designated spots to be allocated to LegCo Members, allocation of unused designated spots, choice of designated spots, display period and application period. The Administration accepted the Panel's views and revised the details of the management scheme.

#### System for pre-sale of uncompleted residential flats

15. The Panel exchanged views with the Administration on the existing system for the pre-sale of uncompleted residential flats under the Land Department's Consent Scheme and possible measures to prevent default in residential property developments taking into account the experience of the two recent cases of Villa Pinada and The Aegean. The Panel urged for the improvement of the Consent Scheme to ensure that flat purchasers would get title to the units, to enhance the transparency of the Consent Scheme, to avoid conflict of interest of the parties concerned, and to ensure proper disbursement of money held in the stakeholder's account. In particular, the Panel considered that an officer or a shareholder of a development company and their family members should not be allowed to act as the Authorized Person (AP) of the company's projects or act as the solicitor holding the stakeholder's account. The Administration undertook to consult the relevant professional bodies and concerned parties on the proposed measures and other possible measures to improve the existing system and to address the concerns identified in the two cases at issue. At the request of the Panel, the Administration also undertook to make reference to the relevant system implemented in Guangzhou, and to provide progress reports on the review of the existing system for the Panel's consideration. As regards the Panel's request for the Administration to provide before the conclusion of the review the names of the various parties (including the developers, AP and solicitors) involved in individual residential property developments once consents for pre-sale of uncompleted flats had been approved, the Administration agreed to seek legal advice on the issue.

#### Review on small house policy

16. The Panel remained concern about the long time taken by the Administration to process small house applications. Noting from the Policy Agenda (2003 Policy Address) that the Administration would consult various stakeholders with a view to making preliminary proposals on small house policy for more in depth discussion, the Panel asked for the time frame for the review of small house policy and the general direction for resolving the long-standing problems arising from the prevailing policy. The Panel was advised by the Administration that the review involved a number of complex issues, and the crux of the problem was not the time required to process the applications, but the shortage of land to meet the demand from male indigenous villagers who were eligible to apply land for building small houses. The

Administration would make its best effort to work out acceptable principles with indigenous villagers to tackle the problems within the coming five years, and would consult the public on concrete proposals once it was in a position to do so.

### Urban renewal

17. The Panel continued to monitor the progress of work of the Urban Renewal Authority (URA). The Panel noted that in March 2003, the Financial Secretary approved URA's second five-year Corporate Plan (CP) for April 2003 to March 2008 and the annual Business Plan (BP) for 2003-04. The approved CP consisted of 59 new projects, including all of the remaining uncompleted projects of the Land Development Corporation. The approved BP consisted of 19 new projects that would commence in 2003-04, including four pilot rehabilitation projects. Whilst appreciating that rehabilitation was an integral part of urban renewal, the Panel pointed out that owners of dilapidated properties actually expected that URA would acquire their properties for redevelopment so as to improve their living environment. The Panel therefore urged URA to expedite its redevelopment projects.

18. The Panel noted that URA estimated that by the end of the development period in 2016-17, it would achieve a surplus of \$0.4 billion with a cash balance of \$10.4 billion and no liabilities. Given the present economic downturn, some members queried whether this estimate was too optimistic. The Panel was advised by URA that the estimate was made on the basis of a number of assumptions adopted in the financial projections in URA's CPs prepared in 2001 and 2002. Under the Urban Renewal Strategy, URA was tasked to implement an urban renewal programme consisting of some 200 projects in 20 years and the urban renewal programme was to be self-financing in the long run. URA was endeavouring to achieve this target, and aimed to strike the right balance between the high costs of acquisition and compensation, relative to the current economic environment and property market condition, and the momentum and sustainability of its urban renewal programme in the long run. The Panel was assured that URA would constantly monitor the situation and, where necessary, address the need for keeping its compensation policies and priorities in alignment reasonably with economic reality and its financial resources.

### Building safety and maintenance

#### *Drainage systems of residential buildings*

19. After the outbreak of Severe Acute Respiratory Syndrome (SARS) at Amoy Gardens, the Panel exchanged views with the Administration and professional bodies on the drainage systems of residential buildings and whether there was a need to amend the Buildings Ordinance (Cap. 123) as a

result of the outbreak. The Panel was advised that in the light of the investigation report on the Amoy Gardens incidents, the Administration had reviewed the relevant provisions of the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (BDR) (Cap. 123 sub. leg.) and concluded that the provisions were adequate for preventing drainage systems from causing environmental or health problems. The Panel was assured by the Administration that the design standards under BDR were compatible with those adopted in other countries such as the United States of America, the United Kingdom and Australia. On inspection and maintenance of drainage systems, the Panel was concerned how the Administration could prevent improper modifications of drainage installations, such as the removal of U-traps. Some members suggested the Administration to take this opportunity to revisit the need for a mandatory inspection and maintenance scheme, and to introduce a licensing system for drainage workers. The Panel was advised that the Administration was looking into the licensing system for construction workers, including drainage workers.

#### *Clearance of illegal rooftop structures*

20. The Panel monitored the progress of the Administration's programme of removing illegal rooftop structures (IRSs) on all single-staircase buildings by 2007. Whilst appreciating the need to remove IRSs that posed high risk to the public, members requested the Administration to take into account the present economic downturn when working out the timetable for the clearance programme so that owners who experienced financial hardship would be given more time to prepare for the clearance. Pointing out that some owners could not afford the cost for the removal of IRSs and were also unable to repay the low-interest loan, members requested the Administration to consider providing the owners with other forms of financial assistance. Members also considered that the Administration should step up its publicity programme to enhance public awareness of the fact that IRSs were illegal structures and that they would pose a serious fire risk. A mechanism to prevent erection of new IRSs and re-erection of IRSs on the same site should also be put in place.

#### Flood control and prevention

21. The flood control and prevention strategy remained a concern of the Panel. While recognizing that the overall situation had been improved by flood mitigation projects, the Panel expressed concern that the flooding problem was still not fully resolved and that the flooding incident on 5 May 2003 had led to the death of a Senior Inspector in Lin Ma Hang Road. The Panel was advised by the Administration that it took years to complete flood mitigation projects because they were immense tasks involving large area coverage. However, before the completion of flood mitigation projects, interim measures would be taken to provide temporary relief for the areas affected by flooding. The Panel was of the view that instead of carrying out



various remedial works which were piecemeal in nature, a more effective approach should be adopted to tackle the flooding problem at its root, i.e. to tackle the problem at the planning stage. In this regard, the Panel called upon the Administration to take effective measures to overcome the topographical constraints in old areas, such as by forming more embankments or by raising the existing formation levels of these areas. The Panel was advised that the Administration had already considered such an approach but, because of its significant implications and objections from local residents, there was difficulty in pursuing the approach. However, drainage impact was already a consideration in new developments. As regards the Panel's concern about the measures to ensure timely relief during flooding, the Administration advised that a mechanism for emergency evacuation of villagers affected by flooding was in place and that the mechanism was activated on 5 May 2003.

#### Public works

22. The Panel was consulted 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. Whilst appreciating the need to expedite the delivery of public works projects, the Panel 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. The Panel pointed out that the shortened periods would be inadequate for the public to raise objections and the Government to resolve the objections. As a whole, the Panel did not support the legislative proposals. Despite the Administration's assurance that some administrative measures would be implemented in conjunction with the legislative proposals to enhance public consultation, the Panel remained of the view that the legislative proposals were unjustified.

23. Although the Administration introduced the Foreshore, Sea-bed and Roads (Amendment) Bill 2003 containing the relevant legislative proposals into LegCo, the Panel noted that the Administration finally decided to reconsider the way forward on the Bill, having regard to the objection raised by the Bills Committee formed to study the Bill and the interested parties to the proposal to shorten the objection period to 30 days. Whilst accepting the Administration's proposal that the consideration of the Bill be held in abeyance, the Bills Committee requested the Administration to report to the Panel in due course on the progress and outcome of the Administration's review and the timetable for reverting back to the Bills Committee, and to consult the Panel on any proposed changes to the content of the Bill. The Panel would continue to monitor the development of the issue.

24. The Panel held a total of 14 meetings from October 2002 to June 2003, including five held jointly with other Panels, to examine all these issues and several other issues.

Council Business Division 1  
Legislative Council Secretariat  
23 June 2003

**Legislative Council  
Panel on Planning, Lands and Works**

**Terms of Reference**

1. To monitor and examine Government policies and issues of public concern relating to lands, buildings and planning matters, works and water supply and Public Works Programme.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

立法會  
規劃地政及工程事務委員會  
Legislative Council  
Panel on Planning, Lands and Works

委員名單  
Membership List

主席 Chairman	鄧兆棠議員, JP	Dr Hon TANG Siu-tong, JP
副主席 Deputy Chairman	劉炳章議員	Hon LAU Ping-cheung
委員 Members	田北俊議員, GBS, JP	Hon James TIEN Pei-chun, GBS, JP
	何鍾泰議員, JP	Ir Dr Hon Raymond HO Chung-tai, JP
	涂謹申議員	Hon James TO Kun-sun
	黃容根議員	Hon WONG Yung-kan
	劉皇發議員, GBS, JP	Hon LAU Wong-fat, GBS, JP
	蔡素玉議員	Hon CHOY So-yuk
	霍震霆議員, SBS, JP	Hon Timothy FOK Tsun-ting, SBS, JP
	譚耀宗議員, GBS, JP	Hon TAM Yiu-chung, GBS, JP
	石禮謙議員, JP	Hon Abraham SHEK Lai-him, JP
	陳偉業議員	Hon Albert CHAN Wai-yip
	黃成智議員	Hon WONG Sing-chi
	葉國謙議員, JP	Hon IP Kwok-him, JP
	(合共：14 位委員) (Total：14 members)	
秘書 Clerk	陳美卿小姐	Miss Salumi CHAN Mei-hing
法律顧問 Legal Adviser	黃思敏女士	Ms Bernice WONG
日期 Date	2002 年 10 月 10 日 10 October 2002	