

**Development (Town Planning, Lands and Works)
(Miscellaneous Amendments) Bill 2022**

Key Measures

The legislative amendments mainly cover six ordinances¹. The key amendment proposals are summarised below under five directions –

(1) Streamlining and shortening statutory time limits –

(i) While retaining the arrangements to receive representations from public and hearings under town planning regime, the effectiveness of plan-making process will be improved by the following measures so that the plan-making process will be shortened from the current “2+9 months” to “2+5 months”² –

- dispensing with the procedures to receive comments on representations and further representations, after receiving representations from the public, so as to minimise repetition and increase efficiency;
- requiring personal attendance of representers at the hearing, and expressly providing that the Town Planning Board (TPB) may impose a time limit on the oral representation of attendees;

(ii) similarly, the statutory time periods for authorisation of the plan and scheme for reclamation, roads, or railways works will be reduced

¹ The Lands Resumption Ordinance (Cap. 124), the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127), the Land Acquisition (Possessory Title) Ordinance (Cap. 130), the Town Planning Ordinance (Cap. 131), the Roads (Works, Use and Compensation) Ordinance (Cap. 370), and the Railways Ordinance (Cap. 519).

² The “2+9 months” means that a period of 2 months is provided for receiving representations from public, and the plan should be submitted to the approving authority (i.e. Chief Executive in Council) for approval within the following 9 months. Under the legislative amendment proposal, the 2-month period for receiving representations will remain unchanged, and the time limit for submitting the plan for approval will be shortened to 5 months. Assuming that one extension is granted (currently, a six-month time extension is allowed; under the legislative amendment, a two-month period is allowed in the initial extension, and two further extensions of 2 months each may be allowed under exceptional circumstances), the overall time limit will be shortened from 17 months to 9 months.

(also from “2+9” to “2+5”);

(iii) to introduce or expand the minor works mechanism for reclamation, roads, and railways works based on practical experience, so that such works could be carried out in accordance with simpler procedures;

(2) **Avoiding repetitive procedures of a similar nature** – to avoid duplicating with the public consultation during the subsequent plan amendment process following the acceptance of the application, to remove the public consultation procedure for section 12A applications under the Town Planning Ordinance;

(3) **Providing an express mandate in the law for the Government to proceed with different procedures in parallel** –

(i) To provide expressly the following arrangements on land resumption and rehousing and compensation, so that the completion of these steps may be advanced by around 18 months –

➤ objections on land resumption may be handled in parallel as the statutory planning process is underway, and the proposal for land resumption may be submitted to the Chief Executive in Council for approval right after the completion of the statutory planning process (to ensure that the public purpose has been established before land resumption); and

➤ upon obtaining approval for land resumption, land resumption and provision of rehousing and compensation may commence right afterwards without waiting for approval of the relevant works funding³. This is to respond to the aspiration of the affected persons to receive rehousing and compensation earlier to plan ahead;

³ The funding required for payment of compensation is not charged to the funding vote of the works, but provided for under a separate mechanism through block allocations under the Capital Works Reserve Fund. The block allocations are approved by LegCo annually. The Government will continue to follow the established practice to seek relevant approval under the block allocation funding mechanism before disbursing compensation.

- (ii) To accelerate the commencement of reclamation projects by at least 9 months, to provide expressly that the statutory procedures on publication of a plan for proposed reclamation and handling of objections etc. in accordance with the Foreshore and Sea-bed (Reclamations) Ordinance may commence without completing the formulation of an outline zoning plan under the Town Planning Ordinance. This has taken into account the fact that the planning and engineering studies preceding any reclamation and the land use proposals formulated in the process can already provide sufficient justifications to establish the need for as well as the extent and feasibility of reclamation;;

(4) Improving inconsistent or ambiguous arrangements –

- (i) to require the Government to follow specified procedures on publishing land resumption proposals, receiving and handling objections under the Lands Resumption Ordinance, with statutory time periods aligned with other ordinances, with the aim to institutionalise the procedures previously carried out administratively and bring out certainty through pinning them down in the law;
- (ii) to require that objections under the Lands Resumption Ordinance must be lodged by land owners or occupiers, in order to focus on considering views from persons who are genuinely affected by land resumption;
- (iii) to allow statutory town plan to be approved in part to ensure that other non-controversial amendments of the plan will not be held up by any part of that plan which is controversial or even subject to judicial review;
- (iv) to require applicants of section 12A applications under the Town Planning Ordinance to be the land owner of the application site or to own part of the application site, or be a person authorised by the land owner, so as to focus public resources on processing applications with realistic prospect of implementation;
- (v) to provide under respective ordinances (including town planning, land resumption and works) that objections made on a ground relating to rehousing or compensation would not be handled under

the objection procedures for development proposals, as it is the established practice to handle such matters under separate mechanisms⁴ after a decision is taken to implement the development. Expressly stating this in the law will avoid misunderstandings and unnecessary efforts;

- (vi) to specify that where circumstances warrant, land resumed may be used for other gainful uses on a temporary basis (if prior to the implementation of the public purpose underlying the land resumption), or for another public purpose on a permanent basis after approval by the Chief Executive in Council (if a permanent change of public purpose is necessitated by unforeseen circumstances), so as to provide flexibility for the Government to put land to good use;
 - (vii) to improve the rate of interest for compensation not yet paid, by setting it at the one-month Hong Kong Dollar Interest Settlement Rate (which is an arithmetic mean of the Hong Kong Interbank Offered Rate (HIBOR) of various banks);
- (5) **Streamlining other miscellaneous processes for more effective use of public resources** – including requiring the applicant to set out the grounds for review when applying for a review of TPB’s decision, and replacing the requirement to publish information on printed newspapers by publication on websites for public inspection.

Besides, to strengthen the enforcement power under the Town Planning Ordinance, the Bill proposes to provide a new power for the Secretary for Development to designate rural areas in the New Territories with high ecological value but subject to development pressure and risks of environmental degradation to be a “regulated area” (RA) so as to enable the Planning Authority to take enforcement and prosecution actions against unauthorised developments in those areas for protecting the area from environmental degradation and promoting conservation of the area.

⁴ For example: the law provides for separate procedures for negotiating with the Government on the amount of statutory compensation, including the avenue to seek determination from the Lands Tribunal; or mechanisms to claim rehousing or ex-gratia allowances (which are administrative in nature) from the Government according to various applicable policies.