

CHAPTER 3

LAND MATTERS

The parts of the PAH shown in blue and bold should only be updated by Works Branch of Development Bureau.

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SYNOPSIS

This chapter sets out the procedures for the acquisition and control of land required for projects managed by CEDD, DSD, HyD and WSD. It does not cover the land requirements of quasi-government bodies such as the MTR Corporation Limited (MTRCL), but it describes the procedures necessary to avoid any possible interference with these land requirements.

The authority for land matters is the Director of Lands (D of L) who exercises his duties through the respective District Lands Offices (DLOs). The role of CEDD, DSD, HyD and WSD in land matters is either as a works department requiring the temporary use of the site and associated areas, or in some instances as the operation department requiring the permanent use of the land. Because of the large number of departments that have a pertinent interest in land matters, it is necessary for formal procedures for the reservation, allocation, acquisition and clearance of land to be followed before any land can be made available for works to proceed. This chapter does not give details of procedures to be followed by the Lands Department (LandsD), which are covered by Land Instructions (LIs). However, reflections have been made to concur with the procedures laid down in the LIs. It describes certain legislative procedures related to land matters, such as the Roads (Works, Use and Compensation) Ordinance, Land Drainage Ordinance, Foreshore and Seabed (Reclamations) Ordinance, Town Planning Ordinance, Sewage Tunnels (Statutory Easements) Ordinance, Water Pollution Control (Sewerage) Regulation and the Road Traffic Ordinance under which formal consultation with the public is mandatory. The need for timely commencement of the various stages of land procedures is emphasized. Nevertheless, the readers are reminded that the latest updates of the reference documents should always be referred to.

When the land is available for works to proceed, usually a third party, e.g. a contractor, takes possession of the site. It is necessary that the land is properly managed during the course of the works and that all or part of it is handed back to the Land Authority in a prescribed manner in due course. Guidance on these aspects of project administration is given, including the need for suitable contractual arrangements where contractors are involved.

Some measures have been introduced to streamline the delivery of public works projects, including an expedited procedure implemented by the LandsD. For a project which is of average size, LandsD shall deliver the site to Works Departments within eight months after the Executive Council (ExCo) authorization of the road scheme under the Roads (Works, Use and Compensation) Ordinance, Cap. 370 or ExCo decision on the public purpose of the project under Cap. 124, whichever is the later. In addition, simplified procedures have also been promulgated for submission of Land Requirement Report and Land Requirement Plan.

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I. ABBREVIATION

- I.01 The meaning of the abbreviations assigned in this Chapter of the Project Administration Handbook for Civil Engineering Works shall only apply to this Chapter.
- I.02 The following list shows the meaning of the abbreviations for the common terms used in this Chapter of the Project Administration Handbook for Civil Engineering Works:

Abbreviation	Term
AFCD	Agriculture, Fisheries and Conservation Department
ArchSD	Architectural Services Department
CAF	Clearance Application Form
CEDD	Civil Engineering and Development Department
CE in C	Chief Executive in Council
CES/A	Chief Estate Surveyor/Acquisition
C for T	Commissioner for Transport
CMP	Cavern Master Plan
CPLD	Committee on Planning and Land Development
CWC	Capital Works Committee
CWP	Capital Works Programme
DAFC	Director of Agriculture, Fisheries and Conservation
DCED	Director of Civil Engineering and Development
DEP	Director of Environmental Protection
DLCS	Director of Leisure and Cultural Services
DPO	District Planning Office
DSD	Drainage Services Department
DEVB	Development Bureau
DEVB TCW No.	DEVB Technical Circular (Works) No.
D of L	Director of Lands
DHA	Director of Home Affairs
DHy	Director of Highways
DLC	District Lands Conference
DLO	District Lands Office
DO	District Office
DoJ	Department of Justice
DSO	District Survey Office
EIA	Environmental Impact Assessment
EIAO	Environmental Impact Assessment Ordinance
EMSD	Electrical and Mechanical Services Department
EPD	Environmental Protection Department
ETWB	Environment, Transport and Works Bureau

Abbreviation	Term
ETWB TCW No.	ETWB Technical Circular (Works) No.
ExCo	Executive Council
EXP	Emergency excavation permit
FSD	Fire Services Department
FS(R)O	Foreshore and Sea-bed (Reclamations) Ordinance
GEO	Geotechnical Engineering Office
HAD	Home Affairs Department
HD	Housing Department
HKPF	Hong Kong Police Force
HKPSG	Hong Kong Planning Standard and Guidelines
HKSAR	Hong Kong Special Administrative Region
HPLB GC No.	Housing, Planning and Lands Bureau General Circular No.
HyD	Highways Department
HyD TC No.	Highways Department Technical Circular No.
KCRC	Kowloon-Canton Railway Corporation
KCRCO	Kowloon-Canton Railway Corporation Ordinance
LACC	Land Acquisition and Clearance Committee
LACM	Land Acquisition Coordination Meeting
LACO	Legal Advisory and Conveyancing Office
LandsD	Lands Department
LAPE	Land Acquisition Prioritization Exercise
LegCo	Legislative Council
LIs	Land Instructions
LR	Light Rail
LRP	Land Requirement Plan
LRR	Land Requirement Report
LCSD	Leisure and Cultural Services Department
LPM	Landslip Preventive Measures
MD	Marine Department
MFC	Marine Fill Committee
MTR	The Mass Transit Railway
MTRCL	MTR Corporation Limited
MTRO	Mass Transit Railway Ordinance
OZP	Outline Zoning Plans
PAH	Project Administration Handbook for Civil Engineering Works
PFC	Public Fill Committee
PlanD	Planning Department
PSTL	Permanent Secretary for Transport and Logistics
PWP	Public Works Programme
RAE	Resource Allocation Exercise

Abbreviation	Term
RDS2000	Railway Development Strategy 2000
RDS2014	Railway Development Strategy 2014
RDS-2U	Review and Update of the Railway Development Strategy 2000
SDEV	Secretary for Development
S for J	Secretary for Justice
SHD	Anticipated Site Handover Date
SSHD	Schedule of Anticipated Site Handover Date
STH	Secretary for Transport and Housing
STL	Secretary for Transport and Logistics
STT	Short Term Tenancy
TBTC No.	Transport Branch Technical Circular No.
TPB	Town Planning Board
TD	Transport Department
TFS	Technical Feasibility Statement
THB	Transport and Housing Bureau
TLB	Transport and Logistics Bureau
TPO	Town Planning Ordinance
TPRP	Tree Preservation and Removal Proposal
WBTC No.	Works Bureau Technical Circular No.
WSD	Water Supplies Department
XP	Excavation permit

II. GLOSSARY OF TERMS

II.01 Words and expressions to which meanings are assigned in this Chapter of the Project Administration Handbook for Civil Engineering Works (PAH) shall only apply to this Chapter.

II.02 In this Chapter of the PAH the following words and expressions shall have the meaning hereby assigned to them except when the context otherwise requires:

Words/Expressions	Meaning
allocation plan	- The finalized version of the preliminary allocation plan showing up-to-date details of the allocation, final area and confirmed boundaries. Allocation plans are normally fully dimensioned.
borrow area	- An area of land or seabed from which the removal of earth, sand or stone is permitted for construction of the project.
client department	- The department for whom the project is being constructed.
District Lands Conference	- The District Lands Conference for the area where the project is located. It is the forum held by LandsD in the district level for discussion and approval of land matters including the allocation of land for projects of the Government of the HKSAR.
Clearance Unit of Acquisition Section	- The office in LandsD responsible for land clearance in the area where the project is located.
District Lands Office	- The office in LandsD responsible for the administration of land in the district where the project is located.
District Office	- The office in the Home Affairs Department responsible for the administration of the district in which the project is located.
District Planning Office	- The office in PlanD responsible for district planning of the area where the project is located.
Squatter Control Unit of Estate Management Section	- The office in LandsD responsible for squatter control in the area where the project is located.
District Survey Office	- The Office in LandsD responsible for land survey, land records and maps covering the area required for the project.

Words/Expressions	Meaning
Land Acquisition and Clearance Committee (LACC)	<p>- The committee, chaired by the DPM of CEDD's Development Office for the area in which the project is located, is responsible for the drawing up of and to agree on a five year land acquisition and clearance programme for all Capital Works Projects and Landslip Preventive Measures Projects to review, monitor, discuss, resolve problems of individual land resumption and clearance cases, to submit exception reports on unresolved land related activities and to make recommendation for reprioritisation as appropriate to Land Acquisition Co-ordination Meeting chaired by the Deputy Secretary (Works)¹ of DEVB.</p>
Land Acquisition Coordination Meeting (LACM)	<p>- To review progress on land resumption and clearance for the PWP, review workload, deployment of resources across District Lands Offices and to identify re-prioritisation issues.</p>
Committee on Planning and Land Development (CPLD)	<p>- The committee, chaired by the Permanent Secretary for Development (Planning and Lands) or the Deputy Secretary for Development (Planning and Lands)¹ is responsible for:</p> <ul style="list-style-type: none"> • Monitoring the formulation and reviewing of development strategies, including the identification and assessment of options; • Considering the adequacy of development plans and programmes; • Considering and reviewing policies on production, acquisition, use and disposal of land; • Considering major proposals for land development in both the public and private sectors before they proceed beyond outline planning; • Overseeing the initiation, evaluation and coordination of sub-regional and sectoral planning studies of strategic significance; • Considering and approving land use planning standards and guidelines; • Considering the need for the preparation or replacement of statutory plans; • Considering and approving outline development and layout plans;

Words/Expressions	Meaning
	<ul style="list-style-type: none"> • Considering recommendations on land-use planning and control relating to potentially hazardous installations; • Ensuring the implementation and coordination of policies in respect of physical developments; • Considering population distribution projections for assessing development needs and planning of provision of facilities; and • Reporting to the Lands and Works Policy Group of the Chief Secretary for Administration's Committee.
land allocation	- A parcel of the Government of the HKSAR land allocated either temporarily or permanently for specific works or use to a department of the Government of the HKSAR.
office clearance co-ordinator	- The officer responsible for ensuring that all relevant information on his office's clearances is passed to all concerned at the appropriate time. He will also act as liaison officer generally.
Preliminary allocation plan	- The plan showing up-to-date details, approximate area and proposed boundaries of the project site based on the project plan or preliminary project plan and on agreed conditions.
Preliminary project plan	- The plan illustrating the layout and general nature of the project, with site boundaries indicated (normally 1:1,000 scale).
project	- The public works project or other Government of the HKSAR use project for which land is required.
project office	- The office responsible for the planning, design and construction of the project. (Where these functions are performed by different offices at different stages, the project office shall mean the office responsible at each particular stage.)
project plan	- The finalized version of the preliminary project plan.
project site plan	- The plan showing the extent and location of the land required for the project. (Normally 1 : 2 000 scale)

Words/Expressions	Meaning
site	<ul style="list-style-type: none">- The area of land on which the work associated with the project is to be carried out. The site includes the working space contiguous to the work, but excludes all works areas, borrow areas etc. outside the site to be used or formed during the course of the project but not required permanently for it. (Note: Under the General Conditions of Contract, 'Site' has a different definition.)
works area	<ul style="list-style-type: none">- A piece of land required for a limited period of time to facilitate or permit construction of the project. (Note: Under the Roads (Works, Use and Compensation) Ordinance, 'Works Area' has a different definition.)

1. NOT USED

2. AUTHORITIES AND POLICY BODIES

2.1 GENERAL

The authority for land matters throughout the territory is the D of L. His authority to approve permanent and temporary land allocations has been delegated to DLOs. DLOs refer land matters to DLC where necessary. Normal day-to-day land administration matters are dealt with by the appropriate DLO.

District planning matters are dealt with by the DPOs, PlanD. Preparation of statutory plans and departmental plans at the district levels are the responsibilities of DPO while sub-regional planning matters are dealt with by the Sub-Regional Planning Section of PlanD.

The land required for a project, including works and borrow areas must be made available before works can commence. Before a piece of the Government of the HKSAR land required for a project can be made available, any people dwelling on it must be cleared, together with their goods and chattels, and arrangements made for their resettlement. It may also be necessary to invoke the relevant ordinances to extinguish any existing rights or easements that certain individuals or the public in general may have on the required land.

Private land (including that held under adverse possession) may be resumed if it is required for a public purpose. If private land is required for a project, action must be taken to resume it under lease conditions or under an appropriate ordinance containing resumption provisions. Private land normally becomes the Government of the HKSAR land on the date given in the resumption notice made under the ordinance. Clearance of the land must also be arranged before it becomes available for works to commence. Funding for clearance and acquisition will be provided from a central block vote under the control of LandsD.

If the land required for a project is likely in any way to affect military land or property, consultation with the People's Liberation Army in the HKSAR and/or the Secretary for Security must take place when such project is first mooted.

2.2 DISTRICT LANDS CONFERENCE

2.2.1 Membership

Chairman : Assistant Director of Lands (District concerned)

Members : District Lands Officer
 Senior Solicitor, LACO (District concerned), LandsD
 Chief Building Surveyor, Buildings Department
 Chief Land Executive, (District concerned)
 Senior Divisional Fire Officer

District Land Surveyor)
 District Officer)
 Chief Highway Engineer, Regions of HyD)
 Chief Engineer, DSD) or

Chief Engineer, TE Division of TD) representatives
 District Planning Officer)
 Project Manager of the area, CEDD)
 Chief Architect, ArchSD (in Urban Areas)
 Representative from other departments or offices as appropriate,
 (e.g. GEO, EPD, AFCD, LCSD, FEHD, WSD)

Secretary : Senior Estate Surveyor (district concerned)

2.2.2 Terms of Reference

To consider in the light of overall land policy and Land Instructions:

- (a) The terms and conditions for the disposal of land, both permanent and temporary, including the Government of the HKSAR land allocations, STT and licences,
- (b) The terms and conditions for exchanges, extensions, modifications, easements and wayleaves,
- (c) Prospecting and mining licences and leases, and
- (d) Applications for felling of trees arising from development proposals.

2.2.3 Frequency

Normally monthly, but varies for each DLC.

2.3 POLICY COMMITTEE

2.3.1 Membership

Chairman : Chief Secretary and Financial Secretary

Members : Secretary for Justice
 Secretary for Constitutional and Mainland Affairs
 Secretary for Education
 Secretary for Transport and Logistics
 Secretary for Environment and Ecology
 Secretary for Health
 Secretary for the Civil Service
 Secretary for Home and Youth Affairs
 Secretary for Development
 Secretary for Security
 Secretary for Commerce and Economic Development
 Secretary for Labour and Welfare
 Secretary for Financial Services and the Treasury

Secretary : Administrative Assistant to Chief Secretary
 Administrative Assistant to Financial Secretary

2.3.2 Terms of Reference

- (a) To consider policy proposals before they are submitted to the Executive Council;
- (b) To coordinate and harmonise policy proposals which cut across different policy areas or have “read across” implications; and
- (c) To coordinate the timetable for the public announcement of major policy proposals.

2.3.3 Frequency

Every Thursday morning.

3. MAIN PROCEDURES FOR PROVISION OF LAND

3.1 GENERAL

The following procedures cover the reservation, acquisition, clearance and allocation of land and are initially adopted from LWBTC 26/85.

3.2 RESERVATION OF SITE

A search of the land records would be prudent at this stage since the location and extent of leased land could well determine/change the extent of a project. Initial surveys on graves, Fung Shui and trees would also be important at this stage as they may have implications on the extent of a project.

3.2.1 Request

After establishing the need for a project, the client department or project office should indicate the general locality and approximate area required for the project and forward a request to reserve a site to DPO in cases of permanent development or to DLO in cases of temporary use. In accordance with DEVB TCW No. 8/2017, for a project involving land use with potential for rock caverns as listed in the Explanatory Statement of the Cavern Master Plan (CMP), the project proponent should first explore, as appropriate, potential cavern sites for the proposed development prior to submitting the Site Search Form of the project to PlanD according to HPLB GC No. 1/2004. In handling the relevant site search request, PlanD, with the assistance of the GEO, will facilitate the identification of potential cavern sites. For highways projects, site reservations are deemed to have been made when long-term road proposals, street-widening plans or project plans are circulated, agreed by relevant departments, and approved by the appropriate authority.

Particular attention should be paid to the permitted land use shown on OZP or Development Permission Areas Plans. In cases where the project requires actions under the Foreshore and Seabed (Reclamations) Ordinance, works should not be carried out until the land use involving such works has already been approved under the relevant OZP. In cases where the project requires planning permission from the TPB, the client department should submit an application to the Secretary/TPB. The submission of the application should preferably be made before DLO approval has been obtained. However, in more urgent cases, submissions to DLO and applications to TPB can be undertaken concurrently but DLO will not consider the case until the Section 16 Application to TPB for changing the permitted land use is approved. There is a statutory period of two months within which applications have to be considered by the Board.

3.2.2 Selection

DPO or DLO will select the site in consultation with the client department or project office, the relevant project manager in CEDD and other relevant Government departments.

3.2.3 Project Site Plan Preparation

The project site plan will be prepared by DPO using an extract of the town plans or

survey sheets, whichever is appropriate.

3.2.4 Follow-up Action

If acquisition of private land is required to make the site available, DLO will inform the client department, project office and DO for their information and action. It should be noted that at this stage, site definition is tentative until the detailed design is completed. Therefore, all matters concerning adjacent land must be referred to DPO or DLO with copies to the project office and the client department. The client department and the project office should consider whether the site requirement can be adjusted to avoid land resumption as far as possible or feasible when advised by DLO.

3.3 PROJECT PLANNING

This part of the procedure is to be followed for roads, sewerage, site formation, landslip preventive works, landfill sites, reclamation, drainage, pipeline, pier projects etc. where the sites are not confined within allocated land compounds. These projects, where formal allocation of the site as a whole is not necessary but specifically defined land such as borrow areas or works areas are required for construction, are subject to temporary land allocation in accordance with Paragraph 3.4.

ETWB TCW No. 27/2003 promulgates a “Land Acquisition Prioritization Exercise (LAPE)” in which it introduced streamlined procedure to be followed during the planning stage for projects that require LandsD’s input in respect of land acquisition, land clearance and compensation assessments under relevant ordinances. The purpose of this exercise is to ensure that sufficient staff resources could be allocated within LandsD well in advance, so as to enhance the effective and efficient delivery of important projects. The LAPE is an on-going exercise to be tied in with the Annual Resource Allocation Exercises. It applies to all existing and proposed government projects under the Capital Works Programme, quasi-government projects, and private projects that require LandsD’s input; but does not apply to very large scale projects for which separate teams have been set up within LandsD or the proponent office to carry out the land acquisition work.

In essence, the LAPE requires DEVB to compile a list of all projects that will necessitate significant amounts of input from LandsD, and to divide them into two types of items, namely:

- (a) Major Items
 - (i) Capital Works Projects (including those projects funded by Cat D items)
 - (ii) LandsD’s items for land sale clearance and a number of other miscellaneous items
 - (iii) Quasi-government projects
 - (iv) Certain private projects

- (b) Minor Items
 - (i) Non-development Clearance items
 - (ii) Rural Planning and Improvement Strategy items
 - (iii) Landslip Preventive Measures (LPM) items
 - (iv) Private Street Improvement Scheme items

3.3.1 Preliminary Project Plan

(a) Preparation

The preliminary project plan will be prepared by the project office when the project is in Category B of the Public Works Programme, or accepted as a charge to another vote. The plan will show the site and nature of the project together with, where possible, the anticipated works area(s), borrow area(s) and the boundaries of permanently allocated land. Amenity areas, which cannot be used as public pleasure grounds after completion of the project, should be identified on the plan.

(b) Distribution

The plan will be circulated for comments by the project office. The distribution should include the client department (who in turn will notify the appropriate maintenance department e.g. LCSD, DO, AFCD, ArchSD or HyD in respect of amenity areas, where applicable), DPO, DLO, DSO, Clearance Unit of Acquisition Section in LandsD, DO, HyD, DSD, Port Works Division of CEDD, (where maritime structures or marine frontages are involved), GEO, WSD, relevant CEDD development office, TD, FEHD, ArchSD, HKPF, FSD etc., as appropriate.

The project office will state when the land is likely to be required, identify the works division/office and will request DLO and Clearance Unit of Acquisition Section in LandsD to give an estimate of the time required for resumption and clearance. Upon receipt of the preliminary project plan, DLO and DO should advise the project office if public consultation is required.

3.3.2 Project Plan

The project plan will be prepared by the project office in the light of comments received on the preliminary project plan and any necessary consultation. The finalized site boundaries should be circulated again to the respective DLO for agreement. The plan should be issued to those listed in paragraph 3.3.1.

3.3.3 Approval

Endorsement by LACC is required for project plans. As a result of the circulation procedure described above, where major issues cannot be resolved among departments, the case should be referred to DEVB, CPLD or LACM for a decision.

3.3.4 Follow-up Action

Where the proposed timing requires the use of funds for resumption, compensation and/or clearance before funds will become available for construction, the respective DLO should be consulted to ensure that adequate funds are available to meet the estimated cost when the project is at detailed design stage in Category B. The project office should consult DLO, Clearance Unit of Acquisition Section in LandsD, DO and the LACC if changes in project programme and layout are contemplated. See also paragraph 3.5.1(e) regarding office clearance coordinators.

3.4 LAND ALLOCATION

This part of the procedure is to be followed for buildings, treatment works, pumping stations, service reservoirs, depots (including depots underneath highway structures), works areas, borrow areas etc. which involve formal permanent or temporary allocations of specifically defined land. Access roads and slopes or retaining structures adjoining the project site may be included.

The LAPE as referred to in paragraph 3.3 also applies under this Section except for works areas and borrow areas as these should form part and parcel of the main project.

3.4.1 Request for Allocation

(Ref.: LandsD's memo ref. (3) in LD TI 10/04/03 dated 16.6.2004, Provision of Lands for Works Areas)

When the project is in Category B of the Public Works Programme or accepted as a charge to another vote, the client department or the project office will inform DLO of the date when the land is likely to be required and will request that allocation conditions and the preliminary allocation plan be prepared, copying the request to DO, relevant CEDD development office, Clearance Unit of Acquisition Section in LandsD, and the LACC. Clearance Unit of Acquisition Section in LandsD, upon receipt of the request, should advise DLO whether clearance for the proposed land allocation is required and whether the proposed time schedule can be met. Requests for works areas and borrow areas should be made separately by the project office to DLO with an indication of timing and duration. The project office should accompany the request for the works area with a statement that there is a provision in the contract agreement specifying that the works area (with site plan) is available. As approval to extension of time for occupation of works areas is subject to the discretion of DLO, the project office should as far as possible make a good estimate on the duration of occupation to avoid the situation that the extension is not given.

When no suitable works areas could be made available for the project after consultation with the respective DLO, the project office should consider including provisions such as requiring the contractor to make available suitable space for storage and to accommodate the site supervisory staff as well as the contractor's staff in the works contract.

3.4.2 Preliminary Allocation Plan

On receipt of a request, DLO will prepare a preliminary allocation plan. Identifying precise boundaries will not be possible at this stage. These will only be determined after architectural/engineering investigation is completed. However, any land requirements for diversions of major facilities such as roads, water mains, drainage channels should be incorporated in the preliminary allocation plan as far as possible.

3.4.3 Allocation Conditions

DLO will prepare draft allocation conditions and will circulate them for comments, with the preliminary allocation plan, in duplicate, to interested parties. The circulation list should include the client department, DO, DPO, FSD, EPD, HyD, WSD, GEO, DSD, relevant works divisions (e.g. Port Works Division of CEDD where maritime structures or marine frontages are involved), TD, HKPF, LCSD, FEHD and Clearance Unit of Acquisition Section in LandsD, with copies to the relevant CEDD development office and project office.

The identity of the project office will be stated in the circulation memo.

3.4.4 Approval

All allocations are to be approved by the relevant DLO, who may refer them to DLC for contentious cases.

Unless different arrangements are agreed by the client department, land subject to permanent allocation should be allocated to the end-user/operation department and land requiring temporary allocation (usually for the purpose of construction) should be allocated to the project office.

3.4.5 Allocation of Amenity, Sitting-out Areas and Quality Roadside Greening

Minor roadside amenity areas and sitting out areas, which do not involve buildings and are situated outside the limits of a public road, may be handed over by DLO, temporarily or permanently as appropriate, to LCSD, ArchSD, or AFCD for future maintenance and management without formal allocation conditions. Amenity areas and quality greening at roadside and road median (see DEVB TCW No. 2/2012) within the limits of a public road do not require formal allocation to LCSD or HyD and may be dealt with by the issue of a "no objection" letter by DLO. But in all cases the management and maintenance responsibilities should be agreed prior to any works on these areas being carried out. It should be noted that the management and maintenance of landscape works should be in accordance with guidelines set out in DEVB TCW No. 6/2015 and DEVB TCW No. 4/2020.

3.4.6 Notification of Allocation

After approval by DLO, DSO will, at the request of DLO, prepare an allocation plan. The allocation plan will be chopped by DLO:

"Site allocation approved by on/...../.....".

DLO will distribute the allocation plan and conditions of allocation as follows:

Client department	-	2 copies each of the plan and the conditions	
Project office	-	2 copies of the plan and 1 copy of the conditions	
Clearance Unit of Acquisition Section in LandsD)		
Geotechnical Engineering Office)		
District Planning Office)		
HK Police Force)		
Water Supplies Department)		
Transport Department)	1 copy of	
Relevant Highways Region)	the plan	
Drainage Services Department)	and	
Relevant CEDD's development office)	1 copy of	
Relevant works division)	the conditions	
District Office)		
Leisure and Cultural Services Department)		
Fire Services Department)		
Agriculture, Fisheries and Conservation Department)		
Environmental Protection Department)		

DLO and Clearance Unit of Acquisition Section in LandsD will advise the project office and the client department of the order of cost and the time required for resumption, compensation and clearance. (Note: For PWP projects, the cost of compensation will be met from Head 701, Subheads 1010CA to 1020CA, Land Acquisition, Compensation and Ex-gratia Allowances.)

The relevant DO should be kept informed. (Note: procedures for the possession and handing over of the site are given separately under paragraphs 3.5.3 and 5.4.1.).

3.4.7 Follow-up Action

Same as paragraph 3.3.4.

3.5 ACQUISITION AND CLEARANCE

3.5.1 Clearance Programme

(a) Five-year programmes

The project office is responsible for informing the appropriate LACC to include the project in the LACC clearance programme together with the necessary programming information. Five-year programmes will be prepared in accordance with arrangements agreed by the LACC members.

(b) Re-clearance

The client departments are responsible for taking all necessary precautions to prevent illegal dumping on, and unauthorized occupation of, land under their control. If any department is unable to provide adequate protection with its own staff resources, assistance may be sought from LandsD for arranging security guard service or fencing, as appropriate, provided that the necessary funds are made available by the client department.

If, after allocation, a site is illegally occupied and has to be cleared again, the project office should request DLO, with a copy to Clearance Unit of Acquisition Section in LandsD, to take action to re-clear the site (for marine sites, the Principal Marine Officer/Local Services, MD, should be contacted for assistance). The cost of re-clearance should be met from the client department's project vote but in exceptional circumstances, may be met from the Land Acquisition Vote under the control of the CES/A of LandsD. In the latter case, funds may not be immediately available for unscheduled re-clearances, and there is no guarantee that project/contract deadlines will be met.

(c) Programme reviews

Offices may inform Clearance Unit of Acquisition Section in LandsD, with copies to DLO, of clearances which have not been foreseen for inclusion in the five-year programme and Clearance Unit of Acquisition Section in LandsD

will endeavour to fit them in at one of their programme reviews. LACC directives should be sought if there are disagreements between departments.

(d) Priorities

If at any stage LandsD finds that the forecast development clearances in a clearance district cannot be accommodated, they will inform the LACC. The latter will consider and propose reprioritization of clearances based on the district requirements and arrange for submissions to LACM for final consideration and approval. LandsD will carry out the clearances according to their priorities and the resources available.

(e) Office co-ordination

Whilst office clearance coordinators will be concerned with all procedures in paragraphs 3.2 to 3.5, they should pay particular attention to paragraph 3.5.1. Changes in office holders should be notified to those involved.

3.5.2 Clearance Application

(a) Pre-Clearance Survey (PCS)

Insofar as clearance of land is required for the implementation of government development projects, LandsD as the agent of the project bureau/ department has, as a standard and established procedure, been conducting a PCS (commonly known as "freezing survey") to capture the occupation and status of the occupiers within the project area. The information so obtained will serve as a basis for assessment of eligibility for government's ex-gratia compensation and rehousing (C&R) arrangements for those residing/operating in the locality and are genuinely affected/to be cleared by the project. As a minimum requirement, an occupier is required to be registered in the PCS as a pre-requisite to be considered for C&R provisions (whether he/she is eligible ultimately will depend on his/her fulfillment of various other eligibility criteria).

Once a government project is confirmed to proceed and so made known to the public, it would be advisable to conduct the PCS to capture the occupation and status of the occupiers at the earliest possible juncture so as to prevent abusive acts to take advantage of the C&R provisions (e.g. to guard against those moving into the project area after they learned of the prospective development in order to benefit from C&R). Previously, each project bureau/ department or LandsD will decide the timing for conducting PCS for the project. Upon review, the Government sees room for improvement by promulgating a general guideline for standardizing the timing, as detailed in paragraphs below, to better achieve the objective of the PCS in taking a snapshot of the ground situation as soon as the development plan is confirmed and announced in public.

With effect from 1 April 2021, in line with the policy intent for PCS to be conducted as and when the planned land use, development boundary and implementation programme of the project are confirmed and so announced in

public, the PCS should be conducted in accordance with the following timing as a general practice:

- (i) where statutory town planning procedures are involved (e.g. rezoning of sites for public housing, New Development Areas, land sale), the PCS should be conducted at the date of gazettal of the draft OZP/ OZP amendment or the date of publishing a planning application for public inspection, whichever is the earliest. If the supporting infrastructure for a project is not shown as part of the draft OZP/ OZP amendment/ planning application (e.g. road works, sewerage works), project bureau/ department should decide and notify LandsD whether the PCS to be conducted at the date of gazettal of the draft OZP/ OZP amendment/ publishing of planning application should cover the area of supporting infrastructure, if so, the boundary of such area;
- (ii) where statutory town planning procedures are not involved but gazettal of a scheme for the project in question is required under other ordinances (e.g. road/sewerage works under Cap. 370 or railway works under Cap. 519), the PCS should be conducted at the date of gazettal of the plan and scheme; and
- (iii) for projects requiring clearance in due course but not covered by the scenarios in paragraphs 3.5.2 (a)(i) and 3.5.2 (a)(ii) above (e.g. drainage works not required to go through gazettal of plan and scheme under Cap. 370), the PCS date should be determined by the project bureau/ department in consultation with DEVB and LandsD, in accordance with the policy intent stated at the beginning of this paragraph.

If any project bureau/ department considers it not appropriate to conduct PCS for individual project according to the above guidelines due to overriding concerns, the project bureau/ department should justify and defend their decision after consultation with DEVB and LandsD. For land sale site not captured by paragraph 3.5.2 (a)(i) above, the District Lands Office concerned should liaise with the DEVB to determine the timing for the PCS.

Under the prevailing practice, the lead bureau/ department of a works project involving land resumption should submit a completed CAF to request for LandsD's preparation for land resumption and clearance. The CAF would enclose a finalized land requirement plan delineating the resumption/clearance limit of the development project with breakdown by respective ordinance(s) involved, along with the development programme.

Noting that the standardized timing in paragraph 3.5.2 (a)(i) above may pose difficulties to the project bureau/ department in providing detailed delineation of land by the respective ordinance(s) to be invoked for resumption, the Government has promulgated a simplified CAF namely the 'Advance CAF' for project bureau/ department to provide the necessary information for LandsD to kick start the PCS1 at Appendix 3.1. The Advance CAF should be submitted together with a draft land requirement plan to LandsD at least 3 months before the intended date of PCS (e.g. the date of gazettal of the draft OZP/OZP amendment or the date of publishing a planning application for

public inspection, whichever is the earliest, for a project caught by paragraph 3.5.2 (a)(i) above). The draft land requirement plan has to show the outer clearance boundary of the land involved for LandsD to carry out the PCS in one go. Unlike in the usual CAF, the project bureau/ department will not be required to delineate the land by different ordinances to be invoked for resumption at the stage of Advance CAF because the manner of conducting the PCS would be the same. The usual CAF with the finalized land requirement plan under respective ordinances following the prevailing practice as mentioned in the paragraph above is still required from the project bureau/ department at later stage for committing land resumption (if applicable), actual land clearance and site handover date.

If the resumption/clearance limit of a project is enlarged and more landowners/ occupiers are affected, a supplementary PCS will be conducted to cover the enlarged project boundaries.

When the resumption/ clearance limit of a project is confirmed to be reduced by project bureau/ department after PCS, both the affected landowners/ occupiers and their structures previously covered by PCS but then fall outside the reduced resumption/clearance limit will be de-screened (at a time to be agreed by directorate level in LandsD).

(b) CAF

The project office should submit to DLO seven copies of the CAF, in the format shown at Appendix 3.1A, with a copy to Clearance Unit of Acquisition Section in LandsD etc., at least 18 months (for projects where clearance is to be done under the Lands Resumption Ordinance) or 24 months (for projects where clearance is to be done under the Roads (Works, Use and Compensation) Ordinance and the 'Sewerage Regulation') before work is expected to start. In practice, the time required for clearance may be longer depending on the workload of the respective DLO and the complexity of the clearance work required for individual projects. The respective DLO should better be consulted of the time required for clearance of individual project when the clearance programme is prepared. In addition, the project office should liaise closely with DLO to facilitate DLO to prepare "cut-off" date letter if building land is affected. For normal clearance, the application should be signed by an officer of D1 rank, and for clearances to be treated as urgent, by an officer of D2 rank. The plan, normally in 1:1,000 scale, should show by thick black pecked lines all the land required, including that for formation areas, works areas and borrow areas. It should also show the area in square metres of each parcel of land. Occupation should be phased whenever possible to avoid clearance sooner than necessary. A revised CAF should be submitted in cases of substantial change in the clearance requirements. Project offices should clarify early with relevant DLO the time implication on site delivery due to submission of a revised CAF and minor revision to the project boundary.

If necessary, a separate application can be made for the advance clearance of part of a site or borrow area for ground investigation or a topographical survey, but this should be avoided as far as possible by limiting such surveys

to what can be achieved with temporary access arranged by DLO. Advance clearance should only be carried out if DLO agrees to make special arrangements for control of the cleared area until the permanent work starts.

3.5.3 Processing

On receipt of a clearance application form from a project office, DLO will:

- (a) Complete the application form and forward 4 copies to Clearance Unit of Acquisition Section in LandsD with copies as noted at Appendix 3.1A,
- (b) Advise the project office on whether the CAF is accepted or not by return of the standard feed-back memo. If the CAF is accepted, DLO will:
 - (i) Prepare for licence and tenancy cancellation and resumption procedures (CES/A to deal with resumption in Urban Area cases);
 - (ii) Confirm with the project office any change of timing of the project before gazetting the resumption notice;
 - (iii) Check if sufficient provision has been made in the Land Acquisition vote for compensation and ex-gratia allowances (Head 701, Subhead 1010CA to 1020CA, for PWP projects);
 - (iv) Alert the project office well in advance to take up the demolition and clearance works of all structures, in particular those substantial ones;
 - (v) Arrange for pre-clearance work, assessment and payment of various ex-gratia allowances; and
 - (vi) Take action to ensure clearance by the date required, and if delays appear likely, immediately advise SM/C and the project office.

The Clearance Unit of Acquisition Section in LandsD will:

- (a) Plan the clearance operation and confirm details of the date and estimate to DLO, CES/A for the Urban Area, and the project office,
- (b) Advise DLO if demolition of substantial structures is required, and
- (c) If delays appear likely, immediately inform DLO, the project office and DO concerned.

It should be noted that for marine sites involving clearance of vessels and moorings, MD is responsible for taking appropriate action (if the clearance exercise involves clearance of dwelling vessels, LandsD is responsible for arranging registration of boat dwellers prior to the clearance of the vessels). It will:

- (a) Plan the clearance operation and confirm details of the date and the estimated costs to the project office,

- (b) Arrange for the serving of the removal notice, and
- (c) If delays appear likely, immediately inform the project office.

The project office should:

- (a) If a change of programme or resumption/clearance arises, immediately advise DLO, SM/C (or MD for marine sites) and LACC.
- (b) Arrange for the contractor to take possession, or in the case of direct-labour jobs, take possession of the site on the date agreed with SM/C and DLO. Clearance should not normally be carried out until work can commence but where, for some reasons, it has to be earlier, alternative arrangements for taking possession of the site and preventing illegal occupation should be made in conjunction with SM/C and DLO. Where contractors are involved, sites should be made available to them on the dates specified in the contract, failing which may result in claims for late possession of sites.
- (c) Inform DLO and SM/C at the earliest stage if the structures to be demolished by SM/C are suspected of containing asbestos materials, which must be removed in accordance with the Air Pollution Control Ordinance before demolition is carried out.

3.5.4 Acquisition and Clearance of Potentially Contaminated Industrial Sites

Prior to taking over leased industrial sites or sites susceptible to contamination by the Government, the project office should give priority to carrying out detailed site investigation to assess the contamination of the sites, especially for those which are more prone to serious contamination (e.g. shipyard sites). The assistance from relevant departments (e.g. EPD and LandsD) should be sought if necessary. Reference should be made to the "Practice Guide for Investigation and Remediation of Contaminated Land", and the "Guidance Note for Contaminated Land Assessment and Remediation" should be adopted where appropriate. The documents can be viewed on the website of EPD. The assessment methodology is based on the risk-based remediation goals.

Relevant departments, such as LandsD, should be informed of the extent of contamination so that appropriate and immediate action can be taken to protect the Government's interest before the sites are resumed.

3.5.5 Land Acquisition Prioritization Exercise (LAPE)

To improve the delivery of the Capital Works Programme and to ensure that important projects will not be hindered by the staff resources constraints in LandsD, the CWC endorsed in 1997 the introduction of the LAPE as an annual exercise to be tied in with the RAE. The LAPE aims to prioritize capital works projects requiring LandsD's input in land resumption, land clearance and compensation assessment under relevant ordinances (referred hereinafter collectively as Land Acquisition) so that LandsD can plan and allocate the required resources accordingly.

Under the context of LAPE, projects are divided into two categories, viz. Major Items and Minor Items. Major Items are those capital works projects, other than Minor

Items, that require LandsD's input on Land Acquisition. They may be works projects under the CWP, quasi-government projects, private projects or LandsD's items for land sale clearance. Minor Items are those for which LandsD's staff resources for carrying out Land Acquisition is comparatively small. This category includes Non-development Clearance items, Rural Planning and Improvement Strategy items, LPM items, Private Street Improvement Scheme items and other projects that involve minimal input from LandsD.

Normally, LandsD will not deploy any staff resources on Land Acquisition for a project unless and until it is included in the LAPE. The relevant Works Departments should programme a project such that it is timely included in the LAPE if such project needs LandsD's input for Land Acquisition.

For Major Items, DEVB will, upon receipt of their applications for inclusion, assign to each item a priority ranking based on the criteria endorsed by the CWC and include them in the SSHD. Based on the assigned priority ranking and the staff resources available, LandsD will work out their SHD.

Under the current rules, the highest priority will be accorded to housing related items, items significantly affecting public safety, and items with very high political, economical or social impact (the relevant Policy Secretary will need to provide detailed justifications for this type of items). Items with an uncertain programme and a high chance of not being able to commence works in time even with the completion of Land Acquisition will be accorded the lowest priority. Within the same priority category, projects requiring smaller amount of LandsD's resources to deliver larger amount of works will normally be accorded with higher priority than the others. DEVB is responsible for keeping under review rules for assigning the priorities.

To avoid unnecessary administrative efforts, DEVB will not assign priority rankings to Minor Items and these items will not be included in the SSHD. Instead, a quota approach is adopted. DEVB and LandsD will agree a certain percentage of LandsD's land acquisition staff resources to be set aside for these items. Among the various types of Minor Items, LPM items will have priority over the others since they are safety related.

LAPE does not apply to very large scale projects for which approval has been obtained for setting up separate teams within LandsD or the proponent office to carry out Land Acquisition.

At the end of each year, DEVB will conduct an LAPE Annual Review of Major Items (the Annual Review). The Annual Review comprises two parts, viz. inclusion of new items and review of existing items.

To ensure that resources will not otherwise be used in processing items that have not been given a priority to proceed in terms of funding position, application for inclusion of a new Major Item in the LAPE should only be submitted after its successful inclusion in the RAE. For projects that do not need to earmark funds under the RAE, the relevant Works Departments should confirm in the application that funds have been earmarked, or will be available, in the appropriate funding sources.

To include a new Major Item in the LAPE, application should be made to DEVB when the Annual Review is conducted. The relevant Works Departments should fill out the application form at the Appendix 3.29 for each new item, providing the following

information amongst others –

- (a) confirmation that
 - (i) the project has been included in the latest RAE or funds will be available from appropriate sources;
 - (ii) TFS for the project has been submitted and approved;
 - (iii) construction can commence shortly after the required lands are made available by LandsD;
- (b) the estimated construction cost of the project;
- (c) the required site handover date;
- (d) the target date for submitting Clearance Application Form (CAF);
- (e) the relevant ordinances involved; and
- (f) the consequence in case the project is delayed.

In addition to the above, a rough site boundary overlaid on a land status plan at a suitable scale (preferably 1:1000) should also be submitted with the application form.

In the event that a Major Item needs to be urgently included in the LAPE in between Annual Reviews, the Works Departments should include in the application a statement of justifications for the urgency provided by the relevant Policy Secretary. Each application will be considered on its own merits by DEVB in consultation with LandsD. If considered necessary, the relevant Policy Secretary may be required to review and adjust the SHD of other Major Items under his own policy areas in order to meet the required additional staff resources.

Based on the information provided above, DEVB will assign priorities to the new Major Items, include them accordingly in the SSHD and pass on such information to LandsD. LandsD will roughly assess the level of resource requirements for Land Acquisition for each new item with the help of Project Management and Staff Resources Model system. The priority rankings, the site handover requirements and the resource requirements of the new items will be reviewed when their LRR and LRP are available later.

During the Annual Review, the site handover requirements of all existing Major Items on the SSHD will be updated and their priority rankings and SHD will be re-examined, taking account of the latest circumstances and progress. If necessary, the assigned priority of the items will be adjusted and the SHD revised.

If considered necessary, DEVB would advise the relevant Works Departments of the preliminary result of the assigned priority ranking and the latter should then consult their Policy Secretaries to determine if the assigned priorities of their projects are acceptable. Policy Secretaries may propose to swap the ranking of items under their own policy areas, provided that there will not be significant difference in LandsD's staff resources requirements and that this involves little abortive work of LandsD. After considering the comments from Policy Secretaries and Works Departments, DEVB will finalize the priority ranking for LandsD to work out the SHD. Based on LandsD's assessment of the SHD and taking into

account discussions with Works Departments and LandsD on any unsatisfied site handover requirements, DEVB would issue the final SSHD.

DEVB may, under very special circumstances, consider waiving some of the requirements as set out above for projects that warrant an urgent delivery. In such circumstance, the relevant Policy Secretaries will need to provide full justifications for the urgency.

As land resources in Hong Kong are limited, project teams have a duty to minimize, as far as practicable, the total area of land that the project will take up or sterilize. Works Departments are therefore required to submit an LRR for each Major Item to DEVB for endorsement. The main purpose of an LRR is to ensure that the relevant Works Departments have given such due consideration in the project planning. In addition, the report should also demonstrate that efforts have been made to minimize the amount of Land Acquisition required by the projects.

An LRR should comprise two parts. The first part should list out the options that have been considered for minimizing the land taken up or sterilized by the project. The second part should list out the options that have been considered for minimizing the amount of Land Acquisition required by the project. In both parts, an explanation should be provided for the option finally adopted.

For each Major Item, Works Departments are also required to submit an LRP to the relevant DLO, with copies to DEVB and LandsD HQ, to provide the basic information for LandsD to assess the amount of staff resources required for Land Acquisition. The LRP should show the site boundary, overlaid on a land status plan to be obtained from LandsD, at a suitable scale (preferably 1:1000). For items requiring LandsD to assess compensations to nearby affected parties, the LRP should also show the locations of the affected parties. Where necessary, additional explanatory notes may be added to facilitate the communication.

Upon receipt of the LRP and the associated details, the relevant DLO would consider whether such information is sufficient and accurate enough for them to assess the Land Acquisition cost and the associated staff resources required. If considered necessary, DLO will arrange a joint site inspection with the relevant Works Departments.

Under the existing TFS system, Works Departments are only required to establish the technical feasibility of projects on a prima facie basis before they are proposed for inclusion in the RAE. Works Departments may therefore not have conducted detailed study on various development options for identifying the optimal project layout in respect of land requirements at the time when making the first LAPE submission for the project. To avoid additional efforts for preparing LRR and LRP at this early stage of a project, Works Departments are no longer required to include these documents in the first LAPE submission for a new Major Item. Instead, these documents should be prepared and submitted after the optimal layout is identified at the design stage, but not later than the next Annual Review after inclusion of the new item in the LAPE.

For Minor Items, Works Departments will need to liaise directly with the relevant DLO as regards the detailed arrangements for adding new Minor Items and the basic information required for working out the SHD. Upon receipt of applications from Works Departments, the DLO will, with the assistance of LACC if necessary, work out a schedule of the SHD for Minor Items and keep DEVB and LandsD HQ informed.

The SHD prepared by DLOs will need to be reviewed from time to time taking account of the actual progress made by the Works Departments and LandsD. The percentage of LandsD's land acquisition staff resources to be set aside for minor items will be reviewed regularly. Such a review may trigger a corresponding review for Major Items.

If there are substantial changes to the site boundary (or alignment) after the submission of the LRR and the LRP for Major Items, the relevant Works Departments should notify DEVB, which may require the relevant Works Departments to resubmit the report and the plan. The priority of the item on the SSHD will be reviewed based on the revised details. Similarly for Minor Items, the Works Departments should submit the revised details to the relevant DLO, with copies to LandsD HQ, for a review of the SHD, should there be substantial changes to an item after its inclusion in the schedule maintained by the DLO.

3.6 CHANGE OF USE

3.6.1 Circumstances Involved

Action under this section should be taken if on any piece of land (for which planning approval or allocation has already been granted) any of the following proposals are initiated:

- (a) A substantial change of use,
- (b) Complete redevelopment,
- (c) Use of the land for an additional project, or
- (d) A substantial extension or alteration to an existing facility (e.g. additional floors for a building).

3.6.2 Planning Request

A planning request should be made by the client department or the project office at the earliest stage with a plan showing the site and nature of the proposal to DPO or DLO, as appropriate (see paragraph 3.2.1), for comment, which will consider the necessity for a special application to the Town Planning Board or other authority.

3.6.3 Allocation Check

If DPO agrees in principle to the proposed changes and when the project is in Category B or D of PWP, or accepted as a charge to another vote, the client department or project office should request DLO to consider the need to revise any existing allocation conditions.

4. SUBSIDIARY PROCEDURES FOR PROVISION OF LAND

Note: The following paragraphs contain relevant abstracts of major ordinances relating to the provision of land necessary for the execution of works only. The descriptions should not be treated as legal interpretations of the ordinances and in case of doubt, legal advice should be sought.

4.1 ROADS (WORKS, USE AND COMPENSATION) ORDINANCE, CHAPTER 370

Transport Branch Technical Circular (TBTC) Nos. 1/94, 2/96 and 1/2018 stated the guidance to the application of this Ordinance. TBTC No. 1/98 promulgates the revised requirements concerning the statutory time limit for handling objections as a result of the amendments made to the Roads (Works, Use and Compensation) Ordinance (Chapter 370), which was gazetted and put into effect on 3 April 1998. If the proposed roads and proposed sewers of a project are required to be gazetted, separate gazettal for the proposed roads under the Roads (Works, Use and Compensation) Ordinance (Chapter 370) and for the proposed sewers under the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation shall be gazetted on the same day. The following provides amplification to procedures relevant to projects handled by CEDD, DSD, HyD, HAD and WSD.

4.1.1 Purpose and Definitions

The Ordinance provides for the publication of proposals as to works in relation to roads, objections to the proposals, authority to carry out the works and for the use of roads, powers in relation to the works on and the use of roads, compensation and connected matters. The Ordinance requires all roadworks, except those of a minor nature, to be gazetted so as to give the public the opportunity to object to such proposals.

The Ordinance does not define "roads" but relies upon the definition contained in Section 3 of the Interpretation and General Clauses Ordinance, Chapter 1, which reads as follows:

"Street" and "road" mean:

- (a) Any highway, street, road, bridge, thoroughfare, parade, square, court, alley, lane, bridleway, footpath, passage, tunnel, and
- (b) Any open space and quality greening at roadside and road median, whether situated on land leased from the Government of the HKSAR or not, used and frequented by the public or to which the public have or are permitted to have access.

The Ordinance defines "works" as "the construction, renovation, alteration, closure, maintenance or repair of any road and any operations ancillary thereto".

4.1.2 Authority and Delegation

The authority for the execution of works or for proposing to execute works is STL, who has delegated this statutory power to SDEV, Project Director (Sports Park) of HAB and various officers of rank D1 or above in CEDD, HyD, WSD, DSD, ArchSD, HAD, HD and LandsD to act on his behalf.

A detailed schedule of persons to whom STL has delegated statutory powers is given in TBTC No. 1/2018.

4.1.3 Minor Works

Section 4 of the Ordinance empowers STL to execute any works and improvement works on roads, including works related to utility services, traffic aids and street furniture, street lighting, hard landscaping and planting:

- (a) Which in his opinion are minor in respect of any physical or structural operations involved, and
- (b) In respect of which he is only required:
 - (i) To close a road which in his opinion does not serve any useful or lawful purpose,
 - (ii) To close a road to use for a period not exceeding 14 days in any period of 3 months, and
 - (iii) To close part of the width of a road to use, but not to such an extent which will interfere unreasonably with the normal flow of traffic on that road and for no longer than is reasonably necessary to execute the works.

This power of STL is delegated to some senior officers of ArchSD, LandsD, CEDD, DSD, HyD, HAD and WSD, subject to the condition that no resumption of land is involved.

A detailed schedule of persons to whom STL has delegated powers under Section 4 of the Ordinance is given in TBTC No. 1/2018.

If, however, a delegated officer is unsure as to whether the works he proposes to carry out fall within the definition of minor works described above, or for one who does not have delegated powers under Section 4 of the Ordinance, he should consult STL before a decision is made.

4.1.4 Major Works, the Plan and the Scheme

Where it is intended to carry out works other than those defined in paragraph 4.1.3 above, the project office or department will prepare a plan and a scheme and submit these to STL for the signature of PSTL, following which the plan and the scheme shall be deposited in the Land Registry and at other offices for public inspection. A notice calling attention to the proposals and to the availability of the plan and the scheme for perusal will then be published in the Gazette. Any person may then, by notice in writing delivered to STL not later than 60 days after first publication of the notice, object to the works or the use, or both.

4.1.5 Public Consultation

As stipulated in ETWB TCW No. 4/2006, the consultation with District Council(s) concerned, major residential groups and other interested bodies should normally take place at least three months before the date of gazettal to allow the public adequate time to understand the project scheme. Wherever practicable, the project office or department concerned should publicise the plan and the scheme on local notice boards before their formal gazettal to heighten the public awareness.

A statement of the extent to which the appropriate District Council has been consulted should be included in the covering memorandum (Appendix 3.2) to any plan and scheme submitted for the signature of PSTL.

4.1.6 Preparation of the Plan

(a) Contents

The plan shall delineate the "Works Area" which is defined as "that area within which land may be resumed, easements or other rights in, under or over land may be created or rights affected for the purposes of or incidental to the works or the use". This should not be confused with the Contractor's Works Area.

The Works Area shown on the plan must encompass all the land needed and the boundaries of the area must be sensibly drawn. Where, for example, when a boundary line would cut through an existing building, the line should normally be diverted around the building so as to exclude it completely or so as to include it completely, since it is impracticable to resume land on which part of a building stands. Investigation on site as to what the effect of the boundary line would be will often be essential.

(b) Liaison with LandsD

Close liaison with DLO or CES/A (for urban area) is necessary in order that all the lands that require resumption or easement are correctly described in the scheme and delineated on the plan. Particular care should be taken when boundaries for resumption or easement are very close to existing lot boundaries, because any minor modification of the resumption line, at a later stage, may result in encroachment into a lot which has not been gazetted for resumption. In order to avoid such a situation, the following arrangements have been agreed with LandsD:

- (i) The preliminary layout should be circulated to both DLO and DSO. DSO will identify any problematic leased lot boundaries on the layout plan and advise the project office or department.
- (ii) When such plans showing the problematic leased lot boundaries are prepared for gazetting, the project office or department will send an advance copy of the plan to DLO and DSO at least one week before it is submitted to STL.

- (iii) The project office or department must ensure that the land use identified at detailed design stage is not in conflict with that delineated in the gazetted plans. The final layout plans should be sent to DLO and DSO for checking as soon as they are available.

(c) Preparation

The plan shall be properly prepared and approved by the office or department concerned. It should also contain a signature box bearing the words "Permanent Secretary for Transport and Logistics" and "Date". If the plan contains two sheets, a box should be provided on each sheet for the PSTL to sign. If the plan contains more than two sheets, they should be bound together with a covering sheet which should contain the heading, plan numbers and titles, together with the approving officer's signature and a box for the PSTL to endorse.

4.1.7 Preparation of the Scheme

(a) Contents

The scheme, which is to be annexed to the plan, is required by Section 5(b) of the Ordinance to describe the following:

- (i) The general nature of the proposed works and the use to which it is intended the road will be put (for roads and flyovers the inclusion of a layout plan will be necessary unless the layout is already shown on the plan described in paragraph 4.1.6 above),
- (ii) The land that is to be resumed under Section 13 of the Ordinance (which should include, for example, lot particulars, the area affected and the location of the land),
- (iii) The land in, under or over which an easement or other permanent or temporary right may be created under Section 15 of the Ordinance, and the nature of such easement or right,
- (iv) Any road or foreshore or sea-bed of the Government of the HKSAR in respect of which it is proposed STL should, under Section 17 of the Ordinance, authorize the closure (of the road) or reclamation (of the foreshore or sea-bed) or the extinguishment, modification or restriction of any public or private right,
- (v) Any land or building wholly or partly within the works area or wholly or partly within 70 metres thereof, with regard to which it is intended to exercise the powers of STL to enter for the purposes of Section 19 of the Ordinance (which covers inspection, valuation, site investigation, surveying and setting out in connection with the works, and the carrying out of preventive or remedial works) in the absence of agreement with persons affected,

- (vi) Any gas, electricity, water or telecommunications service apparatus in respect of which it is intended that STL shall exercise his powers under Section 20 of the Ordinance requiring the owner, at his own expense, to alter the course or position of such apparatus,
- (vii) Any land or building in respect of which it is intended that STL shall exercise his powers under Section 21 of the Ordinance requiring the removal of obstructions where such removal is necessary for the purposes of or incidental to the works or the use, and
- (viii) Any land or building in respect of which it is proposed that the Building Authority shall exercise his powers under Section 22 of the Ordinance, which permits the Building Authority to refuse to give his approval to plans, or to refuse consent to the commencement of building works, to require the amendment of plans, to impose conditions on the giving of approval of plans or on the consent to commence works, or, where no consent to commence works has been given, to withdraw approval, if he is of the opinion that the building works would be incompatible with the roadworks or use.

Clearly, not every case involving roadworks will require the exercise of all the powers listed above and those not required should not be described in the scheme.

(b) Non-application of Lands Resumption Ordinance, Chapter 124

It should be noted that, except as provided in the Ordinance (CAP 370), the Lands Resumption Ordinance will not apply to land resumed under Section 13 of the Ordinance (CAP 370). DLO will nevertheless liaise with the project office or department in compiling a schedule of land to be resumed. LandsD will carry out all its resumption functions other than preparing the ExCo Memorandum, which would have been required under the Lands Resumption Ordinance (CAP 124).

(c) Inspection and survey

For the purpose of preparing the plan and scheme, every attempt should be made to obtain the agreement of the owner of any land or building, which it is proposed to enter to make inspection, site investigation or test, or to survey or to set out any line of works. If, however, agreement cannot be reached, STH or any person authorized by him, may enter the land or building for these purposes on giving 28 days' notice in writing to the owner and occupier.

4.1.8 Gazetting the Plan and the Scheme

(a) Submission to STL

The plan and the scheme are to be prepared by the office or department which initiates the proposal for the roadworks. Close liaison with DLO and CES/A (for urban area) is necessary to ensure that all the land which requires resumption or easement is correctly described in the scheme and delineated in the plan. After preparing the plan and scheme, the project office or department is to forward them to STL under cover of the standard memorandum at Appendix 3.2, enclosing the appropriate number of copies for signature by PSTL, and for the information and comments of copy addressees.

(b) Press release and notice

The plan and the scheme are to be accompanied by a draft press release and a draft notice in both English and Chinese, giving a description of the general nature of the works and particulars of offices at which copies of the plan and the scheme may be inspected by the public. These should normally include:

- (i) Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;
- (ii) The DLO(s) for the district(s) in which it is proposed to carry out the works; and
- (iii) The DO(s) for the district(s) in which it is proposed to carry out the works.

The notice should also state the address of STL to whom objections are to be sent and the time limit (60 days from the date of first publication of the notice) for the submission of objections. A sample notice is at Appendix 3.3.

After signature by PSTL, the appropriate number of copies of the plan and the scheme will be returned to the project office or department for distribution to the offices at which the plans are to be available for inspection by the public.

(c) Publication

After incorporating comments received, the project office or department is to forward the finalized plan and the scheme, resumption plan (in cases where resumption is required), draft press release and notice to STL requesting publication in the Gazette.

To enhance consultation and publicity, the relevant gazette notices of Public Works Projects shown in the Government Printer's e-Gazette are required to be displayed centrally on the website of DEVB. Works Departments are additionally required to send a computer file containing a location plan of the project to the Project Management Section of Works Branch (PMS/WB) of DEVB, which should be in jpg format and of file size smaller than 500K bytes.

Please refer to SETW's memo ref. () in ETWB(CR)(W)/65/39 Pt. 7 dated 22.5.2003 for details.

TLB will be responsible for arranging the publication of the notice in two successive issues of the Gazette, for depositing the plan and scheme with the Land Registry, for arranging the publication of the notice in two issues of a Chinese newspaper and two issues of an English newspaper, and for notifying the appropriate District Council(s), which will also be sent a copy of the plan and the scheme. In addition, to facilitate the public in accessing information, the electronic version of the plan and scheme will be made available to the TLB's website. In case the copyright subsisting in some of the gazettal documents is owned by a third party other than the Government, the project office or department shall have obtained the necessary licenses from the relevant copyright owner authorizing it to do the acts restricted by copyright set out in sections 22 to 29 of the Copyright Ordinance (Cap. 528). Please refer to STH's memo ref. () in THB(T) L5/1/1 dated 14.11.2016 for details.

The project office or department will be responsible for affixing copies of the Gazette Notice, in both English and Chinese, a table showing the land lot numbers affected and a location plan showing the limit of works area in prominent positions within the works area for the information of the public.

4.1.9 Amendments and Objections

(a) Amendment of the plan and the scheme

If it is necessary, before the end of the period set for the receipt of objections, to amend a plan and scheme already deposited in the Land Registry, a new notice calling attention to the amendment must be published and all copies of the plan and scheme already issued or displayed must be amended or replaced by the project office or department. In effect, therefore, the whole of the gazetting and publication procedure described in paragraph 4.1.8 must be repeated.

(b) Cancellation of proposal

If it is decided not to execute works in respect of which the plan and the scheme have already been deposited in the Land Registry, a Gazette Notice to that effect is to be published and the project office or department will be responsible for preparing such a notice in both English and Chinese, and for informing and inviting comments from the relevant District Council which was previously consulted and from the DO concerned. The draft notice shall be forwarded to STL for gazetting and publication, as described in paragraph 4.1.8 above. Copies of the notice shall be fixed in a prominent position in the works area by the project initiating office or department.

(c) Receipt of objections

Any person may object to the works or the use or both, and such objections must be made by notice in writing delivered to STL not later than 60 days after the first publication of the notice calling attention to the proposals or, where

the deposited plan and scheme have been amended, not later than 60 days after the first publication of the notice calling attention to the amendment. TLB will inform the project office or department of any objections received in the Bureau.

Although the Ordinance stipulates that objections must be delivered to STL, it is expected that some objectors might deliver their objections at one of the offices in which the plan and the scheme are available for public inspection. It is the responsibility of the project office or department, on expiry of the period set for the receipt of objections, to enquire of those offices where the plan and the scheme have been displayed and to report the result to TLB.

4.1.10 Authorization

- (a) Procedure where there have been no objections.

If there have been no objections, the Initiating Office shall seek STL's approval to execute the works and in anticipation of such approval shall attach a draft notice in English and Chinese for the purpose of publishing STL's intention. A sample covering memo to STL and a sample notice under s.11 of the Ordinance are attached at Appendix 3.4.

- (b) Procedure where objections are received

When an objection is received, the Initiating Office should contact the objector in order to clarify any misunderstanding that may exist over the proposed scheme and to ascertain whether the objector is willing to withdraw his objection, either unconditionally or conditionally. Discussion may include proposals for modification of the scheme and imposition of conditions to ameliorate or avoid the effects of the works or use.

TBTC No. 1/98 sets out the new requirements concerning the statutory time limit for handling objections subsequent to the commencement of the Roads (Works, Use and Compensation) (Amendment) Ordinance 1998 [the Amendment Ordinance] on 3 April 1998. The Amendment Ordinance stipulates that under normal circumstances, all unwithdrawn objections together with the relevant road scheme should be submitted to the Chief Executive in Council (CE in C) for consideration within 9 months counting from the expiry date of the statutory objection period or, where there is any amendment to the plan or scheme under section 7 of the Ordinance, 3 months after the expiration of the objection period. The Amendment Ordinance also stipulates that, having regard to the circumstances of the case, the Chief Executive may, upon the application of the STL, give a further period of not more than 6 months for dealing with objections before submission to CE in C.

To expedite the delivery of public works projects, TLB has required works department to take administrative steps to resolve objections as far as possible within four months after the statutory objection period (with a possible extension of three months if necessary). See PAH Chapter 1 para. 4.2.1 for further details.

In handling unresolved objections, it is important that the Administration presents fairly to ExCo the objector's case. For this reason, the following procedures should be followed:

- (i) The Initiating Office should ensure that each objector is fully informed in writing of the way it intends to submit his objection to ExCo. Specifically, the objector should be advised that all correspondence relating to his objection, together with the records of any related meetings, will be submitted to ExCo for Members' consideration;
- (ii) The objector should have available to him any relevant information that was taken account of by the Initiating Office in the formulation of its proposals. To enable the objector to formulate his objection, the Initiating Office should, as far as possible, meet any reasonable request for such information;
- (iii) If an objector submits any revised proposal, even if it is only minor variation to the original proposal, it must be annexed to the ExCo paper so that the ExCo Members have a complete dossier of all objections and the Initiating Office's comments thereon. The objector must always be given the opportunity to have the last word; and
- (iv) Where it appears that an objector is attempting to delay the matter by producing further alternatives, or is attempting to enter into protracted negotiations on a particular issue, the Initiating Office should - but allowing a reasonable time frame (this may vary depending on the issues involved but a one month period may be considered a reasonable maximum time frame for this purpose) - advise the objector of a cut-off date for him to finalize his submission. The submission will then be presented to Members in the normal way in order that account may be taken of it in the final decision process.

The Initiating Office should exercise their judgment on whether the appropriate District Council(s) should be consulted again before preparing the draft ExCo Memorandum. Second consultation with the District Council(s) is particularly necessary if public reaction to the scheme is strong or if the proposed modification to the scheme is significant. It is the responsibility of the Initiating Office to prepare a draft ExCo Memorandum and to submit it to TLB with enough copies of Annexes (normally 15) properly bound for circulation. TLB will undertake the circulation of the draft ExCo Memorandum to all offices concerned for comments and will submit the final draft to the Clerk to the Executive Councils for consideration by CE in C. The Initiating Office shall be responsible for preparing all copies of Annexes (normally 40 copies of Chinese and 40 copies of English version of Annexes are required to be submitted to STL in two batches: 10 copies of each of Chinese and English version in the first batch and the remaining 30 copies of each of Chinese and English version in the second batch) properly bound and for forwarding them to the Clerk to the Executive Councils via TLB when circulation of the draft is near its final stage. A sample ExCo Memorandum is at Appendix 3.5.

TLB will arrange the gazettal of the decision of CE in C and inform the decision to the objector(s). The Initiating Office is responsible for supplying copies of any modified plan on which should be marked 'Authorised by Chief Executive in Council 經行政長官會同行政會議授權進行' and any other information required to the TLB. The Initiating Office shall also display copies of the gazette notice under s.11 in prominent positions within the works area, and distribute the modified plan, if any, to the display offices for public inspection when notified by the TLB.

A LegCo brief will also be prepared, if necessary, by TLB after CE in C has rendered his decision. The Initiating Office is required to supply 85 copies in English and 75 copies in Chinese of Annexes to TLB for inclusion in the LegCo Brief.

(c) Exercise of powers

When STL gives approval to proceed with the works as described in paragraph (a) above, or CE in C authorizes the works as described in paragraph (b) above, the powers referred to in paragraph 4.1.7(a)(ii) to (viii) may be exercised, together with STL's power of entry under Section 11(7) of the Ordinance, having regard to any ameliorating conditions which may have been imposed by CE in C. At this stage, the necessary orders regarding resumption, the creation of easements, closure of roads, reclamation and the like will be sought (unless delegated authority has already been obtained), in order to permit the works to proceed. Attention is drawn to Section 2(2) of the Ordinance, which prescribes the manner in which notice is to be served on any named person when exercising the above powers.

4.1.11 Resumption and the Creation of Easement

(a) Authority and delegation

Where the roadworks necessitate the resumption of land, or the creation of an easement or other permanent or temporary right of occupation in, under or over land, it will be necessary for DLO staff to liaise closely with the project office or department in order that the land concerned may be correctly described in the scheme which is prepared under Section 5 of the Ordinance. In the majority of such cases, it will be necessary for DLO to prepare plans and schedules of lots to be resumed in the same way as for resumption under the Lands Resumption Ordinance. It is not, however, necessary to prepare a Memorandum for the Executive Council, since, unless objections to the works or the use are received within the statutory period of 60 days from the date of first gazetting, the land described in the scheme may be resumed, and easements or other permanent or temporary rights created, by order without reference to the Council.

Upon STL giving approval to proceed with the works under Section 11(1) of the Roads (Works, Use and Compensation) Ordinance in the absence of objections, or upon CE in C authorising the works and the use, with or without modification or conditions, under Section 11(2), the following powers of the Chief Executive may be exercised:

- (i) Under Section 13(1), by order to direct that any land proposed for resumption in the scheme shall be resumed for the purposes of, or incidental to, the works or the use;
- (ii) Under Section 13(3), to revoke an order for resumption previously made under Section 13(1);
- (iii) Under Section 15(1), by order to direct that easements or other permanent rights in, under or over land, and rights of temporary occupation of land in the works area, which easements and rights were mentioned in the scheme, shall be created in favour of the Government of the HKSAR for the purposes of, or incidental to, the works or the use;
- (iv) Under Section 15(3), to include in the order made under Section 15(1) such consequential and incidental provisions as appear to the Chief Executive to be necessary or expedient; and
- (v) Under Section 15(4), to revoke an order previously made under Section 15(1).

The Chief Executive has delegated his power under Section 13 and Section 15 to, inter alia, the D of L, DD of L and ADs of L.

(b) Order for resumption

It is the responsibility of the project office or department when seeking STL's authority to proceed under Section 11(1), or on being notified that CE in C has authorized the works and the use under Section 11(2), to request LandsD to prepare an order under Section 13(1) and a corresponding notice under Section 14(2).

The order for resumption made under Section 13(1) shall specify the period of notice, which shall run from the day on which notice of resumption is affixed on or near the land and which shall not be less than 28 days from that day. The actual period to be specified is to be agreed between LandsD and the project office or department and should take account of the timing of the works. In practice, 3 months' notice of resumption should usually be given. A specimen form of the order is at Appendix 3.6. The order must be signed by one of the officers with delegated authority mentioned in paragraph 4.1.11(a) above, normally D of L or DD of L.

(c) Notice of resumption

The notice of resumption, under Section 14, shall:

- (i) Describe the land to be resumed and state that an order in respect thereof has been made under Section 13(1);
- (ii) State where and at what times a copy of the order and, where appropriate, a plan of the land, may be inspected by the public (this will

normally be at those offices of the Government of the HKSAR at which the plan and scheme were originally available for inspection);

- (iii) State the day on which the notice was affixed on or near the land (this will normally be the day before the date of gazetting of the notice and it is the responsibility of LandsD to ensure that the notice is so affixed);
- (iv) State the period of notice specified in the order and declare that upon the expiry of that period the land described in the notice shall by virtue of Section 13(3) of the Ordinance revert to the Government of the HKSAR or be vested in The Financial Secretary Incorporated, as the case may require, for the purposes of or incidental to the works or the use (Note: it must be clearly stated which portions of the land will be reverted to the Government of the HKSAR and which will be vested in the FSI); and
- (v) State that any persons entitled to compensation under the Ordinance may serve a written claim upon STL.

A specimen form of notice is at Appendix 3.7.

(d) Action by LandsD

LandsD shall:

- (i) Arrange for the publication of the notice in one issue of the Gazette, one issue of an English language newspaper and one issue of a Chinese language newspaper;
- (ii) Provide copies of the order and notice to TLB and advise any other offices concerned of the date of reversion;
- (iii) Distribute copies of the order and notice to offices at which the plan and the scheme for the works were originally made available for public inspection (Note: if any plan of the land to be resumed has been amended to meet objections or for any other reason since the plan and scheme were originally gazetted, new plans must be provided);
- (iv) Affix copies of the notice on or near the land on the date stated in the notice; and
- (v) As soon as practicable following the expiry of the period of notice specified in the order, LandsD is to cause the vesting or reversion of the land to be noted in the register of the land kept in the Land Registry.

(e) Creation of easements or rights in favour of the Government of the HKSAR

The same procedures as set out in paragraphs (b), (c) and (d) above are to be followed in connection with the making of an order for the creation of easements or rights under Section 15 and for the serving and publication of a notice under Section 16, except that the order may, under Section 15(3), contain such consequential and incidental provisions as appear to be necessary

or expedient for the purposes of the order including, in particular, provisions for authorising persons to enter upon land or buildings for the purpose of carrying out any operations or installing, maintaining or removing any structures or apparatus.

Specimen forms of the order under Section 15(1) and notice under Section 16 are at Appendices 3.8 and 3.9 respectively.

Upon the expiry of the specified period of notice, the easement or right shall be created in favour of the Government of the HKSAR and the benefits and obligations thereof, and of all consequential and incidental provisions made under Section 15(3), shall be of full force against all persons having any estate, right, share or interest in the land without any consent, grant or conveyance.

(f) Notice of entry

It is to be noted, however, that unless in the opinion of a person delegated by STL to form such an opinion an emergency exists necessitating immediate entry, a person who has been authorized to enter upon land for the purposes of Section 15(3) must first give at least 28 days' notice, served upon both the owner and occupier of the land, of his intention to do so.

(g) Streamlined Procedures and Time Frame on Land Resumption and Clearance

In order to speed up the resumption and clearance of land for public works projects, the project office or department should confirm to DLO that there is no change to the gazetted plan and road scheme one month in advance of the date of anticipated authorization if no objection is received at the expiry of the objection period. If objections are received and not resolved, the project office or department should supply DLO the 'final' road scheme they intend to submit to the ExCo at least two months before the anticipated date of ExCo meeting.

DLO shall start the preparation of a resumption submission to LandsD before the anticipated date of authorization of the road scheme. Once the road scheme is authorized and the authorization gazetted, DLO will finalize the resumption submission and forward it to LandsD within one week from the date of the gazettal.

It is aimed that land for the entire project could be delivered within eight months from gazettal of authorization of the road scheme under Cap 370 or ExCo decision under Lands Resumption Ordinance (Cap 124), whichever is the later.

The above streamlined procedures and time frame for land resumption is applied to projects of an average size i.e. not more than 50 private lots to be resumed and not more than 50 families and no large business/industrial undertakings are affected and non-controversial in nature i.e. with few clearance problems anticipated. (See LAO TC No. 715 of LandsD for further details.)

Apart from the above, ETWB TCW No. 13/2003 promulgates streamline procedures to bring forward the delivery of public works projects by allowing the project proponents to gazette a project in parallel with the Environmental Impact Assessment (EIA) process, thus shortening the overall pre-construction lead-time. The Circular also sets out the guidelines and procedures for EIA of Government projects and proposals, including those not covered by the EIAO. See ETWB TCW No. 13/2003 for details.

4.1.12 Closure of Roads etc. and Restriction of Public or Private Rights under Section 17

(a) Authority and delegation

The powers of the Chief Executive have been delegated to STL and PSTL:

- (i) To close any road or part thereof;
- (ii) To reclaim any foreshore or sea-bed of the Government of the HKSAR, for the purposes of, or incidental to, the works or their use; and
- (iii) To declare the extent to which any public or private right in respect of the road, foreshore or sea-bed of the Government of the HKSAR shall be extinguished, modified or restricted over a specified time period.

Where the proposed works necessitate the closure of roads under Section 17(1)(a), reclamation of the Government of the HKSAR foreshore or sea-bed under Section 17(1)(b), and/or extinguishment, modification or restriction of public or private rights under Section 17(1)(c), an order to execute the powers under Section 17 has to be signed by PSTL. The standard draft form of order is shown at Appendix 3.10.

(b) Publicity

The order signed under Section 17 is publicized by means of a notice under Section 18. The standard form of notice is at Appendix 3.11. The notice must be:

- (i) Published
 - in one issue of the Gazette in both English and Chinese,
 - in one issue of an English language newspaper,
 - in one issue of a Chinese language newspaper,
 - by affixing a copy in both English and Chinese in or near the land mentioned in the order,
- (ii) made available for inspection by the public free of charge at such offices of the Government of the HKSAR as STL may direct.

(c) Procedure

It is the responsibility of the project office or department to prepare the draft order under Section 17 and draft notice under Section 18. The draft notice and order are to be submitted to STL at least one month before the order is effective. The respective responsibilities are:

Transport and Logistics Bureau

- (i) Process the draft order and have it signed by the PSTL;
- (ii) Process the draft notice and have it signed by the PSTL;
- (iii) Arrange for the publishing of the notice in one issue of the Gazette and in one issue of an English language newspaper and one issue of a Chinese newspaper; and
- (iv) Send the project office or department copies of the order and notice.

Project Office or Department

- (i) Send copies of the order to offices at which the plan and scheme prepared under Section 5 were originally made available for inspection by the public (see also paragraph 4.1.8); and
- (ii) Affix copies of the notice in both English and Chinese on or near the land mentioned in the order.

(Note: The date on which the notice was so affixed is required to be stated in the notice. It should normally be the day before that on which the notice is published in the Gazette and the project office or department is to ensure that it is so affixed on that date.)

Where the plan of the affected roads, foreshore or sea-bed has been altered from that originally made available for inspection by the public, it will be necessary for the project office or department to provide revised plans to offices at which the public may inspect them. In all other cases, it will be sufficient merely to remind those offices that the plans are already in their possession.

4.2 FORESHORE AND SEA-BED (RECLAMATIONS) ORDINANCE, CHAPTER 127

(See WBTC Nos. 13/97, 13/97A, 9/2001 and 9/2001A, ETWB TCW Nos. 4/2006 and 13/2003)

4.2.1 Introduction

The FS(R)O applies to all reclamation works within the HKSAR including those to be undertaken by Government or its agents, unless the works are gazetted under the Railways Ordinance or the Roads (Works, Use and Compensation) Ordinance.

The term “reclamation” has a wide meaning. In general, it refers to all works of

permanent nature over or upon the shore and bed of the sea and of any tidal water within Hong Kong below the line of the high water mark. For example, dredging with a view to reclaiming land or construction of a permanent structure is covered by the Ordinance but routine maintenance dredging is excluded. In case of doubt as to whether a particular kind of works falls within the ambit of the Ordinance, legal advice from the Department of Justice should be sought.

Before reclamation is started, gazetting and other actions under the FS(R)O must be taken by the Director of Lands (D of L). In the event of queries, the contact officer in the LandsD is the Executive Officer/Lands Administration Office (EO/LAO).

WBTC No. 13/97 promulgates the revised administrative arrangements for reclamation projects which require the preparation of a new or amended outline zoning plan (OZP) under the Town Planning Ordinance, Chapter 131(TPO), in parallel with the gazetting under the FS(R)O. The gazetting of the reclamation under the FS(R)O shall, as far as practicable, be at the same time when the OZP is published for public inspection. However, under no circumstances should the gazetting of the reclamation scheme under the FS(R)O precede the gazetting of the OZP under the TPO.

The revised arrangements will ensure that (a) the public is consulted concurrently on both the proposed reclamation and the associated land uses, and (b) the Town Planning Board (TPB) can consider the draft OZP before the reclamation is gazetted under the FS(R)O. However, small-scale reclamations required for the construction of piers, landing points, utility and other facilities along the shoreline would be excluded from the arrangements. Reclamation projects agreed by the TPB to be exempted from the above arrangements are also excluded.

In order to streamline the delivery of public works projects, ETWB TCW No. 13/2003 promulgates parallel action between the EIA process and statutory gazetting of projects.

4.2.2 Gazette Notice

When reclamation is proposed in relation to any foreshore and/or sea-bed, the project department is responsible for initiating the gazette notice of the proposal (the Notice). The Notice should follow the standard format as shown in Appendix 3.12. It must describe the location of the foreshore and sea-bed affected, the manner in which it will be affected, the purpose of the undertaking and the area involved. The Notice must also state where and at what times the gazette plan may be inspected, and must specify the time for the making of objections (the Objection Period). Under the FS(R)O, the public must be given a period of not less than two months, from the date when the Notice is first published, to lodge with D of L any written objections to the proposed undertaking.

4.2.3 Consultation and Time Required

When a department initiates a Notice under Section 5 of the FS(R)O, it should, before submitting a request to D of L for gazetting, ensure that:

- (a) The project is in accordance with approved policies.

- (b) The project has been upgraded to Category B or above in the Public Works Programme (PWP) with funds earmarked in the Capital Works Reserve Fund RAE. In cases where the project is –
- (i) included in other works programmes, e.g. the Public Housing Development Programme, the initiating department should confirm that funds will be available for the project.
 - (ii) to be included in Category D of PWP, the initiating department should ensure to confirm that funds will be available for the item from the provisions made in the Annual Estimates.
- (c) The reclamation limit and scope of works are well defined.
- (d) The relevant District Council(s) has/have been consulted about the reclamation proposal.
- (e) The principle stated in the Protection of the Harbour Ordinance (Chapter 531) is observed.
- (f) For reclamation projects which require both gazetting under the FS(R)O and the preparation of a new or amended OZP under the TPO, PlanD has prepared the draft OZP and is ready for public inspection.
- (g) Relevant government departments/parties have been consulted and no objection has been received. The consultation shall be made by sending each of them a background note on the proposal, a sufficiently detailed plan showing the location of the reclamation, a draft Notice and a draft press release (in the standard format as shown in Appendix 3.13). These departments/parties shall include, but not be limited to, the following –
- (i) in every case
 - Agriculture, Fisheries and Conservation Department
 - Civil Engineering and Development Department (2 sets for the attention of CE/HQ)
 - Drainage Services Department
 - District Lands Office of the LandsD for the area
 - District Office of the Home Affairs Department for the area
 - seeking specific agreement to the draft press release
 - seeking advice on whether strong objection from the public is anticipated.
 - District Planning Office of the Planning Department for the area
 - Environmental Protection Department
 - Marine Department
 - Marine Fill Committee
 - Public Fill Committee
 - Water Supplies Department
 - (ii) Where appropriate

- Development Office of the Civil Engineering and Development Department for the area
- Highways Department
 - where roads are involved
- Hong Kong Police Force
 - where traffic flows or law and order may be affected
- Clearance Unit of Acquisition Section in LandsD
 - where relocation and payment of ex-gratia allowance to boat dwellers, squatters, boatyards, factories or other people are required.
- Transport Department
 - where road access, ferry services or transport implications are involved.

In the consultation with AFCD, the initiating department should also take the opportunity to seek their advice on the estimated ex-gratia allowance payable to fishermen and/or mariculturists, where appropriate, affected by gazettal under the FS(R)O. LandsD will process any such claims for ex-gratia allowance in collaboration with other relevant bureaux/departments.

For marine borrow areas and marine disposal areas, since these proposals are for general purposes and not for specific projects, the Marine Fill Committee (MFC) will be the agency for initiating the Notice and paragraph 4.2.3(b) does not apply.

4.2.4 Documents for Gazetting

Where the requirements mentioned in paragraph 4.2.3 above have been met, the initiating department should request the DLO for the area to prepare 3 copies of the draft gazette plan and a draft location plan. The DLO should be asked to send the completed plans direct to EO/LAO of the LandsD, with copies to the initiating department for facilitating subsequent communications on the details of the plans. The draft gazette plan should be in A3 or A4 size depending on the details to be included while the draft location plan should be at reduced scale for incorporation in the Notice. DLO will normally take 3 weeks to complete the first draft of the plans.

The initiating department should also send a request to D of L (for the attention of EO/LAO) for gazetting the reclamation scheme and copy the same to the relevant government departments/parties for information. The request must be accompanied by:

- (a) A copy of the draft Notice (in both English and Chinese) as shown at Appendix 3.12;
- (b) A copy of the draft press release (in both English and Chinese) as shown at Appendix 3.13;
- (c) A background note on the proposal, giving brief information on the scope of the project or undertaking and possible related works in the area and any likely implications;
- (d) A sufficiently detailed plan showing the location of the proposed reclamation;

- (e) Confirmation of no objection received from all government departments/parties that have been consulted;
- (f) A copy of the agreement to the draft press release from the DO for the area;
- (g) Confirmations that the scope of works and reclamation limit are well defined;
- (h) Except for Notices initiated by the MFC for marine borrow areas and marine disposal areas, confirmation of the funding position of the project as outlined in paragraph 4.2.3(b); and
- (i) Where applicable, confirmation that the statutory requirements in paragraph 4.2.3(e) are fulfilled.

Upon receipt of the documents mentioned above, D of L will arrange for their clearance with the Department of Justice. If everything is in order, the initiating department should request the DLO for the area to submit to D of L 26 copies of the finalized gazette plan and a copy of tracing paper/bromide/soft copy of the location plan. D of L will then arrange publication and display of the Notice and plan, and publication of the press release.

Provided that the documents listed above are fully provided and reference to the initiating department or other interested government departments/parties is not necessary, D of L will require about four weeks to arrange for the publication of the Notice in the Government Gazette.

4.2.5 Dealing with Objections and Authorization

If no objection is received during the Objection Period, D of L will consult the interested parties on the timing for gazetting the Notice of Authorization under Section 9 of the FS(R)O. Unless advised otherwise, D of L will arrange gazetting of the Notice of Authorization in about four weeks.

If objections are received during the Objection Period, D of L will refer the objections to the initiating department. The latter should, in consultation with the government departments concerned including the Department of Justice where necessary, formulate means of overcoming the objections, which may include modification of the scheme. Each objector should be contacted in order to clarify any misunderstandings that may exist over the proposed scheme and to ascertain whether the objector is willing to withdraw his objection, either conditionally or unconditionally.

If an objection is withdrawn unconditionally, it shall be treated as not having been made for the purpose of proceeding with the authorization procedure under FS(R)O.

Where an objector is not willing to withdraw his objection or is only willing to withdraw it with conditions, then the objection remains unresolved and must be submitted to CE in C for consideration and decision. In such circumstances, it is important that the Administration presents fairly the objector's case to CE in C. For this reason, the following procedures should be followed in handling unresolved objections:

- (a) The initiating department should ensure that each objector is fully informed in writing that it intends to make a submission to CE in C for consideration of the proposed reclamation and the objection. Specifically, the objector should be advised that correspondence relating to his objection, together with the records of any related meetings, will be submitted to CE in C for consideration;
- (b) If an objector requests any relevant information that was available to the Administration in the formulation of its own proposals, the initiating department should, as far as possible, make this same information available to the objector to assist him to formulate his objection;
- (c) If an objector submits any revised proposal, even if it is only a minor variation to the original proposal, it must be annexed to the ExCo Memorandum so that CE in C have a complete dossier of all objections and the Administration's comments thereon. The objector must always be given the opportunity to have the last word; and
- (d) Where a project is urgent, and it appears that an objector is attempting to delay the matter by producing further alternatives, or is attempting to enter into protracted negotiations on a particular issue, the initiating department should advise the objector of a reasonable cut-off date for him to finalize his submission. The submission will then be presented to CE in C in the normal way in order that account may be taken of it in the final decision process.

It is the responsibility of the initiating department to prepare a draft ExCo Memorandum with a full set of the Annexes and pass it to D of L when objections remain unresolved. D of L will circulate the draft Memorandum to all government departments/parties concerned and coordinate the preparation of the finalized Memorandum. D of L will submit the Memorandum to CE in C for consideration within a period of 9 months after the expiry of the Objection Period. The Chief Executive may extend the 9-month time limit for a period of not more than 6 months upon application of D of L. As far as possible the submission to CE in C under the FS(R)O should be made at the same time as the OZP is submitted under the TPO. Under no circumstances should the ExCo submission under the FS(R)O precede that under the TPO. In order to work out the timing for the procedures, there should be close liaison and consultation between PlanD, LandsD and the relevant works department. A flowchart showing the procedures for gazetting under FS(R)O is given at the Appendix 3.14.

Appropriate administrative steps should be taken to resolve objections within four months after the statutory objection period (with a possible extension of three months if necessary) as stipulated in PAH Chapter 1 para. 4.2.1 and the SETW's memos dated 30.4.2003 (ref. (8) in ETWB(CR)(W) 65/39 Pt. 7) and 22.5.2003 (ref. () in ETWB(CR)(W) 65/39 Pt. 7). Also, in order to speed up the resumption and clearance of land, the streamline procedures as stipulated in ETWB TCW No. 13/2003 should be followed.

If the proposed reclamation is a marine borrow area or a marine disposal area, MFC should request the Authority under the Dumping at Sea Ordinance, when the Objection Period lapses, to make all necessary statutory arrangements to enable the Authority to issue permits and exercise regulatory controls on marine dumping activities within the affected foreshore and seabed.

4.2.6 Action after Authorization

When a proposed project is authorized to proceed, D of L will arrange gazetting and display of the Notice of Authorization, and reply to objectors should there be any.

If the initiating department considers it necessary, it may request D of L to arrange for a press release of the authorized reclamation.

4.2.7 Claims for Compensation

D of L will process all claims for compensation made under the FS(R)O and funding will be from votes under his control.

It should be noted that for reclamation projects which require both gazetting under the FS(R)O and the preparation of a new or amended OZP under the TPO, the gazetting under the FS(R)O should not precede that under the TPO under any circumstances.

4.3 RAIL RESERVES

4.3.1 Hong Kong Railways

Before the appointment day of the Rail Merger on 2 Dec 2007, with the Rail Merger Bill enacted by LegCo, the Hong Kong railways were operated under 2 railway operators, the MTR Corporation Limited (MTRCL) and the Kowloon-Canton Railway Corporation (KCRC).

The MTRCL is a limited company created in 2000 under the Mass Transit Railway Ordinance (MTRO), Chapter 556 by privatization of the former Mass Transit Railway Corporation.

The KCRC was established on 24 December 1982 by the Kowloon-Canton Railway Corporation Ordinance (KCRCO), Chapter 372, to take over the operation of the KCR East Rail running between Hung Hom and Lo Wu. On 1 February 1983, the East Rail operational assets and railway land were vested in the KCRC. All matters concerning railway land vested in the KCRC are substantially covered by the Second Schedule of the Agreement executed on 24 January 1983. The categories and limits of the land between Hung Hom and Lo Wu vested in the KCRC are shown on LandsD Drawing No. KM 2477 Sheet 1 to 12.

Merger of the 2 railway operators was proposed in Feb 2004 and the Rail Merger Bill was passed by LegCo on 8 June 2007. Upon the merger, the KCRC entered into a service concession agreement (SCA) with the MTRCL to grant MTRCL the right to use its assets (Concession Assets) to operate the existing KCR railway lines, including the new KCR railway lines currently under construction and its other transport-related businesses, e.g. the Light Rail (LR). Besides, the MTRO and the KCRCO were amended to suit the merger.

4.3.2 The Mass Transit Railway (MTR) Network

The following lines formed the MTR network before the merger:

- (a) Kwun Tong Line (between Yau Ma Tei and Tiu Keng Leng);
- (b) Tsuen Wan Line (between Tsuen Wan and Central);
- (c) Island Line (between Sheung Wan and Chai Wan);
- (d) Tung Chung Line (between Tung Chung and Hong Kong);
- (e) Airport Express Line (between the Airport and Hong Kong);
- (f) Tseung Kwan O Line (between Po Lam and North Point);
- (g) Disneyland Resort Line (between Sunny Bay and Disneyland Resort).

The following railway lines were merged into the MTR network after 2 Dec 2007:

- (a) East Rail Line (between Lo Wu and East Tsim Sha Tsui);
- (b) Ma On Shan Line (between Wu Kai Sha and Tai Wai);
- (c) West Rail Line (between Nam Cheong and Tuen Mun);
- (d) Lok Ma Chau Spur Line (extension of the East Rail Line from Sheung Shui to Lok Ma Chau).

The following railway lines were added to the MTR network after Rail Merger on 2 Dec 2007:

- (a) Tseung Kwan O South Line (between Tseung Kwan O and LOHAS Park);
- (b) Kowloon Southern Link (between Nam Cheong and East Tsim Sha Tsui).

In order to protect the completed MTR tunnels, structures and other facilities against damage, which might be caused by development or redevelopment of sites in the vicinity of the MTR, it is necessary to stipulate restrictions on, or requirements for, such work. The guidelines for planning and undertaking public works and maintenance works within the Railway Protection Area (“the Area”) are stipulated in DEVB TCW No. 1/2019. As a general guide, the boundary of the Area is about 30 m outside the outer surface of the railway structures or the railway fence/wall, or from the nearest rail if there is no railway fence/wall, but it encompasses the whole of any lot where any part thereof lies within the 30 m distance. At railway stations, the boundary of the Area is more extensive.

No capital works or maintenance works (e.g. construction works, ground investigation, utility works), including tree planting works, shall take place within the Area unless the works proposals have been forwarded to MTRCL for comment and stipulation of any measures necessary to protect the railways. Works Departments shall check whether any part of their capital works or maintenance works, including tree planting works, falls within the Area. In case of any doubt as to whether the proposed works will have an effect on the railway, Works Departments should liaise with MTRCL. For any proposed works within the Area, Works Departments shall liaise with MTRCL to minimise any potential/possible interference of the proposed works to railway operation. Where necessary, Works

Departments shall consult MTRCL on various issues such as details of works proposals, protective measures, construction methods, monitoring mechanisms and maintenance requirements. In designing any structure spanning over a railway, Works Departments shall take account of the relevant requirements in the “Structures Design Manual for Highways and Railways” issued by the Highways Department.

When planning projects or works in close proximity to railway vent shafts and for tree planting works within the Area, the specific requirements are stipulated in DEVB TC(W) No. 1/2019. In particular, trees should not be planted at a distance less than 2 m away from the nearest rail of the unfenced railway section.

The requirements in DEVB TC(W) No. 1/2019 could be exempted for those works involving only ground breaking and excavation not exceeding 1 m deep within the Area under the following conditions, provided that MTRCL has been advised of the works in advance:

- (a) outside an area not less than 6 m from at-grade railway tracks and station entrances; or
- (b) outside the areas bounded by railway fence/wall.

The provisions in DEVB TC(W) No. 1/2019 also do not apply to emergency works, which include urgent repair works to existing utility services, water mains, stormwater drains, sewers, roads, slopes, street furniture and highway structures or emergency tree maintenance/clearance works, if these works fall outside the railway premises but within the Area. However, MTRCL should be advised of these works including the location and depth of excavation as soon as possible.

4.3.3 Other Rail Reserves

Forming part of the MTR network after the Rail Merger, the Light Rail (LR) is a special transport system included in the Tuen Mun, Tin Shui Wai and Yuen Long New Town development. Within the Government of the HKSAR, LandsD is responsible for all land aspects of the LR project. The land requirement for its operation has been generally defined and shown on the town plans.

Besides the completed MTR lines which have been put to operation, there are other railway projects being implemented or under planning. As at October 2018, the new railway projects being implemented are:

- (a) Shatin-to-Central Link (between Tai Wai and Admiralty).

Land for these new railway projects is acquired under the Railways Ordinance, Chapter 519. Also, other land outside gazette schemes can be allocated by means of short term tenancies or land grants. The Ordinance includes provisions to exercise statutory control of building works which fall within or adjacent to the boundaries of gazette schemes. For public works within or adjacent to the boundaries of gazette schemes or allocated land, the department concerned should liaise with the MTRCL in early stage to avoid any incompatibility.

For the proposed railway projects under planning, the routes are not protected by legislation. In order to ensure that the proposed railway projects will not be frustrated or

complicated by other departments, their recommended route alignments would require to be protected by administrative means. The procedures to be followed for administrative protection are set out in HyD TC No. 3/2015. In accordance with the HyD TC, administrative route protection plans are prepared by Railway Development Office, HyD and circulated to relevant Government Departments to alert them of the likely locations of the proposed railway routes recommended in the Railway Development Strategy 2014 (RDS2014).

The recommended Railway Network upon completion will feature seven new railway projects as listed below:

- (a) Northern Link (between Kam Sheung Road Station and Kwu Tung);
- (b) Hung Shui Kiu Station (new station on the West Rail Line between Tin Shui Wai Station and Siu Hong Station);
- (c) Tung Chung West Extension (between Tung Chung Station and Tung Chung West);
- (d) Tuen Mun South Extension (between Tuen Mun Station and Tuen Mun South);
- (e) East Kowloon Line (between Diamond Hill Station and the Po Lam Station);
- (f) South Island Line (West) (between HKU Station and Wong Chuk Hang Station); and
- (g) North Island Line (between Hong Kong Station and North Point Station).

As a general guide, uses within 30m of the nearside of the administrative route protection boundary should be referred to Railway Development Office, HyD for consideration. For noise sensitive uses in the vicinity of above ground railway sections, the distance should be increased to 150m. It is necessary that relevant departments are well aware of the railway projects under planning to ensure that all their alignments are adequately protected. Departments concerned should check whether new works, land disposal, reserves and planning proposals will affect/be affected by the railway routes and to refer any such possible instances for consideration. Reference should be made to HyD TC No. 3/2015 for further details.

The boundary of the Railway Protection Area for completed railway facilities can be viewed and downloaded from the website of MTRCL (http://www.mtr.com.hk/en/corporate/operations/protection_boundary_map.html). For railway projects under construction, the details can be found at the website of Highways Department (https://www.hyd.gov.hk/en/road_and_railway/index.html).

4.3.4 Communication and Announcement Mechanism on Public Works within Railway Protection Area

There have been overwhelming public concerns on railway safety, particularly incidents involving settlements of railway facilities due to nearby developments. Addressing the community's concerns, the Buildings Department and the EMSD have

established and announced to the public a communication and announcement mechanism for private works within railway protection area. Similar public announcement practice for public works within railway protection area under the management of works departments at Appendix 3.14A shall also be followed to address the community's concerns. The mechanism sets out guidelines/procedures for notifying the public of such incidents in a timely manner. Reference should be made to SDEV's memo dated 7.8.2018 for further details. For the avoidance of doubt, where a project is to be implemented under entrustment agreement, the client department or the project office proposing the entrustment should liaise with the proposed agency to confirm the relevant roles and responsibilities under the mechanism.

4.4 DRAINAGE RESERVES

Drainage reserves are shown on various statutory or town plans for the purpose of making land available for future installation of sewerage or stormwater drainage facilities and to ensure that adequate space and access are available for maintenance of these facilities. As a general rule, erection of permanent structures over drainage reserves, which will affect maintenance of drainage facilities, is not permitted.

When projects affect or involve encroachment into a drainage reserve, or when work is proposed at the upstream or downstream ends of a drainage reserve, the Chief Engineers of the respective operation and maintenance divisions in DSD should be consulted. Where the drainage reserve lies within the gazetted airport boundary, the Airport Authority should be consulted.

Regarding projects which might affect the deep sewage tunnel system under the Harbour Area Treatment Scheme, see paragraph 4.18 for further details.

4.5 WATER GATHERING GROUNDS AND WATERWORKS RESERVES

Waterworks Ordinance, Chapter 102 defines 'gathering ground' as any surface of land:

- (a) in or by which rain or other water is collected and from which water is, or is intended to be, drawn for the purposes of a supply; and
- (b) which is 'mapped as a gathering ground under Section 23'.

Section 23(6) of the same Ordinance states that such a map shall be published in the Gazette.

There are also various waterworks reserves indicated on the various statutory or town plans, intended for existing and future waterworks installations.

When projects affect or involve encroachment into these gathering grounds or waterworks reserves, WSD should be consulted for agreement, with initial contact through the regional Chief Engineer of WSD.

When projects involved are related to land matters associated with waterworks installations, the project engineer should refer to the latest version of the WSD Civil

Engineering Design Manual for details.

4.6 GAZETTED OPEN SPACES, PARKS AND PLAYGROUNDS

Sections 106(1) and 107(1) of the Public Health and Municipal Services Ordinance, Chapter 132 state that the authority for the provision and arrangement of the gazetted Public Pleasure Grounds listed in the Fourth Schedule shall be the DLCS.

When a project involves encroachment into an open space, park or playground, DLCS shall be consulted, and attention should be drawn to areas that will be created by the project, such as roadside plots, quality greening at roadside and road median or amenity areas within the limits of a public road.

When DLCS indicates that the area affected by the works is a gazetted Public Pleasure Ground under the Ordinance, or if DLCS intends to gazette any new area so created under the Ordinance, the following procedures would be relevant:

- (a) The project office should, during the preliminary design stage when the project is in Category B, obtain the formal agreement of DLCS on the alienation of areas affected as well as the eventual taking over of the management of any new area created by the works. This should include details of site boundaries, works arrangement, access for public during construction, temporary reprovisioning etc. Consultation with Property Services Branch, ArchSD, may be necessary in respect of the maintenance of hard furniture within these areas.
- (b) DLO should be informed of the final agreement reached. It will arrange for revised or additional gazette plans to be prepared and agreed by interested parties.
- (c) After the project has been upgraded to Category A and before the contractor takes possession of the site, DLCS should be requested to arrange for the gazetting of the revised plan, thereby completing the formal procedure of the alienation of the area affected.
- (d) For a new area to be gazetted as a Public Pleasure Ground, the gazetting procedure by DLCS should be undertaken when the works have been completed and handed over to DLCS.

4.7 AREAS UNDER COUNTRY PARKS ORDINANCE, CHAPTER 208

Where CE in C has approved a draft map under Section 13 of the Ordinance and it has been deposited in the Land Registry, the Chief Executive will, by order in the Gazette, designate the area shown in the approved map to be a country park.

After the publication of a notice by the authority (i.e. DAFC) under Section 9(1) of the Ordinance, no new development may be carried out within the area of the proposed country park shown in the draft map without the prior approval of the authority. The

granting of approval by the Authority shall be in addition to any other approval, which may be required in respect of the new development.

'Development' means the carrying out of building, engineering, mining or other similar operations in, on, over or under land.

'New development' means any development other than development in respect of which all necessary approvals and permissions have been obtained prior to the date of publication in the Gazette of a notice under Section 9(1) of the Ordinance.

To obtain approval to carry out works in a country park as required under the Ordinance, the project office should submit a plan to DAFC showing the location and extent of the site area within which all works and operations are to be carried out. When work commences, a copy of the approved plan together with the approval conditions should be kept on site for inspection by country park staff. The project office should also notify DAFC of the dates of commencement and completion of works, and ensure that the contractor complies with all conditions laid down in DAFC's approval.

4.8 BORROW AREAS

4.8.1 Land Borrow Areas

The temporary allocation of land for contractors' works areas and borrow areas is dealt with under paragraph 3.4. In essence, it requires consultation with and the agreement of the departments concerned, and approval of the appropriate DLO. Due consideration is to be given to the following aspects before making request for the temporary allocation:

- (a) The geotechnical and landscaping requirements for the design of the borrow area (see Chapter 4 for details).
- (b) The future land use and disposal of the site after use or borrowing, as it will then determine the degree and extent of any slope stabilization measures and the maintenance responsibility. This is particularly important when the site will be left vacant for some time before another project office can take it over, or when the permanent use of the site cannot be determined. In such circumstances, DLO must be made aware that it will be responsible for these matters in the intervening period.
- (c) The development of land borrow areas (i.e. excavation solely to provide fill) must be approved by the Public Fill Committee (PFC) (see WBTC No. 12/2000 and DEVB TCW No. 9/2011). However, excavations required for the purpose of forming land do not have to be approved by the PFC. In cases where large quantities of fill have to be either imported to or exported from a site, the Secretary of the PFC shall be informed.

4.8.2 Marine Borrow Areas

The use of marine borrow areas must be approved by the Marine Fill Committee (MFC) which has the authority to allocate these for specific uses (see WBTC No. 12/2000 and ETWB TCW No. 34/2002). The allocation of marine borrow areas is based on

development priorities, geographical considerations and the need to use the limited marine fill resources to the maximum benefit.

4.9 INSTALLATION OF GROUND ANCHORS IN LAND OF THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

Ground anchors, whether permanent or temporary, are not desirable as the use of land in which they are installed will be severely restricted or even sterilized. Applications for permission to install ground anchors must fully justify the need for their use as against alternative methods available.

Permanent anchors that sterilize future use of land of the Government of the HKSAR will only be considered in exceptional circumstances such as essential slope stabilization works where no alternative means of supporting the slope exists. Where permanent ground anchors are exceptionally permitted in connection with a structure, it should be made as a condition of approval that the performance of the anchors is capable of being monitored and will be regularly monitored throughout the life of the structure.

Temporary anchors, although not permanently sterilizing land, are similarly undesirable and in particular can give rise to problems when detensioned.

Ground anchors (permanent or temporary) under existing or future road reserves will only be considered in very exceptional circumstances.

The procedure for obtaining approval for installation of ground anchors is as follows:

- (a) After the technical design of the ground anchors has been agreed by GEO (See Chapter 4 for details), the project office/division will apply to the relevant DLO for approval to install ground anchors in the Government of the HKSAR land outside the allocated site boundaries, with full detail.
- (b) DLO will circulate the proposal to the relevant engineering offices.
- (c) On receipt of comments, and if the application is considered reasonable, DLO will, if appropriate, submit the case to the relevant DLC. If approved, the area enveloping the anchors will be temporarily or permanently allocated to the project office/department concerned.

The project office or the office responsible for maintenance of the completed project will be required to maintain and monitor these anchors. Those responsible for such maintenance and monitoring should be informed when the proposal to use ground anchors is finalized so that they can make the arrangements for funding and carrying out the work well in advance of the handing over of the project. "As-built" drawings shall be forwarded to DLO for record purposes. See Chapters 4 and 7 for provision of "as-built" records to the offices concerned.

4.10 TREE PRESERVATION AND FELLING

DEVB TC(W) No. 4/2020 and DEVB TC(W) No. 5/2020 stipulate requirements for preservation of trees and Old and Valuable Trees (OVTs) at different stages of government projects as well as those under arboricultural maintenance. Priority protection shall be provided to the OVTs in the Register of Old and Valuable Trees.

For preservation of healthy trees in government projects, the tree(s) shall be retained at its/their existing location(s). If it is not practicable, the affected tree(s) shall be transplanted to other permanent locations within the project site or the maintenance area to minimise the loss of vegetation in the local environs. Otherwise, they shall be transplanted to other permanent location(s), which should preferably be in adjacent areas in order to maintain its/their amenity value to the neighbourhood.

Nevertheless, if the trees concerned are of (a) low amenity value, (b) poor health, structure or form, (c) irrecoverable form after transplanting (e.g. transplanting requires substantial crown and root pruning), (d) low chance of survival upon transplanting, (e) undesirable species (e.g. *Leucaena leucocephala* which is an invasive, exotic and self-seeding tree), or (f) trees grown under poor conditions which have limited the formation of proper root ball necessary for transplanting, there is no need to transplant those trees.

Tree removal arising from government projects shall only be considered when (a) preservation or transplanting is unsuitable or impracticable, (b) the tree has been irreparably damaged by inclement weather, (c) dead tree(s), or (d) any other justifications or circumstances. Under these circumstances, a Tree Preservation and Removal Proposal shall be prepared and approved by the Tree Works Vetting Panel.

Emergency tree removal may become imminently necessary if the tree shows immediate and obvious signs of danger and there are no practicable mitigation measures to remove the risks of tree failure. The government department shall decide on the emergency tree removal and arrange to remove the trees if justified as soon as practicable. Full photographic records of the tree(s) before removal should be taken where possible and a tree failure report/tree assessment report (where applicable) should be prepared and submitted to Greening, Landscape and Tree Management Section of the DEVB within 21 calendar days from the date of completion of the emergency tree removal.

4.11 HISTORICAL AND ARCHAEOLOGICAL SITES

Historical sites are protected by the Antiquities and Monuments Ordinance, Chapter 53. The procedures and requirements for assessing heritage impact arising from the implementation of capital works projects are stipulated in DEVB TCW No. 1/2022.

Before the commencement of any work within a gazetted historical site, a permit issued by the Secretary for Home Affairs is required. It is advisable to consult the list prepared by the Antiquities and Monuments Office of the LCSD before submitting the application for a permit. This consultation is also necessary for historical sites which are not gazetted although a permit is not required.

During construction works, any discovery of antiquities or objects suspected of being an antiquity should be reported immediately to the Antiquities and Monuments Office.

4.12 AIRPORT AUTHORITY ORDINANCE (CHAPTER 483)

The Airport Authority Ordinance and the subsidiary regulations empower the Airport Authority to provide, operate, develop and maintain an airport for civil aviation in the vicinity of Chek Lap Kok and otherwise to define its functions, to make provision for the safe, secure and efficient operation of such airport and for connected purposes.

The Airport Area shall comprises the area of the land at and in the vicinity of Chek Lap Kok; and the area of the land at and in the vicinity of Sha Chau, delineated and shown in the map titled “Airport Authority Ordinance (Cap 483) Map of the Airport Area” signed by the Director.

The Ordinance and its subsidiary regulations stipulate the various detailed restrictions to be imposed by the Airport Authority on persons, vehicles etc. It also enables the Airport Authority to issue permits to persons and vehicles to gain access to the various restricted areas. Where a project will affect any part of the airport land or will require the access or use of any part therein, as a work site or works areas, the agreement of the Airport Authority should be sought.

4.13 HONG KONG AIRPORT (CONTROL OF OBSTRUCTIONS) ORDINANCE, CHAPTER 301

The Hong Kong Airport (Control of Obstructions) Ordinance was enacted to control the height of any structures, including cranes and hoists, in the Territory for the safe operation of aircrafts. The height restrictions are prescribed under the Hong Kong Airport (Control of Obstructions) (Consolidation) Order. Details of these height restrictions are described on a set of plans obtainable from the Map Sales Offices of LandsD. In the event that any construction equipment is needed to exceed the airport height restrictions, DCA should be consulted and agreement sought.

4.14 USE OF LAND BENEATH FLYOVERS AND FOOTBRIDGES

Given the scarcity of land in Hong Kong, land beneath flyovers can provide alternative solution space for uses where there are no other suitable sites. However, it should be borne in mind that flyovers/footbridges are primarily designed and built as transport corridors/pedestrian links to facilitate transport/pedestrian movements. They may not be suitably located and the traffic/environmental conditions may not be conducive to accommodate all land use activities. Hence, flyover/footbridges sites should only be considered as alternative solution space for uses upon exhausting all other suitable sites, provided that such uses are acceptable in terms of land use, structural, fire safety, traffic, environmental, visual and all other relevant considerations as detailed in Section 7 of Chapter 12 of HKPSG. Some guidance on the types of usage that are acceptable, conditionally acceptable and unacceptable is given in Appendix 3.15.

While sites beneath flyovers/footbridges could be made use of for certain uses, opportunity should be taken to introduce more greening and landscaping works beneath flyovers/footbridges. This would help improve the visual appearance of the space and building/structure beneath the flyovers/footbridges which, given their massiveness, could

have a bearing on the townscape.

For more proactive integration and co-ordination, the possibility of including appropriate potential uses beneath major flyovers/footbridges should be given early consideration. In planning for new flyovers/footbridges, reference should be made to the future planning intentions and land use zonings on Outline Zoning Plans to avoid severance of land use parcels located beneath the proposed flyovers/footbridges.

Relevant works department should also include the requirements for identification of possible land uses beneath flyovers/footbridges in the Investigation Stage of new major flyover/footbridge projects after inclusion into Category B of the Public Works Programme. The project office should, if possible during the preliminary or detailed design stage but definitely before the construction works are completed, draw the specific attention of DLO or DPO to any land surplus to requirements, after making provisions for maintenance depots, stores, etc. in consultation with the office responsible for the maintenance, (usually CHE/B&S and regional CHEs). It will be the responsibility of DLO and DPO in consultation with other relevant offices/departments to plan and determine the usage to which the various parcels of land could be put.

For all permanent and temporary uses proposed underneath flyovers, compliance with statutory planning restrictions is required. Unless otherwise permitted by the respective Outline Zoning Plans, planning permissions from TPB may be required for both permanent and temporary uses beneath flyovers.

For uses that have already obtained approval from TPB, the relevant District Lands Officer can proceed with the land allocation without prior submission to District Lands Conferences or District Planning Conferences.

For uses which do not require approval from TPB, endorsement from the District Lands Officer concerned and District Planning Conferences would be required respectively for temporary uses and permanent uses.

Before an application for use of sites beneath flyovers is considered by the District Lands Officer concerned and District Planning Conferences, relevant DOs should be consulted to determine the need and extent of public consultation that might be required for the applications subject to the nature, scale, duration of the applications as well as the local circumstances. Upon completion of the project, all land beneath highway structures should be handed back to DLO, which will hand it to the designated users or departments responsible for the control and development.

Any unallocated land beneath highway structures will be under the administrative responsibility of DLO, which may require appropriate fencing and enclosure of the land to be provided by the project office before taking over the land. HyD will retain responsibility for the maintenance (but not administrative control) of all footpaths, carriageway, abutments, piers, columns etc. forming part of the highway system.

4.15 PROTECTION OF LAND UNDER DEPARTMENTAL CONTROL

Client departments are responsible for all necessary precautions to prevent illegal dumping on and unauthorized occupation of land under their control. Responsibility for the

control of land and the management of security guards, if any, will rest with the department concerned. If the allocated site is too big geographically for introduction of protection measures like guard servicing or fencing, the client department should seek LandsD's assistance to take on the responsibility for squatter control.

Client departments must exercise care over the land under their control and take all necessary steps to prevent illegal dumping on and unauthorized occupation of the site after clearance and taking possession of the land. For allocated areas outside the fenced boundary, the allocatee should employ the patrol guard tactics to ensure no illegal occupation of or dumping on the allocated area and to seek assistance from DLO when such activity is spotted.

4.16 ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370) AS APPLIED BY SECTION 26 OF WATER POLLUTION CONTROL (SEWERAGE) REGULATION (CHAPTER 358)

EPD procedural guidelines No. 01/16 gives the guidance to the application of the Roads (Works, Use and Compensation) Ordinance [the Roads Ordinance] as applied by section 26 of the Water Pollution Control (Sewerage) Regulation [the Sewerage Regulation]. The following provides amplification to procedures relevant to projects handled by CEDD, DSD, HyD and WSD.

4.16.1 Purpose and Definitions

The Sewerage Regulation provides for the publication of proposals as to works in relation to sewerage, objections to the proposals, authority to carry out the works and for the use of sewerage, powers in relation to the works on and the use of sewerage, compensation and connected matters. The Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (the Ordinance) requires gazetting of works, other than those under section 4 so as to give the public a chance to comment or object to such works proposals.

The following terms are defined in section 2 of the Roads Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation:

“Authority”	has the same meaning as in the Water Pollution Control Ordinance (Cap 358) i.e. the Director of Environmental Protection;
“Director”	means the Director of Environmental Protection;
“use”	means the use of any sewerage, whether before or after the completion of any works and includes the existence of any sewerage whether or not in relation to any use to which it is put;
“works”	means any thing which may be done by the Authority or may be required by the Authority to be done under or pursuant to Part II, III or IV of the Water Pollution Control (Sewerage) Regulation (L.N. 323 of 1994).

4.16.2 Authority and Delegation

The Authority for the execution of works or for proposing to execute works etc. under the Ordinance is the Director of Environmental Protection (DEP), who may authorize any named person to exercise any of the powers, functions and duties conferred or imposed upon him under the Ordinance. A schedule of the powers, functions and duties delegated by the DEP for the above purpose can be found in Appendix A1 of EPD procedural guidelines No. 01/16.

4.16.3 Sewerage Works which require Limited Road Closures

Section 4 of the Ordinance empowers the Authority to execute any works which require limited road closures as in the following cases:

- (i) To close a road which, in his/her opinion does not serve any useful or lawful purposes;
- (ii) To close a road to use for a period not exceeding 14 days in any period of 3 months;
- (iii) To close part of the width of a road to use but not to such an extent as will interfere unreasonably with the normal flow of traffic on that road and for no longer than is reasonably necessary to execute the works.

Again DEP has also authorized some officers of departments concerned to exercise the above powers and the list of persons authorized is set out in Appendix A1 of EPD procedural guidelines No. 01/16. The authorized officer should make use of the existing channels (e.g. District Council, Area Committee, Owners Incorporation, District Office, District Land Office) to inform members of the public of the proposed road closure when necessary.

If an authorized officer is unsure as to whether works he/she proposes to carry out fall within the definition of paragraph 4.16.3(i) & (iii), he/she should consult the Transport Department or the Hong Kong Police Force if necessary.

4.16.4 Major Works - the Plan and the Scheme

Similar to paragraph 4.1.4 except that submission is made to DEP for signature.

4.16.5 Consultation with District Councils

Similar to paragraph 4.1.5 except that the plan, the scheme and the notice are submitted to DEP for signature. A sample covering memo to DEP enclosing the plan and the scheme is in Appendix 3.16.

4.16.6 Preparation of the Plan

- (a) Contents

Similar to paragraph 4.1.6 (a) except that the power is with DEP.

- (b) Liaison with LandsD

Similar to paragraph 4.1.6 (b).

- (c) Preparation

Similar to paragraph 4.1.6 (c) except that the power is with DEP and the signature box of the plan shall bear the words "Senior Environmental Protection Officer".

4.16.7 Preparation of the Scheme

- (a) Contents

Similar to paragraph 4.1.7 (a).

- (b) Non-application of Lands Resumption Ordinance, Chapter 124

Similar to paragraph 4.1.7 (b).

- (c) Inspection and survey

Similar to paragraph 4.1.7 (c).

4.16.8 Gazetting the Plan and the Scheme

- (a) Submission to DEP

Similar to paragraph 4.1.8(a). A sample cover memo to DEP enclosing the plan and the scheme is in Appendix 3.16.

- (b) Notice

Similar to paragraph 4.1.8(b) except that the display offices shall also include the Lands Registry at Queensway Government Office, District Land Registry(s) concerned, EPD Revenue Tower Office and Local Control Office(s) concerned of EPD. A sample notice is in Appendix 3.17.

- (c) Publication

Similar to paragraph 4.1.8 (c) except that submission is made to DEP for signature and for arranging the publication. A sample covering memo to the project office (with copies to other offices concerned) is at Appendix 3.16A and the reply slip for confirmation of the deposition and making available the gazette documents for public inspection is at Appendix 3.16B.

4.16.9 Amendments and Objections

- (a) Amendment of the plan and the scheme

Similar to paragraph 4.1.9 (a). A sample notice is at Appendix 3.18.

(b) Cancellation of proposal

Similar to paragraph 4.1.9 (b) except that the draft notice should be forwarded to DEP for gazetting and publication. A sample notice is at Appendix 3.19.

(c) Receipt of objections

Similar to paragraph 4.1.9 (c) except that the objection is to deliver to DEP.

4.16.10 Authorization

(a) Procedure where there have been no objections.

Similar to paragraph 4.1.10(a). A sample notice for authorization by DEP is at Appendix 3.20.

(b) Procedure where objections are received

Similar to paragraph 4.1.10(b). A sample ExCo Memorandum is at Appendix 3.21.

(c) Exercise of powers

Similar to paragraph 4.1.10(c) except that the exercise of power is with DEP.

4.16.11 Resumption and the Creation of Easement

(a) Authority and delegation

Similar to paragraph 4.1.11 (a) except that submission to DEP for signature and for arranging the publication.

(b) Order for resumption

Similar to paragraph 4.1.11 (b) except that submission to DEP for signature and for arranging the publication. A specimen form of the order is at Appendix 3.22.

(c) Notice of resumption

Similar to paragraph 4.1.11 (c). A specimen notice is at Appendix 3.23.

(d) Action by LandsD

Similar to paragraph 4.1.11 (d).

(e) Creation of easements or rights in favour of the Government of the HKSAR

Similar to paragraph 4.1.11 (e). Specimen forms of order and notice is at Appendix 3.24 and 3.25 respectively.

- (f) Notice of entry

Similar to paragraph 4.1.11 (f) except that submission to DEP for signature and for arranging the publication.

- (g) Streamlined procedures and Time Frame on Land Resumption

Similar to paragraph 4.1.11(g)

4.16.12 Closure of Roads etc. and Restriction of Public or Private Rights under Section 17

- (a) Authority and delegation

Similar to paragraph 4.1.12 (a) except that the power is delegated to DEP. Specimen order is shown at Appendix 3.26.

- (b) Publicity

Similar to paragraph 4.1.12 (b) except that the power and responsibility are with DEP. A specimen notice is at Appendix 3.27.

- (c) Procedure

Similar to paragraph 4.1.12 (c) except that the power and responsibility are with DEP.

4.17 PROJECTS REQUIRING THE USE OF A COMBINATION OF ORDINANCES FOR LAND RESUMPTION

Some projects, for example, (a) river training projects involving the construction of ancillary roads on top of river embankments with simultaneous installation of drainage improvement works may require (i) resumption of land for the ancillary roads works invoking Cap. 370; and (ii) resumption of land for the drainage improvement works invoking Cap. 124; (b) road upgrading works with concurrent installation of trunk sewerage, etc., may require (i) resumption of land for the road upgrading works invoking Cap. 370; and (ii) resumption of land for the sewerage works under Cap. 370 as applied by s.26 of the Water Pollution Control (Sewerage) Regulation, Cap. 358 Subsidiary Legislation. Project offices should prepare schematic arrangement of the proposed project and explain in detail the engineering reasons why the scheme be devised as such and be carried out within a certain time frame for advance information of the Department of Justice.

The project information will assist the Department of Justice to depict the predominant purpose of the project with a view to identify which Ordinance(s) are most suitable to be invoked to provide land for the project. In any case, it is desirable to carry out this work as soon as the project is in Category B.

4.18 PROTECTION OF SEWAGE TUNNELS

A deep sewage tunnel system has been constructed under the Harbour Area Treatment Scheme (formerly known as “Strategic Sewage Disposal Scheme”) – Stage I. The alignment and profile of the sewage tunnel is shown on the Map No. 1 of ETWB TCW No. 28/2003. The sewage tunnels and associated structures have to be protected against damage which might be caused by construction works and site investigation works in the vicinity of the sewage tunnels. See ETWB TCW No. 28/2003 for details.

Proposals for all construction works within 100m and all site investigation works within 50m on each side from the centerline of the sewage tunnels shall first be circulated to both DSD and GEO for agreement prior to the commencement of works. Detailed plans showing the alignment and profile of the sewage tunnels are available for inspection at the Hong Kong and Islands Division and the Mainland South Division of DSD. For public works or housing projects proposed by Works Departments or the Housing Department, it is the responsibility of the project proponent to check whether any part of the project falls within the protection areas of the sewage tunnels and if so, to forward the relevant proposals to DSD and GEO for comments/agreement.

Submissions to DSD and GEO shall include all relevant drawings together with an explanatory memorandum explaining the scope and programme of the proposed works in the sewage tunnel protection areas and any further information as may be required by DSD and GEO. Submission to GEO shall, in addition, include ground investigation reports together with an assessment report to assess the effects of the proposed works on the sewage tunnels.

Submissions to DSD shall be submitted to the Chief Engineer of the District Division of DSD in which the works lie. The geographical areas covered by these Divisions, designated as Hong Kong and Islands, and Mainland South Divisions, are shown on the Map No. 2 of ETWB TCW No. 28/2003. Submissions to GEO shall be submitted to the Chief Geotechnical Engineer of the District Division of GEO in which the works lie. The geographical areas covered by these Divisions, designated as Island, Mainland East and Mainland West Divisions, are shown on the Map No. 3 of ETWB TCW No. 28/2003.

4.19 GAZETTING OF PUBLIC WORKS PROJECTS IN PARALLEL WITH THE ENVIRONMENTAL IMPACT ASSESSMENT PROCESS

In order to streamline the delivery of public works projects, ETWB TCW No. 13/2003 promulgates parallel action between the EIA process and statutory gazetting of projects. According to the existing procedures, where a project is a “designated project” under the EIAO, its gazetting under the relevant enabling ordinances, such as the Roads (Works, Use and Compensation) Ordinance, the Railways Ordinance, the Foreshore and Seabed (Reclamations) Ordinance or the Town Planning Ordinance, shall normally be made after its EIA report is approved by DEP under EIAO.

As a measure to streamline the public works procedures and bring forward the delivery of public works, the DEVB has reviewed the timing of gazetting projects in relation to the EIA process. The review showed that there would be major benefits to de-link the two processes and allow project proponents an option of gazetting a project in parallel with the EIA process thus shortening the overall pre-construction lead-time.

In the de-linked arrangement, the works director for a “designated project” under the EIAO should consider positively the option of gazetting the project as soon as there are adequate EIA findings, before the full completion of the EIA process, to enable the project layout be sufficiently determined for the purpose of gazetting.

The option of parallel gazetting must however not undermine the need to ensure that the finally adopted project scheme is in full compliance with EIAO. Where a project is gazetted but subsequent changes are found necessary as a result of the EIA, such changes should be made even if it might necessitate re-gazetting the project. Hence, in deciding whether or not to gazette a proposed project in parallel with the EIA, the works director should consider the benefits of saving time against the risk of having to make subsequent alterations and re-gazette the project should changes be necessary upon completion of the EIA.

Despite the availability of the option of parallel gazetting, the works director for a “designated project” should not seek authorization of the proposed project under the respective ordinance before the EIA report is approved by DEP or a permission has been obtained to apply directly for an environmental permit.

4.20 PROTECTION OF DEEP BAY AREA

The Deep Bay, Mai Po Marshes and its adjacent area, including Hoo Hok Wai (collectively known as the Deep Bay Area) is recognised as a wetland of international importance. To conserve the ecological value of fish ponds, and to maintain the ecological integrity of the wetland ecosystem of the Deep Bay Area as a whole, TPB has adopted a “precautionary approach” with the principle of “no-net-loss in wetland” in both area and function when considering applications for development within the Deep Bay Area. The land use planning control is exercised through the designation of Wetland Conservation Area (WCA) for all existing continuous and adjoining active/abandoned fish pond, and the designation of Wetland Buffer Area (WBA) to protect the ecological integrity of the WCA. Planning permission from TPB would be required for developments/redevelopments within WCA and WBA.

Essential infrastructure projects within WCA needed for public purpose, such as rail, emergency vehicular access and footpath, road, drainage and flood protection, and public utility projects, for which no suitable alternative locations outside WCA could be identified, would be considered by TPB. The proposals of such projects should include a practical wetland compensation scheme for TPB’s consideration. See TPB PG No. 12C for further details on developments within WCA and WBA.

4.21 PROTECTION OF DRAINAGE TUNNELS

The Hong Kong West Drainage Tunnel (HKWDT), Lai Chi Kok Drainage Tunnel (LCKDT), Tsuen Wan Drainage Tunnel (TWDT) and their associated works (hereafter abbreviated to “the Drainage Tunnels”) were constructed to divert rain water from upland areas for discharge direct to the sea. The Drainage Tunnels have to be protected against damage which might be caused by construction works and site investigation works in the vicinity of the Drainage Tunnels.

Proposals for all construction works and all site investigation works within the tunnel protection zones of the Drainage Tunnels shall first be circulated to DSD for agreement prior to the commencement of works. Detailed plans showing the alignment and profile of the Drainage Tunnels are available for inspection at the Hong Kong and Islands Division and the Mainland South Division of DSD. For public works or housing projects proposed by Works Departments or the Housing Department, it is the responsibility of the project proponent to check whether any part of the project falls within the tunnel protection zones of the Drainage Tunnels and if so, to forward the relevant proposals to DSD for comments/agreement.

Submissions to DSD shall include all relevant drawings together with an explanatory memorandum explaining the scope and programme of the proposed works in the tunnel protection zones and any further information as may be required by DSD.

Submissions for works affecting HKWDT shall be submitted to the Chief Engineer of the Hong Kong and Islands Division of DSD. Submissions for works affecting LCKDT and TWDT shall be submitted to the Chief Engineer of the Mainland South Division of DSD.

5. MANAGEMENT OF SITES

5.1 CONTRACT DOCUMENTS

If the site is to be handed over to a contractor for a certain period for construction work, the following points should be noted in the preparation of contract documents:

- (a) The exact location, boundary and ingress/egress point(s) of the site, works areas and borrow areas should be shown clearly on the contract drawings.
- (b) The Period for which each part of the site and works area, if any, will be made available to the contractor should be clearly stated in the contract documents.

(Note: Only part of the works area may be needed for the contract during the maintenance period).

- (c) There should be stipulations in the contract requiring the contractor to keep all areas under his control clean, clear of illegal occupation and free from contamination. The need for fencing, hoarding, guarding etc. should be considered and suitable provisions made in the contract documents. Where appropriate, the contract should require the contractor to confine his temporary site accommodation to one or two defined areas to assist recognition of illegal structures by DLO.
- (d) Any special condition of land allocation requiring the contractor's compliance should also be included in the contract.
- (e) The programme for taking back the land should be checked and clearly stated in the contract documents to ensure consistency with the Government's obligations in the subsequent handover of land to other parties, if any.

Particular attention should be paid to the above issues in mega-size projects or projects that involve interfacing with organizations outside the Government.

5.2 SETTING-OUT AND TAKING POSSESSION

For those sites which are acquired through land allocation, the setting-out of site boundary should be carried out by DSO. If it is to be done by DSO, the project office should make the request in writing at least 30 days in advance. DSO will in turn inform the project office when setting-out will be carried out so that the project office may arrange inspection and necessary protection of survey marks on site. Where the setting out is to be done by the project office in urgent cases, it should be in accordance with the allocation plan produced by DSO from the proposal plan after it has been approved by the DLO.

For other sites which are acquired through resumption and clearance, setting-out of the boundary of the site should be carried out by the project office. In case of land disputes arising from the exact location of the site boundary, DSO may be requested to set out the portion concerned of the resumption limit.

The site and any relevant works/borrow areas should be handed over to the contractor on dates in compliance with contract requirements. Whenever possible, the project office should arrange to take over a site from DLO or the existing occupier via DLO on the same date as handing over the site to the contractor so that continuous control may be exercised to prevent illegal occupation or dumping. Handing over and taking possession of sites should be formally recorded in writing.

5.3 MANAGEMENT DURING CONSTRUCTION

At the commencement of a contract, the project office should send to DLO and District Squatter Control Office plans showing all areas allocated to the contractor with a statement of the period for which the areas are allocated.

The project office should constantly monitor the conditions of the site, e.g. monitoring of the water quality at marine borrow areas, and ensure that the Contractor fulfils his contractual responsibility to keep all areas under his control clean and clear of illegal occupation and dumping, provide safe working conditions, and locate temporary structures within specified/agreed areas etc. Where the site is not a well defined area, e.g. in a maintenance contract, the project office should, if necessary, issue a "Consent to Erect Temporary Structures on Works Site" form (see Appendix 7.1 of Chapter 7) for temporary structures required by the contractor. When selecting locations for such temporary structures, DLO must be consulted.

DLO may grant right of way for pedestrian/vehicular access through the site to others. The project office should ensure the Contractor to coordinate and to provide and maintain safe and unobstructed access for the authorised parties.

There are situations where the contractor may find it impossible to prevent illegal occupation or to expel squatters. The project office should, as soon as any illegal occupation takes place, seek the assistance of DLO, the Police and the Clearance Unit of Acquisition Section in LandsD to evict illegal squatters and clear illegal structures etc. Means of preventing recurrence of illegal occupation should also be devised in consultation with DLO, the Police, DO and the Clearance Unit of Acquisition Section in LandsD as appropriate.

For mega-size projects or projects that involve interfacing with organizations outside the Government, once the need for handover of land to other parties is identified in the planning or design stage, a monitoring table for handover of land (an example of the monitoring table is given at Appendix 3.28) shall be kept in the relevant project handbook and updated every six months until completion of the handover of land. The co-ordination work concerned for these projects should be closely monitored by a D1 officer, or a D2 officer for cases with major implications involving an organization outside the Government.

5.4 PROCEDURES ON COMPLETION OF WORKS

5.4.1 Handing-over of Site

Prior to the contractor vacating the whole or any part of the site, works area or borrow area, the project office should arrange for a joint inspection with the party which is

going to take over the site etc. for any necessary survey work to define areas concerned and to fix a date for formal handing-over.

To ensure continuous control, the area being vacated should be formally handed over to the appropriate party, as described below:

- (a) For completed projects, the site should be handed over to the end-user/operation/control/maintenance department unless different arrangements exist and agreed by the client department. Where alteration, improvement or construction works to slopes or retaining walls are involved, the project office should provide the necessary stability assessment reports and maintenance manuals as stipulated in the "Guide to Slope Maintenance" (Geoguide 5) published by GEO and the GEO checking certificate to the department to be responsible for maintenance of the slopes. Where amenity areas are involved, the subsequent management and maintenance responsibilities should be discussed and agreed amongst the client department, LandsD and the department to be responsible for maintenance (which may be LCSD/FHD, DO, AFCD or LandsD) (See paragraph 3.4.5).
- (b) For cases with immediate further works to be carried out under the same project, the site should be handed over to the follow-up contractor.
- (c) For cases with immediate further works to be carried out under another project, the site should be handed over to the follow-up contractor through the relevant project office, which should already have taken necessary action in accordance with the procedures set out in this chapter.
- (d) For all other cases, the site should be handed over to DLO, which will keep the area clear of illegal occupation and dumping.

In cases (a), (b) and (c) above, the project office must inform DLO and the District Squatter Control Office of the arrangement made and, at the time of handing over, remind the department/office taking over the area of its responsibility to prevent illegal occupation and dumping. It should be noted that on completion of the works, land surplus to the requirements of the project office/client department should be taken over by DLO.

As advised by LandsD, it is essential that at least 3 months' notice of an imminent handover is given to DLO where any part of the site, works area, borrow area, etc. is to be handed over to DLO. This may need to be more than 3 months depending on the size of the works project and the amount of land involved. For Case (b), DLO need not be involved if the site is still under the custody of the project office. For Case (c), DLO should be invited to attend the handover meeting and the project office taking over the site (even though it may be the same office) should sign the site acceptance certificate. For sites granted under the Simplified Temporary Land Allocation procedures, the handover arrangement as outlined in (a) to (d) above should be followed. It should be noted that where the work site is to be occupied by a permanent building with an identified end user, the end user department should obtain a separate permanent land allocation from LandsD before the handover.

5.4.2 As-constructed Plans

The project office should forward 2 copies of as-built plans showing the layout and

the location of the completed works to each of the following:

- (a) The District Planning Office; and
- (b) The Client Department.

The project office should also forward all as-built plans in graphical or digital form to the Survey and Mapping Office of LandsD for the updating the centralized land survey and mapping information. The project office should ensure its consultants to do the same. See WBTC No. 16/2000 for details.

See also Chapter 7 about provision of as-constructed plans to the office responsible for subsequent maintenance of works.

6. OTHER ORDINANCES RELATING TO CONTROL OF LAND

Note: The following sections contain relevant abstracts of ordinances relating to the control or use of land necessary to execution of works. These only serve as a brief summary of the relevant contents of the ordinances and should NOT be treated as legal interpretations of the ordinances concerned. Reference should be made to the full contents of the ordinances where there are any doubts about their application and, if necessary, advice should be sought from the Secretary for Justice (S for J).

6.1 ROAD TRAFFIC ORDINANCE, CHAPTER 374

Under the Road Traffic Ordinance the definition of "Road" is similar to, though not the same as, that of street and road given in the Interpretation and General Clauses Ordinance.

"Road" includes every highway, thoroughfare, street, lane, alley, court, square, car park, passage, path, way and place to which the public have access either continuously or intermittently, whether or not the same is the property of the Government, and includes the carriageway of the North-west Railway, but does not include any private road, or any part of the carriageway of the North-west Railway designated by the Commissioner for Transport (C for T) for the purposes of this definition by notice in the Gazette.

6.1.1 Abstracts of Relevant Regulations

Road Traffic (Traffic Control) Regulations:

Regulation 27 authorizes C for T to close roads and requires C for T to publish the notice of closing the road in the Gazette or in newspapers.

Regulation 28 authorizes C for T and C of P to close roads temporarily without publication of a notice for any period not exceeding 72 hours.

6.1.2 Delegation of Power

C for T has authorized D of Hy and DCED to act on his behalf in all matters arising from Regulation 27. C for T has also authorized D of Hy, DD of Hy, RHEs, CHEs of HyD, and DCED, DDCED, PMs, DPMs, ADs, CEs, H(GEO), DHs(CEO), DHs(GEO) of CEDD to act on his behalf in all matters arising from Regulation 28.

6.1.3 Procedure for Road Closure under Road Traffic Ordinance, Chapter 374

TD would like to have advance notice of at least 14 working days of all road closures. The following procedures should be followed:

- (a) Full closure (permanent or temporary)

The relevant office should:

- (i) Agree alternative routings and diversions with the respective Regional Traffic Engineering (TE) Division of TD and the Deputy Director of Traffic, HKPF (CP(DD/T)).
- (ii) Arrange suspension of parking in liaison with the respective Transport Operations (TO) Division of TD.
- (iii) Arrange with the relevant TE Division of TD for alterations to road markings, traffic signs, traffic signals and other traffic aids. The TE Divisions will liaise with EMSD for alterations to traffic signals and will issue the necessary written confirmation for the works to be carried out.
- (iv) Request the relevant TO Division of TD to arrange for any re-routing and the re-siting or suspension of stops with the bus, tram and PLB (scheduled service) operators.
- (v) Request the relevant TO Division of TD to prepare and issue the necessary gazetting or press release.

(b) Permanent or temporary alterations or temporary partial closure

The relevant office should:

- (i) Take action as in paragraph 6.1.3(a) above;
- (ii) If re-routing of traffic is required, request the relevant TO Division of TD to prepare and issue a Traffic Advisory Note; and
- (iii) If no re-routing of traffic is required, but if significant inconvenience will be caused to the public, request TO Division of TD to prepare and issue a Traffic Advisory Note.

(c) Emergency Works

Roads may be closed by C of P or C for T (see paragraph 6.1.2) for 72 hours without giving notice. If closure is required in excess of 72 hours, the relevant office should take action as in paragraph 6.1.3(a) above.

- (d) The above procedures for road closures should be followed during the construction stage even if the project has been gazetted under the Roads (Works, Use and Compensation) Ordinance in the planning and design stage.

6.2 NOISE CONTROL ORDINANCE, CHAPTER 400

6.2.1 Abstracts of Relevant Sections

Section 3 Appoints a Noise Control Authority (i.e. Director of Environmental Protection).

- Section 4 Prohibits any person from making a noise between the hours of 11 p.m. and 7 a.m. or on any general holiday (including Sunday) likely to cause annoyance to others.
- Section 6 Prohibits any person from using any powered mechanical equipment for the purpose of carrying out any construction work between the hours of 7 p.m. and 7 a.m. or on any general holiday (including Sunday) unless a valid construction noise permit is in force. Also prohibits any person from carrying out percussive piling between the hours of 7 p.m. and 7 a.m.
- Section 8 Enables the Noise Control Authority to issue and cancel construction noise permits. See Chapter 7, See paragraphs 12.1.2 to 12.1.4 for further details.
- Section 9 Specifies Secretary for the Environment to issue Technical Memoranda setting out principles, procedures, guidelines, standards and limits that should generally be adopted by the Noise Control Authority for:
- (a) the prediction, measurement and assessment of noise emanating from a construction site;
 - (b) the issuing of construction noise permits;
 - (c) the imposition and variation of conditions in relation to construction noise permits; and
 - (d) the determination of whether or not the conditions of a construction noise permit are being complied with
- Section 35 Enables the Chief Executive in Council to exempt any area, place, premises or activity from all or any of the provisions of the Ordinance.

6.3 TOWN PLANNING ORDINANCE, CHAPTER 131

6.3.1 Abstracts of Relevant Sections

- Section 2 Appoints a Town Planning Board.
- Section 3 Specifies the Board to undertake the systematic preparation of draft plans and draft development permission area plans.
- Section 4(1) Specifies the content of draft plans showing or making provision for:
- (a) streets, railways and other main communications;
 - (b) zones or districts set apart for use for residential, commercial, industrial or other specified uses;
 - (c) reserves for the Government of the HKSAR, institution or community purposes;
 - (d) parks, recreation grounds and similar open spaces;
 - (e) zones or districts set apart for undetermined uses;
 - (f) comprehensive development plans;
 - (g) country parks, coastal protection areas, sites of special scientific interest, green belts or other specified uses that promote conservation or protection of the environment,
 - (h) zones or districts set apart for use for village type development, agriculture or other specified rural uses, and
 - (i) zones or districts set apart for use for open storage.

- Section 4(2) Specifies the way the Board may act in resumption and compensation.
- Section 4(3)
- Section 5 Specifies that the draft plan which is deemed suitable for publication, shall be exhibited for public inspection for a period of two months.
- Section 6 and 6A to 6H Specifies that any person may make representation to the Board within the specified period of two months, and the Board shall publish all representations for three weeks for public comments. The Board will then hear the representations and comments and decide whether to propose amendments to meet the representations. Any proposed amendment will be published for three weeks for further representations. The Board will hear any adverse further representation and decide whether to make any amendments to the draft plan.
- Section 7 Specifies that the Board may make amendments to the draft plan before its approval by the CE in C and any amendments made shall be exhibited for public inspection for a period of two months.
- Section 8 Specifies that the Board, after consideration of all representations/further representations, shall submit the draft plan, with or without amendments, to the Chief Executive in Council for approval.
- Section 9 Specifies the powers of the Chief Executive in Council upon the Board's submission.
- Section 10 Specifies that the refusal to approve a draft plan shall be notified in the Gazette.
- Section 11 Specifies that the approved plan, certified by the Chairman of the Board, shall be deposited in the Land Registry and shall be available for inspection without payment of any fee.
- Section 12 Specifies the Chief Executive in Council's power in revocation, replacement and amendment of approved plans
- Section 12A Specifies that any person may make an application to the Board for amendment of an approved plan and be heard by the Board. If the Board accepts the application in whole or in part, the accepted amendments will be incorporated into a draft plan for exhibition for public inspection under section 5 or 7.
- Section 13A Specifies any works or use authorized under the Roads (Works, Use and Compensation) Ordinance or any scheme authorized under the Railways Ordinance shall be deemed to be approved under the Town Planning Ordinance.
- Section 16 Authorizes the Board to grant permission for certain uses in different land use zones with or without conditions on application to the Board.
- Section 16A Specifies that there is no need to apply for Class A amendments to a planning permission and an application may be submitted by the original applicant for Class B amendments. Both Class A and Class B amendments are specified by the Board by notice in the Gazette.
- Section 17 Specifies the right of review of and appeal against the Town Planning Board's decision on planning applications.
- Section 20 Authorizes the Board to designate development permission area.
- Section 21 Specifies that no person shall undertake or continue development in the development permission area unless:
- (a) the development is an existing use;
 - (b) the development is permitted under the plan of the development permission area; or

- (c) permission to do so has been granted under Section 16.
- Section 23 Specifies the enforcement on land use control within the development permission area.
- Section 26 Authorizes the Director of Planning to designate and prepare plans for interim development permission areas.

6.4 LAND (MISCELLANEOUS PROVISIONS) ORDINANCE, CHAPTER 28

6.4.1 Abstracts of Relevant Sections

- Section 2A Define the scope of application of the Ordinance to the Government. This Section makes Part III of the Ordinance binding on government in so far as excavations on 'streets' maintained by D of Hy is concerned, but provide for a reporting mechanism in case of contravention by public officers instead of imposing criminal liability on government.
- Section 4 Unleased land shall not be occupied except under a licence or a deed or memorandum of appropriation.
- Section 5 The authority may, on payment of the appropriate prescribed fee, issue a licence to occupy unleased land.
- Section 6 Persons unlawfully occupying land of the Government of the HKSAR may be removed and the authority may take possession of any property or structure on the land.
- Section 7 No person shall remove earth, turf or stone from unleased land except with a removal permit.
- Section 9 Seeks to restrict the application of certain sections – some only to 'streets' maintained by D of Hy, and some to unleased lands controlled by LandsD.
- Section 10 Covers mainly:
- (a) Imposing a fine of level 5 for excavating without a permit and contravening permit conditions. Illegal excavation will in addition be subject to imprisonment;
 - (b) Defining the respective liability of the permittee and nominated permittee about abiding permit conditions;
 - (c) Exempt from obtaining excavation permit under certain circumstances including if control can be effected through other land documents. No exemption is however available for 'streets' excavation.
- Section 10A Mainly provides for:
- (a) The collection of fees and economic cost on issue of an excavation permit (the level of fees and economic cost is dealt with by the amended Regulations).
 - (b) Granting an automatic extension in case the permittee cannot exercise his right to excavate under a permit due to some unforeseeable circumstances. It further refines this point by distinguishing cases between excavations on 'streets' and 'non-streets'. For the case of 'non-streets', the permittee can get an automatic extension for not able to start an excavation and continue an excavation but for 'streets', only the case of not able to start is allowed. For not able to continue in case of street excavation, it is handled by section 10L.

- Section 10B Mainly provides for exempting minor works on a case-by-case basis on LandsD's unleased land from having to obtain an excavation permit. This is proposed by LandsD, in recognition of their existing practice. This provision is not available for 'streets' excavation so that every 'streets' excavation will have to be scrutinized and coordinated by HyD.
- Section 10C and 10D Mainly provides for the issue of emergency excavation permits. This is to and 10D cover an existing practice and is applicable to 'streets' only. Basically, for major UU's, HyD issue them with an emergency excavation permit which is valid for period of 6 months, free of charge. For each emergency incident, the UU can work for 7 days after reporting the incident to the Authority without having to apply for an excavation permit. However, to ensure fairness and to avoid abuse of the emergency permit system, they still have to pay for the equivalent permit fees as if an excavation permit is issued. If the works lasts for more than 7 days, an excavation permit will have to be applied for.
- Section 10E Allow the Authority to refuse issuing permits to persons unlikely to be able to supervise or complete an excavation properly. The Authority may refuse issuing a permit if the application is unreasonable or inappropriate for the circumstances (such as asking for a permit which covers the whole of Kowloon or during some festival), or where the area is a newly constructed street. HyD is also allowed under this section to refuse issuing a permit if it is not submitted before a minimum processing time.
- Section 10F To deal with cases that sometimes excavation promoters may not be able to foresee when will an extension to a permit be required until very late, and the minimum processing time specified by HyD may not be satisfied and they would be left in the middle of an excavation without an excavation permit. To resolve this, applicants are allowed to submit their applications for extension with the corresponding fees in such circumstances, and their permits are deemed to have been extended even if the Authority cannot issue the extension fast enough. Furthermore, if the Authority does not grant the extension in full, then the appropriate amount of fees will be refunded.
- Section 10G, H, I and J For setting up the administrative mechanism for nominating the contractor by the permittee to be the nominated permittee. The permit will be issued to the permittee who will be held responsible for overall control but the permittee may transfer some of the responsibilities to his/her contractor by the nomination process. The basic principles of the nomination system are that:
- (a) the contractor is required to show his willingness to be nominated, and to comply with the permit conditions;
 - (b) the nomination must have the Authority's approval;
 - (c) the Authority may withdraw the approval of a nomination if the contractor performs badly.
- Section 10K Provides the Authority with power to terminate a permit where there is a breach of permit conditions (not normally exercised).
- Section 10L Provides for situations under which fees and economic cost may be considered for refund. The decision is subject to a review and appeal mechanism.

- Section 10M Provides for review of assessment of initial permit periods (i.e. the period during which no economic cost is charged; and whether economic cost for subsequent extension (if any) is refundable. The review is initially by the 'Chief Engineer', and then by a Review Board chaired by D of Hy.
- Section 10N, 10O and 10P Deal with the Review Board formed by SDEV to review assessments made by the Chief Engineer, and the Review Panel appointed by SDEV to serve as members of the Review Board.
- Section 10Q Provides for recovery of cost from the permittee by the Authority in case he fails to make good the land.
- Section 10R Caters for the additional situation particular to LandsD's unleased lands where the excavation is authorized under some land document for which no excavation permit is necessary.
- Section 10S The authority has power to carry out reinstatement of excavation on behalf of the permittee and to cover costs if the permittee fails to make good the land before the expiry of the permit or as required by any conditions of the permit.
- Section 10T Requires the permittee to adopt necessary safety precautions to protect the public and to provide adequate support to structures near the excavation. The penalty is a fine of \$200,000. It also provides for certain non-exclusive statutory defences.
- Section 10U Empowers D of Hy, by notice published in the Gazette, to designate any streets or part of a street as a strategic street, a sensitive street or a remaining street for the purpose of charging economic cost.
- Section 14 The authority may declare a private street, or such part thereof, to be a public street by way of Gazette Notice if the Government lease contains a provision that the lessee shall, when required, hand back any private street to the Government of the HKSAR with no compensation.
- Section 16C To enable records from the Authority's computer system be admitted as evidence without having first to prove their authenticity.

6.4.2 Delegation of Power

D of Hy has authorized DDHy, PMs PGEs, ADs, and RHEs of HyD to carry out his functions under Sections 2A(3) in respect of streets (including slopes) maintained by HyD.

D of Hy has authorized RHEs, CHEs*, CEs*, SEs*, Es* and CTOs* of HyD to carry out his functions under Sections 10(8), 10A, 10C, 10D, 10E, 10F, 10H, 10I, 10J, 10L, 10M(17), 10Q, 10S and 16C in respect of streets (including slopes) maintained by HyD. (* Only officers who are responsible for the processing of excavation permits and enforcement actions.)

D of L has authorized D of Hy, DDHy, PMs, PGEs, DPMs, ADs, GEs, RHEs, CHEs, CEs, SEs and SLAs of HyD, D of DS, DD, ADs, CEs and SEs of DSD, ADs, CGEs, DPM and CEs of CEDD, DWS, DD, ADs, CEs and SEs of WSD and certain officers of AFCD, ArchSD, EMSD, HAD, HD and LCSD to carry out his functions under section 10B in respect of areas of their contracts.

D of L has authorized D of DS, DD, ADs, CEs and SEs to issue excavation permit under Section 10A (including 10A(1), 10A(3) and 10A(4) and to carry out functions under Sections 10B, 10E(1), 10E(3), 10K(1), 10Q(2), 10Q(3) and 10S in respect of areas of

Drainage Services Department contracts.

D of L has authorized CEs, SEs and Es of Fill Management Division, CEDD, under Section 5 to sign and issue licences to occupy unleased land in Hong Kong by dumping, and to sign and issue duplicate licences for the same purpose under Regulation 4 of the Ordinance.

D of L has authorized DCED, PMs, DPMs, CEs, SEs and Es of CEDD, to sign and issue licences to occupy unleased land in the New Towns and other development areas of the New Territories under the jurisdiction of CEDD by dumping, and to sign and issue duplicate licences for the same purpose under Regulation 4 of the same Ordinance.

6.4.3 Excavation Works

The Land (Miscellaneous Provisions) Ordinance (Cap. 28), as amended by the Land (Miscellaneous Provisions)(Amendment) Ordinance (2003), commences on 1.4.2004.

Under the amended Ordinance, a person shall not make or maintain any excavation in unleased land unless:

- He is the holder of an excavation permit (XP); or
- He is the contractor of the holder of an XP; and
- He makes and maintains the excavation in accordance with the permit.

An applicant is required to pay the prescribed fees before an XP or an extension of an XP is issued.

XPs and emergency excavation permits (EXP) are issued with permit conditions for controlling the performance and standard of excavation works.

The permittee is responsible for complying with the permit conditions. The permittee may nominate his contractor to become the nominated permittee, subject to the consent of the contractor and the approval by the Authority. The nominated permittee becomes responsible for complying with some of the permit conditions otherwise to be complied with by the permittee.

Director of Highways (DHy) is the Authority for issuing XPs in streets maintained by Highways Department (HyD) and Director of Lands is the Authority for issuing XPs in unleased land other than streets.

For excavation works in association with government projects in unleased land other than streets, the Director of Lands (or his delegates) may exempt the works from having to obtain XPs –

- (i) if the works fall within the category under Section 10B(2);
- (ii) by allocating the site, if appropriate, to departments by way of simplified temporary land allocation under Section 10.

The Excavation Permit Processing Manual of HyD and the LAO TC Nos. 737 and 737A of LandsD provide guidance on and procedures for application and administration of

XP in relation to excavation works in streets maintained by HyD and in unleased land other than streets controlled by LandsD.

6.5 SAND ORDINANCE, CHAPTER 147

6.5.1 Abstracts of Relevant Sections

Section 2 Requires a removal permit from DCED for the removal of sand from unleased land, foreshore or sea bed, of the Government of the HKSAR.

Section 3 Requires a permit from DCED for the importation or transportation of sand in excess of 100 kg.

6.5.2 Delegation of Powers

DCED has delegated to CE/FM, SEs and Es of the Fill Management Division of CEO:

- (a) to sign and issue removal permits, or sale and removal permits, applicable to sand, from unleased land, foreshore or sea-bed of the Government of the HKSAR; and
- (b) to sign and issue permits for the importation or transportation of sand in excess of 100 kg.

DCED has also delegated to DLOs and SLEs of LandsD to sign and issue removal permits, or sale and removal permits, applicable to sand, for local village purposes or community work.

6.6 HOUSING ORDINANCE, CHAPTER 283

6.6.1 Abstracts of relevant sections

Section 4(2)(g) Authorizes the Housing Authority to develop land and to lay out streets and open spaces for the purpose of providing housing or in connection therewith.

Section 25A Permits the Housing Authority, with the approval of C for T and D of Hy, to designate restricted roads in housing estates. It also specifies the powers vested in the Housing Authority on these restricted roads.

6.7 WASTE DISPOSAL ORDINANCE, CHAPTER 354

The Waste Disposal Ordinance defines the following:

"waste" means any substance or article which is abandoned and includes animals waste, chemical waste, household waste, livestock waste, street waste and trade waste, and

"waste disposal authority" means the Director of Environmental Protection.

Section 3 of the Ordinance states that the Secretary for the Environment, after consultation with the Advisory Council on the Environment, shall draft plans showing the arrangements made, or proposed to be made, for the collection and disposal of waste, and the existing and proposed waste disposal sites, and the methods of waste disposal used, or to be used, at each site. Such draft waste disposal plans shall be published in the Government of the HKSAR Gazette and shall be subject to the approval of the Chief Executive in Council.

When projects affect or involve encroachment into waste disposal sites, EPD should be consulted.

6.8 LAND ACQUISITION (POSSESSORY TITLE) ORDINANCE (CAP. 130)

Section 3(1) - Whenever the Chief Executive in Council decides that the acquisition of any land is required for a public purpose, the Director may make an acquisition order for the acquisition of it under this Ordinance if it appears to the Director that any person claims, or may claim, that the land is held under a possessory title.

6.9 PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE (CAP. 132)

Section 118(4) - This section enables the Authority (Director of Food and Environmental Hygiene) to remove any human remains buried outside a cemetery and to deposit such remains inside a cemetery or otherwise disposed of in such decent manner as the Authority may think fit, provided that the consent of the Secretary for Home Affairs shall be obtained before such remains are removed.

6.10 PROTECTION OF THE HARBOUR ORDINANCE (PHO)

The Government is committed to protecting and preserving the harbour and enhancing it for public enjoyment.

Section 3 of the PHO provides that:

- (a) "The harbour is to be protected and preserved as a special public asset and a natural heritage of Hong Kong people, and for that purpose there shall be a presumption against reclamation in the harbour." [section 3(1)]
- (b) "All public officers and public bodies shall have regard to the principle stated in subsection (1) for guidance in the exercise of any powers vested in them." [section 3(2)]

Section 3(1) of the PHO establishes a statutory principle recognizing the harbour as a special public asset and a natural heritage of Hong Kong people and prescribing it to be protected and preserved.

Section 3(2) imposes a special legal duty on public officers and public bodies to abide by the legal principle and stated in section 3(1) in the exercise of any powers vested in them. The legal burden to rebut the presumption is a heavy one. To overcome the presumption, all public officers and public bodies must follow the principles prescribed in the

PHO and the Court of Final Appeal judgment conscientiously and decide whether it is complied with before coming to a decision.

7. REFERENCES

LWBTC No. 26/85	Provision of Land for Government Projects or use
WBTC No. 13/97	Revised Administrative Arrangements for Reclamation Works (PELBTC No. 3/97)
WBTC No. 13/97A	Revised Administrative Arrangements for Reclamation Works
WBTC No. 12/2000	Fill Management
WBTC No. 16/2000	Provision and Collation of Land Survey and Mapping Data
WBTC No. 9/2001	Procedures for Gazetting under the Foreshore and Sea-bed (Reclamations) Ordinance (Chapter 127)
WBTC No. 9/2001A	Procedures for Gazetting under the Foreshore and Sea-bed (Reclamations) Ordinance (Chapter 127)
ETWB TCW No. 34/2002	Management of Dredge/Excavated Sediment
ETWB TCW No. 13/2003	Guidelines and Procedures for Environmental Impact Assessment of Government Projects and Proposals
ETWB TCW No. 27/2003	Land Acquisition Prioritization Exercise
ETWB TCW No. 28/2003	Protection of Harbour Area Treatment Scheme Stage I Sewage Tunnels
ETWB TCW No. 4/2006	Delivery of Capital Works Projects
DEVB TCW No. 9/2011	Enhanced Control Measures for Management of Public Fill
DEVB TCW No. 2/2012	Allocation of Space for Quality Greening on Roads
DEVB TCW No. 3/2012	Site Coverage of Greenery for Government Building Projects
DEVB TCW No. 6/2015	Maintenance of Vegetation and Hard Landscape Features
DEVB TCW No. 8/2017	Rock Cavern Development
DEVB TCW No. 1/2019	Railway Protection
DEVB TCW No. 4/2020	Tree Preservation
DEVB TCW No. 5/2020	Registration and Preservation of Old and Valuable Trees
DEVB TCW No. 1/2022	Heritage Impact Assessment Mechanism for Capital Works Projects
HPLB GC No. 1/2004	Site Search
HyD TC No. 3/2015	Administrative Protection for Proposed Railway Routes
LAO TC No. 715	Streamlined Procedures and Time Frame on Land Resumption and Clearance for Public Works Projects in the New Territories
LAO TC No. 737	Excavation in unleased land other than streets under Land (Miscellaneous Provisions) (Amendment) Ordinance 2003 (LMPAO)
LAO TC No. 737A	Excavation in unleased land other than streets under Land (Miscellaneous Provisions) Ordinance (Cap. 28)

TBTC No. 1/94	Roads (Works, Use and Compensation) Ordinance (Chapter 370)
TBTC No. 2/96	Roads (Works, Use and Compensation) Ordinance (Chapter 370) (Amendments to TB Technical Circular (TBTC) No. 1.94:Revision to Sample S.8(2) Notice and Procedures of Handling Objections
TBTC No. 1/98	Roads (Works, Use and Compensation) Ordinance (Chapter 370) New Statutory Time Limit for Handling Objections under the Road (Works, Use and Compensation) (Amendment) Ordinance 1998
TBTC No. 1/2018	Roads (Works, Use and Compensation) Ordinance (Chapter 370) Delegation of Statutory Powers
SDEV's memo dated 7.8.2018	Communication and Announcement Mechanism on Public Works within Railway Protection Area
SETW's memo ref. (8) in ETWB(CR)(W) 65/39 Pt. 7 dated 30.4.2003	Foreshore, Sea-bed and Roads (Amendment) Bill 2003 - Updated Situation and Follow-up Action
SETW's memo ref. () in ETWB(CR)(W) 65/39 Pt. 7 dated 22.5.2003	Foreshore, Sea-bed and Roads (Amendment) Bill 2003 - Notification of Public Works Projects under statutory gazettal on ETWB's web site
STH's memo ref. () in THB(T) L5/1/1 dated 14.11.2016	Roads (Works, Use and Compensation) Ordinance (Chapter 370) - Uploading of Gazettal Documents to the TLB Website
HyD's memo ref. (OU70) in HMW 731TH/4/1 dated 13.9.2004	-
LandsD's memo ref. (3) in LD TI 10/04/03 dated 16.6.2004	Provision of land for works areas
GEO Geoguide 5	Guide to Slope Maintenance
EPD Procedural Guidelines No. 01/16	Roads (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of WPC (Sewerage) Regulation (Chapter 358)
TPB PG No. 12C	Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance

DSD Technical Notes for
Guidance in Assessing the
Effects of Civil
Engineering
Works/Construction
Developments on the Hong
Kong West Drainage
Tunnel, Lai Chi Kok
Drainage Tunnel, Tsuen
Wan Drainage Tunnel and
their Associated Works

EPD Guidance Note for
Contaminated Land
Assessment and
Remediation

https://www.epd.gov.hk/epd/sites/default/files/epd/english/environmentinhk/waste/guide_ref/files/GN_for_land_contamination_e.pdf

EPD Practice Guide for
Investigation and
Remediation of
Contaminated Land

https://www.epd.gov.hk/epd/sites/default/files/epd/gn_pdf/GN2014P244-2011c-e.pdf

PlanD HKPSG Chp 12
Section 2 - Rock Cavern
Development

https://www.pland.gov.hk/pland_en/tech_doc/hkpsg/full/pdf/ch12.pdf

PlanD HKPSG Chp 12
Section 7 - Use of Land
Beneath Flyovers and
Footbridges

https://www.pland.gov.hk/pland_en/tech_doc/hkpsg/full/pdf/ch12.pdf

WSD Civil Engineering
Design Manual Volumes I
and II

-

APPENDICES

**APPENDIX 3.1 ADVANCE CLEARANCE APPLICATION FORM FOR
ADVANCING PRE-CLEARANCE SURVEY**

RESTRICTED

M E M O

<p><i>From</i> Project Office/Works Department</p> <p>_____</p> <p><i>Ref.</i> _____ <i>in</i> _____</p> <p><i>Tel. No.</i> _____</p> <p><i>Fax. No.</i> _____</p> <p><i>Date</i> _____</p>	<p><i>To</i> DLO(_____)_or relevant office / section of Lands Department</p> <p>_____</p> <p><i>(Attn.: _____)</i></p> <p><i>Your Ref.</i> _____ <i>in</i> _____</p> <p><i>dated</i> _____ <i>Fax. No.</i> _____</p> <p><i>Total Pages</i> _____</p>
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Note: To prevent leakage of information in connection with land resumption and/or clearance which might lead to fraudulent claims for compensation or ex-gratia allowances or rehousing, access to the information relating to acquisition projects should be confined on a need-to-know basis (particularly the information showing the land resumption/clearance boundary, DC consultation dates, and the plan and scheme gazette / survey dates of the projects).

Project Title : _____

Annex A Attached herewith is an Advance Clearance Application Form (Advance CAF) for the above together with the draft Land Requirement Plan(s).

Annex B Please advise Advance CAF status and further action on the attached return memo.

(_____)

Post Title _____

Project Office/Works Department _____

c.c. Manager/Clearance(##), Clearance Unit, Lands Department (LandsD) [with draft Land Requirement Plan(s)]
DO (.....)

*Delete whichever not applicable

#According to Chapter 3 paragraph 3.5.2 of the Project Administration Handbook for Civil Engineering Works issued by CEDD, for normal clearance, the application submitted by the project office should be signed by an officer of D1 rank, and for clearance to be treated as urgent, by an officer of D2 rank.

##Insert appropriate office of Clearance Unit of LandsD

Annex A**RESTRICTED****ADVANCE CLEARANCE APPLICATION FORM**

Note 1: To prevent leakage of information in connection with land resumption and/or clearance which might lead to fraudulent claims for compensation or ex-gratia allowances or rehousing, access to the information relating to acquisition projects should be confined on a need-to-know basis (particularly the information showing the land resumption/clearance boundary, DC consultation dates, and the plan and scheme gazette / survey dates of the projects).

Note 2: The Advance CAF should be accompanied with seven copies of draft land requirement plan(s) showing the outer clearance boundary of all land affected by the development together with standard covering memo.

Part I

To be completed by project office / works department requiring clearance to be carried out
--

Project Title :

1. Proposed outer clearance boundary of all land affected by the development (including site formation works, construction of supporting facilities/infrastructures, road works, sewerage works, etc.) is shown on the draft Land Requirement Plan(s)* No.....(*on _____ attached _____ list)
*Mr./Miss/Ms.....of..... (Tel.)
will be able to give further information or discuss boundary adjustments.

2.
 - *(a) This project is item in Category of the Public Works Programme.
 - *(b) Application for upgrading to Category will be made on and you will be informed when this is approved.
 - *(c) This project is to be carried out under the Public Housing Development Programme to be approved by the Building Committee of the Hong Kong Housing Authority.
 - *(d) This project is under the Land Sale Programme

3.
 - *(a) Funds are available under Head subhead
 - *(b) Funds under Head subhead will be applied for on and you will be informed when they are available.

- * (c) Funds under Head should be available in and this will be confirmed to you then.
- * (d) Funds are available under the Block Vote Head subhead.....
4. Gazettal of *draft OZP/OZP amendment or planning applications available for public inspection will be made on

Part II

To be completed by DLO or relevant office / section of LandsD if Advance CAF is accepted

Clearance No. **Revision No.**

(if Advance CAF accepted) *(if Revision of boundary by project office/works departments)*

5. * (a) The private lots affected shown on the attached draft Land Requirement Plan(s) may be resumed by the Government of the Hong Kong Special Administrative Region and the date of reversion is subject to confirmation of clearance date and availability of funds by project office/works department under :
- * (i) Public Housing Development Programme approved by the Building Committee of the Hong Kong Housing Authority.
- * (ii) Head subhead.....
- Head 701 subhead 1004CA
(Compensation and ex-gratia allowances in respect of public housing projects to be undertaken by HKHA and HKHS (i.e. the project proponent is HKHA or HKHS) , surrenders and resumptions: miscellaneous)
 - Head 701 subhead 1100CA
(Compensation and ex-gratia allowances in respect of projects in the Public Works Programme)
- * (b) There is no private lot involved :
- * (i) no ex-gratia payment and / or compensation is required.
- * (ii) ex-gratia payment and / or compensation may be required and charged under :

- * (1) Head 701 subhead 1100CA
(Compensation and ex-gratia allowances in respect of projects in the Public Works Programme)
- * (2) Head 701 subhead 1004CA
(Compensation and ex-gratia allowances in respect of public housing projects to be undertaken by HKHA and HKHS (i.e. the project proponent is HKHA or HKHS))
- * (3) Head 91 subhead 121 Item 719T
(Clearance of land sale sites/Contingency requirements)
- * (4) Head 91 subhead 121 Item 719X
(Other clearance & demolition work on government land)
- * (5) Head 91 subhead 221 Item 888
(Clearance of government land - ex-gratia allowances)

*
Delete whichever not applicable

RESTRICTED**M E M O**

From DLO() or relevant office /
section of Lands Department

To Project Office/Works Department

Ref. _____ in _____

(Attn.: _____)

Tel. No. _____

Your Ref. _____ in _____

Fax. No. _____

dated _____ Fax. No. _____

Date _____

Total Pages _____

Note: To prevent leakage of information in connection with land resumption and/or clearance which might lead to fraudulent claims for compensation or ex-gratia allowances or rehousing, access to the information relating to acquisition projects should be confined on a need-to-know basis (particularly the information showing the land resumption/clearance boundary, DC consultation dates, and the plan and scheme gazette / survey dates of the projects).

Project Title :

Clearance No. :

The Advance Clearance Application Form (Advance CAF) submitted vide your memo dated _____ is accepted for the purpose of conducting pre-clearance survey. However, please note that the site handover date can only be committed when a further Clearance Application Form for works under respective Ordinances with the finalized Land Requirement Plan(s) are submitted and accepted subject to your clarification/resolution on

- land use reservation approved under S12/ S16 of the Town Planning Ordinance (Cap. 131)
- the land resumption/clearance limit of the project with finalized land requirement plan(s) to be submitted by you
- the Ordinance(s) to be invoked for land acquisition.
- initiation by you to seek S for J's advice (justification of the project with regard to 'Public Purpose')
- *funds available under Public Housing Development Programme/the project being upgraded to Category B+ or A
- additional time to be provided for handling significance Fung Shui or grave problem

Interface/boundary Problem

(Nature or scope of interface/boundary problem in brief _____)

By copy of this memo would Manager/Clearance(##), Clearance Unit of LandsD, please examine the clearance of land per detail listed in the Advance CAF (**Annex A**) herewith attached for conducting pre-clearance survey on

- *(a) the date of the gazettal of draft OZP or
- *(b) the date of the gazettal of OZP amendment or
- *(c) the date of publishing the planning application for public inspection or
- *(d) the date specified by project bureau/department.

Signed _____ ###
for DLO or relevant office /
section of LandsD

- c.c. M/Clearance(##), Clearance Unit
SM/Clearance, LandsD
CES/A, LandsD
DO()
*CLE/SC, DLO()
*SES/SC, LandsD
@ PLE/TF1, LandsD
* Marine Dept. (if marine culture or structure is involved).
*LCSD / FEHD / AFCD
(To add relevant departments / offices where appropriate)

Insert appropriate office of Clearance Unit of LandsD

signed by CLE, SES or above.

@ For non-PWP project affecting Government land only with acquisition cost charged under Head 91 Lands Department. Delete if the project is a PWP item.

* Delete whichever is not applicable.

Tick whichever is relevant.

EXPLANATORY STATEMENTS :(a) THE PURPOSE OF A PRE-CLEARANCE SURVEY (PCS)

- Insofar as clearance of land is required for the implementation of government development projects, LandsD as the agent of the project bureau/department has, as a standard and established procedure, been conducting a PCS (commonly known as “freezing survey”) to capture the occupation and status of the occupiers within the project area. The information so obtained will serve as a basis for assessment of eligibility for Government’s ex-gratia compensation and rehousing (C&R) arrangements for those residing/operating in the locality and are genuinely affected/to be cleared by the project. As a minimum requirement, an occupier is required to be registered in the PCS as a pre-requisite to be considered for C&R provisions (whether he/she is eligible ultimately will depend on his/her fulfilment of various other eligibility criteria).
- Once a government project is confirmed to proceed and so made known to the public, it would be advisable to conduct the PCS to capture the occupation and status of the occupiers at the earliest possible juncture so as to prevent abusive acts to take advantage of the C&R provisions (e.g. to guard against those moving into the project area after they learned of the prospective development in order to benefit from C&R).

(b) THE PURPOSE OF ADVANCE CAF

- To standardize the timing of conducting the PCS with a view to better achieve the objective of the PCS in taking a snapshot of the ground situation as soon as the development plan is confirmed and so announced in public, a simplified CAF, namely the Advance CAF is promulgated for project bureau/department to provide the necessary information for LandsD to kick start the PCS.
- Unlike in the usual CAF, the project bureau/department will not be required to delineate the land by different ordinances to be invoked for resumption at the stage of Advance CAF because the manner of conducting the PCS would be the same.

(c) ACTIONS REQUIRED ON THE PROJECT BUREAU / DEPARTMENT

- The project bureau/department should submit an Advance CAF together with a **draft** land requirement plan to LandsD **at least 3 months** before the intended date of PCS (e.g. the date of gazettal of the draft OZP/OZP amendment or the date of publishing a planning application for public inspection, whichever is the earliest). The draft land requirement plan has to show the outer clearance boundary of the land involved for LandsD to carry out the PCS in one go.
- If a project bureau/department is ready to provide the level of details as requested in the usual CAF at the time when PCS should be conducted (e.g. where the project **does not involve** statutory planning procedures and detailed delineation of land to be resumed is available at the time when its PCS should be conducted), the project bureau/department may follow the established

practice in submitting to LandsD the usual CAF for the purpose of the PCS, as well as requesting for LandsD's preparation for land resumption and clearance.

- Project bureau/department may consider whether to submit the Advance CAF before the usual CAF, or whether to follow the prevailing practice of submitting only the usual CAF along with the finalized land requirement plan, taking into account the readiness in providing detailed delineation of the land required by different ordinance(s) to be invoked, the time gap between PCS and actual resumption/clearance, among others.
- The usual CAF with the finalized land requirement plan under respective ordinances is still required from the project bureau/department at later stage of the project for the purpose of committing land resumption (if applicable), actual land clearance and site handover date.

(d) UPON RECEIPT OF THE ADVANCE CAF

DLO or Special Section of LandsD will :

- check any uncleared issues plus information according to Clearance Unit's advice and fill out and return **Annex B** of the Advance CAF submitted by the project office / works department and copy to the appropriate addressees.
- check the land status and 'A' Book to ascertain any affected building land. If building land is affected, peg the "cut-off" date to PCS date and issue the "cut-off" date letter accordingly.

Clearance Unit will :

- liaise with DLO or Special Section of LandsD as soon as possible to provide an estimate of the number of structures/occupiers to be cleared by conducting an unobtrusive survey.

(e) UPON ACCEPTANCE OF THE ADVANCE CAF

DLO or Special Section of LandsD will :

- complete the application form, enter the Clearance No. and Date on the Advance CAF and office register and forward one copy of the completed Advance CAF to Clearance Unit.
- keep in view and consider the usual CAF with the finalized land requirement plan under respective ordinances is required from the project bureau/department at later stage of the project for the purpose of committing land resumption (if applicable), actual land clearance and site handover date.

**APPENDIX 3.1A APPLICATION FOR ACQUISITION AND CLEARANCE OF
LAND FOR THE USE OF THE GOVERNMENT OF THE HONG
KONG SPECIAL ADMINISTRATIVE REGION**

RESTRICTED

M E M O

From Project Office/Works Department

To DLO(_____)_or relevant office /
section of Lands Department

Ref. _____ *in* _____

(Attn.: _____ *)*

Tel. No. _____

Your Ref. _____ *in* _____

Fax. No. _____

dated _____ *Fax. No.* _____

Date _____

Total Pages _____

Note: To prevent leakage of information in connection with land acquisition and clearance which might lead to fraudulent claims for compensation or ex-gratia allowances or rehousing, access to the information relating to acquisition projects should be confined on a need-to-know basis (particularly the information showing the land resumption boundary, DC consultation dates, and the plan and scheme gazette/ survey dates of the projects).

Project Title : _____

Description/Contract No. & Title : _____

Annex A

Attached herewith is an Application for Acquisition and Clearance of Land for the above together with the Drawing(s). *This is an urgent application where normal timing is not possible.

Annex B

Please advise CAF status and further action on the attached return memo.

(_____)
Post Title _____
Project Office/Works Department _____

c.c. Manager /Clearance(#), Clearance Unit, LandsD (with drawing) (for preliminary information only)
*DO (.....)

*Delete whichever not applicable

According to Chapter 3 paragraph 3.5.2 of the Project Administration Handbook for Civil Engineering Works issued by CEDD, for normal clearance, the application submitted by the project office should be signed by an officer of D1 rank, and for clearance to be treated as urgent, by an officer of D2 rank.

RESTRICTED**APPLICATION FOR ACQUISITION & CLEARANCE OF LAND
FOR THE USE OF THE GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION**

Note 1: To prevent leakage of information in connection with land acquisition and clearance which might lead to fraudulent claims for compensation or ex-gratia allowances or rehousing, access to the information relating to acquisition projects should be confined on a need-to-know basis (particularly the information showing the land resumption boundary, DC consultation dates, and the plan and scheme gazette/ survey dates of the projects).

Note 2 : According to LandsD LAO TC No. 715 and Chapter 3 paragraph 3.5.2 of the Project Administration Handbook for Civil Engineering Works issued by CEDD, for an average size project i.e. affecting not more than 50 lots and not more than 50 families and no large business / industrial undertakings are affected and non-controversial in nature, the project office / works department should submit CAF at least 18 months in advance of the target site handover date for projects involving the Lands Resumption Ordinance or 24 months for projects involving the Roads (Works, Use and Compensation) Ordinance. For urgent or large scale or controversial projects, project office / works department is required to liaise with concerned DLO(s) / office(s) / section(s) and Clearance Unit of Lands Department regarding site handing over date. The CAF should be accompanied with seven copies of land requirement plan(s) showing the limit of clearance to be carried out together with standard covering memo.

Part I

To be completed by project office/works department requiring clearance to be carried out

Project Title: _____**Description/Contract No. & Title:** _____

1. Exact boundary of area to be cleared for project (including site formation and working space) is shown on Drawing(s)* No(*on attached list) Mr. of (Tel) will be able to give further information or discuss phased occupation and minor boundary adjustments.
2. *(a) This project is item in Category of the Public Works Programme.
 - *(b) Application for upgrading to Category will be made and you will be informed when this is approved.

- * (c) This project is under the Landslip Preventive Measures Programme.
3. * (a) It is hoped to call for tenders on or about and to start work on the site on or about As such, site is requested to be handed over on or about
- * (b) It is hoped to call for tenders for contracts requiring clearance in accordance with the attached programme which also shows proposed dates for commencement of works. Site is requested to be handed over on or before
4. * (a) Funds are available under Head subhead
- * (b) Funds under Head subhead will be applied for on and you will be informed when they are available.
- * (c) Funds under Head should be available in and this will be confirmed to you then.
- * (d) Funds are available under the LPM Block Vote.
- * 5. Date of last CAF submission

Part II

To be completed by DLO or relevant office / section of Lands Department if CAF is accepted
--

Clearance No. **Revision No.**

(if CAF accepted) *(if Revision of boundary after ExCo's decision)*

6. * (a) The private lots affected shown on the Drawing(s) will revert to the Government of the Hong Kong Special Administrative Region on tentatively subject to confirmation of clearance date and availability of funds under Head subhead
- * (b) There is no private lot involved.
- * (i) no ex-gratia payment and / or compensation is required.
- * (ii) ex-gratia payment and / or compensation are required, funds under Head subhead will be charged.
7. * (a) The Tenancies/Licences listed in the attached schedule and shown with areas on the Drawing(s) will be cancelled accordingly.
- * (b) There is no Tenancy/Licence involved.

*delete whichever not applicable

*(c) Not accepted owing to:

- project not being upgraded to Cat. A or B.
- boundary problem.
- no priority allocated to this project by Land Acquisition and Clearance Committee (LACC).
- low priority allocated to this project by Land Acquisition and Clearance Committee (LACC)##.
- land use reservation not yet approved under Sec. 16 Town Planning Ordinance.
- rehousing not available.
- DAFC having staff resource problem for fishermen registration.
- marine culturist involved, had not obtained clearance undertaking of DAFC, Marine Dept., SM/Clearance, LandsD to action.

Upon resolution of the above item(s), submission of fresh CAF is required.

Signed _____###
for DLO or relevant office / section
of Lands Department

- c.c. M/Clearance(#), Clearance Unit
SM/Clearance, LandsD
CES/A, LandsD
AFCD
DO()
*PLE/SC, LandsD
*SES/SC, LandsD
@ PLE/LC&LE, LandsD
* Marine Dept. (if marine culture or structure is involved).
*LCSD / FEHD
(To add relevant departments / offices where appropriate)

- # Insert appropriate office of Clearance Unit of LandsD
- ## based on existing resource level, processing for this project will be programmed outside the 5-year time frame.
- ### signed by CLE, SES or above.
- @ For non-PWP project affecting Government land only with acquisition cost charged under Head 91 Lands Department. Delete if the project is a PWP item.
- * Delete whichever is not applicable.
- Tick whichever is relevant.

EXPLANATORY STATEMENT :(a) UPON RECEIPT OF A CAF

DLO or relevant office / section of Lands Department will :

- base on data obtained during finalisation of boundary stage, check any outstanding uncleared issues plus information on rehousing arrangement based on Clearance Unit's advice and fill out and return Annex B of the CAF submitted by the project office / works department and copy to the appropriate addressees;

Clearance Unit will :

- liaise with DLO or relevant office / section of Lands Department a.s.a.p. on the lead time required to complete the clearance of occupiers and rehousing arrangement (i.e. when rehousing can take place)

(b) SHOULD THE CAF BE UNDER 'ACCEPTED' STATUS

DLO or relevant office / section of Lands Department will :

- complete the application form, enter the Clearance No. & Date on the CAF and office register and forward 1 copy of the completed CAF to Clearance Unit; (a revision no. will also be assigned for purpose of identification to any CAF which has previously been accepted and processed to a very substantially final stage but on account of any ExCo decision requiring boundary revision and hence causing extension of the normal process time).
- co-ordinate actions under Task WP6-20, WP6-25, WP6-30, WP6-35 (if FSRO is invoked); WP6-45 under the PW_MS for projects that are PWPs or similar actions for non-PWPs.

Clearance Unit will :

- undertake action described in Task WP6-00 under the PW_MS for projects that are PWPs or similar actions for non-PWPs.

(c) AND IF NO OBJECTIONS OR OBJECTIONS OVER-RULED BY EXCO

DLO or relevant office / section of Lands Department will :

- proceed further with Task WP6-50; WP6-55; WP6-60; WP6-65; WP6-70; WP6-74; WP6-76; WP6-80; WP6-85 and WP6-95 as appropriate for the Ordinances invoked under the PW_MS for projects that are PWPs or similar actions for non-PWPs.

Enabling offices like Clearance Unit, AFCD, Marine D, LCSD, FEHD or HAD will :

- undertake to complete the Task WP6-60; WP6-85 and WP6-95 as relevant under the PW_MS for projects that are PWPs or similar actions for non-PWPs.

(d) IF CAF IS NOT ACCEPTED OR ACCEPTED SUBJECT TO QUALIFICATION

Works Project Managers will :

- if CAF status is accepted subject to qualifications, resolve the issues listed under the particular qualification and advise DLO or relevant office / section of Lands Department the outcome, date of final CAF be amended to date when all qualifications are resolved;
- if CAF status is not accepted, no final CAF date should be entered into the PW_MS;
- if OBJECTIONS under FSRO or R(WU&C) are not resolved or amendments to final boundary is instructed by ExCo, final CAF date be revised to date when such issues are resolved and revised CAF data submitted.

[Extract of PW_MS template detailing the tasks quoted to be attached if required].

APPENDIX 3.2 SAMPLE MEMORANDUM TO SECRETARY FOR TRANSPORT AND HOUSING TO INITIATE ACTION UNDER ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

MEMO

<i>From</i> _____ Project Office	<i>To</i> _____ Secretary for Transport and Housing
<i>Ref.</i> _____ <i>in</i> _____	<i>(Attn.:</i> _____ <i>)</i>
<i>Tel. No.</i> _____	<i>Your Ref.</i> _____ <i>in</i> _____
<i>Fax. No.</i> _____	<i>dated</i> _____ <i>Fax. No.</i> _____
<i>Date</i> _____	<i>Total Pages</i> _____

Roads (Works, Use and Compensation) Ordinance (Chapter 370)
(Description of works concerned including PWP Item No.)

I attach, for your comments, a copy of plan no. duly approved by me and a draft scheme as required by Section 5 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) in respect of the above-mentioned works, together with a draft Notice for publication under Section 8(2) of the Ordinance, and a draft press release, all in English and Chinese.* copies of the plan will be forwarded to you after incorporating comments received.

2. The District Council(s) has/have been consulted regarding the proposed works. (State number of occasions and result).

3. I shall be glad if, after receiving the comments of the copy addressees referred to below, you will sign the plans and schemes and return** copies to me, together with one copy each of the English and Chinese versions of the agreed Notice.

#4. By copy of this memorandum S for J is requested to comment on (describe the specific legal issues) direct to you with regard to the content of the plan, scheme and Notice.

5. DO() is requested to comment direct to you regarding the proposals generally. (OR DO() has no objection to the proposals, vide his memorandum attached).

6. Also by copy of this memorandum, Official Language Agency, is requested to check the final versions of the Notice against the Chinese translation and to amend it where necessary. CIO, SPO(Transport) of TLB is requested to make final amendments to the press release before issue.

.....
 for Head of Project Office or Department

c.c. (with copy of plan, scheme, draft GN and press release)

S for J	DLO() (f.i.)
DO()	CES/A, LandsD (f.i.) (for urban areas only)
Official Language Agency	DCED
CIO, SPO(Transport) of TLB	Land Registry (f.i.)
Director of Buildings	D of Hy
Director of Home Affairs (f.i.)	Head of department/office
CLS/U, LandsD (Attn : SLS/K) - for projects in Kowloon region	

Note * The total number of copies to be forwarded to Secretary for Transport and Housing for signature is made up as follows :

for the Land Registry	1
for TLB's file	1
for initiator's file	1
for each office where plans are to be displayed	1
(normally total 3 copies)	
for each District Council in whose district the works are to be carried out.....	1
for Director of Planning	1

(normally total 8 copies, but 9 copies for projects in Kowloon Region)

** The number of signed plans to be returned to the originator will be one for the originator's file and one for each of the offices in which the plans are to be displayed (normally total 4 copies)

Delete if legal issues requiring S for J's advice are not identified.

APPENDIX 3.3 SAMPLE NOTICE UNDER SECTION 8(2) OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
(Notice under Section 8(2))

PWP Item No. - (insert project title)

Notice is hereby given that under powers delegated by the Secretary for Transport and Housing under Section 3(3) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370), the Permanent Secretary for Transport and Logistics proposes to execute the road works within the limit of works area as shown on Plan(s) No. (“the Plan(s)”) and described in the scheme annexed thereto, which Plan(s) and scheme have been deposited in the Land Registry.

The general nature of the proposed works is as follows –

- (i)
- (ii)
- (iii)

* The lots where land are to be resumed are listed below –

Lots where land are to be resumed	
D.D. No.	Lot No.

* The lots where rights of temporary occupation of land/easement may be created are listed below –

Lots where rights of temporary occupation of land/easement may be created	
D.D. No.	Lot No.

The Plan(s) and scheme may be inspected by members of the public free of charge at the following places and during the following hours when those offices are normally open to the public –

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> <u>(address)</u>	(Opening hours)
<u>District Office (concerned)</u> <u>(address)</u>	(Opening hours)

The electronic version of the Plan(s) and the scheme are viewable on the Transport and Housing Bureau's website:

<http://www.thb.gov.hk/eng/psp/publications/transport/gazette/gazette.htm>

Further enquiries regarding the proposed works can be addressed to (initiating office's address and enquiry telephone number),

Any person who wishes to object to the works or the use, or both, is required to address his objection in writing to the Secretary for Transport and Housing, which can be submitted via one of the following means –

- (1) by post or by hand to the Transport and Housing Bureau's Drop in Box No. 6 located at the 2nd Floor Entrance, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong. The box is available for use between 8:00 a.m. and 7:00 p.m. from Monday to Friday (except public holidays);
- (2) by fax to (852) 2868 4643; or
- (3) by email to gazettethb@thb.gov.hk

The objector should describe his interest and the manner in which he alleges that he will be affected by the works or the use in his notice of objection. Objectors are requested to provide contact details to facilitate communication. A notice of objection should be delivered to the Secretary for Transport and Housing not later than the day of 20**.

Personal Information Collection Statement

Any information, including the personal data, submitted to the Secretary for Transport and Housing in connection with any written objections/comments will be used for the processing of the objections/comments and other related purposes. The provision of any information, including the personal data, other than the information as required under section 10(2) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) is voluntary. However, it may not be possible to process the objections/comments if such information, including the personal data, is not sufficiently provided. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other persons, organizations or agencies which are required to handle the objections/comments and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data held by us. Request for access to or correction of the personal data should be made in writing to the Personal Data Privacy Officer of the Transport and Housing Bureau (Transport Branch) at 20th Floor, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong.

.....
Permanent Secretary for Transport
and Logistics

Date :

Note : * Delete if applicable

** This date will be inserted by TLB when the date of gazetting has been decided.

(With Chinese translation)

**SAMPLE NOTICE UNDER SECTION 8(2)
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**

道路（工程、使用及補償）條例（第370章）
（根據第8(2)條規定所發的公告）

工務計劃項目第 號 —

現公布運輸及物流局常任秘書長根據運輸及物流局局長按《道路（工程、使用及補償）條例》（第370章）第3（3）條所授權力，擬進行上述道路工程，施工區界限載於圖則第 號（下稱“該(等)圖則”），工程內容則在附連的計劃內說明。該(等)圖則及計劃現存放於土地註冊處。

建議工程的一般性質如下：

- (i)
- (ii)
- (iii)

*下列將予收回土地的地段：

將予收回土地的地段	
丈量約份編號	地段編號

*下列可予設定暫時佔用土地權／地役權的地段：

可予設定暫時佔用土地權／地役權的地段	
丈量約份編號	地段編號

下列辦事處備有該(等)圖則及計劃，公眾可於辦事處下述一般開放時間內免費查閱：

<i>辦事處地址</i>	<i>開放時間 (公眾假期除外)</i>
香港中環統一碼頭道38號 海港政府大樓地下 中西區民政諮詢中心	星期一至星期五 上午9時至晚上7時
有關 <u>地政處</u> (地址):	(開放時間)
有關 <u>民政事務處</u> (地址)	(開放時間)

該(等)圖則及計劃的電子版本，可於運輸及物流局網頁瀏覽，網址如下：
<http://www.thb.gov.hk/tc/psp/publications/transport/gazette/gazette.htm>

查詢建議工程的其他資料，可聯絡（有關部門的地址及電話）提出。

任何人士擬反對該項工程或使用，或同時反對兩者，必須以書面向運輸及物流局局長提出。反對通知書可經下列其中一個方式遞交：

- (1) 以郵遞或專人送達方式，把反對通知書投入設於香港添馬添美道2號政府總部東翼2樓入口處的運輸及物流局第6號投遞箱。投遞箱的收件時間為星期一至五（公眾假期除外）上午8時至晚上7時；
- (2) 傳真至(852)2868 4643；或
- (3) 電郵至 gazettethb@thb.gov.hk。

反對書須說明其本人的權益及聲稱受該項工程或使用影響的情況。反對人士須提供聯絡資料，方便聯絡。反對書須不遲於**20 年 月 日送達運輸及物流局局長。

收集個人資料聲明

提交予運輸及物流局局長並且與任何反對書／書面意見有關的任何資料(包括個人資料)，將會用於處理該等反對書／書面意見及其他相關用途。除《道路(工程、使用及補償)條例》(第 370 章)第 10(2)條所規定必須提供的資料外，提供任何其他資料(包括個人資料)均屬自願性質。然而，如果提供的資料(包括個人資料)不足，本局或許未能處理該等反對書／書面意見。上述提交的任何資料(包括個人資料)，或會向須處理該等反對書／書面意見及相關事宜的有關政府部門及其他人士、組織或機構披露。上述提交個人資料的人士，有權要求查閱和改正本局所持有其本人的個人資料。查閱或改正個人資料的要求須以書面向運輸及物流局(運輸科)保障個人資料(私隱)主任提出，聯絡地址為香港添馬添美道 2 號政府總部東翼 20 樓。

運輸及物流局常任秘書長(運輸)

年 月 日

* 將不適用者刪去

** 當決定刊憲的日期，這日期便會由運輸及物流局填上

SAMPLE SCHEME UNDER S.8

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)

Scheme annexed to Plan(s) No. _____ and Proposed Resumption Plan(s) No. _____
describing (Project Title)

General Description of Works

Under powers delegated by the Secretary for Transport and Housing under sections 3(3) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370), the Permanent Secretary for Transport and Logistics proposes to execute the road works within the limit of works area as shown on Plan(s) No. _____ and Proposed Resumption Plan(s) No. _____ (“the Plan(s)”) annexed hereto and described hereunder. (Describe briefly the purposes of the proposed works).

The general nature of the proposed works is as follows:

- (i)
- (ii)
- (iii)
- (iv); and
- (v)

*Land to be Resumed

For the purposes of or incidental to the works or the use, the Permanent Secretary for Transport and Logistics proposes that powers under section 13 of the Roads (Works, Use and Compensation) Ordinance may be exercised to resume the land as shown on Proposed Resumption Plan(s) No. _____ annexed hereto and detailed on the resumption table set out thereon. Further notice, setting out the manner in which the land is to be resumed, will be issued under section 14 of the Roads (Works, Use and Compensation) Ordinance as and when required.

*Roads to be Closed

For the purposes of or incidental to the works or the use, the Permanent Secretary for Transport and Logistics proposes that powers under section 17 of the Roads (Works, Use and Compensation) Ordinance may be exercised to close *temporarily or permanently the existing carriageway, footpaths and open space or parts thereof within the limit of works area as shown on the Plan(s). *Temporary alternative access will be provided during the construction period where required. Further notice, setting out the manner in which the roads are to be closed, will be issued under section 18 of the Roads (Works, Use and Compensation) Ordinance as and when required.

Apparatus whose Course or Position to be Altered

For the purposes of or incidental to the works or the use, the Permanent Secretary for Transport and Logistics proposes that powers under section 20 of the Roads (Works, Use and Compensation) Ordinance may be exercised to require alteration of the course or position of the existing services and utilities, such as electricity cables, telecommunication cables, water-mains, gas pipes and other service apparatus lying within the limit of works area and to require repair of any road surface thereby disturbed. Further notice, setting out the manner in which the course or position of such services and utilities is to be altered and the repair of any road surface, will be issued under section 20 of the Roads (Works, Use and Compensation) Ordinance as and when required.

()
Permanent Secretary for Transport
and Logistics

Date _____

(With Chinese Translation)

* Delete whichever is inapplicable

SAMPLE SCHEME UNDER S.8

(根據第8條的計劃摘要樣本)

道路(工程、使用及補償)條例(第370章)

附連於圖則第_____號及建議收地圖則第_____號的計劃
說明_____ (工程項目名稱)

工程的一般說明

運輸及物流局常任秘書長根據運輸及物流局局長按《道路(工程、使用及補償)條例》(第370章)第3(3)條所授權力,現擬進行上述道路工程,其施工區範圍載於附連的圖則第_____號及建議收地圖則第_____號(下稱“該(等)圖則”),並在下文說明。_____ (略述建議工程的目的)。

建議工程的一般性質如下:

- (i)
- (ii)
- (iii)
- (iv) ; 以及
- (v)

*收回土地

為工程或使用或附帶事宜的目的,運輸及物流局常任秘書長建議行使《道路(工程、使用及補償)條例》第13條所賦予的權力,收回附連該(等)圖則的建議收地圖則編號_____詳列的土地。如有需要,當局會根據《道路(工程、使用及補償)條例》第14條的規定另行發出公告,說明收回上述土地的情形。

*封閉道路

為工程或使用或附帶事宜的目的,運輸及物流局常任秘書長建議行使《道路(工程、使用及補償)條例》第17條所賦予的權力,封閉在該(等)圖則所示*施工區範圍內任何現有的行車道、行人路及空地或以上其中一部分。*在施工期間,當局會因應需要另行提供臨時通道。如有需要,當局會根據《道路(工程、使用及補償)條例》第18條的規定另行發出公告,說明封閉該等道路的情形。

*改動器具的路線或位置

為工程或使用或附帶事宜的目的,運輸及物流局常任秘書長建議行使《道路(工程、使用及補償)條例》第20條所賦予的權力,規定有關方面改動施工區範圍內的現有

公用服務器具的路線或位置，例如電線、電話線、供水管、煤氣管，以及任何其他器具的路線或位置，並需將受影響的地面修補。如有需要，當局會根據《道路（工程、使用及補償）條例》第20條的規定另行發出公告，說明改動該等器具的路線或位置及修補任何道路路面的情形。

____年 ____月 ____日

運輸及物流局常任秘書長

*將不適用者刪去

APPENDIX 3.4 SAMPLE NOTICE UNDER SECTION 11(9)(a) ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
(Notice under Section 11(9)(a))

PWP Item No. - (insert project title)

Notice is hereby given that under powers delegated by the Secretary for Transport and Housing under section 3(3) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (“the Ordinance”), the Permanent Secretary for Transport and Logistics proposes, under section 11(1) of the Ordinance, to execute the works as described in G.N. published on and

.....
Permanent Secretary for Transport
and Logistics

Date :

(With Chinese Translation)

**SAMPLE NOTICE UNDER SECTION 11(9)(a)
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**

道路（工程、使用及補償）條例（第370章）
（根據第11(9)(a)條規定所發的公告）

工務計劃項目第 號-

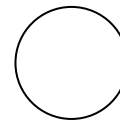
現公布運輸及物流局常任秘書長，根據運輸及物流局局長按《道路（工程、使用及補償）條例》（第370章）（下稱“該條例”）第3(3)條所授權力，按照該條例第11(1)條的規定，建議進行20 年 月 日及20 年 月 日刊登的第 號政府公告所說明的工程。

運輸及物流局常任秘書長

20 年 月 日

**COVERING MEMO TO STL FOR NOTICE UNDER SECTION 11(9)(a)
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**

(ref. HyD's memo ref. (OU70) in HMW 731TH/4/1 dated 13.9.2004,
Comments by HAD on sample Memo (Appendix 3.4) in PAH)



M E M O

<i>From</i> <u>Project Office</u> <i>Ref.</i> _____ <i>in</i> _____ <i>Tel. No.</i> _____ <i>Fax. No.</i> _____ <i>Date</i> _____	<i>To</i> <u>Secretary for Transport and Housing</u> <i>(Attn.: _____)</i> <i>Your Ref.</i> _____ <i>in</i> _____ <i>dated</i> _____ <i>Fax. No.</i> _____ <i>Total Pages</i> _____
---	---

Roads (Works, Use and Compensation) Ordinance (Chapter 370)

G.N.

Subsequent to the first publication of the above undertaking in the Government of the Hong Kong Special Administrative Region Gazette under G.N. on no objection or compensation claim has been received.

2. I should be grateful, therefore, for the authorization of the undertaking without modification, under Section 11(9)(a) of the Ordinance.
3. A draft notice of authorization in both English and Chinese is attached for your arrangement of publication in the Government of the Hong Kong Special Administrative Region Gazette.
4. After the authorization, would you please return the work site copies to me for displaying in prominent positions in the works area.

.....
()
for Head of project office or department

c.c. S for J
 Central & Western Home Affairs Enquiry Centre
 Official Language Agency
 CIO, SPO(Transport), TLB
 Director of Buildings
 CES/A, LandsD
 Land Registry
 D of Hy
 Head of Department

**APPENDIX 3.5 FORMAT OF DRAFT EXCO PAPER FOR AUTHORIZATION
OF WORKS AND USE FOLLOWING RECEIPT OF
OBJECTIONS UNDER ROADS (WORKS, USE AND
COMPENSATION) ORDINANCE**

RESTRICTED

MEMORANDUM FOR EXECUTIVE COUNCIL

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)

(Project Title)

AUTHORIZATION OF WORKS AND USE
FOLLOWING RECEIPT OF OBJECTIONS

THE PROBLEM

Following receipt of objection(s), authorization of the works and the use as described in the plan and scheme at Annex A is required.

RECOMMENDATION AND ADVICE SOUGHT

2. Members are asked to advise, whether the Chief Executive in Council, under section 11 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (“the Ordinance”), should –

- (a) authorize the works and the use as described at Annex A; or
- (b) refer the plan, scheme and objection(s) to the Town Planning Board for a report and advice; or
- (c) authorize the works and the use as described at Annex A, subject to any modifications or conditions as the Chief Executive in Council thinks fit, and if so, the nature of such modifications and conditions; or
- (d) decline to authorize the works and the use as described at Annex A.

BACKGROUND AND ARGUMENT

General Background

3. [Give a brief history of the project.]

The Road Scheme

4. The scheme involves [briefly describe the project in a manner similar to the original

gazetted scheme. The gazetted plan and scheme should be included in the Annex A.]

5. The plan and scheme at Annex A were gazetted on _____ and _____ and made available for public inspection.

The objections

6. _____ objection(s) were received of which _____ remain unresolved. Copies of the objection letters and replies from Government are attached at Annex B.

Criteria for Meeting Objection

7. As a general rule, where an objection is considered valid, an attempt will be made to ameliorate or avoid the effect of the works and the use by modifying the scheme, provided that such modifications –

- (a) would be unlikely to generate further objections;
- (b) would not be against the public interest; and
- (c) would not result in disproportionate additional cost.

Assessment of Objections

8. [Based on the above, each objection or each group of objections has to be separately assessed.]

Compensation and Clearance

9. [Give details of land, structures and families affected by the Scheme and compensation to be offered.]

Implication of Not Authorizing the Works and the Use

10. [State the implications and consequences of not authorizing the Scheme.]

FINANCIAL AND STAFFING IMPLICATIONS

11. The estimated cost of the proposed road works is _____ million and funds will be made available under Head _____.

ENVIRONMENTAL IMPLICATIONS

12. [State the implications.]

SUBSTANABILITY IMPLICATIONS

13. [State the implications.]

PUBLIC CONSULTATION

14. The _____ District Council was consulted on _____ and raised (state the result) _____.

PUBLIC REACTION

15. [State what public reaction is expected if the works are authorized.]

PUBLICITY

16. If the scheme is authorized to proceed, notice of authorization will be published in accordance with the provisions of the Ordinance and a press release emphasizing the benefits of the proposed scheme will be issued on _____.

ATTENDANCE

17. [The titles and names of persons in attendance.]

**APPENDIX 3.6 SAMPLE ORDER UNDER SECTION 13(1) OF ROADS (WORKS,
USE AND COMPENSATION) ORDINANCE**

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
(Interpreted in accordance with the provisions of the
Hong Kong Reunification Ordinance No. 110 of 1997)
(Order under Section 13(1))PWP Item No. - (insert project title)

In exercise of powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, I hereby direct under Section 13(1) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (hereinafter referred to as “the Ordinance”) that the land (insert description of the land, including reference to any plan) which land was described in the scheme referred to in G.N. published on and shall be resumed for the purposes of or incidental to the works or use described above and I specify the period of notice to be stated under Section 13(2) of the Ordinance to be days from the day upon which a notice under Section 14 of the Ordinance is affixed on or near the land.

BY ORDER

.....
*Director of Lands

*Deputy Director of Lands

Date :

* Delete as appropriate

(With Chinese translation)

**SAMPLE ORDER UNDER SECTION 13(1)
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**

道路（工程、使用及補償）條例（第370章）
（按照《香港回歸條例》（1997年第110號）的條文詮釋）
（根據第13(1)條規定所發的命令）

工務計劃項目第 號 —

本人現行使香港特別行政區行政長官所授予的權力，根據道路（工程、使用及補償）條例（第370章）（下稱“該條例”）第13(1)條的規定，指令收回的土地，以便進行上述工程或供該等工程使用。上述土地範圍已在圖則第 號內表明。有關土地詳情，已載於 年 月 日及 年 月 日香港特別行政區政府憲報公告第 號所提述的計劃內。本人並指明根據該條例第13(2)條須述明的通知期為 天，由根據該條例第14條所發通知書張貼在上述土地或其附近的日期起計。

*地政總署署長

*地政總署副署長

年 月 日

* 刪去不適用者

APPENDIX 3.7 SAMPLE NOTICE UNDER SECTION 14 OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)

(Notice under Section 14)

PWP Item No. - (insert project title)

TAKE NOTICE that under powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, the Deputy Director/Specialist, Lands Department has made an order under section 13(1) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (interpreted in accordance with the provisions of the Hong Kong Reunification Ordinance No. 110 of 1997 and hereinafter referred to as “the Ordinance”) directing that the land known and registered in the _____ Land Registry as –

(Insert lot numbers)

as shown coloured _____ on the Resumption Plan No. _____ annexed to the said order, which land was described in the scheme referred to in Government Notice No. _____ published on _____ and _____ shall be resumed.

A copy of the said order and a copy of the aforesaid Resumption Plan No. _____ may be inspected by members of the public, free of charge, at the following locations during the following hours when those offices are normally open to the public –

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> <u>(address)</u>	(Opening hours)
<u>District Office (concerned)</u> <u>(address)</u>	(Opening hours)

This notice was affixed on or near the land on (date).

The Deputy Director/Specialist, Lands Department has under Section 13(2) of the Ordinance specified a period of notice of _____ MONTHS from the date upon which this notice was affixed on or near the land and upon expiry of that period the land described above shall by virtue of section 13(3) of the Ordinance revert to the Government of the Hong Kong Special Administrative Region for the purposes of or incidental to the works or use described in the said scheme.

Any person entitled to compensation under the Ordinance may serve a written claim upon the Secretary for Transport and Housing, which can be submitted via one of the following means, before the expiration of one year from the date of resumption –

- (1) by post or by hand to the Transport and Housing Bureau's Drop in Box No. 6 located at the 2nd Floor Entrance, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong. The box is available for use between 8:00 a.m. and 7:00 p.m. from Monday to Friday (except public holidays);
- (2) by fax to (852) 2868 4643; or
- (3) by email to gazettethb@thb.gov.hk

Personal Information Collection Statement

Any information, including the personal data, submitted to the Secretary for Transport and Housing in connection with any written claims served under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) will be used for the processing of the claims and other related purposes. The provision of any information, including the personal data, other than the information as required under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) is obligatory. If such information, including the personal data, as required under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) is not provided as requested, the claims may be rejected. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other organizations or agencies which are required to handle the claims and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data in relation to their claims. Request for access to or correction of the personal data should be made in writing to the Personal Data Privacy Officer of the Transport and Housing Bureau (Transport Branch) at 20th Floor, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong.

District Lands Officer

Date :

(With Chinese translation)

SAMPLE NOTICE UNDER SECTION 14 ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

道路（工程、使用及補償）條例（第370章）

（根據第14條所發的通知書）

工務計劃項目第 _____ 號 —

現公布地政總署副署長（專業事務）已根據香港特別行政區行政長官授予的權力，根據《道路（工程、使用及補償）條例》（第370章）（按照《香港回歸條例》（1997年第110號）的條文詮釋）（下稱“該條例”）第13(1)條發出命令，指令收回在____土地註冊處註冊為：

（詳列地段）

的土地。上述土地範圍已在上述命令附連的第_____號收地圖則上以____色標示。有關土地詳請已載於_____年_____月_____日及_____年_____月_____日刊登的第_____號政府公告所提述的計劃內描述。

下列辦事處備有上述命令的副本及第_____號收地圖則的副本，公眾人士可於辦事處下述開放時間內免費查閱：

辦事處地址

開放時間

（公眾假期除外）

香港中環統一碼頭道38號
海港政府大樓地下
中西區民政諮詢中心

星期一至星期五
上午9時至晚上7時

有關_____地政處
(地址);

(開放時間)

有關_____民政事務處
(地址)

(開放時間)

本通知書已於 _____ 年 _____ 月 _____ 日張貼於上述土地或其附近。

地政總署副署長（專業事務）已根據該條例第13(2)條，指明通知期為 _____ 個月，由本通知書張貼於上述土地或其附近的日期起計。憑藉該條例第13(3)條，上述土地於通知期屆滿時，將復歸香港特別行政區政府所有，以便進行上述計劃所描述的工程或使用或附帶事宜。

根據該條例有權獲得補償的人士，可以書面向運輸及物流局局長提出申索。書面申索須於政府收地日期起計一年內，可經下列其中一個方式遞交：

- (1) 以郵遞或專人送達方式，把書面申索投入設於香港添馬添美道2號政府總部2樓東翼入口處的運輸及物流局第6號投遞箱。投遞箱的收件時間為星期一至五（公眾假期除外）上午8時至晚上7時；
- (2) 傳真至(852)2868 4643；或
- (3) 電郵至 gazettethb@thb.gov.hk。

收集個人資料聲明

與任何根據《道路(工程、使用及補償)條例》(第 370 章)第 29 條提出的書面申索有關而提交予運輸及物流局局長的資料（包括個人資料），將會用於處理該等申索及其他相關用途。申索人必須提供《道路(工程、使用及補償)條例》(第 370 章)第 29 條所要求的資料（包括個人資料）。如果沒有按照《道路(工程、使用及補償)條例》(第 370 章)第 29 條的規定提供所需資料（包括個人資料），申索或會被駁回。上述提交的任何資料（包括個人資料），或會向需要處理該等申索及相關事宜的有關政府部門及其他組織或機構披露。上述提交個人資料的人士，有權要求查閱和改正與他們的申索有關的個人資料。查閱或改正個人資料的要求須以書面向運輸及物流局保障個人資料(私隱)主任提出，聯絡地址為香港添馬添美道 2 號政府總部東翼 20 樓。

地政專員

年 月 日

APPENDIX 3.8 SAMPLE ORDER UNDER SECTION 15(1) OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
(Order under Section 15(1))

PWP Item No. - (insert project title)

In exercise of powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, I hereby direct under Section 15(1) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (hereinafter referred to as “the Ordinance”) that (describe the nature of the easement, permanent right or temporary right of occupation) over the land (describe the land including reference to any plan) which land was described in the scheme referred to in G.N. published on and shall be created in favour of the Government of the Hong Kong Special Administrative Region for the purposes of or incidental to the works or use described above and I specify the period of notice to be stated under Section 15(2) of the Ordinance to be days from the day on which a notice under Section 16 of the Ordinance is affixed upon or near the land.

** AND I further direct under Section 15(3) of the Ordinance that subject to the serving of any notice required to be given under Section 15(5) of the Ordinance (describe any consequential or incidental provisions which appear to be necessary, including powers for persons, named or described, to enter upon the land for the purposes of Section 15(3)).

BY ORDER

.....
*Director of Lands
*Deputy Director of Lands

Date :

- * Delete where inappropriate
- ** Delete if provisions under Section 15(3) are not required

(With Chinese translation)

**SAMPLE ORDER UNDER SECTION 15(1)
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**

道路（工程、使用及補償）條例（第370章）
（根據第15(1)條規定所發的命令）

工務計劃項目第 號 —

本人現行使香港特別行政區行政長官所授予的權力，根據《道路（工程、使用及補償）條例》（第370章）（下稱“該條例”）第15(1)條的規定，指令於 的土地上制訂歸香港特別行政區政府所有的永久性／暫時性地役權，以便進行上述工程或供該等工程使用。上述範圍已在圖則第 號內表明。有關土地詳情，已載於 年 月 日及 年 月 日的香港特別行政區政府憲報公告第 號所述的計劃摘要內。本人並根據該條例第15(2)條的規定，指定通知期限為 天，由根據該條例第16條的規定於該土地上或附近張貼公告的日期起計。

**本人並根據該條例第15(3)條的規定，在發出該條例第15(5)條規定給予的通知的條件下，（列出任何需要的相應條件或附帶條件，包括為施行第15(3)條而有權進入該地的人士[姓名或有關說明]）。

*地政總署署長
*地政總署副署長

年 月 日

* 刪去不適用者

** 如不需加入第15(3)條的規定，刪去此段

APPENDIX 3.9 SAMPLE NOTICE UNDER SECTION 16 OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
(Notice under Section 16)

PWP Item No. - (insert project title)

TAKE NOTICE that under powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, the Deputy Director/Specialist, Lands Department has made an order under section 15(1) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (hereinafter referred to as “the Ordinance”) directing that (described the nature of the easement, permanent right or temporary occupation) for a period of ____ months be created over the land known and registered in the _____ Land Registry as –

(Insert lot numbers)

as shown coloured ____ on the Plan No. _____ annexed to the said order, which land was described in the scheme referred to in Government Notice No. _____ published on _____ and _____.

The Deputy Director/Specialist, Lands Department has under section 15(3) of the Ordinance further directed that subject to the serving of any notice required to be given under section 15(5) of the Ordinance, the Director of _____, his officers, workmen, servants, contractors and any other persons permitted by him are authorized to enter upon the said land for the purpose of carrying out any operations or installing, maintaining or removing any structures or apparatus in connection with the said scheme.

A copy of the said order and a copy of the aforesaid Plan No. ____ may be inspected by members of the public, free of charge, at the following locations during the following hours when those offices are normally open to the public –

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> (address)	(Opening hours)
<u>District Office (concerned)</u> (address)	(Opening hours)

This notice was affixed on or near the land on (date).

The Deputy Director/Specialist, Lands Department has under section 15(2) of the Ordinance specified a period of notice of ___ MONTHS from the date upon which this notice was affixed on or near the said land and it is hereby declared upon expiry of that period, the said (easement/right) shall by virtue of section 15(4) of the Ordinance be created in favour of the Government of the Hong Kong Special Administrative Region for the purposes of or incidental to the works or use described in the said scheme.

Any person entitled to compensation under the Ordinance may serve a written claim upon the Secretary for Transport and Housing, which can be submitted via one of the following means, before the expiration of one year from the date on which the said (easement/right) are created –

- (1) by post or by hand to the Transport and Housing Bureau's Drop in Box No. 6 located at the 2nd Floor Entrance, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong. The box is available for use between 8:00 a.m. and 7:00 p.m. from Monday to Friday (except public holidays);
- (2) by fax to (852) 2868 4643; or
- (3) by email to gazettethb@thb.gov.hk

Personal Information Collection Statement

Any information, including the personal data, submitted to the Secretary for Transport and Housing in connection with any written claims served under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) will be used for the processing of the claims and other related purposes. The provision of any information, including the personal data, other than the information as required under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) is obligatory. If such information, including the personal data, as required under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) is not provided as requested, the claims may be rejected. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other organizations or agencies which are required to handle the claims and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data in relation to their claims. Request for access to or correction of the personal data should be made in writing to the Personal Data Privacy Officer of the Transport and Housing Bureau (Transport Branch) at 20th Floor, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong.

Date :
(With Chinese translation)

District Lands Officer

SAMPLE NOTICE UNDER SECTION 16 ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

道路（工程、使用及補償）條例（第370章）
（根據第16條規定所發的通知書）

工務計劃項目第 _____ 號 —

現公布地政總署副署長（專業事務）已根據特別行政區行政長官授予的權力，根據《道路（工程、使用及補償）條例》（第370章）（下稱“該條例”）第15(1)條發出命令，指令在_____土地註冊處註冊為：

（詳列地段）

的土地上，設定（說明地役權、永久權利或暫時佔用權利的性質），為期_____個月。有關土地範圍已在上述命令夾附的第_____號圖則上以_____色標示。有關土地詳情，已載於 _____ 年 _____ 月 _____ 日及 _____ 年 _____ 月 _____ 日發布的第_____號政府公告所提述的計劃內。

地政總署副署長（專業事務）並已根據該條例第15(3)條，進一步指令只須根據該條例第15(5)條送達任何所需的通知書，_____署長、其屬員、工人、受僱人、承建商及任何獲_____署長授權或准許的其他人士，均獲授權進入上述土地，進行與該計劃有關的任何作業或為裝設、保養或拆除任何構築物或器具。

下列辦事處備有上述命令的副本及前述第_____號圖則的副本，公眾人士可於辦事處下述一般開放時間內免費查閱：

辦事處地址

香港中環統一碼頭道38號
海港政府大樓地下
中西區民政諮詢中心

開放時間
(公眾假期除外)

星期一至星期五
上午9時至晚上7時

有關 _____ 地政處
(地址):

(開放時間)

有關 _____ 民政事務處
(地址)

(開放時間)

本通知書已於 _____ 年 _____ 月 _____ 日張貼於上述土地或其附近。

地政總署副署長（專業事務）業已根據該條例第15(2)條，指明通知期為_____個月，由本通知書張貼於上述土地或其附近的日期起計。現謹此聲明，在該等通知期屆

滿時，上述（地役權/權利），將為該計劃所描述的工程或使用或其附帶事宜的目的，憑藉該條例第15(4)條為香港特別行政區政府而設定。

根據該條例有權獲得補償的人士，可以書面向運輸及物流局局長提出申索。書面申索須於設定上述（地役權/權利）的日期起計一年內，可經下列其中一個方式遞交：

- (1) 以郵遞或專人送達方式，把書面申索投入設於香港添馬添美道2號政府總部東翼2樓入口處的運輸及物流局第6號投遞箱。投遞箱的收件時間為星期一至五（公眾假期除外）上午8時至晚上7時；
- (2) 傳真至(852)2868 4643；或
- (3) 電郵至 gazettethb@thb.gov.hk。

收集個人資料聲明

與任何根據《道路(工程、使用及補償)條例》(第 370 章)第 29 條提出的書面申索有關而提交予運輸及物流局局長的資料（包括個人資料），將會用於處理該等申索及其他相關用途。申索人必須提供《道路(工程、使用及補償)條例》(第 370 章)第 29 條所要求的資（包括個人資料）。如果沒有按照《道路(工程、使用及補償)條例》(第 370 章)第 29 條的規定提供所需資料（包括個人資料），申索或會被駁回。上述提交的任何資料（包括個人資料），或會向需要處理該等申索及相關事宜的有關政府部門及其他組織或機構披露。上述提交個人資料的人士，有權要求查閱和改正與他們的申索有關的個人資料。查閱或改正個人資料的要求須以書面向運輸及物流局保障個人資料(私隱)主任提出，聯絡地址為香港添馬添美道 2 號政府總部東翼 20 樓。

地政專員

年 月 日

**APPENDIX 3.10 SAMPLE ORDER UNDER SECTION 17 OF ROADS (WORKS,
USE AND COMPENSATION) ORDINANCE**
Closure of roads under Section 17(1)(a)

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
 (Order under section 17)

PWP Item No. - (insert project title)

In exercise of powers delegated by the Chief Executive, I hereby direct under section 17(1)(a) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (hereinafter referred to as “the Ordinance”) that the roads as shown on Plan No. _____ (“the Plan”) and described in the scheme annexed thereto, be permanently closed*/temporarily closed*/modified*. The Plan and Scheme were referred to in G.N. _____ published on _____ and _____. I further declare under section 17(1)(c) of the Ordinance that as from (insert date or dates of period) all public or private rights in, upon, under or over the affected road*/these roads* shall be extinguished (or modified or restricted, describe extent).

BY ORDER

.....
 Permanent Secretary for Transport
 and Logistics

Date :

* Delete where inappropriate

(With Chinese Translation)

SAMPLE ORDER UNDER SECTION 17
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

Closure of roads under Section 17(1)(a)

道路（工程、使用及補償）條例（第370章）
（根據第17條規定所發的命令）

工務計劃項目第 號 —

本人現行使行政長官授予的權力，根據《道路（工程、使用及補償）條例》（第370章）（下稱“該條例”）第17(1)(a)條的規定發出指令，* 永久封閉/臨時封閉/修改多條現有道路。其範圍載於圖則第 號(下稱“該圖則”)並在附連的計劃內說明。該圖則及計劃在(日期)及(日期)第 號香港特別行政區政府公告已有提及。

此外，本人並根據該條例第17(1)(c)條的規定聲明，由 年 月 日起，上述受影響的道路上、之下或之上的一切公有權或私人權利，須予終絕（或修訂或限制如下：）。

運輸及物流局常任秘書長

年 月 日

* 刪去不適用者

SAMPLE ORDER UNDER SECTION 17
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE
Reclamation of the Government of the Hong Kong Special Administrative Region
foreshore under Section 17(1)(b)

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
(Order under section 17)

PWP Item No. - insert project title

In exercise of powers delegated by the Chief Executive, I hereby direct under section 17(1)(b) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (hereinafter referred to as “the Ordinance”) that the Government of the Hong Kong Special Administrative Region foreshore (or sea-bed) as shown on Plan No. _____ (“the Plan”) and described in the scheme annexed thereto, be reclaimed. The Plan and the said scheme were referred to in G.N. _____ published on _____ and _____. I further declare under section 17(1)(c) of the Ordinance that as from (insert date or dates of period) all public or private rights in, upon, under or over the affected foreshore (or sea-bed) shall be extinguished (or modified or restricted, describe extent).

BY ORDER

.....
Permanent Secretary for Transport
and Logistics

Date :

(With Chinese Translation)

Note : In cases where both roads and foreshore have to be closed and reclaimed for the same project, a single order should be drafted.

SAMPLE ORDER UNDER SECTION 17
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE
Reclamation of the Government of the Hong Kong Special Administrative Region
foreshore under Section 17(1)(b)

道路（工程、使用及補償）條例（第370章）
（根據第17條規定所發的命令）

工務計劃項目第 號 —

本人現行使行政長官授予的權力，根據《道路（工程、使用及補償）條例》（第370章）（下稱“該條例”）第17(1)(b)條的規定發出指令，在（香港特別行政區政府前濱（或海床）名稱及範圍）進行填海工程。其範圍載於圖則第 號（下稱“該圖則”）並在附連的計劃內說明。該圖則及計劃在（日期）及（日期）第 號香港特別行政區政府公告已有提及。

此外，本人並根據該條例第17(1)(c)條的規定聲明，由 年 月 日起，上述前濱（或海床）上、之下或之上的一切公有權利或私人權利，須予終絕（或修訂或限制如下：）。

運輸及物流局常任秘書長

年 月 日

**APPENDIX 3.11 SAMPLE NOTICE UNDER SECTION 18 OF ROADS (WORKS,
USE AND COMPENSATION) ORDINANCE**
Closure of roads under Section 17(1)(a)

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
(Notice under Section 18)

PWP Item No. - (insert project title)

TAKE NOTICE that under powers delegated by the Chief Executive, the Permanent Secretary for Transport and Logistics has ordered under Section 17(1)(a) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (“the Ordinance”) to close permanently*/close temporarily*/modify* the road(s) as shown on Plan No. _____ (“the Plan”) and described in the scheme annexed thereto. The Plan and scheme were referred to in G.N. _____ published on _____ and _____. The Permanent Secretary for Transport and Logistics has further declared under section 17(1)(c) of the Ordinance that as from (date or dates of period), all public or private rights in, upon, under or over the road(s) to be permanently closed*/temporarily closed*/modified* shall be extinguished*/modified*/restricted*, as the case may be, during that period*.

The works to be carried out in association with this closure involve (brief description of the works).

A copy of the order and the Plan may be inspected by members of the public free of charge at the following places during the following hours when those offices are normally open to the public.

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> <u>(address)</u>	(Opening hours)
<u>District Office (concerned)</u> <u>(address)</u>	(Opening hours)

This notice will be affixed on or near the affected road(s) on (date - normally the day before the date of gazetting the notice).

Any person entitled to compensation under the Ordinance may serve a written claim upon the Secretary for Transport and Housing, which can be submitted via one of the following means, before the expiration of one year from the date of closure*/extinction*/modification*/restriction* –

- (1) by post or by hand to the Transport and Housing Bureau's Drop in Box No. 6 located at the 2nd Floor Entrance, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong. The box is available for use between 8:00 a.m. and 7:00 p.m. from Monday to Friday (except public holidays);
- (2) by fax to (852) 2868 4643; or
- (3) by email to gazettethb@thb.gov.hk

Personal Information Collection Statement

Any information, including the personal data, submitted to the Secretary for Transport and Housing in connection with any written claims served under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) will be used for the processing of the claims and other related purposes. The provision of the information, including the personal data, as required under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) is obligatory. If such information, including the personal data, as required under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) is not provided as requested, the claims may be rejected. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other organizations or agencies which are required to handle the claims and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data held by us. Request for access to or correction of the personal data should be made in writing to the Personal Data Privacy Officer of the Transport and Housing Bureau (Transport Branch) at 20th Floor, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong.

.....
Permanent Secretary for Transport
and Logistics

Date :

* Delete where inappropriate

(With Chinese Translation)

**SAMPLE NOTICE UNDER SECTION 18
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**

Closure of roads under Section 17(1)(a)

根據第18條規定所發的公告樣本

道路（工程、使用及補償）條例（第370章）
（根據第18條規定所發的公告）

工務計劃項目第 號 —

現公布運輸及物流局常任秘書長已依據行政長官授予的權力，根據《道路（工程、使用及補償）條例》（第370章）（下稱“該條例”）第17(1)(a)條的規定發出命令，*永久封閉／暫時封閉／修改施工區界限內多條現有道路。工程範圍在圖則第 號（下稱“該圖則”）顯示，並在附連的計劃內說明。該圖則及計劃已在(日期)及(日期)刊登的第 號政府公告提及。運輸及物流局常任秘書長並根據該條例第17(1)(c)條的規定聲明，*由 年 月 日起/由 年 月 日至 年 月 日止，上述須*永久封閉／暫時封閉／修改的道路上、之下或之上的一切公有權利或私人權利，*在上述期間，視乎個別情況而定，須予*終絕／修訂／限制。

與封閉道路有關的工程，主要包括 。

下列辦事處備有該命令的副本及該圖則，公眾可於辦事處下述一般開放時間內免費查閱：

<i>辦事處地址</i>	<i>開放時間 (公眾假期除外)</i>
香港中環統一碼頭道38號 海港政府大樓地下 中西區民政諮詢中心	星期一至星期五 上午9時至晚上7時

有關 地政處 (地址) (開放時間)

有關 民政事務處 (地址) (開放時間)

本公告將於 年 月 日張貼於受影響道路或其附近地方。

根據上述條例有權獲得補償的人士，可以書面向運輸及物流局局長提出申索。書面申索須於道路封閉或有關權利終絕、修訂或限制當日起計一年內，經下列其中一個方式遞交：

- (1) 以郵遞或專人送達方式，把書面申索投入設於香港添馬添美道2號政府總部東翼2樓入口處的運輸及物流局第6號投遞箱。投遞箱的收件時間為星期一至五（公眾假期除外）上午8時至晚上7時；
- (2) 傳真至(852)2868 4643；或
- (3) 電郵至gazettethb@thb.gov.hk。

收集個人資料聲明

與任何根據《道路(工程、使用及補償)條例》(第370章)第29條提出的書面申索有關而提交予運輸及物流局局長的資料(包括個人資料)，將會用於處理該等申索及其他相關用途。申索人必須提供《道路(工程、使用及補償)條例》(第370章)第29條所要求的資料(包括個人資料)。如果沒有按照《道路(工程、使用及補償)條例》(第370章)第29條的規定提供所需資料(包括個人資料)，申索或會被駁回。上述提交的任何資料(包括個人資料)，或會向需要處理該等申索及相關事宜的有關政府部門及其他組織或機構披露。上述提交個人資料的人士，有權要求查閱和改正本局所持有其本人的個人資料。查閱或改正個人資料的要求須以書面向運輸及物流局保障個人資料(私隱)主任提出，聯絡地址為香港添馬添美道2號政府總部東翼20樓。

運輸及物流局常任秘書長

年 月 日

* 刪去不適用者

SAMPLE NOTICE UNDER SECTION 18
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE
 Reclamation of the Government of the Hong Kong Special Administrative Region
 foreshore under Section 17(1)(b)

DRAFT

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
 (Notice under section 18)

PWP Item No. - (insert project title)

TAKE NOTICE that under powers delegated by the Chief Executive, the Permanent Secretary for Transport and Logistics has ordered under section 17(1)(b) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (“the Ordinance”) that the Government of the Hong Kong Special Administrative Region foreshore (or sea-bed) as shown on Plan No. _____ (“the Plan”) and described in the scheme annexed thereto, be reclaimed. The Plan and scheme were referred to in G.N. _____ published on _____ and _____. The Permanent Secretary for Transport and Logistics has further declared under section 17(1)(c) of the Ordinance that as from (date or dates of period) all public or private rights in, upon, under or over the affected foreshore*/sea-bed* shall be extinguished*/modified*/restricted*.

The works to be carried out in association with this reclamation involve (brief description of the works).

A copy of the order and the Plan may be inspected by members of the public free of charge at the following places during the following hours when those offices are normally open to the public.

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> (address)	(Opening hours)
<u>District Office (concerned)</u> (address)	(Opening hours)

This notice will be affixed on or near the affected foreshore*/sea-bed* on (date - normally the day before the date of gazetting the notice).

Any person entitled to compensation under the Ordinance may serve a written claim upon the Secretary for Transport and Logistics, which can be submitted via one of the following means, before the expiration of one year from the date of extinction*/modification*/restriction* –

- (1) by post or by hand to the Transport and Logistics Bureau's Drop-in Box No. 6 located at the 2nd Floor Entrance, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong. The box is available for use between 8:00 a.m. and 7:00 p.m. from Monday to Friday (except public holidays);
- (2) by fax to (852) 2868 4643; or
- (3) by email to gazettethb@thb.gov.hk

Personal Information Collection Statement

Any information, including the personal data, submitted to the Secretary for Transport and Logistics in connection with any written claims served under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) will be used for the processing of the claims and other related purposes. The provision of the information, including the personal data, as required under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) is obligatory. If such information, including the personal data, as required under section 29 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) is not provided as requested, the claims may be rejected. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other organizations or agencies which are required to handle the claims and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data held by us. Request for access to or correction of the personal data should be made in writing to the Personal Data Privacy Officer of the Transport and Logistics Bureau at 20th Floor, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong.

.....
Permanent Secretary for Transport
and Logistics

Date :

* Delete where inappropriate

(With Chinese Translation)

Note : In cases where both roads and foreshore have to be closed and reclaimed for the same project, single notice should be drafted.

SAMPLE NOTICE UNDER SECTION 18
ROADS (WORKS, USE AND COMPENSATION) ORDINANCE
Reclamation of the Government of the Hong Kong Special Administrative Region
foreshore under Section 17(1)(b)

根據第18條規定所發的公告樣本

道路（工程、使用及補償）條例（第370章）
（根據第18條規定所發的公告）

工務計劃項目第 號 —

現公布運輸及物流局常任秘書長已依據行政長官授予的權力，根據《道路（工程、使用及補償）條例》（第370章）（下稱“該條例”）第17(1)(b)條的規定發出命令，在（香港特別行政區政府前濱（或海床）名稱及範圍）進行填海工程。工程範圍載於圖則第 號（下稱“該圖則”）顯示，並在附連的計劃內說明。該圖則及計劃已在（日期）及（日期）第 號政府公告提及。運輸及物流局常任秘書長並根據該條例第17(1)(c)條的規定聲明，由 年 月 日起，上述受影響的*前濱／海床上、之下或之上的一切公有權利或私人權利，須予*終絕／修訂／限制。

與填海工程有關的工程，主要包括 。

下列辦事處備有該命令的副本及該圖則，公眾可於辦事處下述一般開放時間內免費查閱：

<i>辦事處地址</i>	<i>開放時間</i> <i>（公眾假期除外）</i>
香港中環統一碼頭道38號 海港政府大樓地下 中西區民政諮詢中心	星期一至星期五 上午9時至晚上7時
有關 地政處 <u>（地址）</u> ;	（開放時間）
有關 民政事務處 <u>（地址）</u>	（開放時間）

本公告將於 年 月 日張貼於受影響前濱／海床之上或其附近。

根據上述條例有權獲得補償的人士，可以書面向運輸及物流局局長提出申索。書面申索須於有關權利終絕、修訂或限制當日起計一年內，經下列其中一個方式遞交：

- (1) 以郵遞或專人送達方式，把書面申索投入設於香港添馬添美道2號政府總部東翼2樓入口處的運輸及物流局第6號投遞箱。投遞箱的收件時間為星期一至五（公眾假期除外）上午8時至晚上7時；
- (2) 傳真至(852)2868 4643；或

(3) 電郵至gazettethb@thb.gov.hk。

收集個人資料聲明

與任何根據《道路(工程、使用及補償)條例》(第370章)第29條提出的書面申索有關而提交予運輸及物流局局長的資料(包括個人資料),將會用於處理該等申索及其他相關用途。申索人必須提供《道路(工程、使用及補償)條例》(第370章)第29條所要求的資料(包括個人資料)。如果沒有按照《道路(工程、使用及補償)條例》(第370章)第29條的規定提供所需資料(包括個人資料),申索或會被駁回。上述提交的任何資料(包括個人資料),或會向需要處理該等申索及相關事宜的有關政府部門及其他組織或機構披露。上述提交個人資料的人士,有權要求查閱和改正本局所持有其本人的個人資料。查閱或改正個人資料的要求須以書面向運輸及物流局保障個人資料(私隱)主任提出,聯絡地址為香港添馬添美道2號政府總部東翼20樓。

運輸及物流局常任秘書長

年 月 日

* 刪去不適用者

APPENDIX 3.12 SAMPLE NOTICE UNDER SECTION 5 OF FORESHORE AND SEA-BED (RECLAMATIONS) ORDINANCE

Draft Gazette Notice

LANDS DEPARTMENT

FORESHORE AND SEA-BED (RECLAMATIONS) ORDINANCE (CHAPTER 127) (NOTIFICATION UNDER SECTION 5)

PUBLIC WORKS PROGRAMME NO. [*insert the PWP No.*]
[*insert the title of the proposed undertaking*]

Notice is hereby given that the undertaking described in the Schedule below is proposed. A copy of the plan delineating and describing the proposed undertaking and the foreshore and sea-bed to be affected thereby has been prepared and may be inspected by the public free of charge on the Lands Department website (www.landsd.gov.hk) under Government Notices, at the Lands Department Survey and Mapping Office, 23rd Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong (where copies can be purchased on order) and at the [*insert the name and address of the District Office for the area*] during the following hours :

<i>Lands Department Survey and Mapping Office</i>	
Monday to Friday	8:45 a.m. to 5:30 p.m.
Saturdays, Sundays and Public Holidays	closed
<i>District Office Concerned</i>	(Opening hours)
(Day)	

Further queries regarding the proposed works can be addressed to [*insert the name, address and enquiry telephone number of the initiating department*].

Any person who considers that he has an interest, right or easement in or over the foreshore and sea-bed so described may, by notice in writing delivered to the Director of Lands, 20th Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong before the expiration of two months* from the date of this notice, object to the proposed undertaking. The notice of objection shall describe the interest, right or easement of the objector and the manner in which he alleges he will be affected.

SCHEDULE

<i>Foreshore and sea-bed affected</i>	<i>Description of the undertaking and the manner in which the foreshore and sea-bed will be affected by the proposed undertaking</i>
Approximately [<i>insert the area in hectares or square metres</i>] of foreshore and sea-bed situated at [<i>insert the location</i>] as delineated	[<i>insert the required details</i>]

and shown edged black on a plan deposited in the Land Registry and numbered [*insert the plan no.*]

The area of foreshore and sea-bed affected is shown on the plan on the next page for identification purposes only. The area is more particularly shown on the plan numbered [*insert the plan no.*] above referred to.

Personal Information Collection Statement

Any information, including the personal data, submitted to the Director of Land in connection with any written objections/comments will be used for the processing of the objections/comments and other related purposes. The provision of any information, including the personal data, other than the information as required under section 6(2) of the Foreshore and Sea-bed (Reclamations) Ordinance (Chapter 127) is voluntary. However, it may not be possible to process the objections/comments if such information, including the personal data, is not sufficiently provided. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other persons, organizations or agencies which are required to handle the objections/comments and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data held by us. Request for access to or correction of the personal data should be made in writing to the Departmental Personal Data Controlling Officer of Lands Department at 21st Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong.

.....
Deputy Director/Specialist, Lands Department

Date:

- * If the initiating department would like to provide an objection period of more than two months, it should raise the special request to D of L when the request for gazetting is submitted.

(With Chinese translation)

SAMPLE NOTICE UNDER SECTION 5 FORESHORE AND SEA-BED (RECLAMATIONS) ORDINANCE

前濱及海床（填海工程）條例（第127章）
（根據第5條規定所發的公告）

工務計劃項目第[加插工務計劃項目編號]號
[加插擬建工程的名稱]

現公布政府擬進行下面附表所描述的工程，並已製備圖則，劃定及描述該項工程的範圍和受工程影響的前濱及海床。公眾人士可於地政總署網頁(www.landsd.gov.hk) 政府公告一欄內免費查閱該圖則，亦可於下列時間在香港北角渣華道333號北角政府合署23樓地政總署測繪處（可於該處訂購圖則）及[加插有關分區民政事務處的名稱及地址]，免費查閱該圖則：

□ □ □ □ □ □ □

□ □ □ □ □ □ □

□ □ □ □ □ □ □ □

□ □ □ □ □ □ □ □ □

□ □ 8□ 45□ □ □ □ 5□ 30□

□ □

(開放時間)

如欲進一步查詢擬議工程的詳情，請與[加插負責部門的名稱、地址及查詢電話號碼]聯絡。

任何人士如認為他擁有在該前濱及海床或其上的權益、權利或地役權，可在本公告的日期起計兩個月*的期限屆滿前，向地政總署署長交付書面通知，反對該項建議工程。地政總署署長的地址為香港北角渣華道333號北角政府合署20樓。反對通知書須描述反對人的權益、權利或地役權，以及他聲稱他會受到影響的方式。

附 表

受影響的前濱及海床

工程說明及該項工程對有關前濱及海床的影響

位於[加插地點]約[加插以公頃或平方米計算的面積]的前濱及海床，範圍在第[加插圖則編號]號圖則上以黑邊線標明。該圖則現存於土地註冊處。

[加插必需的詳情]

下一頁的圖則示明受影響的前濱及海床。該圖則只作識別用，欲知較詳細資料，請參閱上述第[加插圖則編號]號圖則。

收集個人資料聲明

提交予地政總署署長並且與任何反對書／書面意見有關的任何資料(包括個人資料)，將會用於處理該等反對書／書面意見及其他相關用途。除《前濱及海床(填海工程)條例》(第127章)第6(2)條所規定必須提供的資料外，提供任何其他資料(包括個人資料)均屬自願性質。然而，如果提供的資料(包括個人資料)不足，本署或許未能處理該等反對書／書面意見。上述提交的任何資料(包括個人資料)，或會向須處理該等反對書／書面意見及相關事宜的有關政府部門及其他人士、組織或機構披露。上述提交個人資料的人士，有權要求查閱和改正本局所持有其本人的個人資料。查閱或改正個人資料的要求須以書面向地政總署部門個人資料管制主任提出，聯絡地址為香港北角渣華道333號北角政府合署21樓。

地政總署副署長(專業事務)

年 月 日

* 倘負責部門擬給予超過兩個月的反對期，應在要求刊憲時，向地政總署署長提出此特別要求。



(LOCATION PLAN)

APPENDIX 3.13 SAMPLE PRESS RELEASE UNDER FORESHORE AND SEA-BED (RECLAMATIONS) ORDINANCEDraft Press Release

FORESHORE AND SEA-BED (RECLAMATIONS) ORDINANCE (Chapter 127)

(insert the title of the proposed undertaking)

Government intends to [state the activity] within an area of approximately [insert the area in hectares or square metres] of foreshore and sea-bed at [insert the location]. This is to provide land/for the purpose of [state the end use of the formed land or the undertaking].

The work is scheduled to commence in [insert the date of commencement] and to be completed by [insert the date of completion].

The extent of the area affected is described in a notice published in the Government Gazette on [insert the date of first gazetting]. Any person who considers that he has an interest, right or easement in or over the foreshore and sea-bed involved may submit a written objection to the Director of Lands, 20th Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong within two months* from that date, i.e. on or before [insert the date of expiry of the period for the making of objections]. The notice of such objection shall describe the interest, right or easement of the objector and the manner in which he alleges he will be affected.

The notice (in both English and Chinese) together with its related plan No. [insert the plan no.] can be seen on notice boards posted near the site. The plan can also be seen at the Lands Department Survey and Mapping Office, 23rd Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong (where copies can be purchased on order) and at the [insert the name and address of the District Office for the area].

* If the initiating department would like to provide an objection period of more than two months, it should raise the special request to D of L when the request for gazetting is submitted.

(With Chinese translation)

SAMPLE PRESS RELEASE UNDER FORESHORE AND SEA-BED (RECLAMATIONS) ORDINANCE

新聞擬稿

前濱及海床（填海工程）條例（第127章）
[加插擬建工程的名稱]

政府擬於[加插地點]約[加插以公頃或平方米計算的面積]的前濱及海床範圍內，[說明有關活動]。有關工程旨在[說明經平整土地或工程的最終用途]。

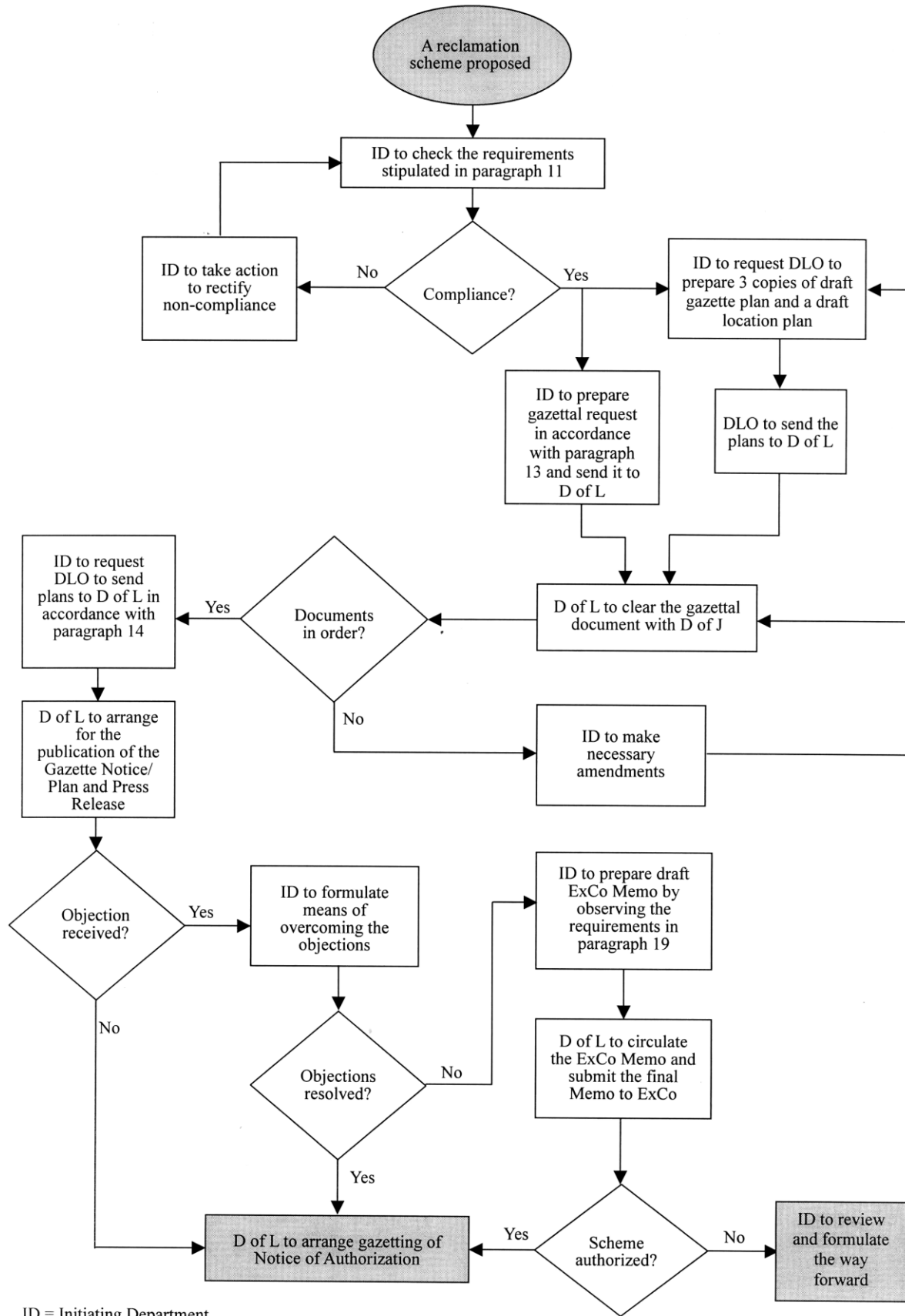
工程定於[加插開始施工日期]展開，約於[加插完工日期]完成。

受工程影響的範圍在[加插首次刊憲日期]憲報發布的政府公告中已載明。任何人士如認為他擁有在該前濱及海床或其上的權益、權利或地役權，可在上述日期起計的兩個月*內，即[加插提出反對期的屆滿日期]或該日前，向地政總署署長遞交書面反對。反對通知書必須描述反對人的權益、權利或地役權，以及他聲稱他會受到影響的方式。

該公告的中英文版及有關的第[加插圖則編號]號圖則已張貼在該處附近的告示板上。查閱有關圖則亦可到香港北角渣華道333號北角政府合署23樓地政總署測繪處及[加插有關分區民政事務處的名稱及地址]。北角政府合署地政總署測繪處並同時接受訂購該圖則。

*倘負責部門擬給予超過兩個月的反對期，應在要求刊憲時，向地政總署署長提出此特別要求。

APPENDIX 3.14 FLOWCHART SHOWING THE PROCEDURES FOR GAZETTING UNDER THE FS(R)O



APPENDIX 3.14A COMMUNICATION AND ANNOUNCEMENT MECHANISM ON PUBLIC WORKS WITHIN RAILWAY PROTECTION AREA¹

Scope

Public works construction sites within railway protection area.

Communication among Works Department² (WD), Buildings Department (BD), Electrical and Mechanical Services Department (EMSD), and MTR Corporation Limited (MTRCL)

2. **WD** will send a copy of the letter of works commencement of public works³ to **BD**⁴, **EMSD** and **MTRCL**⁵. In the course of works, **WD** will liaise with **MTRCL** for follow-up liaison and monitoring procedures with each other as appropriate.
3. **WD, BD**⁶, **EMSD** and **MTRCL** will notify each other **immediately** if: -
 - (a) the adjoining railway facilities are in imminent danger;
 - (b) the reading of any monitoring checkpoint⁷ for railway facilities reaches the Alarm Level of the AAA-Levels⁸ triggering the **WD** to: -
 - (i) review the construction method(s) and consider mitigation measures (but not suspension of the works concerned); or
 - (ii) suspend the works concerned immediately to avoid potential impacts on the structural safety of railway facilities or safety of railway operation;

1 Statutory railway protection areas are stipulated in Schedule 5 to the Buildings Ordinance and such protection areas for railways pending inclusion into Schedule 5.

2 The managing Works Department of the concerned public works contract.

3 Works generally refer to construction works including but not limited to ground investigation, foundation, excavation and lateral support, retaining wall and sub-structural works etc. which will be executed within or may affect railway facilities and/or operation.

4 The notification should also be accompanied by a consolidated plan showing all the settlement monitoring checkpoints for the public works project.

5 The letter should be sent to (i) **BD** (CSE/Kowloon & Rail), **EMSD** (SE/Railway2) and **MTRCL** (Railway Protection & Land Survey Manager).

6 **BD**'s involvement is confined to re-assure the public the structural safety of the affected railway facilities only.

7 It refers to checkpoint installed according to the plans as requested by **MTRCL**. The checkpoint is for measuring ground/structure settlement, vibration, tilting of structure, water drawdown, track, overhead line etc.

8 AAA-Levels refer to "Alert-Action-Alarm" Levels established and agreed between **WD** and **MTRCL** before commencement of construction works concerned.

- (c) the structural safety of railway facilities or safety of railway operation have been so affected by the construction activities concerned requiring suspension of works⁹; or
- (d) the resumption of the suspended works.

4. For the situation mentioned in paragraph 3(b)(i), **WD and MTRCL** will share the monitoring data of checkpoints with each other for information. Once escalating into the situation mentioned in paragraph 3(b)(ii), **WD and MTRCL** will share the monitoring data of checkpoints with **BD and EMSD**. **WD** will immediately arrange its staff/Consultant to inspect the affected railway facilities and assess their structural safety. **BD** will then inspect and re-assure the structural safety of the affected railway facilities. **EMSD** may inquire **MTRCL** as necessary with a view to strengthening monitoring measures to ensure safety of railway operation. **WD and MTRCL** will liaise with each other to review the construction method(s) and consider necessary mitigation measures, and **MTRCL** shall keep **BD and EMSD** informed of the agreed enhancement proposal(s) in dealing with exceedance of the allowable threshold(s) of the agreed AAA-Levels.

Announcement

Joint Press Release on Suspension of Works

5. A **WD-BD-EMSD** joint press release will be prepared and strive for release within 48 hours upon **suspension of works** concerned due to situations mentioned in paragraph 3(a), (b)(ii) and (c) above, in which **WD, BD and EMSD** should ascertain –

- (a) the structural safety of the affected railway facilities by **WD/WD's Consultant** with **BD's** re-assurance; and
- (b) the safety of railway operation by **EMSD**.

6. **WD**, with input from **BD and EMSD**, will submit the draft joint press release¹⁰ (template at **Annex A**) for **DEVB's** and **TLB's** separate clearance. **WD** will arrange to issue the joint press release. For the avoidance of doubt, the joint press release may be issued before or after **MTRCL's** own announcement of the concerned case, subject to the circumstance of each individual case.

Joint Press Release on Resumption of Works

7. Upon receipt of the Contractor's request for resumption of the suspended works –

9 Suspension of works may be requested by **WD, BD, EMSD or MTRCL**, or being voluntarily initiated by the Contractor of the site.

10 The draft joint press release should be submitted to the relevant housekeeping team of Policy Bureau for clearance.

- (a) **WD** will confirm that the necessary remedial, mitigation and precautionary measures have been approved by **MTRCL** and the resumption of suspended works would not adversely affect the structural safety of the railway facilities and the safety of railway operation;
 - (b) **BD** will re-assure the structural safety of the affected railway facilities on top of the assessment by **WD/WD's Consultant**;
 - (c) **EMSD** will confirm that **MTRCL** has a strengthened monitoring system in place to keep close monitoring of the safety of railway operation under the maintenance regime of track works; and
 - (d) **MTRCL** will ensure the resumption of the suspended works would not affect the structural safety of the railway facilities and the safe operation of the railway and, if applicable, coordinate with **WD** on the adjusted pre-set level for suspension of construction works for monitoring the construction works.
8. A **WD-BD-EMSD** joint press release (template at **Annex B**) will be prepared and issued within 48 hours after the application for resumption of suspended works has been agreed. **WD** will issue the joint press release, with a copy to TLB, DEVB, BD, EMSD and MTRCL for information.

Works Department
Buildings Department
Electrical and Mechanical Services Department
October 2018

Template of Joint Press Release on Suspension of Works
(English Version)

The settlement of railway facilities of <XX Station>

A Government spokesman said today (<Date>) that <reason for suspension (e.g. the readings recorded in the settlement monitoring checkpoints installed at the (location of railway facilities) have reached/exceeded the pre-set trigger level / upon the MTR Corporation Limited (MTRCL)'s request / upon the Buildings Department (BD)'s request / upon the Electrical and Mechanical Services Department (EMSD)'s request / upon the advice of <the relevant Works Department (WD)>>, the <type of works (e.g. foundation works)> of <Project title> have been suspended on <Date of suspension>. <The additional monitoring checkpoints were set up by the relevant contractor in meeting the MTRCL's requirement in accordance with the established procedures for Railway Protection Areas in order to facilitate monitoring of settlement data by the MTRCL to ensure that the structural safety of the railway facilities and safe operation of the railway would not be affected by the works concerned.>

<the WD> and the MTRCL will continue to closely monitor the situation and maintain close communication with the BD and the EMSD to ensure structural safety of the railway facilities and safe operation of the railway.

The BD has deployed staff to inspect the affected <railway facilities> and confirmed that they are structurally safe. The EMSD has reviewed the monitoring data submitted by the MTRCL in relation to safe operation of the railway and confirmed that the condition of the railway fulfills the operational safety requirements. The construction works concerned have not affected the structural safety of railway facilities and safe operation of the railway.

While the related works have been suspended, <the WD> and the MTRCL will request the contractor responsible for the said construction works to formulate mitigation measures and adopt a construction method that would alleviate the effects on the structure of railway facilities.

Upon receipt of the corresponding amendment plans of the project and application for resumption of construction works, <the WD> will vigorously scrutinise the application with a view to ensuring structural safety of the railway facilities, including consulting the MTRCL and other relevant government departments. The EMSD will also confirm that the MTRCL has put in place stringent monitoring measures to ensure the safety of railway operation. Moreover, if the contractor propose to revise the pre-set trigger level(s) for suspension of works, <the WD> will consider the proposal having regard to the circumstances after consulting the EMSD and other relevant government departments. When the application for resumption of suspended works has been agreed, <the WD>, the BD and the EMSD will make announcement to the public about the decision.

Template of Joint Press Release on Suspension of Works **(Chinese Version)**

<XX站> 鐵路設施沉降事宜

政府發言人今日<(X月X日)>表示，<工務工程項目> 在進行 <工程類別 (例如：打樁工程)> 期間，由於 <停工原因 (例如：(鐵路設施地點) 的監測點的沉降記錄達到/超逾停工指標)>，<應香港鐵路有限公司 (港鐵公司) 的要求/屋宇署的要求/機電工程署的要求/按管理該工程工務部門的建議>，有關 <工程類別> 已於 <停工日期> 暫停。<有關監測點是港鐵公司按照鐵路保護區的既定程序，要求工程承建商設置，以便港鐵公司監察沉降數據，確保鐵路設施結構和運作安全不受有關工程影響。>

<管理該工程工務部門>和港鐵公司會繼續密切監察有關情況，並與屋宇署和機電工程署保持緊密溝通，確保鐵路設施結構和鐵路運作安全不受影響。

屋宇署已派員視察有關 <鐵路設施>，確認其結構安全。機電工程署已檢視港鐵公司與鐵路運作安全相關的監測記錄，確定鐵路狀況符合安全運作要求。上述建築工程沒有影響鐵路設施結構和鐵路運作安全。

<管理該工程工務部門>會聯同港鐵公司要求負責該工程項目的承建商制訂緩解措施方案，並採取減低對鐵路設施影響的施工方法。

如接獲該工程承建商的緩解措施方案及復工要求，<管理該工程工務部門>會以確保鐵路設施結構安全的原則嚴格審批有關申請，包括諮詢港鐵公司及其他相關政府部門。機電工程署亦會確定港鐵公司有嚴謹的監測措施繼續確保鐵路運作安全。此外，若工程承建商同時建議調整暫停相關工程的監察指標，<管理該工程工務部門>亦會在諮詢港鐵公司及其他相關政府部門的意見後，按情況考慮工程承建商提出的建議。當復工要求獲得接納後，<管理該工程工務部門>、屋宇署及機電工程署會向公眾公佈有關決定。

Annex B

Template of Joint Press Release on Resumption of Works
(English Version)

Consent given to resume <Type of works> near <XX Station>

A Government spokesman said today (<Date>) that consent has been given to resume the <Type of works> of the <Project title>.

The spokesman said that since <reason for suspension (e.g. the readings recorded in the settlement monitoring checkpoints installed at <location of railway facilities> have reached/exceeded the pre-set trigger level)>, the <Type of works (e.g. foundation works)> of the <Project title> were suspended on <Date of suspension>. The Government announced the situation on <Date>, and the Buildings Department (BD) and the Electrical and Mechanical Services Department (EMSD) have respectively confirmed the structural safety of the relevant railway facilities and safe operation of the railway.

The contractor responsible for the said construction works subsequently submitted to the <the Works Department responsible for the project (WD)> an incident report and a proposal of <remedial/mitigation> measures to alleviate the effects of the said construction works on the structural safety of the nearby railway facilities. The contractor has also requested for resumption of the suspended works.

The BD has ascertained the structural safety of the railway facilities concerned. The MTR Corporation Limited (MTRCL) has been consulted and confirmed that the resumption of works will not affect the structural safety of the railway facilities and safe operation of the railway. The EMSD has also confirmed that the MTRCL has put in place stringent monitoring measures to ensure the safety of railway operation.

Having considered the above advice, the request for resumption of works was accepted on <Date>. The suspended <Type of works> will be resumed on <Date of resumption>, and the proposed <remedial measures / mitigation measures> will be completed prior to the commencement of the remaining works. Having considered the engineering assessment and the revised plans submitted by the contractor responsible for the project, <the WD> accepted the revision of the pre-set trigger level for suspension of works to <XX> millimetres.

<the WD> and the MTRCL will continue to closely monitor the situation and maintain close communication with the BD and the EMSD to ensure structural safety of the railway facilities and the safe operation of the railway, the spokesman said.

Template of Joint Press Release on Resumption of Works
(Chinese Version)

<XX站> 附近的建築工程復工事宜

政府發言人今日<(X月X日)>表示，<工務工程項目>的<停工工程（例如：打樁工程）>已獲准恢復進行。

發言人表示，由於<停工原因（例如：安裝於<鐵路設施地點>的監測點的沉降記錄達到/超逾停工指標）>，<工務工程項目>於<停工日期>暫停有關的<停工工程（例如：打樁工程）>。政府亦於<日期>公布有關情況，並由屋宇署及機電工程署分別確認相關鐵路設施結構和鐵路運作安全。

負責上述工程項目的承建商已向<管理該工程工務部門>提交事件報告，並建議適當<補救／緩解>措施，以減低建築工程對附近鐵路設施結構安全的影響。有關工程承建商並要求復工。

屋宇署確認現時有關鐵路設施結構安全，香港鐵路有限公司（港鐵公司）已獲徵詢並確認復工不會對鐵路設施結構及運作安全構成影響。機電工程署亦確定港鐵公司有嚴謹的監測措施繼續確保鐵路運作安全。

經考慮上述意見後，有關復工要求已於<日期>獲接納。已暫停的<停工工程>將於<復工日期>復工，並會在先完成<補救／緩解>措施後，才恢復進行餘下的工程。經考慮負責該項目的承建商所提交的工程分析及修訂圖則，<管理該工程工務部門>接納有關項目將預設停工指標修訂為<XX>毫米。

發言人表示，<管理該工程工務部門>和港鐵公司會繼續密切監察有關情況，並與屋宇署和機電工程署保持緊密溝通，確保鐵路設施結構和鐵路運作安全。

APPENDIX 3.15 LIST OF ACCEPTABLE, CONDITIONALLY ACCEPTABLE AND UNACCEPTABLE USES OF LAND BENEATH FLYOVERS/FOOTBRIDGES

The three categories of uses are broadly defined as follows:

Acceptable Uses

Uses that are compatible with the broad land use pattern of the surrounding area and would not generate undesirable impacts based on structural, fire safety, traffic, environmental and visual considerations, would be acceptable beneath flyovers/footbridges.

Conditionally Acceptable Uses

Uses that may generate some degree of impacts based on all relevant considerations but such impacts could be easily and effectively mitigated through imposition of conditions in the land documents, may be acceptable on a case-by-case basis.

Unacceptable Uses

Uses which may generate undesirable impacts based on all relevant considerations and such impacts could not be easily or effectively mitigated, are considered not suitable for being sited beneath flyovers/footbridges.

(A) Acceptable Uses

1. Amenity areas (e.g. landscaped areas, plant nurseries)
2. Parking :
 - a. Car parks to include :
 - (i) Designated public car parks (metered or unmetered)
 - (ii) Car parks leased for the use of private bodies
 - (iii) Car parks used exclusively and specifically by Government Departments
 - b. Motor cycle/bicycle parking spaces
 - c. Lorry parking spaces (excluding container vehicles parking)
 - d. Taxi/Public Light Bus stands
 - e. Tram/bus/coach stations/termini and concourses (excluding depot) and overnight bus parking
3. Government depots :
 - a. Maintenance depots
 - b. Vehicle detention pounds
 - c. Vehicle depots

4. Arts/commercial advertisement display
5. Government facilities :
 - a. Police reporting centres (mobile/fixed)
 - b. Police, ambulance or fire stations (preferably one storey)
 - c. Public latrines
 - d. Public bathhouses
 - e. Government Offices
6. Offices of non-government organizations and associations providing convenient public service e.g. charity centres, offices of voluntary organizations, tourism information offices
7. Pedestrian ways/footways
8. Public Information booths/vendors
9. Transport operators' ancillary offices and other facilities e.g. MTR/KCR vent shaft, MTR/KCR station entrances
10. Storage of non-inflammable/non-volatile/non-dangerous goods
11. Rescue and emergency centres
12. Automation service booths
13. Newspaper and magazine stands
14. Open florists
15. Recycling products collection points

(B) Conditionally Acceptable Uses

1. Indoor recreational facilities (e.g. games halls, gymnasia, squash courts)
2. Passive open space (excluding formal/informal games and recreation but including sitting-out-area with adequate buffer or shield from adjacent roads)
3. Community/children/youth/elderly centres without residential/day care services
4. Libraries (mobile/fixed)
5. Arts studios/film studios

6. Tram/rail depots
7. Tractor and trailer parking areas
8. Sewage screening plants/sewage treatment works
9. Purpose-built refuse collection points
10. Public utility installations e.g. electric sub-stations/transformer houses/pump houses
11. Open showrooms
12. Temporary markets
13. Temporary licensed hawkker bazaars without seats (excluding cooked food stalls)
14. Temporary works areas
15. Petrol filling stations except for Liquefied Petroleum Gas (LPG) filling facilities
16. Construction training grounds/centres involving no heavy machinery (for Government/non-government organizations)
17. Vehicle cleansing services
18. Mobile inoculation centres
19. Recycling facilities involving simple and non-mechanical process
20. Mailbox activities for container vehicles
21. Container storage

(C) Unacceptable Uses

1. Active outdoor recreation/playgrounds and children's playgrounds (including tennis/football/basketball courts, soccer pitches, skating grounds)
2. Uses involving a potential fire hazard, including :
 - a. Cooked food stalls
 - b. Bus depots
 - c. Restaurants

- d. Industrial undertakings of any kind, and godowns
 - e. LPG filling stations
 - f. Vehicle repair/servicing stations
 - g. Storage of dangerous or inflammable goods (e.g. oil drums, builder's materials, refuse)
3. Environmentally sensitive uses which may generate users' exposure for a prolonged period to unacceptable environmental conditions of the adjacent roads, including :
- a. Clinics
 - b. Hospitals
 - c. Kindergartens/nurseries
 - d. Schools
 - e. Community/children/youth/elderly centres providing residential/day care services
 - f. Residential uses
4. Uses generating an unacceptably high vehicular/pedestrian activity and/or conflict with through traffic, including :
- a. Supermarkets/retail shops
 - b. Wholesale markets
 - c. Off-course betting centres
 - d. Ticket selling booths
5. Any other uses which might give rise to accidental impact to the flyover structure
6. Any other uses which pose unacceptable fire or environmental hazard

Note : The uses listed are for general guidance only and by no means exhaustive.

**APPENDIX 3.16 SAMPLE COVERING MEMO FOR CIRCULATION OF THE
DRAFT GAZETTAL DOCUMENTS UNDER SEWERAGE
REGULATION****From : Initiating Office****To : Director of Environmental Protection****Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)**(Project Title)

I attach, for your action, 15 copies of the Plan no. _____ duly approved by this Department and a draft scheme as required by s.5 of the above Ordinance in respect of the above-mentioned works, together with a draft Notice for your publication in the HKSAR gazette under s.8(2) of the Ordinance all in English and Chinese.

2. Please note that all the comments received from DO(concerned), DLO(concerned), and other departments concerned (e.g., DCED, DHA, DoJ (on legal matters), CES/Acquisition, Lands Department depending on the proposed sewerage works) have been incorporated into the above documents.

*3. The _____ District Board(s) has/have been consulted on _____ regarding the proposed works and _____ (state the result).

4. I should be grateful if you could sign the plans, the scheme and the Notice and arrange for the gazette of the proposed sewerage works and undertake the related procedures as stipulated in paragraphs 20-22 in your Procedural Guidelines (No. 1/2003).

(_____)
for Head of Initiating Office

c.c. - with copy of approved plan, draft scheme and draft notice

DO/_____
DLO/_____

Other departments concerned in respect of the proposed sewerage works
PMS/WB, DEVB – with a copy of draft notice and a computer file of the location plan of
project site

* Delete if inapplicable

APPENDIX 3.16A SAMPLE MEMO FROM DIRECTOR OF ENVIRONMENTAL PROTECTION FOR GAZETAL OF SEWERAGE WORKS AND DEPOSITION OF GAZETTE DOCUMENTS FOR PUBLIC INSPECTION

From : Director of Environmental Protection

To : Initiating Office

**Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)**

(Project Item No. and Project Title)

Gazette Documents

The attached Notice for the above referenced sewerage works under section 8(2) of the Road (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Chapter 358) will be published in **2 successive** issues of the Government Gazette commencing **(date of first Gazette)**.

2. Please ensure that copies of the Notice, in both English and Chinese languages, are affixed in prominent positions within the works area for the information of the public. Please also promptly despatch a copy of this memo together with the enclosure to the DO(*Concerned*), Home Affairs Enquiry Centre (*Concerned*), DLO(*Concerned*) and (*Concerned*) District Council urgently.

3. By copy of this memo, the concerned parties are requested to undertake the following actions:

- (a) DO(*Concerned*), Home Affairs Enquiry Centre (*Concerned*), DLO(*Concerned*) are requested to deposit the signed Plan No. (*Plan No.*) (“the Plan”) and the scheme annexed thereto in their offices for public inspection, for 60 calendar days starting **(Start date of Gazette)**. Please also complete the attached reply slip and return to EPD for record.
- (b) Land Registry is requested to deposit the Plan and the Scheme in the Land Registry under section 8(1) of the Ordinance, for 60 calendar days starting **(Start date of Gazette)**. Please also complete the attached reply slip and return to EPD for record.
- (c) DS/EPD is requested to deposit the Plan and the Scheme in the EPD Revenue Tower Office for public inspection, for 60 calendar days starting **(Start date of Gazette)**. Please also complete the attached reply slip and return to EPD for record.
- (d) PEPO(Concerned)/EPD is requested to deposit the Plan and the Scheme in the EPD Regional Office (*Concerned*) for public inspection, for 60 calendar days, starting **(Start date of Gazette)**. Please also complete the attached reply slip and return to EPD for record.
- (e) DIS is requested to arrange for publication of an advertisement of the Notice in 2

issues of one Chinese newspaper and one English newspaper on the dates of gazetting, i.e. **(Start date of Gazette) and (Date of next issue of Gazette)**.

- (f) Assistant Clerk to the Executive Council via COLO(T)3, Unit 3, OLD is requested to publish the Notice in the Government of the HKSAR Gazette on **(Start date of Gazette) and (Date of next issue of Gazette)**.
- (g) Secretary of (Concerned) District Council is requested to advise the District Council members of the deposit of the Plan and the Scheme in the Land Registry and to retain the attached copy for members' reference in accordance with section 8(4) of the Ordinance.

()

for Director of Environmental Protection

Enclosure - with copy of the Plan, Scheme & Notice.

c.c.

DO(*Concerned*)] **via**] with the Plan,
 Home Affairs Enquiry Centre (*All Concerned*)] **Initiating**] Scheme & Notice
 DLO(*Concerned*)] **Office**] and Reply Slip
] **(Urgent by Hand)**

Secretariat, (*Concerned*) District Council] **via**] with the Plan,
] **Initiating**] Scheme & Notice
] **Office**] **(Urgent by Hand)**

Land Registry] with the Plan, Scheme & Notice
 DS/EPD (Attn: EO(G))] and Reply Slip
 PEPO(*Concerned*)/EPD] **(Urgent by Hand)**

DIS (Attn: *Concerned Officer*)] with the Notice (By Fax: 2511 5338 and
 by Email (*Officer Email Address*))

Assistant Clerk to the Executive Council] with the Notice (By Fax: 2868 4955)
 (via COLO(T)3, Unit 3, OLD)

PMS/WB (DEVB)] with the Notice (By Fax: 2537 1961 and
 by Email pms@devb.gov.hk)

Director of Government Logistics] with the Notice (By Fax: 2579 1156 and
 by Email pd-gazette@gld.gov.hk)

DPO] with the Plan, Scheme & Notice

**APPENDIX 3.16B SAMPLE REPLY SLIP FROM DISPLAY OFFICE TO
DIRECTOR OF ENVIRONMENTAL PROTECTION FOR
CONFIRMATION OF DEPOSITION AND MAKING
AVAILABLE GAZETTE DOCUMENTS FOR PUBLIC
INSPECTION**

Reply Slip

To: SIG, EPD
Fax: 3121 2756
Ref.: () in EP (*File Reference*)

**Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)**

(Project Item No. and Project Title)

Deposition of Gazette Documents for Public Inspection

We hereby acknowledge receipt of the EPD gazette documents.

As per request, we will arrange for the Plan (*Plan No.**) and the scheme annexed thereto available for public inspection in our office, for 60 calendar days starting **(Start Date of Gazette)**.

* Insert the Plan No.

Signature: _____

Name (Block letter): _____

Post: _____

Department: _____

Tel. No.: _____

Fax. No.: _____

Date: _____

File Reference: _____

APPENDIX 3.17 SAMPLE NOTICE UNDER S.8 OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

Roads (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)

(Project Title)

(Notice under section 8(2) of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation)

Notice is hereby given that the Director of Environmental Protection proposes to execute the sewerage works within the limit of works area as shown on Plan(s) No. _____ (“the Plan(s)”) and described in the scheme annexed thereto, which Plan(s) and scheme have been deposited in the Land Registry.

The general nature of the proposed sewerage works is as follows:

- (i) *construction of about ____ metres of rising main and associated manholes within the limit of works area as shown on the Plan(s);
- (ii) *construction of about ____ metres of gravity sewer and associated manholes within the limit of works area as shown on the Plan(s);
- (iii) *construction of sewage pumping station/sewage treatment plant at _____ within the limit of works area as shown on the Plan(s);
- (iv) *any other proposed sewerage works; and
- (v) *ancillary works including reinstatement of carriageways, footpaths and open space.

*The lots where land are to be resumed are listed below:

Lots where land are to be resumed	
D.D. No	Lot No

*The lots where rights of temporary occupation of land may be created are shown below:

Lots where rights of temporary occupation of land may be created	
D.D. No	Lot No

The Plan(s) and the scheme may be inspected by members of the public, free of charge, at the following locations during the following hours when those offices are normally open to the public:

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> <u>(address)</u>	(Opening hours)
<u>District Office (concerned)</u> <u>(address)</u>	(Opening hours)
Environmental Protection Department, Revenue Tower Office, 33/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong	(Opening hours)
Local Control Office of Environmental Protection Department (address to be filled in by EPD)	(Opening hours)
(Local concerned) Land Registry (address)	(Opening hours)
Land Registry 19th Floor, Queensway Government Office, 66 Queensway, Hong Kong	Monday to Friday 9:00 a.m. to 12:30 p.m. and 2:00 p.m. to 5:00 p.m.

*There are road works to be constructed at _____ (address), in connection with the above proposed sewerage works. A separate Notice in respect of the proposed road works at _____ (address), is gazetted concurrently with this Notice.

Further enquiries regarding the proposed sewerage works can be addressed to _____ (*Initiating Office*) at _____ (*address & telephone number*).

Any person who wishes to object to the works or the use, or both, is required to address his objection in writing to the Director of Environmental Protection, Environmental Protection Department, Revenue Tower Office, 33/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong, so as to reach the office of the Director not later than _____ describing his interest and the manner in which he alleges he will be affected by the works or

the use. Objectors are required to provide contact details to the Director to facilitate communication.

Personal Data Collection Statement

Any information, including the personal data, submitted to the Director of Environmental Protection in connection with any written objections/comments will be used for the processing of the objections/comments and other related purposes. The provision of any information, including the personal data, other than the information as required under section 10(2) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is voluntary. However, it may not be possible to process the objections/comments if such information as required under section 10(2) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is not sufficiently provided. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other persons, organizations or agencies which are required to handle the objections/comments and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data held by us. Request for access to or correction of the personal data should be made in writing to the Senior Environmental Protection Officer (Knowledge Management) of Environmental Protection Department at Suite 1201, Guardian House, 32 Oi Kwan Road, Wan Chai, Hong Kong.

(_____)
Senior Environmental Protection Officer
Date _____

(With Chinese Translation)

* Delete if inapplicable

SAMPLE NOTICE UNDER S.8

(根據第8條規定所發的公告樣本)

水污染管制(排污設備)規例(第358章附屬法例)**第26條引用****道路(工程、使用及補償)條例(第370章)****(工程項目名稱)**(根據《水污染管制(排污設備)規例》第26條引用
《道路(工程、使用及補償)條例》第8(2)條規定所發的公告)

現公布環境保護署署長擬進行上述排污設備工程的計劃，工程施工區範圍載於圖則第____號(下稱“該(等)圖則”)，並在附連的計劃內說明。該(等)圖則及計劃現存放於土地註冊處。

建議排污設備工程的一般性質如下：

- (i) *如該(等)圖則所示，位於施工區範圍，建造約____米的壓力污水幹渠及相關的沙井；
- (ii) *如該(等)圖則所示，位於施工區範圍，建造約____米的無壓力污水管道及相關的沙井；
- (iii) *如該(等)圖則所示，位於____施工區範圍，建造污水泵房/污水處理廠；
- (iv) *其他建議排污設備工程；以及
- (v) *其他附屬工程包括將行車道、行人路及休憩用地恢復原貌。

*下列將予收回土地的地段：

將予收回土地的地段	
丈量約份編號	地段編號

*下列可予設定暫時佔用土地權的地段：

可予設定暫時佔用土地權的地段	
丈量約份編號	地段編號

下列辦事處備有該(等)圖則及計劃，供公眾免費查閱。各辦事處一般開放時間如下：

<i>辦事處地址</i>	<i>開放時間 (公眾假期除外)</i>
香港中環統一碼頭道38號 海港政府大樓地下 中西區民政諮詢中心	星期一至星期五 上午9時至晚上7時
<u>有關</u> <u>地政處</u> (地址);	(開放時間)
<u>有關</u> <u>民政事務處</u> (地址)	(開放時間)
香港灣仔告士打道5號 稅務大樓33樓 環境保護署稅務大樓辦事處	(開放時間)
環境保護署污染管制辦事處 (地址由環境保護署填寫)	(開放時間)
<u>有關地區土地註冊處</u> (地址)	(開放時間)
土地註冊處 香港金鐘道66號金鐘道政府合署19樓	星期一至星期五 上午9時至下午12時30分 及下午2時至下午5時

*在建議的排污設備工程進行期間，會有關連的道路工程同時進行。一份有關
_____道路工程的獨立公告，現正與本公告同時刊登憲報。

如對建議排污設備工程有進一步查詢，可向 _____ (所屬辦事處, 地
址)或致電 _____ (電話 _____)查詢。

任何人士如欲反對該項工程或使用，或同時反對兩者，必須以書面向環境保護署署長提出。反對書須說明其本人的權益及聲稱受該項工程或使用影響的情形，最遲於 _____ 年 _____ 月 _____ 日送達香港灣仔告士打道5號稅務大樓33樓環境保護署稅務大樓辦事處。反對人士請向署長提供聯絡資料，方便聯絡。

收集個人資料聲明

任何向環境保護署署長提交的書面反對書/意見書中有關的資料，包括個人資料，將用於處理有關反對/意見及其他相關的事宜上。除了《水污染管制(排污設備)規例》(第358AL章) 第26條所引用《道路(工程、使用及補償)條例》(第370章) 第10(2)條要求的資料外，其他任何資料，包括個人資料，是自願提供的。如未能提供《水污染管制(排污設備)規例》(第358AL章) 第26條所引用《道路(工程、使用及補償)條例》(第370章) 第10(2)條要求的資料，則反對/意見可能不會被處理。任何提交的資料，包括個人資料，可能會向負責處理有關反對/意見及相關事宜的有關政府部門及其他人士、組織或機構披露。任何人有權要求查閱或更改已提交本署的有關其本人的個人資料。如欲查閱或更改有關的個人資料，請以書面向環境保護署高級環境保護主任(知識管理) 提出 (地址：香港灣仔愛羣道32號愛羣商業大廈1201室)。

高級環境保護主任

____年 ____月 ____日

*將不適用者刪去

SAMPLE SCHEME UNDER S.8

Roads (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)

Scheme annexed to Plan(s) No. _____ and Proposed Resumption Plan(s) No. ____
describing (Project Title)

General Description of Works

The Director of Environmental Protection proposes to execute the sewerage works within the limit of works area as shown on Plan(s) No. _____ and Proposed Resumption Plan(s) No. _____ (“the Plan(s)”) annexed hereto and described hereunder. _____ (Describe briefly the purposes of the proposed works).

The general nature of the proposed sewerage works is as follows:

- (i) *construction of about _____ metres of rising main and associated manholes within the limit of works area as shown on the Plan(s);
- (ii) *construction of about _____ metres of gravity sewer and associated manholes within the limit of works area as shown on the Plan(s);
- (iii) *construction of sewage pumping station/sewage treatment plant at _____ within the limit of works area as shown on the Plan(s);
- (iv) *any other proposed sewerage works; and
- (v) *ancillary works including reinstatement of carriageways, footpaths and open space.

***Land to be Resumed**

For the purposes of or incidental to the works or the use, the Director of Environmental Protection proposes that powers under section 13 of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation may be exercised to resume the land as shown on Proposed Resumption Plan(s) No. _____ annexed hereto and detailed on the resumption table set out thereon. Further notice, setting out the manner in which the land is to be resumed, will be issued under section 14 of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation as and when required.

***Roads to be Closed**

For the purposes of or incidental to the works or the use, the Director of Environmental Protection proposes that powers under section 17 of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation may be exercised to close *temporarily or permanently the existing carriageway, footpaths and open space or parts thereof within the limit of works area as shown on the Plan(s). *Temporary alternative access will be provided during the construction period where required. Further notice, setting out the manner in which the roads is to be closed, will be issued under section 18 of the Roads (Works, Use and

Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation as and when required.

Apparatus whose Course or Position to be Altered

For the purposes of or incidental to the works or the use, the Director of Environmental Protection proposes that powers under section 20 of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation may be exercised to require alteration of the course or position of the existing services and utilities, such as electricity cables, telecommunication cables, water-mains, gas pipes and other service apparatus lying within the limit of works area and to require repair of any road surface thereby disturbed. Further notice, setting out the manner in which the course or position of such services and utilities is to be altered and the repair of any road surface, will be issued under section 20 of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation as and when required.

(_____)
Senior Environmental Protection Officer
Date _____

(With Chinese Translation)

* Delete whichever is inapplicable

SAMPLE SCHEME UNDER S.8

(根據第8條的計劃摘要樣本)

水污染管制(排污設備)規例(第358章附屬法例)
第26條引用
道路(工程、使用及補償)條例(第370章)

附連於圖則第_____號及建議收地圖則第_____號的計劃
說明 _____ (工程項目名稱)

工程的一般說明

環境保護署署長現擬進行排污設備工程，其施工區範圍載於附連的圖則第_____號及建議收地圖則第_____號(下稱“該(等)圖則”)，並在下文說明。(略述建議工程的目的)。

建議排污設備工程的一般性質如下：

- (i) *如該(等)圖則所示，位於施工區範圍，建造約_____米的壓力污水幹渠及相關的沙井；
- (ii) *如該(等)圖則所示，位於施工區範圍，建造約_____米的無壓力污水管道及相關的沙井；
- (iii) *如該(等)圖則所示，位於_____施工區範圍，建造污水泵房/污水處理廠；
- (iv) *其他建議排污設備工程；以及
- (v) *其他附屬工程包括將行車道、行人路及休憩用地恢復原貌。

*收回土地

為工程或使用或附帶事宜的目的，環境保護署署長建議行使《水污染管制(排污設備)規例》第26條所引用《道路(工程、使用及補償)條例》第13條所賦予的權力，收回附連該(等)圖則的建議收地圖則編號_____詳列的土地。如有需要，當局會根據《水污染管制(排污設備)規例》第26條所引用《道路(工程、使用及補償)條例》第14條的規定另行發出公告，說明收回上述土地的情形。

*封閉道路

為工程或使用或附帶事宜的目的，環境保護署署長建議行使《水污染管制(排污設備)規例》第26條所引用《道路(工程、使用及補償)條例》第17條所賦予的權力，封閉在該(等)圖則所示*施工區範圍內任何現有的行車道、行人路及空地或以上其中一部分。*在施工期間，當局會因應需要另行提供臨時通道。如有需要，當局會根據《水污染管制(排污設備)規例》第26條所引用《道路(工程、使用及補償)條例》第18條的規定另行發出公告，說明封閉該等道路的情形。

***改動器具的路線或位置**

為工程或使用或附帶事宜的目的，環境保護署署長建議行使《水污染管制（排污設備）規例》第26條所引用《道路（工程、使用及補償）條例》第20條所賦予的權力，規定有關方面改動施工區範圍內的現有公用服務器具的路線或位置，例如電線、電話線、供水管、煤氣管，以及任何其他器具的路線或位置，並需將受影響的地面修補。如有需要，當局會根據《水污染管制（排污設備）規例》第26條所引用《道路（工程、使用及補償）條例》第20條的規定另行發出公告，說明改動該等器具的路線或位置及修補任何道路路面的情形。

高級環境保護主任

____年 ____月 ____日

*將不適用者刪去

APPENDIX 3.18 SAMPLE NOTICE UNDER S.7 OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

**Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)**

(Project Title)

(Amendment to Plan and /or Scheme under section 7)

(Notice under section 8(2) of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation)

Notice is hereby given that the Director of Environmental Protection proposes to amend the sewerage works originally described in the scheme and plan _____ referred to in G.N. _____ published under section 8(2) of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation on _____ and _____.

The proposed amendments are shown on Plan No. _____ and Amended Resumption Plan No. _____ (“the Plan(s)”) annexed to and described in the Amendment Scheme. The Plans and Amendment Scheme have been deposited in the Land Registry.

The general nature of the amendment sewerage works is as follows:

- (i) *revisions of the limit of works areas as shown on the Amendment Plans;
- (ii) *resumption of certain areas of land for the sewerage works as shown on the Amendment Plans;
- (iii) *deletion of proposed land resumption of certain areas as shown on the Amendment Plans; and
- (iv) *(any other amendments).

*The lots where land are to be resumed are listed below:

Lots where land are to be resumed	
D.D. No	Lot No

*The lots where rights of temporary occupation of land may be created are shown below:

Lots where rights of temporary occupation of land may be created	
D.D. No	Lot No

The Plan(s) and Amendment Scheme may be inspected by members of the public, free of charge, at the following locations during the following hours when those offices are normally open to the public:

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> <u>(address)</u>	(Opening hours)
<u>District Office (concerned)</u> <u>(address)</u>	(Opening hours)
Environmental Protection Department, Revenue Tower Office, 33/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong	(Opening hours)
Local Control Office of Environmental Protection Department (address to be filled in by EPD)	(Opening hours)
(Local concerned) Land Registry (address)	(Opening hours)
Land Registry 19th Floor, Queensway Government Office, 66 Queensway, Hong Kong	Monday to Friday 9:00 am to 12:30 pm and 2:00 pm to 5:00 pm

Further enquiries regarding the proposed amendments can be addressed to _____ (initiating officer) at (address and telephone number).

Any person who wishes to object to the proposed amendments, is required to address his objection in writing to the Director of Environmental Protection, Environmental Protection Department, Revenue Tower Office, 33/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong, so as to reach the office of the Director not later than _____ describing his interest and the manner in which he alleges he will be affected by the proposed amendments. Objectors are required to provide contact details to the Director to facilitate communication.

Personal Data Collection Statement

Any information, including the personal data, submitted to the Director of Environmental Protection in connection with any written objections/comments will be used for the processing of the objections/comments and other related purposes. The provision of any information, including the personal data, other than the information as required under section 10(2) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is voluntary. However, it may not be possible to process the objections/comments if such information as required under section 10(2) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is not sufficiently provided. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other persons, organizations or agencies which are required to handle the objections/comments and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data held by us. Request for access to or correction of the personal data should be made in writing to the Senior Environmental Protection Officer (Knowledge Management) of Environmental Protection Department at Suite 1201, Guardian House, 32 Oi Kwan Road, Wan Chai, Hong Kong.

(_____)
Senior Environmental Protection Officer
Date _____

(With Chinese Translation)

* Delete whichever is inapplicable

SAMPLE NOTICE UNDER S.7

(根據第7條規定所發的公告樣本)

水污染管制(排污設備)規例(第358章附屬法例)**第26條引用****道路(工程、使用及補償)條例(第370章)****(工程項目名稱)****根據第7條規定修訂圖則*及/或計劃**(根據《水污染管制(排污設備)規例》第26條引用
《道路(工程、使用及補償)條例》第8(2)條規定所發的公告)

現公布環境保護署署長擬修訂上述排污設備工程的計劃，工程施工區範圍原載於圖則第____號*至/和____號，並在附連的計劃內說明。該(等)圖則及計劃在____年____月____日及____年____月____日根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》第8(2)條規定所發的第____號政府公告已有提及。

建議修訂工程在修訂計劃內說明，並載於附連的圖則第____號和經修訂的收地圖則第____號(下稱“該(等)圖則”)。該(等)圖則及修訂計劃現存放於土地註冊處。

建議修訂排污設備工程的一般性質如下：

- (i) *如該(等)修訂圖則所示，更改施工區範圍；
- (ii) *如該(等)修訂圖則所示，位於施工區範圍，收回部份土地進行污水渠工程；
- (iii) *如該(等)修訂圖則所示，位於施工區範圍，刪除部份原先用擬收回的土地；以及
- (iv) *(其他修訂)。

*下列將予收回土地的地段：

將予收回土地的地段	
丈量約份編號	地段編號

*下列可予設定暫時佔用土地權的地段：

可予設定暫時佔用土地權的地段	
丈量約份編號	地段編號

下列辦事處備有該(等)圖則及計劃，供公眾免費查閱。各辦事處一般開放時間如下：

<i>辦事處地址</i>	<i>開放時間 (公眾假期除外)</i>
香港中環統一碼頭道38號 海港政府大樓地下 中西區民政諮詢中心	星期一至星期五 上午9時至晚上7時
<u>有關</u> <u>地政處</u> (地址);	(開放時間)
<u>有關</u> <u>民政事務處</u> (地址)	(開放時間)
香港灣仔告士打道5號 稅務大樓33樓 環境保護署稅務大樓辦事處	(開放時間)
環境保護署污染管制辦事處 (地址由環境保護署填寫)	(開放時間)
<u>有關地區土地註冊處</u> (地址)	(開放時間)
土地註冊處 香港金鐘道66號金鐘道政府合署19樓	星期一至星期五 上午9時至下午12時30分 及下午2時至下午5時

如需要建議修訂工程的其他資料，可向 (所屬辦事處，地址)或致電 (電話)提出。

任何人士如欲反對該項建議修訂工程，必須以書面向環境保護署署長提出。反對書須說明其本人的權益及聲稱受該建議項修訂工程影響的情形，最遲於 年 月 日送達香港灣仔告士打道5號稅務大樓33樓環境保護署稅務大樓辦事處。反對人士請向署長提供聯絡資料，方便聯絡。

收集個人資料聲明

任何向環境保護署署長提交的書面反對書/意見書中有關的資料，包括個人資料，將用於處理有關反對/意見及其他相關的事宜上。除了《水污染管制(排污設備)規例》(第358AL章) 第26條所引用《道路(工程、使用及補償)條例》(第370章) 第10(2)條要求的資料外，其他任何資料，包括個人資料，是自願提供的。如未能提供《水污染管制(排污設備)規例》(第358AL章) 第26條所引用《道路(工程、使用及補償)條例》(第370章) 第10(2)條要求的資料，則反對/意見可能不會被處理。任何提交的資料，包括個人資料，可能會向負責處理有關反對/意見及相關事宜的有關政府部門及其他人士、組織或機構披露。任何人有權要求查閱或更改已提交本署的有關其本人的個人資料。如欲查閱或更改有關的個人資料，請以書面向環境保護署高級環境保護主任(知識管理) 提出 (地址：香港灣仔愛羣道32號愛羣商業大廈1201室)。

高級環境保護主任

____年 ____月 ____日

*將不適用者刪去

APPENDIX 3.19 SAMPLE NOTICE UNDER S.9 OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)****(Project Title)**

(Notice under section 9 of the Roads (Works, Use and Compensation) Ordinance as applied
by section 26 of the Water Pollution Control (Sewerage) Regulation)

Notice is hereby given that under section 9 of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation, the Director of Environmental Protection has decided not to execute the sewerage works described in G.N. _____ published on _____ and _____.

(
Senior Environmental Protection Officer
Date _____)

(With Chinese Translation)

SAMPLE NOTICE UNDER S.9

(根據第9條規定所發的公告樣本)

水污染管制(排污設備)規例 (第358章附屬法例)
第26條引用
道路(工程、使用及補償)條例 (第370章)

(工程項目名稱)

(根據《水污染管制(排污設備)規例》第26條引用
《道路(工程、使用及補償)條例》第9條規定所發的公告)

現公布環境保護署署長根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》第9條的規定，決定不進行____年____月____日及____年____月____日第____號政府公告所說明的排污設備工程。

高級環境保護主任

____年____月____日

APPENDIX 3.20 SAMPLE NOTICE UNDER S.11(9)(a) OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)****(Project Title)**

(Notice under section 11(9)(a) of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation)

Notice is hereby given that under section 11(1) of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation, the Director of Environmental Protection proposes to execute the sewerage works described in G.N. _____ published on _____ and _____.

(
Senior Environmental Protection Officer
Date _____)

(With Chinese Translation)

SAMPLE NOTICE UNDER S.11(9)(a)

(根據第11(9)(a)條規定所發的公告樣本)

水污染管制(排污設備)規例(第358章附屬法例)
第26條引用
道路(工程、使用及補償)條例(第370章)

(工程項目名稱)

(根據《水污染管制(排污設備)規例》第26條引用
《道路(工程、使用及補償)條例》第11(9)(a)條規定所發的公告)

現公布環境保護署署長根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》第11(1)條的規定，建議進行____年____月____日及____年____月____日第____號政府公告所說明的排污設備工程。

高級環境保護主任

____年____月____日

APPENDIX 3.21 FORMAT OF DRAFT EXCO PAPER FOR AUTHORIZATION OF WORKS AND USE FOLLOWING RECEIPT OF OBJECTIONS UNDER ROADS (WORKS, USE AND COMPENSATION) ORDINANCE AS APPLIED BY SECTION 26 OF THE WATER POLLUTION CONTROL (SEWERAGE) REGULATION (CHAPTER 358, SUB. LEG.)

RESTRICTED

MEMORANDUM FOR EXECUTIVE COUNCIL

ROADS (WORKS, USE AND COMPENSATION) ORDINANCE (CHAPTER 370)
AS APPLIED BY SECTION 26 OF THE
WATER POLLUTION CONTROL (SEWERAGE) REGULATION
(CHAPTER 358, SUB. LEG.)

(Project Title)

AUTHORIZATION OF WORKS AND USE
FOLLOWING RECEIPT OF OBJECTIONS

THE PROBLEM

Following receipt of objection(s), authorization of the works and the use as described in the plan and scheme at Annex A is required.

RECOMMENDATION AND ADVICE SOUGHT

2. Members are asked to advise, whether the Chief Executive in Council, under section 11 of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (“the Ordinance”), should –

- (a) authorize the works and the use as described at Annex A; or
- (b) refer the plan, scheme and objection(s) to the Town Planning Board for a report and advice; or
- (c) authorize the works and the use as described at Annex A, subject to any modifications or conditions as the Chief Executive in Council thinks fit, and if so, the nature of such modifications and conditions; or
- (d) decline to authorize the works and the use as described at Annex A.

BACKGROUND AND ARGUMENT

General Background

3. [Give a brief history of the project.]

The Sewerage Scheme

4. The scheme involves [briefly describe the project in a manner similar to the original gazetted scheme. The gazetted plan and scheme should be included in the Annex A.]

5. The plan and scheme at Annex A were gazetted on ____ and ____ and made available for public inspection.

The objections

6. ____ objection(s) were received of which ____ remain unresolved. Copies of the objection letters and replies from Government are attached at Annex B.

Criteria for Meeting Objection

7. As a general rule, where an objection is considered valid, an attempt will be made to ameliorate or avoid the effect of the works and the use by modifying the scheme, provided that such modifications –

- (a) would be unlikely to generate further objections;
- (b) would not be against the public interest; and
- (c) would not result in disproportionate additional cost.

Assessment of Objections

8. [Based on the above, each objection or each group of objections has to be separately assessed.]

Compensation and Clearance

9. [Give details of land, structures and families affected by the Scheme and compensation to be offered.]

Implication of Not Authorizing the Works and the Use

10. [State the implications and consequences of not authorizing the Scheme.]

FINANCIAL AND STAFFING IMPLICATIONS

11. The estimated cost of the proposed road works is ____ million and funds will be made available under Head ____.

ENVIRONMENTAL IMPLICATIONS

12. [State the implications.]

SUBSTANABILITY IMPLICATIONS

13. [State the implications.]

PUBLIC CONSULTATION

14. The _____ District Council was consulted on _____ and raised (state the result) _____.

PUBLIC REACTION

15. [State what public reaction is expected if the works are authorized.]

PUBLICITY

16. If the scheme is authorized to proceed, notice of authorization will be published in accordance with the provisions of the Ordinance and a press release emphasizing the benefits of the proposed scheme will be issued on _____. [Please consult EPD whether a press release should be published. In cases where a press release is not considered necessary, a statement to this effect with justification should be included in this section. Reference should also be made to whether or not a LegCo brief is to be issued and justification should be given if not.]

ATTENDANCE

17. [The titles and names of persons in attendance.]

APPENDIX 3.22 SAMPLE ORDER UNDER S. 13(1) OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)****(Project Title)**

(Order under section 13(1) of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation)

In exercise of powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, I hereby direct under section 13(1) of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation that the land _____ (insert description of the land, including reference to any plan), which land was described in the scheme referred to in G.N. _____ published on _____ and _____ shall be resumed for the purposes of or incidental to the sewerage works or use described above and I specify the period of notice to be stated under section 13(2) of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation to be _____ days from the day upon which a notice under section 14 of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation is affixed on or near the land.

BY ORDER

(_____)
* Director of Lands / Deputy Director of Lands
Date _____

(With Chinese translation)

* delete whichever is inapplicable

SAMPLE ORDER UNDER S. 13

(根據第13條規定所發的命令樣本)

水污染管制(排污設備)規例(第358章附屬法例)
第26條引用
道路(工程、使用及補償)條例(第370章)

(工程項目名稱)

(根據《水污染管制(排污設備)規例》第26條引用
《道路(工程、使用及補償)條例》第13(1)條規定所發的命令)

本人現行使香港特別行政區行政長官所授予的權力，根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》第13(1)條的規定發出指示，為上述排污設備工程或其使用或附帶事宜的目的，收回 _____ (填上土地說明，包括圖則編號)的土地。有關土地的詳情，已載於_____年_____月_____日及_____年_____月_____日第_____號政府公告所提述的計劃內。本人並根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》第13(2)條的規定，指明通知期為_____天，由根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》第14條的規定在上述土地之上或其附近張貼通知書的日期起計。

*地政總署署長 / 地政總署副署長

_____年_____月_____日

*將不適用者刪去

APPENDIX 3.23 SAMPLE NOTICE UNDER S.14 OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

**Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)**

(Notice under section 14)

(Project Title)

TAKE NOTICE that under powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, the Deputy Director/Specialist, Lands Department has made an order under section 13(1) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (interpreted in accordance with the provisions of the Hong Kong Reunification Ordinance No. 110 of 1997 and hereinafter referred to as “the Ordinance”) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation, directing that the land _____ (insert description of the land, including reference to any plan), which land was described in the scheme referred to in G. N. _____ published _____ (date) and _____ (date) shall be resumed.

A copy of the said order and a copy of the aforesaid Resumption Plan No. _____ may be inspected by members of the public, free of charge, at the following locations during the following hours when those offices are normally open to the public:

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> <u>(address)</u>	(Opening hours)
<u>District Office (concerned)</u> <u>(address)</u>	(Opening hours)
Environmental Protection Department, Revenue Tower Office, 33/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong	(Opening hours)

Local Control Office of Environmental Protection (Opening hours)
 Department
 (address to be filled in by EPD)

(Local concerned) Land Registry (Opening hours)
 (address)

Land Registry Monday to Friday
 19th Floor, Queensway Government Office, 9:00 am to 12:30 pm
 66 Queensway, Hong Kong and 2:00 pm to 5:00 pm

This notice was affixed on or near the land on _____ (date - normally the day before the date of gazetting the notice).

The Deputy Director/Specialist, Lands Department has under section 13(2) of the Ordinance specified a period of notice of _____ days from the date upon which this notice was affixed on or near the land and upon expiry of that period the land described above shall by virtue of section 13(3) of the Ordinance, as regards (describe land which will revert to the Government of the Hong Kong Special Administrative Region) shall revert to the Government of the Hong Kong Special Administrative Region** and as regards (describe land which will be vested in the FSI) shall vest in the Financial Secretary Incorporated** for the purposes of or incidental to the works or use described in the said scheme.

Any person entitled to compensation under Part V of the Water Pollution Control (Sewerage) Regulation may serve a written claim upon the Secretary for the Environment, 16/F, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong, before the expiration of one year from the date of resumption

Personal Data Collection Statement

Any information, including the personal data, submitted to the Secretary for the Environment in connection with any written claims served under Part VI of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) will be used for the processing of the claims and other related purposes. The provision of any information, including the personal data, as required under Part VI of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is obligatory. If such information, including the personal data, as required under Part VI of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is not provided as requested, the claims may be rejected. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other persons, organizations or agencies which are required to handle the claims and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data held by the Secretary for the Environment. Request for access to or correction of the personal data should be made in writing to the Senior Environmental Protection Officer (Knowledge Management) of Environmental Protection Department at Suite 1201, Guardian House, 32 Oi Kwan Road, Wan Chai, Hong Kong.

(_____)
* Chief Estate Surveyor (Acquisition)
/ District Lands Officer
Date _____

(With Chinese translation)

* delete whichever is inapplicable

** if only reversion or only vesting is involved, delete as appropriate

SAMPLE NOTICE UNDER S.14

(根據第14條規定所發的公告樣本)

水污染管制 (排污設備) 規例 (第358章附屬法例)
 第26條引用
 道路 (工程、使用及補償) 條例 (第370章)
 (根據第14條規定所發的通知書)

(工程項目名稱)

現公布地政總署副署長 (專業事務) 已根據香港特別行政區行政長官所授予的權力，根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》(第370章) (按照《香港回歸條例》(1997年第110號)的條文詮釋) (下稱“該條例”) 第13(1)條發出命令，指令收回在 _____ (填上土地的說明，包括參照圖則) 的土地。有關土地的詳情，已載於 _____ 年 _____ 月 _____ 日發布的第 _____ 號政府公告所提述的計劃內。

該命令的副本及上述第 _____ 號收地圖則，現存於下列地點，在其開放時間內，供公眾免費查閱：

<i>辦事處地址</i>	<i>開放時間 (公眾假期除外)</i>
香港中環統一碼頭道38號 海港政府大樓地下 中西區民政諮詢中心	星期一至星期五 上午9時至晚上7時
有關 _____ 地政處 (地址);	(開放時間)
有關 _____ 民政事務處 (地址)	(開放時間)
香港灣仔告士打道5號 稅務大樓33樓 環境保護署稅務大樓辦事處	(開放時間)
環境保護署污染管制辦事處 (地址由環境保護署填寫)	(開放時間)

有關地區土地註冊處
(地址)

(開放時間)

土地註冊處
香港金鐘道66號金鐘道政府合署19樓

星期一至星期五
上午9時至下午12時30分
及下午2時至下午5時

本通知書於 年 月 日 (通常是刊登憲報日期的前一日) 張貼在
上述土地之上或其附近。

地政總署副署長(專業事務)業已根據該條例第13(2)條規定,指明通知期為
天,由本通知書張貼於該土地或其附近的日期起計。憑藉該條例描述的第13(3)
條,上述土地於通知期屆滿時,如土地為 (描述須歸還香港特別行政區政府的土
地),將復歸香港特別行政區政府所有**,如土地為 (描述歸屬財政司司長法團
的土地),將復歸財政司司長法團所有**,以便進行上述計劃所描述的工程或附帶事宜。

根據《水污染管制(排污設備)規例》第V部有權獲補償的任何人士,可在收地日
期起計一年內,向香港添馬添美道2號政府總部東翼16樓環境局局長送達申索書。

收集個人資料聲明

任何根據《水污染管制(排污設備)規例》(第358AL章)第VI部向環境局局長提交的書
面申索中有關的資料,包括個人資料,將用於處理有關申索及其他相關的事宜上。
《水污染管制(排污設備)規例》(第358AL章)第VI部要求的資料,包括個人資料,是
必須提供的。如未能提供《水污染管制(排污設備)規例》(第358AL章)第VI部要求的
資料,包括個人資料,則申索可能遭駁回。任何提交的資料,包括個人資料,可能
會向負責處理有關申索及相關事宜的有關政府部門及其他人士、組織或機構披露。
任何人有權要求查閱或更改已提交環境局局長的有關其本人的個人資料。如欲查閱
或更改有關的個人資料,請以書面向環境保護署高級環境保護主任(知識管理) 提出
(地址:香港灣仔愛羣道32號愛羣商業大廈1201室)。

*總產業測量師(土地徵用)/地政專員

年 月 日

* 將不適用者刪去

** 如土地只歸還政府或只歸入財政司法團,請將不適用者刪去。

APPENDIX 3.24 SAMPLE ORDER UNDER S. 15(1) OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

**Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)**

(Project Title)

(Order under section 15(1) of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation)

In exercise of powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, I hereby direct under section 15(1) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (hereinafter referred to as “the Ordinance”) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation that _____ (describe the nature of the easement, permanent right or temporary right of occupation) over the land _____ (describe the land including reference to any plan) which land was described in the scheme referred to in G.N. _____ published on _____ (date) and _____ (date) shall be created in favour of the Government of the Hong Kong Special Administrative Region for the purposes of or incidental to the sewerage works or use described in the above and I specify the period of notice to be stated under section 15(2) of the Ordinance to be _____ days from the day upon which a notice under section 16 of the Ordinance is affixed on or near the land.

****AND** I further direct under Section 15(3) of the Ordinance that subject to the serving of any notice required to be given under Section 15(5) of the Ordinance [describe any consequential or incidental provisions which appear to be necessary, including powers for persons (named or described) to enter upon the land for the purposes of section 15(3)].

BY ORDER

(_____)
* Director of Lands / Deputy Director of Lands
Date _____

(With Chinese translation)

* Delete whichever is inapplicable

** Delete if provisions under section 15(3) are not required.

SAMPLE ORDER UNDER S. 15(1)

(根據第15條規定所發的命令樣本)

水污染管制(排污設備)規例(第358章附屬法例)
第26條引用
道路(工程、使用及補償)條例(第370章)

(工程項目名稱)

(根據《水污染管制(排污設備)規例》第26條引用
《道路(工程、使用及補償)條例》第15(1)條規定所發的命令)

本人現行使香港特別行政區行政長官所授予的權力，根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》(下稱“該條例”)第15(1)條的規定發出指示，為____年____月____日第____號政府公告所提述的計劃內說明的工程或使用或附帶事宜的目的，須為香港特別行政區政府在____(說明有關土地，包括參照圖則)內的土地之上，設定____(說明地役權、永久權利或暫時佔用權利的性質)。本人並根據該規例第15(2)條的規定，指明通知期為____天，由根據該條例第16條的規定在上述土地上或其附近張貼通知書的日期起計。

**本人並根據該條例第15(1)條及第15(3)條的規定，在發出該條例第15(5)條規定給予的通知的條件下，____(列出任何需要的相應條件或附帶條件，包括為施行第15(3)條而有權進入該地的人士[姓名或有關說明])。

* 地政總署署長/地政總署副署長

____年____月____日

* 將不適用者刪去

** 若不需用第15(3) 條則請刪去

APPENDIX 3.25 SAMPLE NOTICE UNDER S. 16 OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

Roads (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)

(Notice under section 16)

PWP Item No (insert project title)

TAKE NOTICE that under powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, the Deputy Director/Specialist, Lands Department has made an order under section 15(1) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (interpreted in accordance with the provisions of the Hong Kong Reunification Ordinance No. 110 of 1997 and hereinafter referred to as “the Ordinance”) directing that (describe the nature of the easement, permanent right or temporary right) for a period of ____ months be created over the land known and registered in the ____ Land Registry as :-

(Insert lot numbers)

as shown coloured ____ on Plan No. ____ annexed to the said order, which land was described in the scheme referred to in Government Notice No. ____ published on ____ and ____.

The Deputy Director/Specialist, Lands Department has under section 15(3) of the Ordinance further directed that subject to the serving of any notice required to be given under section 15(5) of the Ordinance, the Director of ____, his officers, workmen, servants and contractors are hereby authorized to enter upon the said land for the purpose of carrying out any operations or installing, maintaining or removing any structures or apparatus.

A copy of the said order and a copy of the aforesaid Plan No. ____ indicating the land affected by the *easement/rights may be inspected by members of the public, free of charge, at the following locations during the following hours when those offices are normally open to the public:

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> <u>(address)</u>	(Opening hours)

District Office (concerned) (Opening hours)
(address)

Environmental Protection Department, (Opening hours)
Revenue Tower Office,
33/F, Revenue Tower,
5 Gloucester Road,
Wan Chai, Hong Kong

Local Control Office of Environmental Protection (Opening hours)
Department
(address to be filled in by EPD)

(Local concerned) Land Registry (Opening hours)
(address)

Land Registry Monday to Friday
19th Floor, Queensway Government Office, 9:00 am to 12:30 pm
66 Queensway, Hong Kong and 2:00 pm to 5:00 pm

This notice was affixed on or near the land on _____(date).

The Deputy Director/Specialist, Lands Department has under section 15(2) of the Ordinance specified a period of notice of _____MONTHS from the date upon which this notice was affixed on or near the said land and it is hereby declared upon expiry of that period, the *easement/right shall by virtue of section 15(4) of the Ordinance be created in favour of the Government of the Hong Kong Special Administrative Region for the purposes of or incidental to the works or use described in the said scheme and the benefits and obligations thereof **and of all consequential and incidental provisions made under section 15(3) of the Ordinance shall be of full force and effect against all persons having any estate, right, share or interest in the land without any consent, grant or conveyance.

Any person having a compensatable interest under the Part V of the Water Pollution Control (Sewerage) Regulation may serve a written claim upon the Secretary for the Environment, 16/F, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong, before the expiration of 1 year from the date on which the *easement/right is created.

Personal Data Collection Statement

Any information, including the personal data, submitted to the Secretary for the Environment in connection with any written claims served under Part VI of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) will be used for the processing of the claims and other related purposes. The provision of any information, including the personal data, as required under Part VI of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is obligatory. If such information, including the personal data, as required under Part VI of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is not provided as requested, the claims may be rejected. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other persons, organizations or agencies which are required to handle the claims and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data held by the Secretary for the Environment. Request for access to or correction of the personal data should be made in writing to the Senior Environmental Protection Officer (Knowledge Management) of Environmental Protection Department at Suite 1201, Guardian House, 32 Oi Kwan Road, Wan Chai, Hong Kong.

(_____)
* Chief Estate Surveyor (Acquisition)
/ District Lands Officer
Date _____

(With Chinese translation)

* delete whichever is inapplicable

** delete if provisions under section 15(3) are not required.

SAMPLE NOTICE UNDER S. 16

(根據第16條所發公告的樣本)

水污染管制(排污設備)規例(第358章附屬法例)
第26條引用
道路(工程、使用及補償)條例(第370章)

(根據第16條所發的通知書)

(工務計劃項目名稱)

現公布地政總署副署長(專業事務)已根據香港特別行政區行政長官所授予的權力,根據《道路(工程、使用及補償)條例》(第370章)(按照《香港回歸條例》(1997年第110號)的條文詮釋)(下稱“該條例”)第15(1)條發出命令,指令在_____土地註冊處註冊為:

(詳列地段)

的土地上,設定(說明地役權、永久權利或暫時佔用權的性質),為期_____個月。有關土地範圍已在上述命令夾附的第_____號圖則上以_____色標示。有關土地詳情,已載於_____年_____月_____日及_____年_____月_____日發布的第_____號政府公告所提述的計劃內。

地政總署副署長(專業事務)並已根據該條例第15(3)條,進一步指令只須根據該條例第15(5)條送達任何所需的通知,_____署長、其屬下人員、工人、僱員及承建商,可為進行任何作業或為安裝、保養或拆除任何構築物或器具,進入上述土地。

上述命令的副本及顯示受(地役權/權利)影響的土地第_____圖則,現存於下列地點,在其開放時間下,供公眾免費查閱。

辦事處地址

香港中環統一碼頭道38號
海港政府大樓地下
中西區民政諮詢中心

開放時間
(公眾假期除外)

星期一至星期五
上午9時至晚上7時

有關_____地政處
(地址);

(開放時間)

有關_____民政事務處
(地址)

(開放時間)

香港灣仔告士打道5號 (開放時間)
稅務大樓33樓
環境保護署稅務大樓辦事處

環境保護署污染管制辦事處 (開放時間)
(地址由環境保護署填寫)

有關地區土地註冊處 (開放時間)
(地址)

土地註冊處 星期一至星期五
香港金鐘道66號金鐘道政府合署19樓 上午9時至下午12時30分
及下午2時至下午5時

本通知書已於 年 月 日張貼在上述土地或其附近。

地政總署副署長(專業事務)業已根據該條例第15(2)條指明通知期為 個月，由本通知書張貼於上述土地或其附近的日期起計。現謹公布憑藉該條例第15(4)條，通知期屆滿時，上述(地役權/權利)即為香港特別行政區政府而設定，以便進行上述計劃所描述的工程或使用或附帶事宜。而其利益及義務，**以及根據該條例第15(3)條而作出的所有相應及附帶規定的利益及義務，針對所有享有該土地任何產業權、權利、份數或權益的人而言，均無須任何同意、批予或轉易而具有十足效力及作用。

根據《水污染管制(排污設備)規例》第V部有權獲補償的任何人士，可以書面向環境局局長提出申索。書面申索須於*地役權/權利日期起計一年內，送達香港添馬添美道2號政府總部東翼16樓環境局局長辦事處。

收集個人資料聲明

任何根據《水污染管制(排污設備)規例》(第358AL章)第VI部向環境局局長提交的書面申索中有關的資料，包括個人資料，將用於處理有關申索及其他相關的事宜上。

《水污染管制(排污設備)規例》(第358AL章)第VI部要求的資料，包括個人資料，是必須提供的。如未能提供《水污染管制(排污設備)規例》(第358AL章)第VI部要求的資料，包括個人資料，則申索可能遭駁回。任何提交的資料，包括個人資料，可能會向負責處理有關申索及相關事宜的有關政府部門及其他人士、組織或機構披露。任何人有權要求查閱或更改已提交環境局局長的有關其本人的個人資料。如欲查閱或更改有關的個人資料，請以書面向環境保護署高級環境保護主任(知識管理) 提出(地址：香港灣仔愛羣道32號愛羣商業大廈1201室)。

*總產業測量師（土地徵用）/地政專員

____年 ____月 ____日

*將不適用者刪去

**若不需用第15(3)條則請刪去

APPENDIX 3.26 SAMPLE ORDER UNDER S.17 OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

**Roads (Works, Use and Compensation) Ordinance (Chapter 370)
as applied by section 26 of the
Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)**

(Project Title)

(Order under section 17 of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation)

In exercise of the powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, I hereby direct under section *17(1)(a)/17(1)(b) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (hereinafter referred to as “the Ordinance”) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation that _____ (describe the *road(s)/Government foreshore/sea-bed, including reference to any Plan) as shown on Plan No. _____ (“the Plan”) and described in the scheme annexed thereto, be *permanently closed/temporarily closed/modified/reclaimed. The Plan and scheme were referred to in G.N. _____ published on _____ and _____. I further declare under section 17(1)(c) of the Ordinance that as from _____ (date), all public or private rights in, upon, under or over *this road/these roads/this foreshore/sea-bed shall be *extinguished/modified/restricted (describe extent).

BY ORDER

(
Senior Environmental Protection Officer
Date _____)

(With Chinese translation)

* Delete whichever is inapplicable

SAMPLE ORDER UNDER S.17

(根據第17條規定所發的命令樣本)

水污染管制(排污設備)規例(第358章附屬法例)
第26條引用
道路(工程、使用及補償)條例(第370章)

(工程項目名稱)

(根據《水污染管制(排污設備)規例》第26條引用
《道路(工程、使用及補償)條例》第17條規定所發的命令)

本人現行使香港特別行政區行政長官所授予的權力，根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》(下稱“該條例”)第*17(1)(a)/17(1)(b)條的規定發出指令，*永久封閉/臨時封閉/修改/填平_____ (說明*道路/政府前濱/海床，包括參照圖則)。其範圍載於圖則第_____號(下稱“該圖則”)並在附連的計劃內說明。該圖則及計劃在_____年_____月_____日及_____年_____月_____日第_____號香港特別行政區政府公告已有提及。本人並根據該條例第17(1)(c)條的規定聲明，由_____年_____月_____日起，所有上述*道路/前濱/海床上、之下或之上的公有權利或私人權利，須予*終絕/修改/限制(說明範圍)。

高級環境保護主任

_____年_____月_____日

*將不適用者刪去

APPENDIX 3.27 SAMPLE NOTICE UNDER S. 18 OF ROADS (WORKS, USE AND COMPENSATION) ORDINANCE

Roads (Works, Use and Compensation) Ordinance (Chapter 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Chapter 358, sub. leg.)

(Project Title)

(Notice under section 18 of the Roads (Works, Use and Compensation) Ordinance as applied by section 26 of the Water Pollution Control (Sewerage) Regulation)

TAKE NOTICE that under powers delegated by the Chief Executive of the Hong Kong Special Administrative Region, I have made an order under section *17(1)(a)/17(1)(b) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370) (hereinafter referred to as “the Ordinance”) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation that the *roads/foreshore/sea-bed (described the roads/foreshore/sea-bed including reference to any plan) as shown on Plan No. _____ (“the Plan”) and described in the scheme annexed thereto, be *permanently closed/temporarily closed/modified/reclaimed. The Plan and scheme were referred to in G.N. _____ published on _____ and _____. I have further declared under section 17(1)(c) of the Ordinance that as from _____ (date), all public or private rights in, upon, under or over the affected *roads/foreshore/sea-bed shall be *extinguished/modified/restricted.

The sewerage works to be carried out on the *road(s)/foreshore/sea-bed involve _____ (brief description of the works).

- (i) _____;
- (ii) _____; and
- (iii) _____.

A copy of the order and a plan(s) showing the affected *road(s)/foreshore/sea-bed may be inspected by members of the public, free of charge, at the following locations during the following hours when those offices are normally open to the public:

<i>Places</i>	<i>Opening hours (except on public holiday)</i>
Central & Western Home Affairs Enquiry Centre, G/F, Harbour Building, 38 Pier Road, Central, Hong Kong;	Monday to Friday 9:00 a.m. to 7:00 p.m.
<u>District Lands Offices (concerned)</u> <u>(address)</u>	(Opening hours)
<u>District Office (concerned)</u> <u>(address)</u>	(Opening hours)

Environmental Protection Department, (Opening hours)
Revenue Tower Office,
33/F, Revenue Tower,
5 Gloucester Road,
Wan Chai, Hong Kong

Local Control Office of Environmental Protection (Opening hours)
Department
(address to be filled in by EPD)

Land Registry, Monday to Friday
19/F, Queensway Government Offices, 9:00 am to 12:30 pm
66 Queensway, and 2:00 pm to 5:00 pm
Hong Kong

This notice was affixed on or near the *road(s)/foreshore/sea-bed affected on (normally the day before the date of gazetting the notice).

Any person having a compensatable interest under Part V of the Water Pollution Control (Sewerage) Regulation may serve a written claim upon the Secretary for the Environment, 16/F, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong, before the expiration of 1 year from the date of *closure /extinction /modification /reclamation.

Personal Data Collection Statement

Any information, including the personal data, submitted to the Secretary for the Environment in connection with any written claims served under Part VI of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) will be used for the processing of the claims and other related purposes. The provision of any information, including the personal data, as required under Part VI of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is obligatory. If such information, including the personal data, as required under Part VI of the Water Pollution Control (Sewerage) Regulation (Chapter 358AL) is not provided as requested, the claims may be rejected. Any information, including the personal data, so submitted may be disclosed to the relevant government departments and other persons, organizations or agencies which are required to handle the claims and related matters. Persons who have so submitted their personal data have the rights to request access to and correction of their personal data held by us. Request for access to or correction of the personal data should be made in writing to the Senior Environmental Protection Officer (Knowledge Management) of Environmental Protection Department at Suite 1201, Guardian House, 32 Oi Kwan Road, Wan Chai, Hong Kong.

(_____)
Senior Environmental Protection Officer
Date _____

(With Chinese Translation)

* Delete whichever is inapplicable

SAMPLE NOTICE UNDER S. 18

(根據第18條規定所發的公告樣本)

水污染管制(排污設備)規例(第358章附屬法例)
第26條引用
道路(工程、使用及補償)條例(第370章)

(工程項目名稱)

(根據《水污染管制(排污設備)規例》第26條引用
《道路(工程、使用及補償)條例》第18條規定所發的公告)

現公布本人已依據香港特別行政區行政長官授予的權力，根據《水污染管制(排污設備)規例》第26條引用《道路(工程、使用及補償)條例》(第370章)(下稱“該條例”)第*17(1)(a)/17(1)(b)條發出一項命令，*永久封閉/臨時封閉/修改/填平 *道路/前濱/海床(說明道路/前濱/海床，包括參照圖則)。其範圍載於圖則第_____號(下稱“該圖則”)，並在附連的計劃內說明。該圖則及計劃在_____年_____月_____日及_____年_____月_____日第_____號政府公告已有提及。本人並根據該條例第17(1)(c)條聲明，由_____年_____月_____日起，上述受影響的*道路/前濱/海床上、之下或之上的公有權利或私人權利，須予*終絕/修改/限制。

在上述*道路/前濱/海床進行有關的排污設備工程包括_____ (摘要說明工程)

- (i) _____;
- (ii) _____; 以及
- (iii) _____。

下列辦事處備有該命令的副本及載明受影響 *道路/前濱/海床的圖則，在其開放時間下，供公眾免費查閱：

<i>辦事處地址</i>	<i>開放時間</i> (公眾假期除外)
香港中環統一碼頭道38號 海港政府大樓地下 中西區民政諮詢中心	星期一至星期五 上午9時至晚上7時
有關_____地政處 (地址);	(開放時間)
有關_____民政事務處 (地址)	(開放時間)

香港灣仔告士打道5號
稅務大樓33樓
環境保護署稅務大樓辦事處

(開放時間)

環境保護署污染管制辦事處
(地址由環境保護署填寫)

(開放時間)

土地註冊處
香港金鐘道66號金鐘道政府合署19樓

星期一至星期五
上午9時至下午12時30分
及下午2時至下午5時

本公告將於 年 月 日（通常為刊登憲報日期的前一天）張貼在受影響*道路/前濱/海床之上或其附近。

根據《水污染管制(排污設備)規例》第V部有權獲得補償的人士，可以書面向環境局局長提出申索。書面申索須於*封閉/權利終絕/修改/填平當日起計一年內，送達香港添馬添美道2號政府總部東翼16樓環境局局長辦事處。

收集個人資料聲明

任何根據《水污染管制(排污設備)規例》(第358AL章)第VI部向環境局局長提交的書面申索中有關的資料，包括個人資料，將用於處理有關申索及其他相關的事宜上。

《水污染管制(排污設備)規例》(第358AL章)第VI部要求的資料，包括個人資料，是必須提供的。如未能提供《水污染管制(排污設備)規例》(第358AL章)第VI部要求的資料，包括個人資料，則申索可能遭駁回。任何提交的資料，包括個人資料，可能會向負責處理有關申索及相關事宜的有關政府部門及其他人士、組織或機構披露。任何人有權要求查閱或更改已提交本局的有關其本人的個人資料。如欲查閱或更改有關的個人資料，請以書面向環境保護署高級環境保護主任(知識管理) 提出(地址：香港灣仔愛羣道32號愛羣商業大廈1201室)。

高級環境保護主任

年 月 日

*將不適用者刪去

APPENDIX 3.29 LAND ACQUISITION AND PRIORITIZATION EXERCISE – APPLICATION FORM FOR INCLUSION OF A NEW MAJOR ITEM

Item Title	<i>(Please enter the title of the item. If necessary, more than one item may be created for one single project)</i>
PWP No.	<i>(Please enter the PWP No., if applicable)</i>
Works Department	<i>(Please enter the Works Department of the project)</i>
Policy Secretary	<i>(Please enter the Policy Secretary of the project)</i>
TFS	<i>(Please enter the date of approval for the Technical Feasibility Statement of the project)</i>
DLO	<i>(Please enter the relevant District Lands Office)</i>
LACC	<i>(Please enter the relevant Land Acquisition and Clearance Committee)</i>
Funding Status	<i>(For CWP projects, confirm that the related project has been included in the RAE. For block vote items, confirm that funds are available from the relevant block vote. For other projects, confirm that funds have been earmarked in the appropriate funding sources)</i>
Cost	<i>(Please enter the rough order of construction cost for the item. Please specify the price level used)</i>
Anticipated Works Start Date	<i>(Please enter the anticipated commencement of construction, assuming all land related work can be completed in time)</i>
Required Site Handover Date	<i>(Please enter the required site handover date)</i>
Target Date for Submitting CAF	<i>(Please enter the target date for submitting CAF, if applicable)</i>
Relevant Ordinances	<i>(Please enter the ordinances involved, if applicable)</i>
Consequence if Delayed	<i>(Please enter the consequences in case the project is delayed.)</i>