

CHAPTER 4

WORK AFTER THE PUBLIC CONSULTATION

Section 1 : Deliberations and Observations

4.1 After the public consultation period has ended, the EAC has looked into each of the written and oral representations to consider whether they should be accepted.

4.2 First of all, there were representations pointing out that the EAC had not consulted the public before drawing up the provisional recommendations. The EACO stipulates that the EAC is responsible for drawing up the provisional recommendations and to consult the public thereafter. In this delineation exercise, the EAC has received a large number of representations during the public consultation period, including both supporting and opposing views on the provisional recommendations, and alternative proposals. When deliberating on the representations, the EAC has adopted the same set of statutory criteria and working principles adopted in drawing up the provisional recommendations (see Chapter 2), and to compare the population figures afresh and to consider the other statutory factors in order to examine the merits of both sides in a prudent manner. As in the past, the EAC will accept the proposals received during the public consultation period if those proposals better comply with the statutory criteria and working principles for the delineation exercise than the provisional recommendations.

4.3 Some representations suggested that the provisional recommendations had not taken into account the geographical and transport situations of individual areas, and had tendered alternative proposals and justifications. In order to better understand and assess the reasons advanced, where necessary, the staff of the EAC Secretariat would conduct site visits again to explore the feasibility of the alternative proposals. To enable the EAC to have an overall view of the representations and arrive at fair and balanced recommendations, the EAC Secretariat presented the information gathered from the site visits together with its analysis and observations to the EAC with the aid of maps and photographs to show the relevant physical features.

4.4 In drawing up the provisional recommendations and deliberating on the representations, the EAC has adopted basically the same principles as in previous delineation exercises. Regarding the views expressed in the representations, the EAC has noted the following matters and set out its observations so that the public may fully understand the factors that have been taken into consideration by the EAC.

(a) Number of DC elected seats and DCCAs

4.5 Section 20 of the EACO provides that in drawing up the provisional recommendations on the boundaries of the DCCAs in the administrative districts, the EAC must follow the number of elected members to be returned for each DC as specified in Schedule 3 of the DCO. Regarding the sixth-term DC commencing on 1 January 2020,

based on the population growth, the Government had conducted a review in 2017 on the number of elected seats for each DC in the 18 administrative districts, and the relevant subsidiary legislation was passed by LegCo in January 2018 for the increase of a total of 21 elected seats in 10 DCs. Accordingly, the EAC is required to delineate the same number of DCCAs corresponding to the 452 elected seats.

4.6 There were representations touching on the number of elected seats for the 2019 DC Ordinary Election. For instance, some argued that based on the current projected population in 2019, the number of elected seats for certain administrative districts should be more than those stipulated in the subsidiary legislation. Therefore, they suggested the Government or EAC to further increase the number of elected seats in the administrative districts concerned. Others suggested that the number of elected seats among the administrative districts should be adjusted flexibly. It must be pointed out that the number of new DCCAs to be created is a statutory pre-set for the EAC, to which the EAC has no authority to revise or vary.

4.7 On the issue of the projected population figures as at mid-2019, the Government has used the then available figures on the projected population when reviewing the number of DC seats in 2017, whereas the EAC is required to adopt the latest population projection in reviewing the boundaries of the DCCAs for the DC delineation exercise this year. Hence, the revision of the projected population is an inherent feature of this mechanism. As there was a time gap between the compilation of the two sets of population figures (in particular there was

an update on the population figures in line with the latest by-census results in between), there is bound to be a difference between the number of seats that should be provided for a certain administrative district if one were to use the latest projected population available for the EAC in delineating the DCCA boundaries and the numbers of seats as passed by the LegCo earlier, having regard to the fact that there was a certain degree of increase or decrease of population in some administrative districts during the period. Notwithstanding the above, the EAC must delineate the DCCA boundaries according to the number of seats stipulated for each DC under the DCO.

4.8 As stated in paragraph 4.5 above, the review on the number of elected seats was the responsibility of the Government, which was a pre-set before the start of the delineation exercise. The matter does not fall under the purview of the EAC. In drawing up the provisional recommendations, the EAC must strictly adhere to the statutory criteria under the EACO, among which is to adhere to the number of elected seats stipulated for each DC under the DCO, and to delineate the new DCCAs in the administrative districts as provided for. The EAC has no power to increase or reduce the number of elected seats/DCCAs in any administrative districts. Similarly, the EAC may not transfer the new seats/DCCAs approved for a certain administrative district to another administrative district.

4.9 One of the statutory criteria under the EACO is that the projected population of a DCCA should not exceed or fall short of the population quota by more than 25%. Hence, the EAC may suitably

arrange a DCCA to absorb the excessive population of an adjacent DCCA, or to transfer population to a DCCA in shortfall, as the case may be, in order to ensure that the DCCA concerned can meet the requirement of the statutory permissible range. However, the situation may be different in those administrative districts which are subject to severe geographical and accessibility constraints, for instance, the Islands District, in which the population distribution is considerably uneven, and there is no direct transport link between some islands. Under such circumstances, even though the populations of some DCCAs do deviate from the statutory permissible range, owing to geographical and accessibility constraints, the EAC cannot redistribute their populations through adjustment of their boundaries with adjacent DCCAs, or to merge some of the islands in order to free up a DCCA to deal with the problem of other DCCAs with populations exceeding the statutory permissible upper limit. In any event, the EAC has adjusted the DCCA boundaries in all administrative districts in accordance with the statutory criteria as far as practicable, in order to improve the situation of departing from the permissible range in some DCCAs as far as possible.

4.10 As the views and proposals on the number of elected seats are related to the enactment of the primary legislation which does not fall under the purview of the EAC, the EAC has referred the relevant views to the CMAB for consideration.

(b) **“Principle of equal representation” and consideration of the other statutory factors**

4.11 The EACO sets out the statutory criteria (see paragraph 2.1 above) for delineating DCCA boundaries and the EAC shall ensure that the population in each proposed DCCA is as near the population quota as practicable. However, given that the majority of the population in Hong Kong live in high-rise buildings, it is not practicable for the population of each DCCA to strictly achieve a single population quota (i.e. 16 599). Hence, the statutory criteria allow the population of a DCCA to exceed or fall short of the population quota by not more than 25%, i.e. between the lower and upper limits of 12 449 and 20 749. The concept behind the relevant criterion is the “principle of equal representation” (i.e. similar number of people should have equal number of representation). This principle is all along the primary consideration in the delineation exercise.

4.12 Moreover, to strictly adhere to the requirement of a single population quota in every DCCA in each delineation exercise is impracticable to do so as mentioned above. It would also need to re-delineate the existing boundaries of a large number of DCCAs, giving rise to unnecessary controversies. Therefore, according to the established working principles of the EAC, for existing DCCAs where the projected populations do fall within the permissible range, the EAC will in principle maintain their existing boundaries.

4.13 The population of Hong Kong is ever-increasing with completion of new buildings continuously and urban renewal projects.

Population movements among different DCCAs are quite substantial. The EAC must, according to the statutory requirement, delineate new DCCAs and adjust the boundaries of the DCCAs where the projected populations deviate from the permissible range. In so doing, it will inevitably lead to a knock-on effect on the adjacent DCCAs, necessitating corresponding adjustments to their boundaries even though their projected populations remain within the permissible range. Nevertheless, the EAC will follow the principle of affecting the least number of DCCAs or less population in adjusting the DCCA boundaries so as to minimise any possible impact on the electors.

4.14 The statutory criterion of allowing the population of a DCCA to exceed or fall short of the population quota by not more than 25% is already a rather liberal range. Be that as it may, the EAC may under special circumstances, having regard to the community identities, traditionally close local ties or unique geographical environment of individual DCCAs, consider it necessary to depart from strict adherence to the requirement of the statutory permissible range and allow the populations of the DCCAs concerned to deviate from the statutory permissible range in accordance with the statutory criteria. As for those DCCAs which have been allowed to deviate from the statutory permissible range in the past, the EAC will review their boundaries during each delineation exercise. If there are changes in the objective circumstances of those DCCAs allowed to depart from the permissible range in the past, such as the addition of new seats within the administrative districts or there is room for adjustment in the adjacent DCCAs, the EAC will appropriately adjust their boundaries in light of the

actual situations. Nevertheless, for some DCCAs, due to their unique situations, such as geographical separation from their adjacent DCCAs or problems of population distribution, there may be still valid justifications for maintaining their existing boundaries unchanged, the EAC will then propose to allow the populations of those DCCAs to depart from the permissible range.

4.15 Since the last delineation exercise, the overall population of Hong Kong has increased by around 200 000. There have also been changes in the distribution of population, and the projected populations of 80 existing DCCAs exceeded the statutory permissible upper or lower limits. The EAC is required under the legislation to appropriately delineate the new DCCAs and adjust the boundaries of DCCAs in accordance with the statutory criteria so that the projected populations of the DCCAs concerned do fall within the statutory permissible range. The EAC noticed that some representations wished that allowance be given to keep the boundaries of the DCCAs unchanged with population falling outside the permissible range more widely and liberally. However, to do so is not only against the requirement of the statutory criteria, let alone the creation of the new DCCAs in accordance with the number of new seats stipulated in the subsidiary legislation. Therefore, due to the population growth and movement, the re-delineation of the boundaries of the DCCAs is inevitable and the impact on the composition of existing DCCAs is also unavoidable.

4.16 Quite a number of representations objected to the EAC's provisional recommendations on the grounds that they are used to the

community services provided by their existing DC members. They wished the existing boundaries of the DCCAs to which they belong be maintained notwithstanding that the populations of the DCCAs do exceed the statutory permissible upper limits. There are also representations arguing that the provision of community services would be hampered by the co-existence of different types of housing or residents with different economic background in a DCCA after the re-delineation because service needs and issues of concern are different. The EAC appreciates the views that the residents do not want changes to the community services they are used to, but taking into account the provision of community services by DC members will unavoidably attract the allegation of involvement of political inclinations. Not only is this neither a statutory criterion for delineation, nor should it be the approach by the EAC as an independent, impartial and apolitical body. Besides, in view of the reality of housing development and population distribution in Hong Kong, it is very common that a community is composed of residents having different backgrounds or aspirations. The EAC's provisional recommendations are based on objective data of population distribution, so as to comply with the "principle of equal representation" in delineation of DCCA boundaries as stated in paragraph 4.11. Although this will inevitably have impacts on community services, in any event, public services and community facilities (e.g. medical and health services, education, amenities, etc.) provided by the Government and non-government organisations will absolutely not be affected by the delineation exercise. Members of the public may continue to enjoy the said services and facilities.

4.17 Besides, there are representations alleging that the provisional recommendations have failed to take into consideration the community integrity and local ties in some DCCAs, by dividing certain public housing estates into different DCCAs. The EAC hopes the public will appreciate the fact that due to the scale of public housing in Hong Kong at present, the population of one housing estate will have exceeded the statutory permissible upper limit (i.e. exceeding 20 749) laid down in the legislation on delineation. In accordance with the statutory criteria, it is simply impossible for the EAC to put an entire housing estate with population exceeding the statutory permissible upper limit within one DCCA, otherwise it will fail to comply with the requirement of statutory permissible range, and violating the “principle of equal representation”. As a matter of fact, all along large-scale public or private housing estates have normally been delineated into more than one DCCA, or even more than two DCCAs. Moreover, as mentioned in paragraph 4.13 above, in view of the dense population and high-rise buildings in Hong Kong, most adjacent DCCAs are indeed not far away from each other. Therefore, dividing a housing estate into different DCCAs would not bring about great impact on local ties.

4.18 In sum, the EAC noticed that divers representations have put forward proposals to maintain or re-delineate the existing DCCA boundaries on the grounds of community integrity and preservation of local ties. Such proposals include placing an entire housing estate in the same DCCA, or grouping the same housing type in the same DCCA, and urban-rural restructuring, etc. Some representations even proposed to delineate DCCAs based on the economic background of the residents.

Such representations view the statutory criteria from a rather parochial and subjective perspective. With ongoing urban development, many areas are well-developed with comprehensive community infrastructure and ancillary transport facilities. Hence, community identities and local ties are, more often than not, no longer obvious factors justifying the keeping or re-delineation of the existing boundaries for most DCCAs. As for the delineation of urban and rural areas, there are representations arguing that the EAC should not put the rural areas and housing estates in the New Territories in the same DCCA. As a matter of fact, urban and rural co-existence is very common in Hong Kong, and such delineation have been undertaken in many past delineation exercises. The EAC will only allow the population of a DCCA to deviate from the statutory permissible range in the presence of overwhelming and incontrovertible objective facts, such as the preservation of traditional ties between villages or retaining unique communities with historical elements. Only by so doing, the EAC can ensure that the delineation exercise is conducted in an objective, effective and orderly manner.

4.19 The EAC would like to reiterate that DCCA boundaries are adjusted after overall consideration from a macro perspective. With the “principle of equal representation” as the overriding guideline, the adjustments are made on the basis of objective data of population distribution, having regard to the other statutory factors of community identities, preservation of local ties, geographical factor and accessibility, etc. The EAC cannot give special emphasis to any particular DCCA, and will definitely not consider any political factors or factors not relevant to the statutory criteria. Among all the statutory factors,

population figures are, as a matter of principle, the EAC's primary consideration in the delineation exercise. As for the other statutory factors, having regard to the change in the actual circumstances, the relevant importance of each factor will vary in each delineation exercise. The EAC has to weigh the individual factors having regard to the uniqueness of an individual DCCA and the situations of their adjacent DCCAs. As stated in paragraph 4.2 above, if the proposals in the representations made by the public could better comply with the statutory criteria and working principles, they will be accepted by the EAC. As to the representations received during the present public consultation exercise, the EAC has, after taking into account geographical factors or preservation of traditional ties between the villages, has accepted certain proposals in the representations and revised some of the provisional recommendations accordingly to allow the populations of the DCCAs concerned to exceed the statutory permissible upper limit.

(c) Population figures adopted in the delineation of boundaries

4.20 Some representations queried the accuracy of the projected population figures adopted for the delineation exercise. They adopted current population figures of some buildings obtained from their own sources and/or outdated figures based on their own estimation, which are different from the projected population figures adopted by the EAC.

4.21 According to the EACO, the delineation exercise must be conducted on the basis of the projected populations of individual DCCAs in the year in which the election is to be held. All along, for DC

ordinary elections, the latest projected population figures as at 30 June of the election year are adopted for the delineation exercise in accordance with the established practice. Accordingly, the projected population figures as at 30 June 2019 are used for the delineation exercise for the 2019 DC Ordinary Election. As in the past and mentioned in paragraph 2.5 above, the projected population figures are provided by the AHSG, set up specially for the purpose of the delineation exercise under the Working Group on Population Distribution Projection in the PlanD. The current population distribution projections are derived by using scientific and systematic methodology based on the results of the 2016 population by-census carried out by the C&SD as well as the up-to-date official data kept by the relevant government departments. Members of the AHSG are all professional departments which all along have been responsible for territory-wide population census and projections on population distribution. They possess the most up-to-date information on the population and land and housing development, and the data are highly-accepted generally. The EAC has all along relied on the statistical figures provided by the AHSG, which are the only data available for the delineation exercise.

4.22 However, regarding the discrepancy due to the time gap in compilation between the projected population figures adopted by the Government in reviewing the number of seats and those used by the EAC in delineating the DCCA boundaries, the EAC hopes that the AHSG could in the light of the experience this time examine the feasibility of adopting some weighted algorithm to narrow down as far as possible the discrepancy between the two sets of figures for the consideration of the

relevant authorities.

4.23 Besides, some representations pointed out that the projected population figures adopted by the EAC fail to take into account future developments in the DCCAs. According to the statutory requirements as mentioned in paragraph 4.21 above, the EAC must conduct the delineation exercise on the basis of the projected populations of individual DCCAs in the year in which the election is to be held. For this delineation exercise, the projected population figures are as at 30 June 2019. Changes in population arising from developments thereafter would not be taken into account and be only considered in future delineation exercises.

(d) Consultation on drawing up provisional recommendations and confidentiality on the information

4.24 Some representations queried the practice of consulting the DOs' views in the course of drawing up the provisional recommendations, feeling that the advice provided to the EAC by the DOs was tainted with political considerations which go against the EAC's principles of being independent, fair and non-political. Besides, some representations alleged that some members of the local communities already had information about the provisional recommendations before they were made public, enabling them to have an early start of their community work in the proposed DCCAs. There were queries suspecting premature leaks of the EAC's provisional recommendations.

4.25 According to the statutory criteria, the EAC must have regard to the community identities and the preservation of local ties as well as physical features (such as size, shape, accessibility and development) of the relevant areas in making recommendations on the delineation of DCCA boundaries. To ensure that the recommendations are in compliance with the statutory criteria, it is necessary for the EAC to have an understanding of the local characteristics, geographical environment and accessibility of the proposed DCCAs so that the feasibility of the various options be considered thoroughly. The DOs, being officers responsible for district administration, do have more comprehensive and in-depth knowledge on the local characteristics, geographical and transport matters of their administrative districts. As such, the EAC invited the DOs to provide factual information of their respective administrative districts on such matters for reference. It has been a long standing practice for the EAC to invite DOs to give their views in the delineation exercise. The EAC considers it necessary to keep this arrangement lest it may overlook some relevant local situations.

4.26 One of the EAC's working principles in the delineation exercise is that political factors will not be taken into consideration. When the DOs are invited to provide information, the EAC has specified that only information of objective facts on local characteristics, geographical and transport matters is sought. The important principle that political facts will be not taken into account has been emphasised. The advice provided by the DOs is only a part of the variety of reference materials when the delineation recommendations were drawn up by the EAC. The EAC has given all round consideration to all statutory

requirements, in particular the population figures affected, before making the recommendations. In any event, according to the established procedure, even if the EAC has considered the information provided by the DOs when drawing up its provisional recommendations, it is still required by the legislation to conduct public consultation on the provisional recommendations. During the consultation period, if representations of members of the public put forward materials different from those provided by the DOs, the EAC would adopt the same set of statutory criteria and working principles to carefully examine the justifications provided in the representations. The EAC will accept the public's proposals if they do better comply with the statutory criteria and working principles for the delineation exercise as compared with the provisional recommendations. After considering the representations received during the present public consultation, the EAC has accepted some proposals made in the representations and adjusted the boundaries of the DCCAs concerned in its provisional recommendations.

4.27 Apart from the DOs, the EAC will also request other government departments (such as LandsD) to provide information where necessary. This enables the EAC's grasp of the local circumstances be more objective and comprehensive. However, in drawing up the provisional recommendations, the EAC has never consulted or considered the opinion of the DCs. Of course, individual DC members could indeed make representations during the public consultation period. The EAC will carefully examine their reasons in the same manner as the representations made by members of the public.

4.28 Throughout the whole process of drawing up the provisional recommendations, confidentiality is preserved, including the consultation with the DOs and communication with other working partners. Before the provisional recommendations are made public, the EAC would not consult any members of the local community, nor would it disclose any details of the delineation to any organisations or individuals beyond its working partners. The EAC believes that all parties taking part in the exercise will abide by the principle of confidentiality and will not divulge the information to any other parties. Follow-up actions would be taken seriously if the EAC receives any complaint supported by substantive evidence.

4.29 The above are some observations gathered from the experience of the present and past delineation exercises, with the purpose of illustrating some factors normally taken into consideration in delineation. The EAC believes the making of such observations will be helpful to the public in understanding the working principles adopted by the EAC in applying the statutory criteria. They are, however, only general observations, and they should be read in a holistic manner and in context of the specific cases.

Section 2 : The Recommendations

4.30 At its meetings held on 19 September and 24 October 2018, the EAC considered the representations received and information on geographical environment and projected population figures gathered from site visits and other government departments concerned and made its final

recommendations. The EAC's views on the representations are set out in the last column of **Appendix II**.

4.31 The EAC adjusted the boundaries of 27 DCCAs and the names of two DCCAs in its provisional recommendations. Details of the revisions and changes are set out in **Appendices III** and **IV** respectively.

4.32 In its final recommendations, the EAC has adjusted the boundaries of a total of 123 DCCAs, and allowed the projected population in 17 DCCAs to deviate from the permissible range of the population quota, with the reasons specified in **Appendix V**.

4.33 As compared with the changes made in the last delineation exercise (i.e. 109 DCCAs), a greater number of DCCAs were required to change their boundaries this time.

4.34 A summary of the EAC's final recommendations is shown in **Appendix VI** of this Volume. The boundary maps and descriptions of the final recommendations are in **Volume 2**.