

立法會

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

Purpose

This report gives an account of the work of the Panel on Planning, Lands and Works from October 2005 to June 2006. It will be tabled at the meeting of the Legislative Council (LegCo) on 12 July 2006 in accordance with Rule 77(14) of the Rules of Procedure of LegCo.

The Panel

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

3. For the 2005-06 session, the Panel comprises 17 members. Hon LAU Wong-fat and Hon Patrick LAU Sau-shing were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

The work

Management of land resources

Land supply strategy

4. With the repositioning the Government's housing policy in November 2002, the Government had stopped all scheduled land auctions and decided that new land for development would mainly be supplied through the Application List System. As this arrangement had been in operation for some time, the Panel considered it opportune to review the arrangement upon the announcement of the 2006-07 Application List in March 2006.

5. The Panel noted that to facilitate the triggering of sites from the Application List, the Administration had introduced improvement measures to enhance the operation of the system, including acceptance of a bid reaching at least 80% of the assessed Open Market Value of the site as a trigger to initiate an auction or a tender. Some members expressed the concern that the reliance on the Application List System for the supply of new land might lead to insufficient supply of residential flats, which in turn would lead to substantial rise in property prices. The Panel therefore examined whether the scheduled land auctions system could be revived especially when there was a shortage of land in particular districts.

6. The Panel noted the Administration's position that land supply should be market driven and the property market should be allowed to determine flexibly the quantity and timing of land supply. Moreover, a clear and predictable policy was essential for maintaining a healthy and stable property market, which was in the overall interest of the community. The Administration therefore considered that the supply of new land should continue to be triggered from the Application List. The Administration also advised that based on relevant property market figures, there would be adequate supply of land and private residential flats in the next few years.

Change of land use through lease modification for sites granted by private treaty

7. While most land available for commercial, industrial or residential development is sold by public auction or tender, the Government also grants land by private treaty (PTG) to private or non-governmental organizations for specified use pursuant to particular Government policies. There had all along been concern about the lack of transparency in the PTG negotiations. In this session, the Panel discussed with the Administration the outcome of its review of the policy on lease modification to permit change of use for PTG sites. According to the Administration, the following conditions had to be met before applications for lease modification could be favourably considered –

- (a) the former permitted use was already obsolete due to changing circumstances;
- (b) a change in the original land use of the PTG site was confirmed through the statutory town planning procedure for other better uses; and
- (c) the applicant was prepared to pay full market premium.

The Administration considered that permitting PTG grantees to modify their leases after payment of the full market premium was a practical and flexible practice, allowing obsolete or under-utilized PTG sites to be put into optimal use to meet the rapidly changing social and economic demands. The Administration therefore considered it appropriate to maintain the current policy.

8. The Panel however saw room for improvements under the current arrangement. The Administration should address the issue that under the lease modification arrangement, the PTG grantee was given an exclusive right to obtain a re-grant of the site for alternative uses. Besides, since the premium to be paid by the grantee was determined internally by the Lands Department, the mechanism lacked transparency and was susceptible to criticisms of favouritism towards the grantee or other parties concerned in the disposal of valuable public resources. Members urged the Administration to devise an open and fair mechanism to enable obsolete and under-utilized PTG sites to be put to optimal use, such as taking back the PTG sites for open sale by auction or tender.

9. The Administration informed the Panel that it had explored various ways of gaining re-possession of obsolete or under-utilized PTG sites, but none of them could ensure re-possession within a reasonable period of time. Nevertheless, as a forward-looking measure, the Lands Department had tightened up the cessation or diminution of user clause in new PTGs so as to strengthen the department's lease enforcement power. Some members however did not accept that in respect of existing PTGs, the Administration should continue to take an evasive and passive approach by leaving it to the grantees to initiate the change of use through lease modification. Instead, the Government should negotiate with the grantee for reasonable terms to enable the site to be sold by auction or tender. Members also urged the Administration to make an effort to identify measures to overcome the complications involved in taking back PTG sites that had ceased to be used or used to a diminished extent for the specified purpose. If necessary, the Administration should resort to legislative measures.

Town planning

The new reclamation area in Central

10. The land-use planning for the reclamation area under the Central Reclamation Phase III was discussed at a Panel meeting in October 2005. Some members considered that the extent of new developments along the Central waterfront was excessive, giving rise to adverse environmental and traffic impacts and was not concordant with the present-day aspirations of the public. They were particularly concerned whether too much land had been designated for commercial uses. They asked the Administration to critically review the land-use planning for the Central waterfront in consultation with the public and based on sustainability principles.

11. According to the Administration, the land use proposals on the relevant Outline Zoning Plan (OZP), i.e. the approved Central District (Extension) OZP, had gone through a due process of public consultation and consideration of public views and objections by Town Planning Board (TPB) before it was subsequently approved by the Chief Executive in Council in 2000. Moreover, TPB had re-examined and re-affirmed the planning intentions of the OZP in August 2005 arising from three rezoning requests and decided that the land use zonings on the OZP were appropriate. TPB accepted however that it would be useful to set out the planning objectives clearly through the preparation of planning/design briefs using the urban design framework for the waterfront. To take forward the TPB's decision, the Planning Department would prepare planning/design briefs for the Central waterfront area, in particular the proposed groundscraper at the "Comprehensive Development Area" site and the sites for waterfront related commercial and leisure uses. The public would be fully engaged in the process.

Tamar development project

12. In November 2005, the Administration briefed the Panel on the re-launch of the Tamar development project, which covered the construction of a new Central Government Complex (CGC), a Legislative Council Complex (LCC), a Civic Place and associated facilities. The Administration explained to the Panel the justifications for the re-launch, the modification in project scope with the excision of the Exhibition Gallery to contain building height and development intensity, and the adoption of the Design and Build (D&B) approach for delivery of the project.

13. In view of the wide public concern over the project as well as the land-use planning for the Central waterfront, the Panel set up a subcommittee to review the planning for the Central waterfront including the Tamar site in January 2006. The Tamar development project and the related planning issues were discussed at three meetings of Subcommittee and thereafter at two meetings of the Panel. Apart from the Administration, interested groups and individuals attended three of these meetings to give views on the project and the related planning issues.

14. The Panel noted that there were diverse views among deputations on whether the Tamar site should be used for providing a new CGC and LCC. While the real estate sector and the construction industry as well as the local professional bodies in the relevant fields were in general supportive of this proposed use of the site, some other deputations expressed strong reservation over the proposal. Having regard to the various concerns raised, the Panel and the Subcommittee had examined the relevant issues in detail prior to the consideration of the relevant funding proposal by the Public Works Subcommittee on 29 May 2006. The major ones include –

- (a) whether the Tamar site was a suitable site for providing a new CGC and LCC;
- (b) whether the Tamar site should be put to alternative uses;
- (c) whether there were better options to meet the long-term accommodation needs of the Government Secretariat and the Legislative Council;
- (d) whether the future use of the existing sites of the Central Government Offices and Murray Building should be decided in conjunction with the Tamar development project and other planned developments in Central;
- (e) the intensity and height of the future buildings under the Tamar development project;
- (f) the appropriateness of adopting the D&B approach to deliver the project;
- (g) the possible visual, environmental and traffic impacts of the project; and
- (h) the proposed budget for the project.

Lantau

15. In November 2004, the Administration launched a three-month public consultation on the Concept Plan for Lantau (Concept Plan) formulated by the Lantau Development Task Force chaired by the Financial Secretary to provide an overall planning framework to ensure a balanced and co-ordinated approach for the future development of Lantau while meeting the conservation needs. In November 2005, a joint meeting of this Panel and the Panel on Environmental Affairs was held to discuss with the Administration the outcome of the public consultation exercise. The Panels also took the opportunity to receive views from interested parties on the Concept Plan. Over 20 deputations, including Island District Council, local community organizations and environment and other concern groups, attended the meeting.

16. The Administration reported that the public generally supported the planning vision of Lantau to promote sustainable development by balancing development and conservation needs, as well as the planning concept of focusing major economic infrastructure and tourism uses in North Lantau while protecting rural Lantau primarily for nature conservation and sustainable recreational and visitor uses. The four development themes, namely (i) Economic Infrastructure and Tourism, (ii) Theme Attractions based on Heritage, Local Character and

Natural Landscape, (iii) Enhancing the Recreation Potential of Country Parks, and (iv) Meeting Nature Conservation Needs, were in general considered appropriate to meet different land use needs. The revised Concept Plan would be released for further public engagement in the second half of 2006, with a view to mapping out the future development of Lantau jointly with the community.

17. The Panels noted the views of the attending deputations regarding the development of port and logistics infrastructure facilities, development of tourism and recreational facilities, provision of roads and other supporting infrastructure, preservation of local culture, nature conservation etc. Members in general considered that in drawing up development proposals for Lantau, the Administration should give due attention to the possible impacts on the ecology of the affected areas and should ensure that sustainability principles were complied with. The Administration should also give due attention to preserving the local character and meeting the needs of the residents in developing an area.

Kai Tak Planning Review

18. In December 2005, the Administration presented to the Panel three Outline Concept Plans, with emphasis on residential, commercial and sports themes, prepared for the Stage 2 Public Participation of the Kai Tak Planning Review. The Panel held a special meeting on 25 January 2006 to hear views of concerned groups on the future development of the Kai Tak area. About 30 deputations attended the meeting.

19. The Panel noted that certain major development components including a cruise terminal, a multi-purpose stadium, a cross-boundary heliport and public and private housing sites were incorporated in all the three Outline Concept Plans. Members expressed concern on whether the relevant policies had been well thought out and whether the community at large supported the provision of these facilities. They in particular raised concerns on the proposed multi-purpose stadium which required a site area of about 24 hectares, comprising a main stadium with 45 000 seats, a secondary stadium, a multi-sports arena and other ancillary facilities. Apart from giving views on connectivity with surrounding districts and preservation of heritage elements within and outside Kai Tak, members also alerted the Administration of the need to plan the developments and infrastructure facilities in Kai Tak in a sustainable and people-oriented manner.

20. In June 2006, the Administration presented the Preliminary Outline Development Plan (PODP) for Kai Tak formulated for the Stage 3 Public Participation. The Panel noted that the PODP involved zero reclamation and comprised six main sub-areas of Kai Tak, namely Kai Tak City Centre, Sport Hub, Metro Park, Runway Precinct, Tourism and Leisure Hub and Mixed Use Corner. While members supported the vision and planning principles adopted by the Administration in drawing up the PODP, they raised concerns on the

density and height of developments at the Kai Tak City Centre, the effectiveness of the proposed mitigation measures in solving the environmental problems of the Kai Tak Approach Channel, the locations and scale of the proposed Metro Park and Stadium Complex, and the design and adequacy of pedestrian connections between the Kai Tak Development and the neighbouring districts. Members also gave suggestions to improve the connectivity between Kai Tak and the neighbouring districts so as to livening up the whole South East Kowloon.

Wan Chai Development Phase II Review

21. In response to TPB's request and in the light of the judgment of the Court of Final Appeal on 9 January 2004 in relation to the interpretation of the Protection of the Harbour Ordinance (PHO), the Government decided to commence a planning and engineering review of the Wan Chai Development Phase II project (WDII Review) to ensure full compliance with the requirements of the PHO.

22. In May and June 2006, the Administration briefed the Panel on the progress of the WDII Review. The Panel also held a special meeting to receive views of concerned organizations on the review and 15 organizations attended the meeting. The Administration reported that while there was some consensus on harbour-front enhancement issues, views on the need for the Central – Wan Chai Bypass (CWB) were diverse. To address that issue, the Sub-committee on WDII Review under the Harbour-front Enhancement Committee had appointed a transport expert panel to review and make recommendations on the sustainable transport planning for the northern shore of Hong Kong Island including the need for CWB. The transport expert panel supported the construction of CWB and the provision of two sets of planned slip roads to magnify the benefits of CWB. The Panel also noted the information on various alignment options and construction schemes for the CWB prepared by the Government's consultants.

23. The Panel noted that most organizations attending the special meeting expressed support for constructing CWB to address the traffic congestion in Central and Wanchai. They also stressed the need to adopt a holistic approach by integrating transport and land-use planning and implement other short-term and long-term measures to relieve the traffic congestion situation. There was a consensus among deputations on the need to devote adequate resources and maximize the opportunities to implement harbourfront enhancement measures to meet public aspirations.

24. Members sought explanation from the Administration on whether it had conducted a comprehensive review on the planned transport infrastructure facilities in Wan Chai and Central based on the latest data, and on how far various traffic relief measures, including traffic management and land-use planning measures, had been explored to address the traffic congestion problem.

In examining the comparative details on the various alignment options and construction forms for CWB, members urged the Administration to undertake thorough studies to identify an alignment and construction form for the trunk road with a view to minimizing harbour reclamation and other undesirable impacts. As regards harbour enhancement measures, members urged the Administration to expedite the planning and implementation of those measures that did not hinge on the alignment and construction form for CWB.

Fee proposals under the Town Planning (Amendment) Ordinance 2004

25. Section 14(2) of the Town Planning (Amendment) Ordinance 2004 empowers the Secretary for Housing, Planning and Lands to prescribe fees for planning applications by regulation. In January 2006, the Administration briefed the Panel on the fee proposals which had been drawn up taking into account the views received during the Administration's consultation with stakeholder groups.

26. The Panel noted that a number of stakeholder groups had expressed the view that waiver of application fees should be extended to all applications relating to "public causes". However, the Administration proposed that the prescribed application fees might be waived only if the application was directly and exclusively for "charitable purposes" and was submitted by a "charitable body" as defined under section 88 of the Inland Revenue Ordinance (IRO). The Administration explained that as there was no provision in law on what would constitute a "public cause" or "public purpose", there would be difficulties in defining the concept. On the other hand, a "charitable body" was clearly defined under the IRO and there were well established guidelines for "charitable purposes" drawing from case laws.

27. Members in general considered that the waiver of application fees should be extended to cover applications which did not involve commercial elements and were submitted on grounds of the public interest or a public cause. As the application fee could be as high as \$90,000, the unavailability of a fee waiver would deter organizations from submitting such applications. Taking note of members' views, the Administration agreed to reconsider the matter. Members also gave views on the basis for determining the fee levels and the proposal to charge an application fee for Small House applications.

Small House Policy

28. Under the Small House Policy introduced in 1972, an indigenous villager is eligible to apply for permission to erect for himself once during his lifetime a Small House within his own village. He can either apply for a Building Licence to build a Small House on his own land, or on Government land through a PTG, if available, at a concessionary premium.

29. The Panel reviewed with the Administration the Small House Policy in February 2006. The Panel noted that given the wide-ranging and complex issues involved, the inter-departmental Steering Committee set up to review the policy had yet to formulate detailed proposals for consultation with the Heung Yee Kuk and the community. Meanwhile, the Administration was looking into the feasibility of introducing a pilot scheme for two Village Expansion Areas. The idea was to increase the development density of the Village Expansion Areas by allowing for multi-storey development, thereby providing a greater number of residential units to meet the demand for Small Houses.

30. Some members expressed concern that the community could not afford to meet the demand of eligible indigenous villagers for Small Houses in the long run if the Small House Policy was not changed. The Administration explained that the issue of Small House eligibility might be more than a policy issue because Article 40 of the Basic Law provided that the lawful traditional rights and interests of the indigenous villagers were protected. Whether Small House eligibility was a lawful traditional right was still a matter of contention and therefore the Administration had to handle the matter very carefully. The Administration needed some more time to sort out the various complex issues.

31. The Panel also discussed possible measures to improve the efficiency of processing Small House applications. The Panel noted that in consultation with Heung Yee Kuk, the Lands Department had drawn up a set of new procedures to streamline the processing of Small House applications and for resolving objections. The streamlined procedures would be implemented as soon as Heung Yee Kuk's agreement was secured on certain aspects of the procedures.

Development and implementation of Greening Master Plans

32. The Panel discussed the development and implementation of Greening Master Plans (GMPs) in November 2005 and the Administration briefed the Panel on the funding proposal for implementation of short-term greening measures under the GMPs for Central and Tsim Sha Tsui in February 2006. Members in general welcomed the initiative and urged the Administration to expedite the development and implementation of GMPs. To enhance greening efforts, members made various suggestions to improve the planning and implementation of GMPs, such as the adoption of different greening themes for different districts to project local characteristics, the provision and identification of more planting space at public facilities and the promotion of greening features in private developments.

Private certification of building submissions

33. In response to the request of the Subgroup on Business Facilitation under the former Economic and Employment Council, a Task Force to Review the Construction Stage of the Development Process (the Task Force) was formed

under the Provisional Construction Industry Co-ordination Board in late 2004 to identify measures to speed up the construction cycle and reduce the cost of compliance with prevailing statutory requirements.

34. Private certification of building submissions was one of the possible measures that had been examined by the Task Force for streamlining the building submission approval process. With the knowledge that the Task Force planned to commission a consultancy study to examine the subject, the Panel initiated a discussion with the Task Force in July 2005. In view of the strong reservation expressed by Panel members over the idea of private certification, the Task Force suspended the preparatory work of the proposed study so as to explore the way forward with the Panel.

35. In October 2005, the Task Force wrote to the Panel to clarify that the proposed consultancy study was aimed at assessing the feasibility and ascertaining the problems and benefits of the measure, and that the study would not turn private certification into a *fait accompli* since the eventual decision on introducing private certification vested with the Government rather than the Task Force. The Panel discussed the subject again in December 2005. The Administration informed the Panel that it had not yet proceeded to the policy formulation stage in respect of the subject, and it would not formulate any related policy before the subject had been fully studied. The Task Force explained that the scope of private certification under contemplation would focus on the technical and professional aspects and the purpose was to speed up the building plans checking process. The proposed consultancy study would address the concerns raised by members, identify what aspects of building submissions would be suitable for private certification and assess the associated risks.

36. While members appreciated that the purpose of the consultancy study was to identify possible areas for tapping private sector expertise and resources to speed up the certification process, they pointed out that certification of building submissions involved the exercise of statutory powers and hence the Government should bear the final responsibility in approving building submissions. The Administration must exercise great care in considering the matter to ensure that public safety and the public interest would not be jeopardized.

Proposals to lower the compulsory sale threshold for specified classes of lots under the Land (Compulsory Sale for Redevelopment) Ordinance

37. In May 2006, the Administration briefed the Panel on the proposal to lower the compulsory sale application threshold for three specified classes of lots under the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) from not less than 90% of undivided shares in a lot to not less than 80%. The objective of the proposal was to further facilitate private redevelopment efforts so as to arrest the aggravating problem of building deterioration.

38. Some members considered that there was no strong justification to pursue the proposal as there was already a mechanism in place for the Urban Renewal Authority to designate areas for redevelopment based on public interest, and the Urban Renewal Authority was already conferred the necessary powers for undertaking redevelopment projects. There was also the concern that with the lowering of the compulsory sale threshold, minority owners would be placed in a less advantageous position in negotiating the terms of purchase with developers, and thus the interest of minority owners would not be adequately safeguarded.

39. The Administration explained that in working out the proposal, it had been mindful of the need to strike a careful and fine balance between facilitating private redevelopment efforts and protecting individual property rights. Redevelopment would provide a good opportunity to improve the living environment. What the Administration proposed was only to lower the threshold to 80%. The Lands Tribunal would vet each application carefully and would consider, inter alia, whether the conditions of the buildings warranted redevelopment and whether reasonable steps had been taken by the applicant to reach agreement with the respective owners, before deciding whether to grant approval. The Administration also assured members that it would continue to gauge the views of the community on the proposal through appropriate channels.

Other issues

40. The Panel received briefings from the Administration on the Chief Executive's Policy Address in 2006 and the Administration's proposal on conversion of two Assistant Director posts in the Buildings Department from single-discipline to bi-discipline posts.

Meetings held

41. From October 2005 to end of June 2006, the Panel held a total of 17 meetings.

Panel on Planning, Lands and Works

Terms of Reference

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

Appendix II

Panel on Planning, Lands and Works

Membership list for 2005-2006 session

Chairman	Hon LAU Wong-fat, GBM, GBS, JP
Deputy Chairman	Hon Patrick LAU Sau-shing, SBS, JP
Members	Hon James TIEN Pei-chun, GBS, JP Hon Albert HO Chun-yan Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP Hon James TO Kun-sun Hon WONG Yung-kan, JP Hon CHOY So-yuk, JP Hon Timothy FOK Tsun-ting, GBS, JP Hon Abraham SHEK Lai-him, JP Hon Albert CHAN Wai-yip Hon LEE Wing-tat Hon LI Kwok-ying, MH, JP Hon Daniel LAM Wai-keung, SBS, JP Hon Alan LEONG Kah-kit, SC Dr Hon KWOK Ka-ki Hon CHEUNG Hok-ming, SBS, JP

(Total: 17 members)

Clerk Ms Anita SIT

Legal Adviser Ms Bernice WONG