

立法會
Legislative Council

LC Paper No. CB(1) 2111/99-00
(These minutes have been seen
by the Administration and
cleared by the Chairman)

Ref : CB1/BC/8/99/2

Bills Committee on Town Planning Bill

Minutes of the fifth meeting
held on Thursday, 6 April 2000, at 8:30 am
in Conference Room A of the Legislative Council Building

Members present : Hon James TO Kun-sun (Chairman)
Hon LEE Wing-tat
Hon Christine LOH
Hon CHAN Yuen-han
Hon WONG Yung-kan
Dr Hon TANG Siu-tong, JP

Members absent : Hon HO Sai-chu, SBS, JP
Hon Edward HO Sing-tin, SBS, JP
Hon Ronald ARCULLI, JP
Hon Emily LAU Wai-hing, JP

Public officers attending : **Planning and Lands Bureau**

Mr Wilson FUNG
Principal Assistant Secretary/Planning

Mr David LAM
Assistant Secretary/Planning

Planning Department

Mr Raymond T L CHIU
Assistant Director of Planning/Technical Services

Ms Brenda AU
Senior Town Planner/Ordinance Review

Attendance by invitation : Friends of the Earth

Mr Plato K T YIP
Assistant Director

Miss Sonia T Y LO
Campaign Officer

Hong Kong Marine Conservation Society

Ms Mary FELLE
Councillor

The Conservancy Association

Dr HUNG Wing-tat
Director

Ms Lister CHEUNG
General Secretary

World Wide Fund for Nature Hong Kong

Ms Alex YAU Shuk-kau
Senior Conservation Officer

Ms Karen WOO Lai-yan
Assistant Conservation Officer

Clerk in attendance : Mrs Mary TANG
Chief Assistant Secretary (1)6

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Ms Sarah YUEN
Senior Assistant Secretary (1)4

I Confirmation of minutes of meeting and matters arising
(LC Paper No. CB(1)1220/99-00)

The minutes of the first meeting of the Bills Committee held on 1 March 2000 were confirmed.

II Meeting with green groups

Meeting with The Conservancy Association (CA)
(LC Paper No. CB(1)1288/99-00(02))

2. Dr HUNG Wing-tat elaborated on the submission from CA point by point. In reply to Miss CHAN Yuen-han on CA's claim on over-management of public facilities provided by developers, Ms Lister CHEUNG explained that the public was often discouraged from using public facilities because security guards were always all around and it was unclear whether the facilities were open for public use. Having regard that the agreement to provide public facilities might be crucial in securing approval for the development concerned, it was undesirable that such facilities could not be effectively utilized by the public.

Meeting with World Wide Fund for Nature Hong Kong (WWF Hong Kong)
(LC Paper No. CB(1)1301/99-00(02))

3. Ms Alex YAU expressed WWF Hong Kong's support for the Bill which in its view would effect a more open, accountable and effective planning process in Hong Kong. She then highlighted the following salient points in WWF Hong Kong's submission -

- (a) A review on the implementation of the Environmental Impact Assessment (EIA) Ordinance during the year from April 1998 to April 1999 indicated that of the 58 applications processed, 53 had drawn public comments. This could prove that the demand for public participation was great and hence it was appropriate that the Bill should seek to make the planning system more open.
- (b) WWF Hong Kong supported public involvement throughout the planning process as provided for by the Bill. In particular, the public should be able to participate as early as at the planning study stage because early public participation, if appropriately managed, would effect more comprehensive deliberations during the planning process, help achieve better-informed decisions and engage public support for the development concerned. Moreover, all planning applications and not only those which might adversely affect others should be made available for public comments.

- (c) The Bill and the EIA system should complement each other in ensuring environmental protection through better planning and WWF Hong Kong therefore recommended the wider application of EIA to planning. Since land-use plans frequently formed the context for project authorization, plan making was the logical first higher level to which an EIA should be extended. In this regard, the EIA aspect could be incorporated into the planning study prepared for outline zoning plans (OZPs).
- (d) WWF Hong Kong welcomed the proposals in the Bill to effect better planning control through new designations such as “Environmentally Sensitive Area” and “Designated Development” (DD).

Meeting with Friends of the Earth (FoE(HK))
(LC Paper No. CB(1)1288/99-00(01))

4. Mr Plato YIP shared WWF HK’s view on the wider application of EIA to planning and briefed members on the submission from FoE(HK) as follows -

- (a) FoE(HK) fully supported the Bill’s objective of making the planning system more open and accountable to the public. However, it might be difficult for the Town Planning Board (TPB) to make a decision on planning applications requiring publication within a time limit of three months.
- (b) TPB members should be required to declare their interests. These should be recorded in a register which should be made available for public inspection to enable the public to check on any potential conflict of interests.
- (c) Government should appoint more members with environmental background to TPB so as to achieve a more balanced TPB membership to facilitate the promotion of sustainable development.
- (d) Government should provide more planning education to the public to facilitate community planning. In addition, since only planning applications for bad neighbour uses would be published for public comments, TPB should publish guidelines for determining what constituted bad neighbour uses.
- (e) Both the maximum fines and the resources for enforcement against unauthorized developments should be increased.

Meeting with Hong Kong Marine Conservation Society (HKMCS)
(LC Paper No. CB(1)1301/99-00(01))

5. Ms Mary FELLEY took members through the submission from HKMCS. At the Chairman's request to explain the need to extend the concept of statutory zoning to other intertidal and marine areas, she said that this was necessary because presently illegal dumping taking place below the high tide line was affecting coastal ecology.

Deliberations

Conservation

6. In reply to the Chairman on the optimum conservation approach, Ms Alex YAU of WWF Hong Kong opined that to achieve better overall planning for Hong Kong, it was important that the Bill could strengthen planning control by integrating the management of resources below and above high water marks under one single ordinance. This was because while there might be provisions under the Foreshore and Sea-bed (Reclamations) Ordinance which could enforce against illegal dumping and unauthorized development at sea, they were in general not effective enough.

7. Responding to Mr WONG Yung-kan on the need to compensate fishermen for the loss of fishing grounds due to the designation of coastal protection areas and wetlands, Ms Alex YAU of WWF Hong Kong said that in managing Mai Po Nature Reserve, WWF Hong Kong had taken care not to adversely affect the livelihood of the fishing community while ensuring the proper use of Hong Kong's resources. She further pointed out that if the Bill could provide for public consultation during preparation of the draft plan so that the views and interests of various parties concerned could be taken into consideration at an early stage, conflicts and hence grievances would be minimized.

8. In this connection, Ms Lister CHEUNG of CA also clarified that in conserving wetlands, owners of fishponds were encouraged to continue operation. Their rights would not be affected unless they wanted to sell the ponds to developers for housing production. As for compensation for diminution of development rights in areas designated as wetlands, CA's view was that to ensure the well-being of mankind, any development should conform with the prevailing planning intention and it would be undesirable to allow incompatible developments to go ahead when a new consensus of planning through the OZP process was formed. To address concerns of the affected parties, CA was lobbying the concept of externality compensation.

Representation of green groups on TPB

9. Referring to CA's call for representation of green groups on TPB in its submission, Dr TANG Siu-tong enquired about how green groups should be represented in TPB. He also enquired whether the town planners on TPB could help

ensure green groups' views would be adequately reflected in TPB's deliberations. In reply, Ms Lister CHEUNG of CA clarified that CA's concern was only that green groups should be represented on TPB. She further explained that CA did not have any doubt about town planners' understanding of environmental protection. It was however concerned that, given their own commitments and considerations, town planners might not have the same degree of commitment in ensuring the long-term protection of environment as green groups did. Moreover, the inclusion in TPB of members from more sectors of the community would help it achieve balance in making planning decisions.

10. In this regard, Mr Plato YIP of FoE(HK) highlighted that town planners had to look after the interests of their clients as well. There was thus a need to ensure that TPB would, like its overseas counterparts, be representative of different parties, including green groups, to effect more comprehensive and balanced considerations in the planning process. For example, to balance the different interests of the community, leaders of minority groups were appointed to the Sustainable Development Committee under the President of the United States.

Other concerns

11. Miss CHAN Yuen-han enquired about examples of claims that large sums of money had been spent on implementing the initial stages of projects before their sustainability had been ascertained. In reply, Mr Plato YIP of FoE(HK) quoted the South-East Kowloon Development project which had drawn more than 900 objections and was temporarily shelved pending modifications; the Route 10 project where the toll plaza of Tsing Lung Bridge would be situated near the coastline despite the visual impact because \$50 million had already been spent on the detailed design of the bridge; and the proposed reclamation at Yam O on which an EIA study had already been conducted although the intended uses of the reclaimed land had yet to be approved.

12. The Chairman thanked the deputations and invited them to submit further views on the Bill in writing if necessary.

III Meeting with the Administration

13. The Principal Assistant Secretary for Planning and Lands (Planning) (PAS/PL(P)) drew members' attention to the green groups' support for the Bill to effect a more open and publicly accountable planning system to allow greater public participation in town planning in Hong Kong. He however also noted their concerns about various provisions of the Bill and responded to them as follows -

- (a) On comments that certain statutory time-limits were too short to accommodate sufficient public consultation, it had to be noted that in determining the adequacy of consultation periods, the whole planning process including the plan making and the planning application stages

should be taken into account. Considering that the whole planning process could span a long time if there were objections and appeals, the duration of various stages could not be too long. Moreover, the public would have the opportunity to comment at the planning study stage, during preparation of the OZP and during the planning application stage.

- (b) As to the proposal for the Bill to tie in with other relevant legislation such as the EIA Ordinance, the Foreshore and Sea-bed (Reclamations) Ordinance, etc, the Administration held different views and had in fact taken care to reduce overlapping of the Bill with other ordinances when drafting it. As such, the proposal to conduct a strategic EIA before planning certain land uses was in the Administration's view undesirable and would only lead to duplication of efforts as a further EIA would be conducted on the relevant development itself. The developers might also find the Bill too demanding if the proposal was adopted.
- (c) Regarding the definition of "bad neighbour use", such would be left to the decision of TPB, which would need to work out and publish clear guidelines in this regard. This was because "bad neighbour use" might be construed differently in different districts.
- (d) Although developers might be required to provide public facilities, the Administration was not shifting its responsibility for providing public facilities onto developers and would only require them to provide facilities essential to their developments. For example, the building of roads to serve a residential development. As to whether public facilities so provided would be open for public use, this would be determined by the conditions of the lease concerned. In general, they would be open for public use irrespective of whether they were managed by the Administration or by the developer. The over-management of such public facilities quoted in CA's submission should be individual cases and might not have anything to do with the relevant lease conditions.
- (e) In relation to projects whereon substantial amounts of money had been spent before their sustainability had been ascertained, there was a need to note that the Administration considered it a responsible approach to conduct studies first to work out details before conducting consultation. The Administration had adopted a more cautious approach after the shelving of the South-East Kowloon Development project, and had since taken care to consult the public as soon as large planning studies were commissioned. For example, the South East New Territories Development Strategy Review, various studies on Lantau and Wanchai Development Phase II. As such, the Bill, which sought to open up the planning process to effect full consultation on planning studies as well as preparation of OZPs, was only formalizing what was being done administratively.

- (f) As for the case of Yam O quoted by FoE above, it should be noted that the development of North-East Lantau would be based on a study conducted to work out the implementation details. Pending this and having regard that consultation on the proposal to develop North Lantau into a cluster of tourist attractions was still under way, implementation had not commenced and the small-scale reclamation being carried out there was to provide land for the construction of the rail adjacent to the Disney Theme Park. However, in recognition that the scale of reclamation required would be significant if the intended uses at Yam O were given the go-ahead, a detailed EIA study had been conducted on the proposed reclamation.

14. Addressing the Chairman's concern about the Secretary for Planning and Lands' power to designate DDs, PAS/PL(P) assured members that such power would be exercised with reference to the EIA Ordinance, which had clear definitions of designated projects in its schedules. He also explained that DDs were in fact developments generally recognized as having adverse impacts such as power plants and cement plants.

15. With the aid of power-point presentation, the Senior Town Planner/Ordinance Review briefed members on Part III of the Bill.

(Post-meeting note: The above presentation material, tabled at the meeting, was circulated thereafter vide LC Paper No. CB(1)1322/99-00.)

IV Any other business

16. The Chairman reminded members that the next meeting originally scheduled for 7 April 2000 had been cancelled due to a clash of meetings. The sixth meeting of the Bills Committee would thus be held on 11 April 2000.

17. The meeting ended at 10:15 am.

Legislative Council Secretariat
23 October 2000