

**HKIA Submission on Town Planning Bill
at Bills Committee Meeting
on 14 March 2000**

1. The Preamble and Scope of the Bill

The Bill has been drafted to cover the health, safety convenience and general welfare of the community and betterment of the environment but there is no provision on the Bill to deal with the sustainable development issues.

2. Formation and Power of Town Planning Board

- a. It is a concern that the power of the Town Planning Board is too great under the new legislation. TPB would have authority to establish new requirements, regulations under the umbrella of the new law only, as the Board thinks fit. Additional provisions to balance and check would be appropriate.
- b. With regard to the establishment of the Board, public officers will be appointed as the Chairman and Secretary, just like current situations. It is proposed to restructure the Town Planning Board so as to make the Board more independent, transparent, and accountable by having a non-public officer chairing the Board and the establishment of an independent Planning Secretariat.

3. Insufficient Transparency in Establishment of ESAs, DDs and SDAs

- a. The Bill contains provisions for ESA and SDA which may require more stringent measures. Although there may be a need for special areas in Hong Kong, it is very concerned how these areas are established, what criteria are used, what procedures will be adopted, who will be responsible to make such decisions, and what measures will be implemented.

4. Drawbacks of the proposed Planning Control in Operation

- a. The standardized 1 month comment period for all planning studies would be too short for large scale and complex studies. It is suggested to limit the comment period to range from 1 to 3 months depending on the size and complexity of the studies. TPB may decide on the period upon the publication of the planning studies.

- b. It is a good principle to emphasize more on urban design in planning control. However, the implementation should be very careful to respect the creativity of individual designs. It should first be tested out in small-scale application. It is also proposed to establish guideline on reviewing urban design.
- c. It would be necessary to clearly define all kinds of planning applications which would require publication. If the intention of this requirement is to control only the uses which are likely to cause environmental pollution, such uses need be identified publicly, so that those who may plan to pursue such lines of business should be aware of all the associating special measures.
- d. It is agreed to drop the Planning Certificate System. The rejection of Building Plans by Building Authority due to contravention of provisions of the bill is now proposed in the bill. It is understood that such rejection will only be applicable to major planning contravention such as land uses and densities of the proposed developments, but not to minor planning non-conformities such as outstanding conditions in Section 16 applications. The scope of this provision need to be clearly defined and made public. The timely progress of developments in conform to major planning requirements should not be delayed unreasonably.
- e. The problem of freezing all the developments in areas affected by a draft Town Plan seems to be unresolved. Not until the draft Town Plan becoming an Outline Zoning Plan, it will not be likely for any development to be approved.
- f. It is also concerned that public's objection to developments may cause undue and unreasonable delay. Although objections due to frivolous reasons will not be accepted, it is difficult to define "frivolous", and even more difficult to reject frivolous objections outright when they are launched, without going through a process of investigation, which takes time.
- g. Under Buildings Ordinance, all the reasons for disapproval and rejections are clearly defined within the legislation. The statutory powers of the Building Authority are clearly stated. However, since there is no similar provisions in the Town Planning Bill, the power to reject planning submissions can be quite unlimiting. For example, the Board may reject a planning application due to "any other matter which, in the opinion of the Board, is relevant to the application." (sec. 36(3)(g))
- h. On Sec. 36(1), TPB could defer the planning application for not more than 3 months for no reason. The rationale behind this provision is not understood.

5. Creation of uncertainties for developments

- a. Developments in CDA or Undermined Zones will face very uncertain future. This would imply a slow regeneration of Hong Kong's old urban areas, hindering our urban renewal efforts. CDA Zones are required under very specific conditions, and they should only be intermediate measures. They should be as little as circumstances may call for and be rezoned back for normal and appropriate uses as soon as possible so that the land could be released for development to satisfy the various urban functions. The current proliferation of CDA zones from a handful few (about 4) to over 140 in 8 years would in reality freeze up a majority portion of our old urban areas from development. Most of these areas are all in prime locations and serviced by urban infrastructure systems already in place, ready for development without further public improvements.
- b. On Sec. 37 (1)(b), TPB may further require the provision of such public facilities as is, in the opinion of the Board, necessary to serve the development. This adds further uncertainties to the development proposal. Should those not be determined at the time of preparation of land grant and the town plans, rather than at the time of reviewing planning submissions?

6. The Problem of Appeal

- a. With reference to Sec.6(g), 45 & 46, the proposal to refer the appeal to BA's refusal to TPB instead of Appeal (Building) Tribunal is objected. TPB would play a double role in making the plan and handling appeal applications regarding non-conformities to such plans. The power to review the appeal may be more appropriately left with the Building Tribunal. However, non-officio planning professionals may be added to the Tribunal Panel to help to review cases which are planning in nature.
- b. The "one-stop" appeal under the already well established appeal system under Building Ordinance will give the appellant a straight forward and clear directive to proceed with his/her appeal.

7. Other comments

- a. The Bill has no provisions for compensation to those who may suffer due to implementation of its provisions. This will not be just and fair to those who may incur losses for the public good.
- b. While the purposes of the performance bond is understood, it is a concern for its financial implication on the development cost which may contribute to

higher property and housing prices.

- c. It is understood that the performance bond is proposed to secure compliance. However, highest degree of discretion should be used in its adoption, for its rationale could also be applicable to other statutory compliance with regard to fire and safety, environmental protection, transportation, roads, drainage, water, lands and building requirements.
- d. In the Town Planning Bill, proposals applying for planning permissions, will have to go through building, lands and planning approvals separately. If this is in operation, Planning Department, Building Department and Lands Department would almost be certain to receive the same set of plans three times, creating unnecessary work loads.
- e. It is also noticed that submissions of Master Layout Plan, Landscape Plan, Environmental Statement (Environmental Impact Study), etc. are already required in the land grant submission. A “one-stop” submission, i.e. one submission to one authority and processed centrally, is preferred.