

Bills Committee on Town Planning (Amendment) Bill 2003
Proposed Amendments to the Plan-Making System under the Bill

Purpose

Arising from discussions at the Bills Committee meetings on 4 and 20 November 2003, the Administration was requested to reconsider a range of issues relating to the condensed plan making system as proposed in the Bill. These include-

- (a) whether the plan exhibition period should be standardized at one month irrespective of whether the subject matter is new plans, amendments to draft plans or amendments to approved plans;
- (b) whether a period of three weeks for public inspection and comments on representations made after expiry of the plan exhibition period would be adequate;
- (c) whether the single hearing mode which apparently deprives the public or those affected the opportunity to respond to important information disclosed at hearing of the Town Planning Board (TPB) is appropriate;
- (d) whether it is absolutely necessary to reduce the processing time of objections by TPB from nine months to six months and what would happen if the TPB could not complete consideration of all representations within the statutory period; and
- (e) whether it is appropriate in the context of the TPB discharging its statutory objective in the plan making system to give to the Chief Executive in Council (CE in C) the power to approve only some of the amendments proposed by the TPB.

2. Members' concerns reflect views and comments made by deputations to the Bills Committee as well as those reflected to the Administration by stakeholders since introduction of the Bill. Since these are all inter-related issues fundamental to the revised plan making system proposed in the Bill, instead of addressing these points of concern individually, we have re-examined the subject in its entirety. To address these concerns and taking account of changing circumstances, this Paper outlines a further revised plan making system for Members' consideration.

Background and Justification

3. To recapitulate, the proposals in the Bill relating to a revised statutory planning system which would reduce the time for completing the process from nine months to six months were a response to some general aspirations that the statutory process should be streamlined as far as possible. Such aspirations were particularly evident at times of development pressure and a search for greater efficiency in the public sector.

4. However, in recent years, such development intensity and pressure has eased off. On the other hand, the public has taken a more keen interest in town planning matters, especially those affecting their interests or are having an impact on the general living environment. The TPB accords great importance to public views in the drawing up of new or amended plans; applicants for planning permissions are also more alert to the need to overcome objections and to make changes to their proposals to address public concerns. Condensing the plan making process amidst such recent developments, particularly in view of the concerns expressed by stakeholders and Members, may not be desirable.

5. Accordingly, we consider it justified to replace the proposed single hearing mode by a two-stage representation consideration process which will strike a needed balance between streamlining procedures and enhancing public participation in the plan making process. Details of the revised system are described in the paragraphs below.

The Revised Proposals

Plan Publication Period

6. The proposed standardized one-month plan publication period in the Bill is to streamline and expedite the plan-making process. To allow sufficient time for the public to prepare for the submission, the Bill provides another four weeks for the ‘representers’ to submit further information. However, as the deputations at large consider the plan publication period too short and the arrangement for submitting further information not satisfactory, we **propose** to retain the current plan publication period for new plans and amendments to approved plans at two months. For amendments to draft plans, the present three-week period will also be standardized to two months to allow sufficient time for the public to submit representations. In

tandem with this revised proposal, the provision for submission of further information by the ‘representers’ will be deleted.

Two-stage Representation Consideration Process

7. The one-stage representation hearing process proposed under the Bill aims to streamline the process thereby achieving a reduction in the plan making process from the present nine months to six months. Supplemented by measures to increase transparency and enable the public to comment on representations made, we thought that the single hearing mode would have given due regard to the rights of the public to raise objections or comments. While the proposals to publish representations for public comments are generally supported, most of the deputations consider that the one-stage hearing is not conducive to a thorough deliberation of representations and comments. In particular, many of the deputations prefer to retain the “further objection” stage under the current system so as to allow affected people with landed interest to raise objections to any amendments proposed by the TPB to meet representations after the first hearing.

8. To ensure justice and to enhance public participation in the planning process, we propose to modify the one-stage representation consideration to a two-stage process. In gist, the TPB will publish amendments proposed to meet representations and any affected persons with landed interest may object. A second hearing to consider the objections and related representations and comments will be provided.

9. Regarding the duration for publishing representations for comment, the proposed three-week period is considered adequate. As members of the public will have the opportunity to study the draft plan or amendment to plan during the two-month publication period, the provision of a three-week period for commenting on the representations made on the plan or amendment is considered reasonable.

10. The major steps of the revised plan-making process are highlighted as follows :

- (a) the TPB shall publish new plans, amendments to approved plans and amendments to draft plans for two months for representations;
- (b) the TPB shall publish all representations for three weeks for public comments;
- (c) the TPB shall conduct a hearing of representations and comments;

- (d) any amendment proposed by the TPB to meet the representations shall be published for three weeks and the affected persons with landed interest may object; and
- (e) if objections are received, the TPB shall conduct a further hearing of the objections and the related representations and comments. After the further hearing, the TPB shall decide on whether or not to make amendment to meet the representations.

11. Compared to the current system which could be described as a three-stage representation consideration process with a first stage of “preliminary consideration” by the TPB in the absence of the objectors, the revised proposal of a two-stage process is still a streamlined one. We consider that the preliminary consideration stage (i.e. under s.6(3) of the current Ordinance) could be omitted because given the increase in the complexity of objections over time, the TPB normally does not propose any amendment to meet an objection at the preliminary consideration stage. Some stakeholders argue that from the stance of objectors, there is some value in the preliminary consideration stage because it would enable them to get hold of the preliminary arguments of relevant government departments and get better prepared for the subsequent hearing at TPB. We accept this view point but the same could be provided by introducing some administrative measures to inform the concerned parties of the views of the government departments before the hearing, so that the concerned parties can be better prepared for the hearing.

12. Under the two-stage process, additional time is required to publish the proposed amendment for further objection, to conduct a second hearing if needed and to allow possible adjournment of meetings should new or substantial issues be raised at this subsequent hearing. Added with the measures to enhance transparency by publishing representations and collecting public comments, we assess that a nine-month period will be required for completing the representation consideration process. Although this means that we would not be able to achieve the tangible reduction in time needed to complete the process, the alternative two-stage process is an improvement and represents a pragmatic balance between enhancing public participation and ensuring efficiency. Also, it is prudent to keep the existing maximum six-month extension period that can be granted by the CE to cater for special circumstances.

13. A summary comparison of the current three-stage process, the one-stage process proposed in the Bill and the two-stage process now put forward to Members

for consideration is at the **Annex**.

Powers of CE in C upon submission of draft plan

14. Related to the originally proposed one-stage representation consideration process, the new s.9(1A) in the Bill allows the CE in C to approve only some of the amendments proposed by the TPB after the hearing of representations. The main legislative intent of the proposal is to provide flexibility for the CE in C under the circumstances to approve some of the TPB's proposed amendments, instead of referring the whole plan to the TPB for further consideration and amendment should it only agree to some but not all of the proposed amendments.

15. However, some deputations and Bills Committee Members consider that the CE in C should not be involved in the detailed planning work, which should be the responsibility of the TPB. In the light of the revised process for considering representations and to address these concerns, we propose to retain the status quo, i.e. the CE in C may, upon submission of a draft plan by the TPB incorporating any amendments made after the hearing, approve, refuse to approve or refer the draft plan to the TPB for further consideration and amendment.

Advice Sought

16. Subject to Members' agreement to the revised proposals, we shall proceed to draft the Committee Stage Amendment for the Bills Committee's examination.

**Housing, Planning and Lands Bureau
Planning Department
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Flow Chart Comparing the Proposed Two-Stage Representation Consideration Process with the Current Three-Stage Process and the One-Stage Process under the Bill

