

Bills Committee on Town Planning (Amendment) Bill 2003
Existing and Proposed Measures for
Publication of Plans and Planning Applications

Purpose

At the Bills Committee meetings on 6 January 2004 and 3 February 2004, members requested the Administration to :

- (a) explain the existing measures and measures contemplated by the Administration to publicize draft plans, amendments to draft plans and approved plans and planning applications after enactment of the Bill ; and
- (b) consider the need and practicality of expressly providing in the law the size and format of a notice to be posted in site or published in a local newspaper concerning draft plans, amendments of plans and planning applications.

This paper provides the requested information.

Public Consultation on Plans

2. Under the existing Town Planning Ordinance (the Ordinance), there are provisions for publication of new draft plans and amendment to approved plans for public inspection and objection for two months (under s.5) and publication of amendment to draft plan for three weeks (under s.7). The Town Planning Board (TPB) is required to advertise once a week (for plans exhibited under s.5) or twice a week (for plans exhibited under s.7) in a local newspaper, and to notify in each issue of gazette the place and hours at which the plan may be inspected. In practice, a notice is published in one English and two Chinese newspapers. A press release will also be issued by the TPB and posted on the TPB website.

3. At present, administrative measures are also adopted by the TPB and Planning Department to consult the public through the relevant

District Council/Rural Committee/Area Committee and public forums prior to gazetting a plan except for some special cases¹. Once a draft plan has been presented to the District Council, a full set of the documents presented to the District Council will be deposited at the Planning Inquiry Counter of the Planning Department for public inspection. On the day of gazetting the plan, apart from the notices and advertisements mentioned in paragraph 2 above, notices will be posted at the TPB Secretariat, the relevant District Planning Office, District Office and Rural Committee office (for plans covering the New Territories area) and the draft plan will be available for public inspection at these places. In addition, the notice and the electronic version of the plan will also be posted on the TPB website on the same day.

4. Under the Bill, new draft plans and amendment to approved plans or draft plans are proposed to be published for one month² for representations (including supportive comments and objections). The TPB is required to advertise once a week in a local newspaper and notify in each issue of the gazette. Upon expiry of the plan exhibition period, the TPB shall make available all representations received for public inspection and comments, and cause a notice to be published once a week in a local newspaper for three weeks, specifying the place and hours at which the representations are available for public inspection.

5. Upon enactment of the Bill, it is intended that the current practice of publishing a notice once a week in two Chinese and one English newspapers will continue. In addition to the existing administrative measures for publicizing the plan upon gazetting, the Administration is considering the following means to further improve the effectiveness of notification to the general public:

- (a) upon gazetting of the plan, in addition to posting notices at the relevant District Office and Rural Committee office, a notice will also be sent to the relevant Area Committee

¹ Consultation will be undertaken by PlanD prior to gazetting of the plan as far as possible unless sensitive information is involved, and premature release of the information may lead to speculative action nullifying the effectiveness of the proposed development control (e.g. new Development Permission Area plan). For these cases, consultation with the relevant District Council would be undertaken as early as possible after gazetting the plan.

² As presented to the Bills Committee on 6 January 2004, the Administration has proposed to extend the plan exhibition period to two months by moving a Committee Stage Amendment.

informing the Committee the place and hours at which the plan is available for public inspection and the time limits for submitting representations to the TPB;

- (b) for amendment specific to a particular site or development, where practicable, a notice will be posted in a prominent location on or near the site/development;
- (c) suggestion will be made to the District Council for setting up area planning committee to hold regular meetings to consider planning matters so as to ensure that timely discussions can be held on planning proposals, and representatives from the Planning Department will attend the committee meetings to explain the planning proposals upon request; and
- (d) for major planning proposals, such as the South East Kowloon Development, apart from carrying out public consultation during the planning study stage, if considered appropriate, special or feature reports through the press and other media could be arranged.

Public Consultation on Planning Applications

6. Under the existing Ordinance, there is no provision for conducting public consultation on planning applications. According to legal advice, it would not be appropriate for the TPB to release third party information to the public without the consent of the applicant. Nevertheless, the Administration has adopted administrative means to consult on planning applications through the respective District Offices. A gist of the planning application including the basic development parameters, such as the proposed land use, site area, gross floor area, building height and provision of government and community facilities and car parking or loading/unloading facilities, will be prepared by the Planning Department to facilitate consultation with the relevant local bodies by the District Office. For some complicated or controversial cases, special briefing sessions will be arranged by the District Office, at

which the representatives from the Planning Department would explain the details of the application. The application together with local views collected by the District Office will be submitted to the TPB for consideration.

7. Under the Bill, all planning applications, i.e. applications for amendment of plan under s.12A, planning permission under s.16, and review under s.17, shall be made available for public inspection and comments. An applicant, who is not the sole owner of the application site, is required to obtain consent of or notify the owner of the application site prior to submitting the application. Upon receipt of an application, the TPB is also required to make available the application for public inspection and comments. The TPB shall cause a notice to be posted in a prominent location on or near the application site or publish a notice once a week in a local newspaper for three weeks. The notice will specify the place and hours at which the application is available for public inspection and comments on the application may be submitted to the TPB within the specified three-week period.

8. Upon enactment of the Bill, the TPB will promulgate detailed guidelines to explain the requirements of the applicant when making a submission for planning application. If the applicant is not the sole owner of the application site, he/she will be encouraged to obtain the consent of the owner(s) by asking him/her to sign on the form, or to notify the owner(s) by sending a notice by registered mail to the name and address of the current owner(s) as registered at the Land Registry. Failing this, the applicant has to prove that he/she has taken reasonable steps to give notification to the owner(s) prior to submission of an application. Such steps may include:

- (a) by sending a notice to the concerned site/premises through courier service; and advertising in the local newspapers (two Chinese and one English newspapers will be specified); **OR**
- (b) by sending a notice by registered mail to the Owner's Corporation (where appropriate); posting a notice on site; and advertising in the local newspapers (two Chinese and

one English newspapers will be specified). This would cater for the situation where the number of units (in case of buildings) or owners (in case of open land) included in the application site is large, and giving individual notice becomes too onerous and expensive.

9. With these statutory provisions and administrative guidelines in place, the openness and transparency of the planning application system would be much enhanced. Also, the Planning Department would continue to liaise with the relevant District Office and attend special briefing sessions or area planning committee meetings to explain the details of major planning applications where necessary. In addition to posting a site notice or advertising in two Chinese and one English newspapers, the following administrative measures could be considered to further improve the effectiveness of notification to the general public:

- (a) sending a notice to each of the Owners' Corporations of the adjoining buildings within 100 feet from the boundary of the site;
- (b) sending a notice to the District Council member(s) of the concerned local area(s);
- (c) posting a notice at a local community centre or other appropriate venues recommended by the District Office;
- (d) posting a notice at the TPB Secretariat, the relevant District Planning Office, the relevant District Office and Rural Committee office and the TPB website; and
- (e) sending a notice to the Area Committee, where appropriate, informing the Committee the place and hours at which the planning application is available for public inspection and the time limits for submitting comments to the TPB.

10. With the above statutory provisions and administrative measures, the openness and transparency of the planning approval process would be much enhanced. Since a planning application may involve a large open

site or a small premise within a building, it would be difficult to prescribe the size and format of a notice to cater for various situations under the law. To allow flexibility, it is considered more appropriate to do so in the form of TPB guidelines. This approach has been widely adopted by planning authorities overseas as well as other licensing authorities in Hong Kong, such as the Liquor Licensing Board.

Housing, Planning and Lands Bureau
Planning Department
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