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To: Clerk to Bills Committee, Attn: Mr. S. C. Tsang
Legislative Council
From: Ms. Karen Woo Your Fax No.: 2869 6794
Your Tel. No.: 2869 9215 Page(s): 4 (Including this page)
Date: 22 August 2003
Subject: **Bills Committee on Town Planning (Amendment) Bill 2003**
Invitation for submissions

Dear Sir,

Thank you for your letter of 24 July 2003 inviting WWF Hong Kong to give our views and comments on the captioned Bill.

WWF Hong Kong welcomes the Town Planning (Amendment) Bill 2003 (hereafter the Bill) with the first stage amendments to streamline the planning procedures, enhance public involvement in the planning process and strengthen enforcement control against unauthorised developments. In particular, we have the following comments and suggestions on the Bill for the Bills Committee's consideration:

Expediting the plan-making process

We appreciate the purpose of the amendment is to expedite the plan-making process and we in general support the proposal to reduce the extension period for considering representations that may be granted by the Chief Executive (CE) from 6 months to 3 months [Clause 10(b) (vi)] and to vest the authority to refer an approved plan to the Town Planning Board (the Board) instead of the CE in Council under the existing Ordinance [Clause 12(a)].

However, we **object** against the proposal to shorten the plan exhibition period for submitting representations **from 2 months to 1 month** for new plans or amendment to approved plans [Clause 6 & 9(b) (i)] and our views are as follows:

1. We consider that the proposed 1 month plan exhibition period is **too short** to allow for a **wide public participation** and would therefore compromise the process of



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public participation in plan making process which is an essential component of sustainable development.

2. Public may not have sufficient time to fully understand the details of the new plans and/ or amendments to approved plans and make a decision on whether or not to raise an objection. As a precautionary measure, public and stakeholders **may lodge objections** to the new plans or amendments **irrespective** of whether they may have **genuine concerns**, thereby **increasing the workload** of the Planning Department.
3. Instead of shorting the plan exhibition period, we urge Government to improve the existing mechanisms to **enhance public consultation** so that public and the relevant stakeholders – particularly those directly impacted – would be well informed of the new plans or amendments to approved plan both **prior to and during the gazettal of the new plans and amendments**.

Streamlining the planning approval process

We support the proposal to enable the existing Committees of the Board to consider applications for amendment of plan and amendment to planning permission, etc [Clause 3]. We also support the proposal to enable the Board to set up new Committees to consider applications for review of decisions concerning planning permission and amendments to planning permission under section 17 [Clause 4]. In this regard, WWF Hong Kong suggests new Committee such as “Conservation Land Use Committee” should be set up to consider applications and other land use matters related to land use conflicts between conservation and development.

However, we **object** against the proposal to enable the Board **to delegate its power to a public officer** to determine acceptance of further information in relation to applications for amendment of plan, planning permission, amendment to planning permission and in relation to review applications under section 17 [Clause 3]. We are concerned that a public officer is only representing the government department’s position and may have conflict of interests because of his possible role in processing application and **may not easily make a well-balanced decision on cross-sectoral land use matters** (e.g., involving different government departments and/or multi-stakeholders).

We are also **concerned** that the Bill would allow **certain minor amendments** (e.g.,



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“Class A & B amendments”) to planning permission to be exempted from the requirement of submitting further application [Clause 17]. At this stage, it has not been clearly defined what class or description are considered “minor” amendments. Unless it is clear to the public what the “minor” amendments are and to be shown that such exemption would not **comprise the right of public to submit comment on planning applications**, we would not support this amendment which may have an unknown impact on public rights to know and involve in the planning process.

Enhancing the transparency of the planning system

WWF Hong Kong greatly supports the provisions to develop a more open, transparent and public accountable planning system. Public inputs, if appropriately managed and facilitated, could allow more comprehensive deliberation and consideration in the planning process, achieve better- informed decisions, and engage public support for the development. We therefore support public involvement throughout the planning process as provided for by the Bill including particularly the following:

- Provision allowing both supportive and adverse representations instead of objections to be lodged in the plan-making process [Clause 7];
- Provision allowing the applicant to attend the Board meeting and be heard at the meeting [Clause 13]; and
- Proposal to require the Board to make public ALL applications for amendments of plan and for planning permission for 3 weeks for public comments. Apart from posting on site and publishing in newspapers, we recommend that ALL applications could be made available on the Town Planning Board’s web site for public inspection [Clause 13, 16(b) and 18(b)].

We also note the new provision that if the applicant is not the current land owner, he shall be required **to obtain consent of or notify the land owner** [Clause 13 and 16(a)]. We are concerned that it may have **practical difficulty** for an applicant to get the contact information of the land owners (e.g., name and address) who actually may be living overseas for many years! It may also be difficult for some application cases to obtain the consent of the land owner in respect of the application before the application is made. From our experience, it is very rare that land owners in Hong Kong would like their



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agricultural lands with high ecological value to be zoned for “Site of Special Scientific Interest” or “Conservation Area” as this may pre-empt their (false) hope to sell/ develop their lands for better economic benefits. We would like to ask whether the consent of the land owner is a necessary requirement for a successful application. If yes, we are worried that the rights of private interests may override the rights of public interests for some planning application which are for the long-term benefits of the whole Hong Kong community. If not, there is no point requiring the mandatory consent of land owners. We suggest that it may be more practicable to require the applicant **to notify the land owner only** (and provided government would assist the applicant to get the contact information of the land owner) so that the **land owner** of the application site is **aware** of the application and may lodge his representation if he has any concerns/ comments.

Recovering costs for processing planning applications

We consider that the cost recovery provision [Clause 14] has to be fully justified for public interests and the **fee scale** has to be **reasonable and acceptable by the public** at large. If the fees for the services are prescribed too high, the degree of public involvement in the planning process may be negatively affected.

Strengthening enforcement control against unauthorised development not permitted under the Ordinance

Recently, an unauthorised development was spotted near Mai Po Lung village, San Tin which is very near to the existing nesting colony for Chinese Pond Heron. However, the owner/ operator of the unauthorised development immediately submitted a new planning application on the area for the use of temporary retail and open storage of construction machinery and if they obtain section 16 planning permission, this can be another means for them to comply with an enforcement notice. This is one of the many examples showing the major loophole of the existing legislation and which already compromises the effectiveness and efficiency of the enforcement control against unauthorised development by law.

We therefore strongly support the provision to confine the terms requiring compliance under an enforcement notice to those requiring discontinuance of an unauthorised development so as to strengthen the enforcement control against unauthorised developments [Clause 20(a)(iii)]. We also strongly support the provisions to enable



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Planning Authority to enter private land other than domestic premises to ascertain whether there are matters constituting unauthorized developments [Clause 19].

We also welcome the provision to clarify the existing legal position that the managers of a clan, family or t'ong shall be regarded as land owners under the New Territories Ordinance and they will be liable to offences in relation to unauthorized developments in their villages [Clause 2(a)].

We should be grateful if the Bills Committee would consider our views and suggestions above and modify the Town Planning (Amendment) Bill for the long-term benefits of the Hong Kong community. WWF Hong Kong also call upon the Government to put forward the proposals of new designations such as “Environmentally Sensitive Areas”, “Special Design Area” and “Designated Development” in the second stage amendments for the captioned Bill to effect better planning control and give due regard to environmental and urban design considerations in the plan-making process.

Thank you for your consideration.

Yours faithfully,

Karen Woo
Conservation Officer
WWF Hong Kong