

Bills Committee on Town Planning (Amendment) Bill 2003

**Summary of concerns/views raised by organizations
(as at 16 September 2003)**

Subject	Organization	Concern / view
Plan-making process		
<i>Exhibition of plans</i>		
<p>Proposal to standardize the plan exhibition period for submitting representations, by changing the period for raising objection to amendment to draft plans from three weeks to one month, and to new plans or amendments to approved plans from two months to one month</p> <p>Clauses 6 and 9(b)(i) Sections 5 and 7(2)</p>	<p>HKIA AAP APC HKIS REDA LSHK WWF HKIREA HYK</p>	<p>Object the proposal. Suggest to retain the existing two-month exhibition period for new plans or amendments to approved plans to allow parties concerned sufficient time to make representations or raise objections.</p>
	<p>AAP</p>	<p>Appropriate measures should be taken to fast-track administrative procedures for handling representations or objections with a view to expediting the process.</p>
	<p>LSHK</p>	<p>Suggest to put up more public notices about gazettal of plans and to give direct notification to the affected land owner in appropriate cases.</p>

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<i>Making of representations</i>		
<p>Proposal to accept both supportive and adverse representations relating to draft plans and amendments to draft plans</p> <p>Clauses 7 and 9 Sections 6 and 7</p>	<p>APC WWF</p>	<p>Support the proposal to enable Town Planning Board (TPB) to consider broader public views</p>
<p>Proposal to make available representations for public inspection and comments for three weeks after expiry of exhibition period</p> <p>Clause 8 Section 6A</p>	<p>HKIS APC</p>	<p>Consider the proposed time limit too short.</p>
<p>Proposal to allow representers to furnish TPB with further information to supplement representations within four weeks upon expiry of the plan exhibition period</p> <p>Clause 8 Section 6B</p>	<p>REDA</p>	<p>Consider the proposed period too short. Suggest to set the time limit at four weeks before the date of hearing by TPB.</p>
	<p>TPB</p>	<p>No explicit provision for allowing comment on further information and for representers to respond to comment before hearing. Reasonable time be allowed for representers and commenters to respond to each other.</p>

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<i>Consideration of representations</i>		
Proposal to adopt a single hearing process to consider representations received by TPB Clause 8 Section 6D	HKIA HKIS APC HKIP REDA LSHK HYK	Object the proposal
	APC HKIA REDA LSHK	Suggest to retain the present preliminary consideration of objections by TPB in the absence of objectors and procedures for further objection to proposed amendments to draft plans to meet objections
	HKIP	Suggest to retain the preliminary consideration of objections by TPB
	REDA LSHK	Suggest to hear representations in public.
Proposal to reduce the processing time of objections by TPB from nine to six months, after expiry of plan exhibition period Clause 10 Section 8(2)	HKIS	Support the proposal on condition that the two-month exhibition period for draft plans or amendments to draft plans be retained

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	HKIA REDA APC	Object the proposal as it would allow less time to prepare and make comments and to be heard by TPB
	AAP LSHK UW	Reduction of processing time should be achieved by streamlining existing administrative procedures and not at the expense of the time for making comments or hearing of representations.
<p>Proposal to reduce the extension period from six months to three months for considering representations by TPB that may be granted by the Chief Executive (CE)</p> <p>Clause 10(b)(vi) Section 8(2)</p>	WWF	Support the proposal as it will expedite the plan-making process
	REDA	Object the proposal as it would allow less time to prepare and make comments and to be heard by TPB
<p>Proposal to confer CE with discretion to accept or discard proposed amendments by TPB</p> <p>Clause 11 Section 9(1A)</p>	TPB	Consider it important for CE to take into account planning implications of partially accepting any of the proposed amendments by TPB

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<p>Proposal to empower CE instead of CE in Council to refer an approved plan to TPB for replacement or amendment</p> <p>Clause 12(a) Section 12(1A)</p>	WWF	Support the proposal
Planning approval process		
<p>Proposal to obtain the consent of or notify the land owner if the applicant for amendment of plan and planning permission is not the land owner of the application site</p> <p>Clauses 13 and 16 Sections 12A(3) and 16(2)(a)</p>	HKIP	Support the proposal
	HKIS	Support the proposal but concern about deterring investment opportunities
	HKIA	Support the proposal but acknowledge problem of multiple land ownership
	APC REDA	Object the proposal. Problems identified include multiply ownership, absentee owners and deceased owners and the possibility of corruption. Adequate opportunities for public consultation have been provided under the Bill.
	AAP WWF	No need to obtain consent of land owners of the application site. Notification of land owners suffices.

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	LSHK	Suggest to give notice by TPB where the applicant other than the land owner applies for amendment
	LSHK REDA APC	All procedures in clause 13 should apply to applications by Government.
<p>Proposal to make available applications for amendment of plans for public inspection and comments</p> <p>Clause 13 Sections 12A(6) to (11)</p>	REDA LSHK	Proposed provisions should apply to amendments proposed by TPB which will have significant negative impact on private land ownership.
	HKIREA	Suggest to require public notice procedures only on proposed uses which may be offensive and affect neighbours
<p>Proposal to allow applicants to attend TPB meetings and be heard at the meetings</p> <p>Clause 13 Section 12A(16)</p>	HKIA WWF	Support the proposal
	HKIP	Suggest to allow members of the public who have submitted comments other than the applicants to present view to TPB

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<p>Proposal to allow provision of further information relating to applications for planning permission</p> <p>Clause 16 Sections 16(2I) and (2J)</p>	<p>APC REDA LSHK</p>	<p>Concern about delay caused by new restrictions on provision of further information as the application shall be regarded as received when the further information is received.</p>
	<p>REDA LSHK</p>	<p>Applicants should be allowed to present its proposal to TPB (section 16(3))</p>
	<p>HKIP</p>	<p>Landowners whose properties are within the boundary of development proposals should be allowed to be heard by TPB.</p>
<p>Proposal to make available applications for planning permission for public inspection and comments</p> <p>Clause 16 Sections 16(2C) and (2F)</p>	<p>HKIP WWF HKIA APC</p>	<p>Support the proposal</p>
	<p>HKIA HKIS</p>	<p>Support the proposal but concern about possible delay and uncertainty to development</p>
	<p>REDA LSHK</p>	<p>Only contentious applications for planning permission should be publicly notified for comments. TPB should specify classes of uses which would and would not require public notification.</p>
	<p>HKIREA</p>	<p>Suggest to require public notice procedures only on proposed uses which may be offensive and affect neighbours</p>

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	WWF	Suggest to upload all applications for planning permission and amendments of plans on the web-site of TPB for public inspection
<p>Proposal to exempt certain minor amendments to planning permission from application</p> <p>Clause 17 Section 16A</p>	HKIA	Support the proposal but a clear definition of minor amendments is required. Practice Notes may be issued in this regard
	WWF	Have reservation on the proposal unless it can be shown that the proposed exemption will not compromise the right of the public to make comments on planning applications
	APC REDA	The clause is badly worded. The proposal may be more complex and time-consuming than the existing arrangement
	REDA	<p>The right to apply for minor amendments should be applied to anyone as approval runs with the land and not the owner (Section 16A(2))</p> <p>Further information should be permitted at any time without delaying the consideration of the application (Section 16A(6))</p> <p>Applicant should have a right to review as TPB may impose new conditions (subsection (10))</p>

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Review of applications		
<p>Proposal to make available applications of review for public inspection and comments</p> <p>Clause 18 Sections 17(2C) and (2D)</p>	<p>APC HKIS REDA LSHK</p>	<p>Object the proposal as the proposed section 16 has provided opportunity for public comment on applications for planning permission</p>
	<p>REDA</p>	<p>Consider section 17(2H)(c) prevent submission of further information without delaying consideration of review</p> <p>Suggest to allow submission of additional information up to four weeks before hearing by TPB</p>
	<p>HKIS</p>	<p>Suggest to set up independent review board to consider review applications to avoid possible conflict of interests</p>
	<p>APC</p>	<p>Suggest to open TPB meetings for considering review applications to the public</p>
Operation of TPB		
<p>Proposal to allow TPB to transact any of its business by circulation of papers</p> <p>Clause 5 Section 2B</p>	<p>HKIS HYK</p>	<p>Object the proposal since issues relating to town planning and land uses have impact on welfare of people and should be fully deliberated at TPB meetings</p>

Subject	Organization	Concern / view
<p>Proposal to allow TPB to delegate to its committees powers and functions relating to consideration of applications for amendment of plan, amendment to planning permission and review applications under section 17 of the Town Planning Ordinance (TPO)</p> <p>Clauses 3 and 4 Sections 2(5)(a) and 2A</p>	<p>HKIA AAP WWF</p>	<p>Support the proposal but stress on the need for a reasonable size and representation of committees.</p>
	<p>WWF</p>	<p>Suggest to establish a "Conservation Land Use Committee" to consider applications and matters relating to land use conflict between conservation and development</p>
	<p>HKIS</p>	<p>Object the proposal, in particular in relation to consideration of representations and review applications under section 17</p>
	<p>APC REDA LSHK</p>	<p>Object that committees have delegated authority to consider review applications under section 17, which should be considered by the full TPB</p>
	<p>HKIA</p>	<p>Committee members must attend meetings to reach a decision. Written decision of absented members should not be accepted.</p>

Subject	Organization	Concern / view
<p>Proposal to allow TPB 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 review applications under section 17 of TPO</p> <p>Clause 3 Section 2(5)(b)</p>	HKIA	Support the proposal but need to issue Practice Notes or guidelines on acceptance of further information and provision of appeal against decision of public officers.
	HKIS WWF	Object the proposal as it may give rise to conflict of interest and violate the principle of openness.
Enforcement control against unauthorized developments not permitted under TPO		
<p>Proposal to confine terms requiring compliance under an enforcement notice to discontinuance of an unauthorized development</p> <p>Clause 20 Section 23</p>	HKIA WWF	Support the proposal to stop possible abuse of the provisions under the existing law by submission of a planning application and instituting the associated review and appeal process to delay the prosecution proceedings
	HKIREA	Support the proposal but suggest to allow temporary uses to meet local needs.
	HKIS	Support the proposal on condition that private rights are respected and wastage of investment is minimized.

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	HYK	Have reservation on the proposal. The Administration should exercise discretion when issuing an enforcement notice. If the unauthorized developments would not render the site irrecoverable, it should be allowed to continue, pending the grant of planning permission or the appeal outcome.
<p>Proposal to allow the Planning Authority to enter private land other than domestic premises to ascertain whether there are matters constituting unauthorized developments, and to serve notice to obtain information, with failure to comply with the notice constituting an offence</p> <p>Clause 19 Section 22</p>	HKIA HKIS	Support the proposal
<p>Proposal to expressly provide that managers of a clan, family or t'ong shall be regarded as land owners to be liable to offences in relation to unauthorized developments</p> <p>Clause 2(a) Section 1A</p>	HKIA WWF	Support the proposal
	HYK	Object the proposal since managers of a clan, family or t'ong only act as agents and do not have full control over the use of the land in question

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Recovering costs for processing planning applications		
<p>Proposal to enable the Secretary for Housing, Planning and Lands to prescribe fees by regulation to recover the costs for processing applications for amendment of plan, planning permission and amendment of planning permission</p> <p>Clause 14(c) Section 14(2)</p>	<p>HKIA REDA LSHK</p>	<p>Support the proposal in principle but concern about the level of fees</p>
	<p>WWF HYK</p>	<p>Need to justify cost recovery principle. Fees should be reasonable and accepted by the public.</p>
	<p>HKIS</p>	<p>Concern about additional cost to development proposal which may discourage investment by small developers</p>
	<p>HKIA</p>	<p>Suggest to exempt payment of fees for non-profit-making organizations and where the proposed land use is for public benefit. HKIA should be consulted on details of fees.</p>
	<p>REDA</p>	<p>Query why Government departments should be exempted from payment of fees.</p>
Others		
<p>Statutory effect of draft plans</p>	<p>TPB</p>	<p>Developer could proceed immediately with a development provided that it conforms to the zoning of the site, thus pre-empting decision of TPB and Chief Executive in Council on objections.</p>

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Scope of application of the Bill	REDA LSHK	Planning procedures should be equally binding on the Government and the private sector.
Stages of amendments to TPO	HKIP	Suggest to include Stage Three amendments into Stage Two to expedite the amendment process
	REDA LSHK	Suggest to consolidate amendments to TPO into two stages. Changes to the structure of the Board should be in Stage one.
	HKIS	Suggest to deal with issues in one-go. Important issues such as chairmanship, openness and accountability of TPB, its role in strategic planning and compensation for planning blight are not covered by the Bill.
	HYK	Compensation issue which has been outstanding for many years is not covered by the Bill.
	HKIP	Suggest to include designation of Special Design Area (SDA) in Stage One amendments
	WWF	Suggest to deal with issues relating to SDA, Environmentally Sensitive Areas and Designated Development in the Stage Two amendments
Relationship between TPB and Government	HKIA APC UW	TPB should have an independent secretariat.

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	REDA LSHK	TPB should be independent from Government.
	APC	TPB should be provided with independent legal advice and not by the Department of Justice.
Chairmanship of TPB and its subcommittees	REDA LSHK HKIA APC	Chairman of TPB and its subcommittees should be non-official members. Vice-Chairman of TPB should also be non-official member.
Opening up of TPB meetings	HKIP	Suggest to open up all TPB meetings for public attendance
Improvement in planning process	HKIA	Suggest that the overall planning team should be led by planning professional and supported by other professionals including but not limited to urban designers, architects, traffic engineers and environmentalists.
	REDA LSHK HKIP	Consultation by Government on planning studies cannot be a substitute for public consultation by TPB on proposals which have statutory effect.
	UW	TPB should be able to employ independent consultants to study planning issues.

Submissions from organizations

Organization	Reference
The Association of Architectural Practices Ltd. (AAP)	LC Paper No. CB(1)2390/02-03(02)
The Association of Planning Consultants of Hong Kong (APC)	LC Paper No. CB(1)2390/02-03(03)
The Hong Kong Institute of Architects (HKIA)	LC Paper No. CB(1)2390/02-03(04)
The Hong Kong Institute of Planners (HKIP)	LC Paper No. CB(1)2390/02-03(05)
The Hong Kong Institute of Surveyors (HKIS)	LC Paper No. CB(1)2390/02-03(06)
The Law Society of Hong Kong (LSHK)	LC Paper No. CB(1)2390/02-03(07)
The Real Estate Developers Association of Hong Kong (REDA)	LC Paper No. CB(1)2390/02-03(08)
Urban Watch (UW)	LC Paper No. CB(1)2390/02-03(09)
World Wide Fund for Nature Hong Kong (WWF)	LC Paper No. CB(1)2390/02-03(10)
Heung Yee Kuk (HYK)	LC Paper No. CB(1)2390/02-03(11) - Extract from minutes of the meeting between Legislative Council Members and Councillors of Heung Yee Kuk on 10 June 2003
Hong Kong Institute of Real Estate Administration (HKIREA)	LC Paper No. CB(1) 2451/02-03(03)
Town Planning Board (TPB)	LC Paper No. CB(1) 2451/02-03(04)