

Views of the Town Planning Board on the Town Planning (Amendment) Bill 2003

1. The Town Planning Board (the Board) has discussed the Town Planning (Amendment) Bill 2003 (the Amendment Bill) on 8.8.2003 and formed a working group to examine in greater details the provisions of the Amendment Bill. The major views of the working group, which represent the overall position of the Board, are set out below.

2. The Board supported in principle the general provisions of the Amendment Bill, particularly those with a view to:

- (a) expediting the plan-making process and adopting a one-stage hearing process to consider representations and comments from all parties in a comprehensive manner;
- (b) streamlining the planning approval process by exempting certain minor amendments to planning permission from submission of further application as well as by further delegating the Board's powers to its Committees;
- (c) enhancing the openness and fairness of the planning application system by requiring owner's consent or notification for all applications and requiring the publication of all applications for public comment; and
- (d) strengthening enforcement control against unauthorised development by addressing the technical deficiencies under the existing Ordinance.

3. With respect to the plan-making process proposed under the Amendment Bill, the Board has the following observations:

- (a) under the new section 9(1A), the Chief Executive in Council (CE in C) would have a discretion to accept or discard any of the amendments proposed by the Board to meet representations. It should be noted that in coming up with the proposed amendments to meet representations, the Board would have taken into account all relevant planning considerations pertaining to the representations, including the planning implications of the

proposed amendments on the subject site as well as on the broader area. It is important for the CE in C to take into consideration the planning implications of partially accepting any of the proposed amendments, especially if the amendments are intertwined; and

- (b) under the Amendment Bill, upon receipt of representations after the plan-exhibition period, representers would be allowed a period of 4 weeks to submit further information to supplement the representations and, at the same time, the representations would be published for 3 weeks to invite comments from interested parties. There is however no explicit provision for commenters to comment on the further information or for representers to respond to the comments before the hearing. It is important to ensure, perhaps through appropriate administrative measures, that reasonable time would be allowed for representers and commenters to respond to the submissions made by each other.

4. The Board also noted that under the existing Town Planning Ordinance, a draft plan would take statutory effect for development control purposes immediately upon its publication. In other words, a developer could proceed immediately with a development so long as it conforms to the zoning of the site, notwithstanding that the zoning might be subject to an objection which is yet to be considered by the Board, thereby pre-empting the Board's and the CE in C's decision on the objection. Under the Amendment Bill, the problem will remain as a draft plan which is subject to representations could still take statutory effect for development control purposes. Such an anomaly has been previously addressed by introducing the concept of interim development control in the Town Planning Blue Bill in 2000. While noting that the Administration proposed to amend the existing Town Planning Ordinance in stages, the Board urged that this issue should be properly addressed in the subsequent stages of the Ordinance Review.

Town Planning Board
10 September 2003