

23 September 2003

Clerk to the Bills Committee
Legislative Council Secretariat
3/F Citibank Tower
3 Garden Road
Central

By mail and by fax (28696794)

Dear Sir/Madam,

**Submission to Legislative Council Bills Committee
Comments on Town Planning (Amendment) Bill 2003**

The Conservancy Association (CA) is in support of the principles advocated by the Town Planning (Amendment) Bill 2003 (the Amendment Bill) to expediting the plan-making process, streamlining the planning approval process, enhancing planning applications and strengthening Enforcement Control Against Unauthorized Developments not permitted under the Ordinance.

However, the Amendment Bill has not gone far enough to actively conserve the environment so that sustainable development can be achieved. We strongly urge that enhancing public participation which is an essential component of sustainable development, should be regarded as an important principle in the Amendment Bill. We have the following comments and observations for your consideration.

Exhibition of Draft Plans

We object to the proposed reduction of exhibition of draft plans or amendments to approved plans from two months to 1 month because the shortened exhibition period is inadequate for the general public to get familiarized of the contents of the plan or the impacts of the zonings and the extent they are being affected. As a result, they will either lodge an objection irrespective of whether they would have genuine concern (thus wasting Government's resources in processing their

objection) or miss the change of voicing out their opinion due to the tight deadline.

Thus, public participation will in effect be scarified in the expedition in plan-making process and therefore will defeat the purpose of openness and transparency of the system for wider public participation.

Nevertheless, the publishing of all representation for public comments is strongly supported as this will allow the public to know both the supporting and the opposing opinions of the concerned matter.

Single Hearing Process

The adoption of a single hearing process to consider representation and comments at the same meeting is not supported. This will restrict the public from raising their objection/views on the amendments of the plan. The current law in force allow the public to object to the amendments by the Town Planning Board (TPB) and allow for further hearing is more fair and open.

Reduction of Extension Period for considering representations that may be granted by the Chief Executive

We have reservation in the shortening of the extension period for considering representation that may be granted by the Chief Executive from 6 months to 3 months. On one hand, we appreciate the Government's determination to expedite plan-making process, but on the other hand, we are worried that the shortened period will result in hasty and biased decision without comprehensive consideration of certain complicated cases. The 6 months period will give more flexibility to meet the needs for comprehensive review.

Power of Chief Executive in Council

We realize that Section 12 is amended to allow the Chief Executive in Council may, "of his own volition or at the request of the Board, revoke, in whole or in part, any approved plan, or refer any approved plan to the Board for replacement by a new plan or amendment."

We are concerned with the role of the Chief Executive plays in the overall plan-making process. The proposals apparently give him too much power and may even become the center of lobbying by the big developers or stakeholders. Moreover, this will weaken Town Planning Board (TPB)'s impartiality fundamentally when it comes to public or community interest at large.

Amendments of plans on Application to the TPB

We welcome the formalization of amendments of plan on application to the TPB within the legislation.

Obtaining consent or giving notification to current landowner before application under S.12 or S.16

While we agree that the concerned landowner should be notified of any proposals (S16 application or proposed amendments) affecting their landholding, we urge for a straight-forward and pragmatic approach in this issue. For Non Government Organization (NGO) like ours, when we apply for rezoning certain area for conservation purpose, etc., it should be a much financial burden to conduct land searches to identify all the landowners, trace their addresses, and notifying them individually.

Publication of Applications

The requirement for TPB to publicize all applications by posting site notices or advertising in local newspaper for public comments is strongly supported as this will allow public to participate in the consideration process.

Payment of Fees

We are very concerned with the application fees charged when applying for amendment of plan and planning permission. It is because the amount, which

may varies greatly among different projects, will have substantial financial impact on NGO like CA. Although we appreciate the need to recover the cost, we suggest such should be waived for NGO or charitable organizations.

Strengthening Enforcement Control against Unauthorized Development

We support the strengthening of enforcement control against unauthorized development within a development permission area by making discontinuance of an unauthorized development as the only means to comply with an Enforcement Notice. On the other hand, we also urge that such power on enforcement control should also apply to areas covered by statutory plans outside development permission area as this will give a better control of our townscape and development in the urban and new town areas.

Apart from the proposed amendments in the Amendment Bill, we further have the following comments: -

(1) Appointment of TPB

- The composition of the TPB should be well-balanced to ensure the interests of the entire community to be represented in the TPB with a view to achieve sustainable development for Hong Kong. As such, active members of the green groups should be included because the environment is always a major concern in the community.
- Apart from declaration of interests of all the members, information such as the background, discipline and the major business of the members involved in should be made known to the public.
- All meeting of TPB should be open to public unless the contrary is well justified because all matters dealt in the TPB are of great public interest.

(2) Direct Public Participation at Early Stage of Plan Making

Planning study shall be conducted for all levels of plans, including Territorial

Development Study and Regional Development Strategy and Outline Zoning Plan. The public should be consulted at early stage of the planning study. These planning study reports should be made public. The public shall have the right to make representations on these planning studies.

(3) Environmentally Sensitive Area and Special Design Area

The creation of environmentally sensitive areas (ESA) and special design areas is strongly urged. The ESA should be free from all modes of development and be actively conserved. Both historical/cultural and natural heritage elements should be protected with a compatible setting.

(4) Transparency of Information Flow

We urged for more transparency of information flow in the TPB meeting in the proposed plan-making process. We consider that the TPB Meeting should be made public to ensure openness and transparency of the business.

Yours truly,

Lister Cheung
Chief Executive