

(By Mr. Bernard Chan)

The Institute has submitted comments on the proposed Bill on 23 August 2003.

One of the views on the Bill

is that the government should look at the important issues first (i.e. the fundamental issues discussed and raised by the Bills Committee last time, which were then considered by the Government as outside the scope of the Bill and these issues are the chairmanship, openness and public accountability of the Town Planning Board, compensation for planning blight, and the Board's role in strategic planning especially road and railway planning) leaving the proposed amendments this time to be reviewed by the new setup.

The other view

is to address the proposed amendments which I have submitted earlier. I would reiterate and supplement by going through the respective sections.

Section 1: prescribed fees and the new definition of owner

The introduction of prescribed fee will add costs to any development proposal, thus discouraging investment by relative small developers.

Fees should be charged at the different rates depending on the scale and or complexity of the application.

The other change is a new definition for land owner. Land owner will include managers of tso and tong. We are aware that the managers may be different persons at different times.

If the plan has reflected all the local views with due respect to the existing land use and developments and the future planning statement for the area, the number of unauthorized developments should not be large.

Section 2,2A: appointment of committees by the Board and further delegation of authorities to public officers

To delegate power and functions to public officers is contrary to more openness and accountability when compared with consideration by the Board.

As a general comment, we believe that if during the plan-making process, the plan is drawn up with a reasonable degree of certainty, fewer planning applications will be required hence further delegations are unnecessary.

Section 2B: **the transaction of business by circulation of papers**

We consider that transaction of business by circulation of papers is not appropriate. It is a general perception that approval by papers is for urgent cases when meetings cannot be organized within the time frame.

But for town planning which concerns the welfare of people, the issue should be well presented, fully argued and discussed. It is not clear and should not be the case **if rejections are to be by circulation of papers as well.**

Section 5: **exhibition of draft plans**

We consider that the community should be given ample time to discuss and digest planning issues because this will affect

- their private rights in the case of owners
- the welfare of people in the community

*(prior **consultation** with District Board is only one means of consultation not public participation (may be the excuse for shortening the period of exhibition). However the consultation with District Board is not within the mechanism or a requirement under the Ordinance. As it is not, the community including land owners and those affected are not given the opportunity to express their views.*

If it is, this should be so written down as one stage in the planning mechanism.

Whilst we welcome consultation with the District Board, the general public is not aware of it in most cases, or they do not understand it.)

Public consultation / participation with ample time will allow full discussion at the plan making stage so that a plan will be drawn up for the community to make the best use of available land resources acceptable to the community. A high degree of certainty will be attained.

Even at the present period of 2 months of exhibition many people affected are not aware of it.

The result may be that the Plan will not be implemented as planned.

We have come across many cases in town. Let us cite some examples,

Restricted land use zoning such as ‘commercial’ only or

Private land is zoned for ‘green belt’ or

Private land zoned for ‘open space’

Reduction in building height resulting in development being not viable.

Section 6, 6A-D: consideration of representation

The purpose of allowing objections in the plan-making process is to hear the community's views if any. Should there be any change to this process it must be primarily targeted at improving efficiency in the process, not by reducing the time for public involvement.

Section 8: Sections 5 to 12 deal with changes to the Plan making process.

We are in support of shortening the plan making process but we would also support the other Institutes' view to maintain the present 3 stage process.

Basically, more time should be allocated to public involvement and the processing time within the government mechanism should be less for efficiency.

Section 12, 12A-D: owner's consent or given notification to

This will create unnecessary burden for land development curbing economic activities in particular for relatively small scale developments. Without more explanation, we all would know that to obtain the owner's consent will be costly and time consuming.

We would pose a question here; what if the owner said that he does not agree with the application. Will it be regarded as notification by the Board or public officer?

We consider that land ownership and land use should be 2 separate issues and therefore should be distinguished.

There appears to be 3 scenarios to elaborate on this, let me take a broader view.

- ☐ To consider Land use aspect only
- ☐ Land owner only and
- ☐ Consider both at the Board's discretion

The Town Planning Ordinance deals with mainly land use. The use of land depends on, amongst other things, the environmental, engineering viabilities as well as financial assessments etc. Irrespective of ownership, the land use should be so designated for the general welfare of the community under the Ordinance. That is the reason why land, be it government or private, is zoned for such uses as green belt, country park, government institution and community, and conservation area etc.

Private rights in land ownership should be dealt with by land law if I may collectively call it which should not come into scene in Town Planning Ordinance.

The proposed amendments have now proposed a situation where land use and land ownership are deployed at the discretion of the Board or the Government.

Section 16, 16A-D: **planning application**

We would not repeat here the same the arguments on owner's consent or notification.

But we would emphasis that

if full consultation is carried out at the plan-making stage designating land use with certainty, s16 applications should therefore be few. This will no doubt help in the investment opportunities and the economy as a whole.

Section 17: **review on appeals**

We would reiterate here that

There are arguments for appeals to be considered by the Town Planning Board itself, or an independent board, or other relevant panels. We consider it appropriate for an independent review board to avoid likely conflict of interests.

Lastly, let me provide the main headings of our views for easy reference.

- ☐ More public participation
- ☐ Less delegation of power in particular to public officers
- ☐ Disregard business by circulation
- ☐ Object to the change of hearings from 3 stage to 1
- ☐ Disregard owner's consent and notification
- ☐ Independent board for appeals and reveal
- ☐ The fundamental issues on the organization of the Board

HONG KONG INSTITUTE OF SURVEYORS

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