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Report of the Bills Committee on Town Planning (Amendment) Bill 2003

Purpose

This paper reports on the deliberations of the Bills Committee on Town Planning (Amendment) Bill 2003.

Background

2. The existing Town Planning Ordinance (TPO) was first enacted in 1939 and has remained largely in its original form. In 1996, the Administration published a White Bill on Town Planning for public consultation. The intention then was to seek public views on the proposed legislative amendments to enhance the efficiency, transparency and effectiveness of the statutory planning process. On 18 December 1996 the Legislative Council (LegCo) passed a motion urging the Administration to expedite the introduction of a new comprehensive Town Planning Bill.

3. On 16 February 2000 the Town Planning Bill (the 2000 Bill) was introduced into LegCo. The 2000 Bill contained a comprehensive package of changes to the planning procedure, consultation process and planning controls. A Bills Committee was formed to scrutinize the 2000 Bill and commenced its work in March 2000. However, after nine meetings, having regard to the complexity of the issues involved in the 2000 Bill, the Bills Committee decided to curtail its work because it considered it unrealistic to complete the scrutiny work before the expiry of the first legislative term by end of June 2000. The Bills Committee reported its decision to the House Committee on 2 June 2000 and was dissolved.

4. Based on the experience of the Bills Committee on the 2000 Bill, the Administration considers that there is a general consensus on the need for a new piece of town planning legislation, particularly to streamline the planning procedures and to promote public participation. However, there are a number of issues which are unlikely to be resolved without going through a lengthy consultation process. These issues include, inter alia, membership and operation of the Town Planning Board (TPB), compensation for planning blight, interim development control and planning control on building development. The Administration therefore decides to adopt a phased approach to amend the TPO as follows:

- (a) Stage One - to introduce amendments to streamline and shorten the town planning process, enhance openness of the planning system, and strengthen enforcement control on unauthorized developments;
- (b) Stage Two - to propose amendments which will require further consideration within the Administration and/or consultation with the stakeholders such as the operation of TPB, designation of Special Design Area, Environmentally Sensitive Area and Designated Development; and
- (c) Stage Three - to review the highly controversial proposals such as interim development control and planning control on building development.

The Bill

5. The Town Planning (Amendment) Bill 2003 (the Bill) is the Stage One amendments to the TPO. The major proposals in the Bill are as follows:

- (a) to expedite the plan-making process by standardizing the plan publication period and adopting a single hearing process to consider representations;
- (b) to enhance transparency and public involvement of the planning approval process by making all applications for amendment of plan and planning permissions available for public comment and streamline the process by exempting certain minor amendments to planning permission from the requirement of submitting further application to the TPB;
- (c) to enhance the efficiency of the TPB by enabling it to delegate certain functions to committees and public officers; and

- (d) to strengthen enforcement control against unauthorized developments (UDs) by regarding managers of a clan, family or t'ong as land owners, hence liable to offences in relation to UDs; stopping abuse of existing provisions; and facilitating investigations by the Planning Authority.

The Bills Committee

6. At the House Committee meeting on 23 May 2003, members agreed to form a Bills Committee to study the Bill. Hon James TO Kun-sun was elected Chairman of the Bills Committee. The membership list of the Bills Committee is in **Appendix I**. The Bills Committee held 25 meetings.

Deliberations of the Bills Committee

7. Recognizing the wide implications of the Bill, the Bills Committee invited public views on the Bill by the following means:

- (a) placing an advertisement in one local Chinese newspaper and one local English newspaper;
- (b) placing a notice on the website of LegCo;
- (c) issuing a press release; and
- (d) sending invitations to 18 District Councils and all organizations which had made written submissions or oral presentation to the Bills Committee on the 2000 Bill.

8. As a result of the above publicity measures, the Bills Committee received about 140 written submissions from 113 tsos/t'ongs, 24 organizations and two individuals. 14 organizations and one individual appeared before the Bills Committee to give views. The lists of organizations which made written submissions and oral presentation to the Bills Committee are in **Appendices II and III** respectively.

9. During the early stage of the work of the Bills Committee, members noted with grave concern the disappointment expressed by deputations on the adoption of a phased approach to amend TPO. It was considered by the deputations that the Bill only proposed piece-meal amendments to the plan-making and planning approval processes without addressing fundamental issues such as the operation and composition of TPB. Although the Administration undertook to deal with these issues at the Stage Two amendments, some members shared the concern of the deputations that

different sections of TPO were inter-related. Amendments to some provisions would have implications on others and should not be examined in isolation. Without knowing the details of the later stages of amendments to TPO, it would be difficult for the Bills Committee to assess the merits of the proposals in the Bill. Under these circumstances, some members suggested that the Bills Committee should not go ahead with the scrutiny of the Bill.

10. Some members, however, considered that despite the limited scope of the Bill, some of its proposals would improve the plan-making and planning approval processes in terms of enhanced transparency and greater public participation, which were long overdue. They accepted the Administration's suggestion that issues in the Stage Two amendment could first be discussed by the LegCo Panel on Planning, Lands and Works (PLW), while the Bills Committee continued with the scrutiny of the Bill.

11. Following deliberations, the Bills Committee negated a motion moved by Hon Abraham SHEK Lai-him on 23 October 2003 to suspend the scrutiny work pending the Administration's proposal to include the Stage Two amendment in the Bill. Noting members' concern about the operation of TPB, the Administration undertook to consult the PLW Panel in parallel on the operation of the TPB. The Bills Committee then proceeded to examine the details of each proposal in the Bill.

12. In scrutinizing these proposals, the main considerations of the Bills Committee are:

- (a) whether the proposals could achieve their intended purposes to streamline and enhance public participation and transparency in the plan-making and planning approval processes; and
- (b) whether the proposals are adequate for the intended purposes.

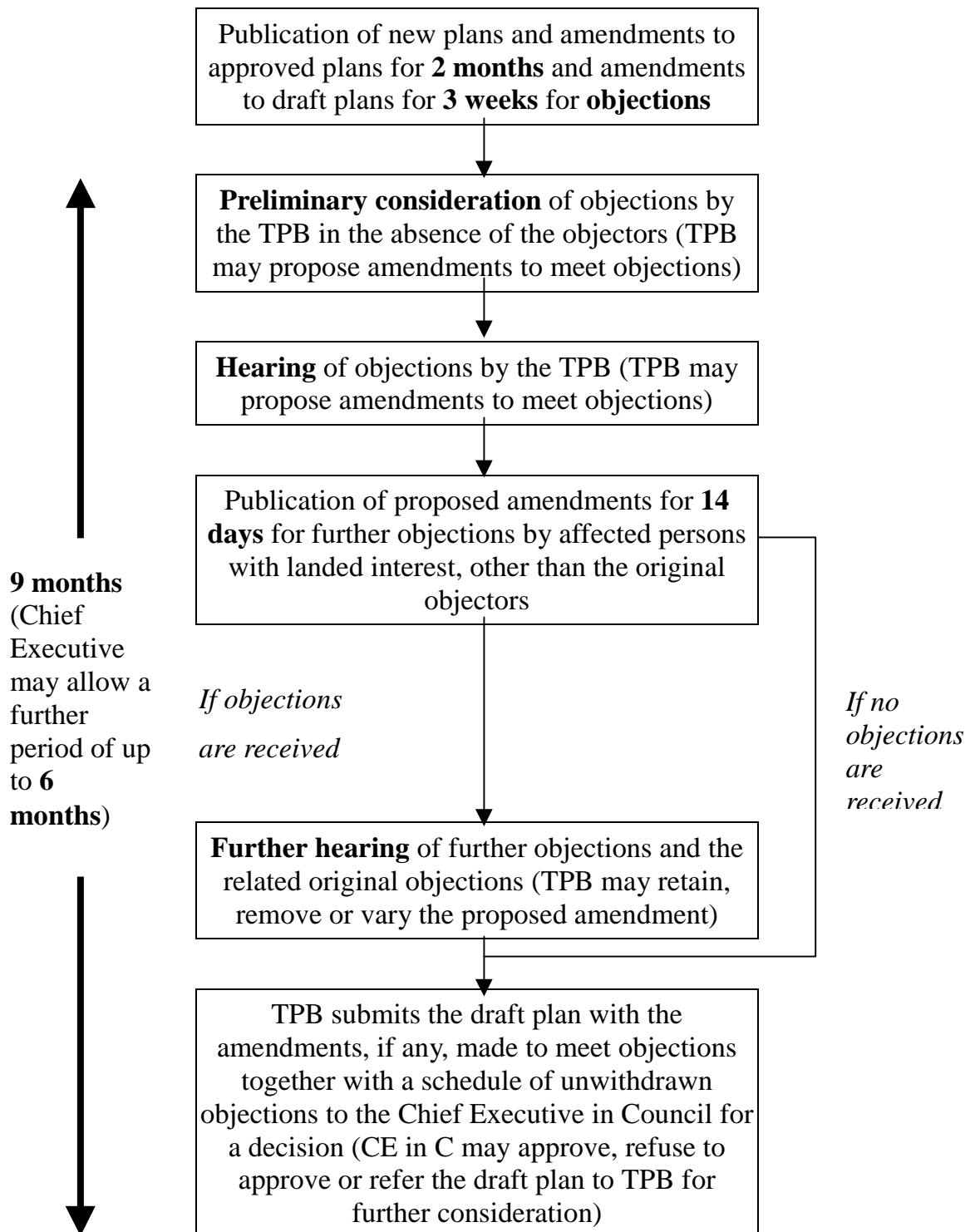
The deliberations of the Bills Committee are summarized in the ensuing paragraphs.

Expediting the plan-making process

Existing procedures

13. Under the existing TPO, plan making involves the procedures as shown in the following flow chart:

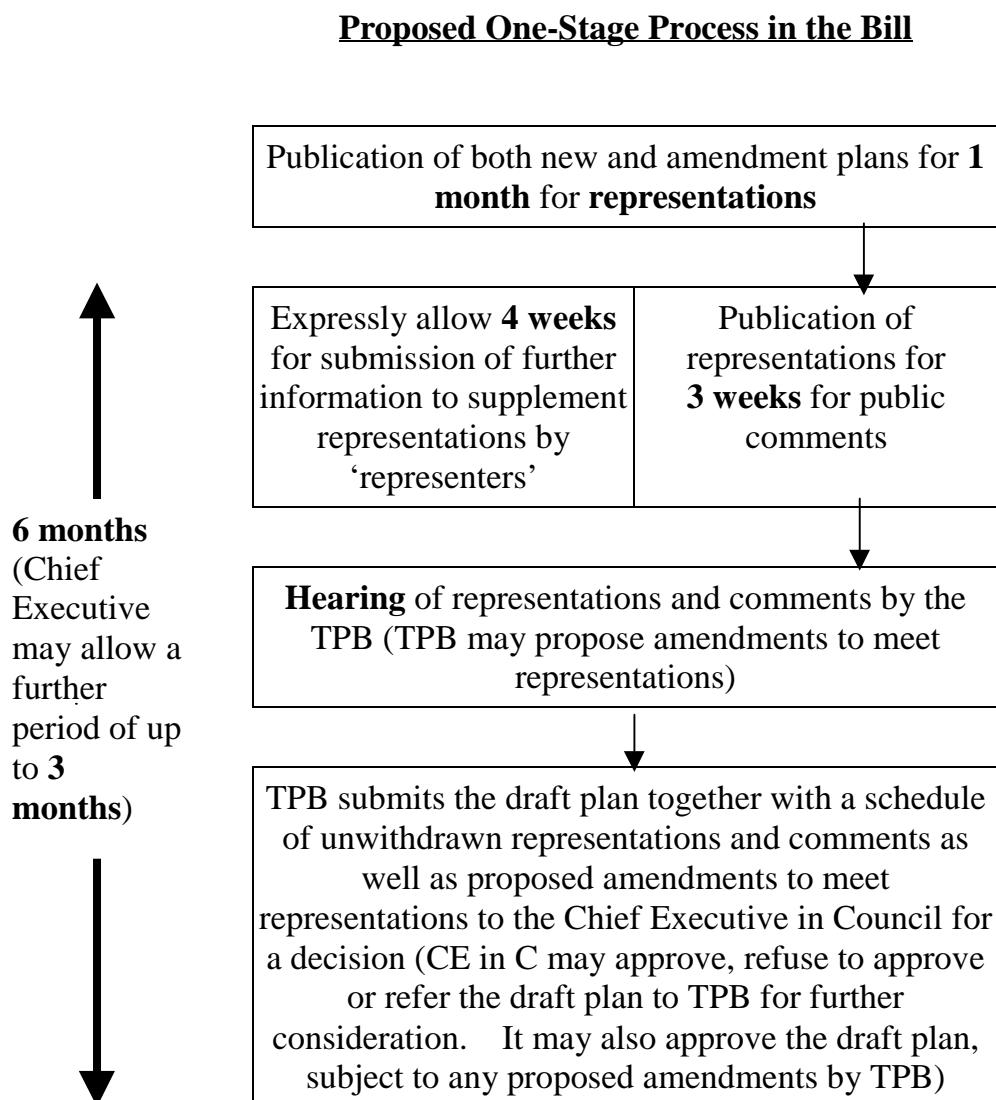
Current Three-Stage Process



14. The details of the current three-stage objection consideration process under the existing TPO are set out in **Appendix IV**.

Proposed procedures in the Bill (clauses 6 to 11)

15. For the purpose of streamlining and enhancing public participation in the plan-making process, the Bill proposes to change the procedures as shown in the following flow chart:



16. The details of the one-stage representation consideration process as proposed in the Bill are in **Appendix V**.

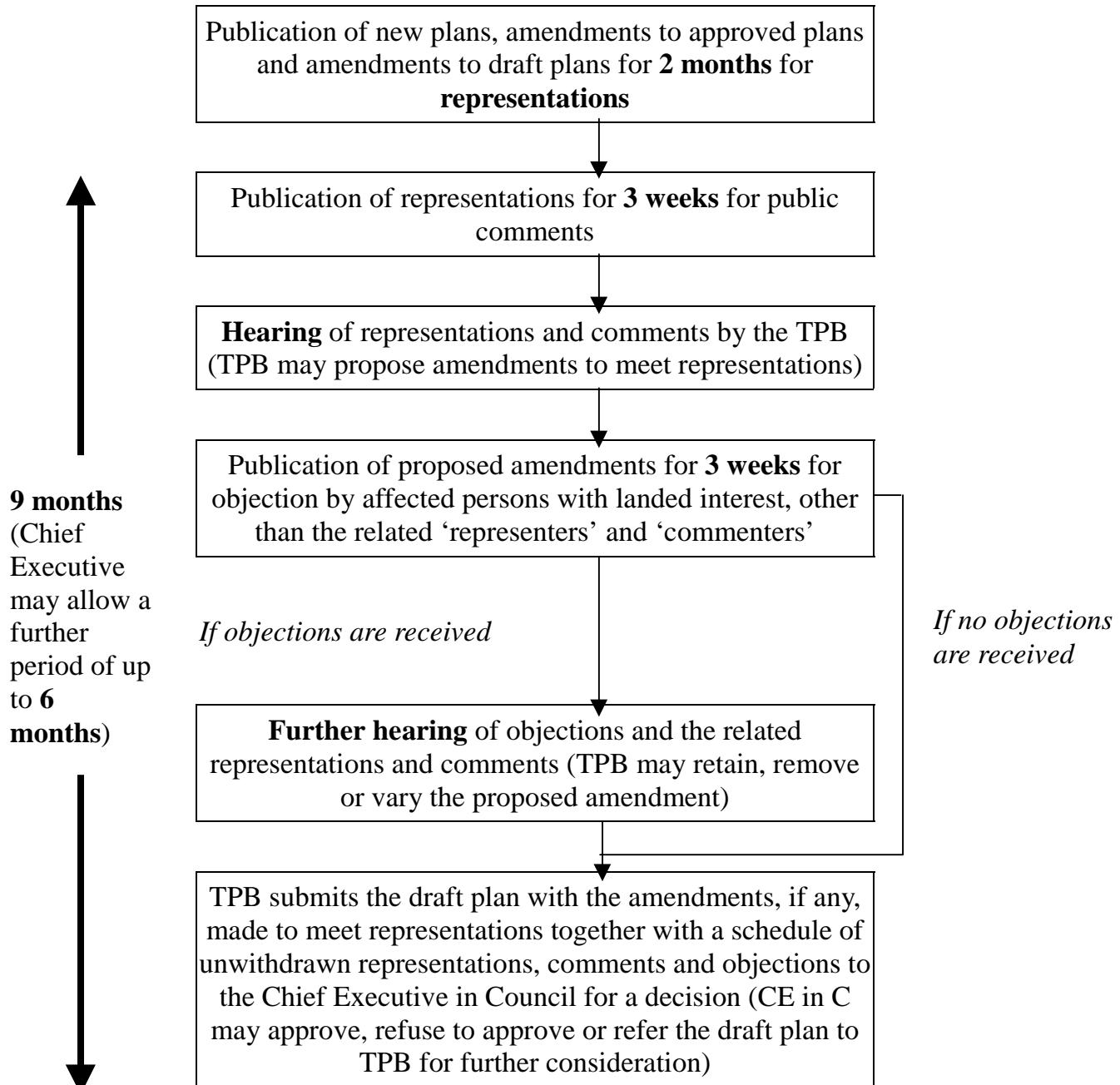
17. Many organizations raise strong objections to the proposed one-stage representation consideration process. While all organizations welcome the proposals to allow the making of both supportive and adverse comments on new and amendments plans and to make available representations for public comment, they have strong reservations about the proposed single process to hear representations. Four major problems have been identified by these organizations with the proposed one-stage representation consideration process. Firstly, the plan publication period of just one month is too short for representers to collect and collate relevant information for making a

representation with substance. Secondly, persons who are affected by amendments made by TPB to meet representations do not have any opportunity to raise further objections, which is now available at the third stage of objection consideration. Thirdly, TPB is put under an excessive tight schedule to complete consideration of representations within six months, or at the most nine months, with the extension of time granted by the Chief Executive (CE). Fourthly, unlike the present arrangement in which CE in C could only accept or refuse to accept the whole package of amendments proposed by TPB, the conferment of power to CE in C to pick and choose amendments proposed by TPB to meet representations changes the role of CE in C in the plan-making process, making CE in C the authority to decide on objections which is currently the function of TPB.

Proposed revised procedures

18. Having regard to the grave concern expressed by deputations and members of the Bills Committee and the fact that development pressure has eased off in recent years, the Administration agrees that it may not be desirable to condense the plan-making process. Without compromising the objective to enhance public participation and transparency in the plan-making process, the Administration proposes to revise the plan-making procedures as shown in the following flow chart:

Proposed Two-Stage Process
(as at January 2004)



19. The details of the revised two-stage representation consideration process proposed by the Administration are set out in **Appendix VI**.

20. In considering the impact of the revised process, the Bills Committee conducted another round of public consultation. All organizations which had made submissions to the Bills Committee were invited to express views on the revised procedures. The Bills Committee received comments from 12

organizations which all expressed support for the revised plan-making process, although some reiterated their views that some fundamental issues like the operation and composition of TPB were yet to be addressed.

21. Given that the revised plan-making process has addressed the problems identified by organizations as described in paragraph 17 above, the Bills Committee basically accepts the revised proposal, but considers that certain aspects could be further improved to enhance public participation and transparency. The Bills Committee puts forward the following suggestions which are taken on board by the Administration:

- (a) at the second stage, instead of just affected persons with landed interest, any person may make representation on, or object to amendments proposed by TPB. This is because amendments made by TPB after hearing the first stage of hearing may be material;
- (b) TPB should be given the flexibility to decide whether to accept representations which do not comply with the specified requirements such as the format of representations. The original intention of disregarding all such representations is considered by members as too strict; and
- (c) notices informing the availability of representations on draft plans and amendment plans for comment shall be published in two local Chinese newspapers and one local English newspaper, instead of one local newspaper as proposed. This arrangement will ensure wider publicity and will apply to all other sections in TPO concerning publication of notices in newspaper.

22. To achieve the revised plan-making process as agreed with the Bills Committee, the Administration will move Committee Stage Amendments (CSAs) to the relevant clauses. A flow chart comparing the plan-making processes under the existing TPO, proposed in the Bill and the revised proposal as agreed with the Bills Committee is in **Appendix VII**.

Application for amendment of plans (clause 13)

23. The Bills Committee welcomes an express provision in the Bill to formalize the existing administrative arrangement for application for amendments of plan by the public. This proposal is supported unanimously by deputations. Applications for amendment of plans will be made available for public inspection and comments for three weeks. The applicants will have a right to be heard by TPB. Members note that in line with the current administrative pledge, TPB is required to consider an application for amendment of plan within three months after receipt of the application.

Where TPB accepts in whole or in part the application, the plan-making process as described in the preceding paragraphs will be triggered.

24. The Administration agrees that the improvements proposed by members concerning flexibility of TPB to decide whether to accept representations that do not comply with specified requirements and publication of notices in newspaper as explained in paragraph 21(b) and (c) above will apply similarly to applications for amendments of plans. CSAs will be moved accordingly by the Administration.

Revocation, replacement and amendment of approved plans (clause 12)

25. The Bill also proposes to vest the authority to refer an approved plan to TPB for replacement or amendment with CE, instead of CE in C as currently provided in law. The reason for this proposal, according to the Administration, is to expedite the plan-making process. Referral of approved plans to TPB for replacement or amendment is a procedural step for triggering the plan-making process. However, members are not convinced of the need to transfer the power from CE in C to the CE. Some members are concerned that the CE will likely delegate the referral power to public officers. Given the significance of the plan-making process, members consider it prudent that referral of approved plans to TPB for replacement or amendment should remain in the hands of CE in C. In view of members' reservation, the Administration withdraws the proposal and will move CSAs to clause 12 accordingly.

Streamlining and enhancing public involvement of the planning approval process

Planning applications (clause 16)

26. Another major area of proposals in the Bill relates to the planning approval process. The first major proposal is to make available all applications for planning permission under section 16 of TPO and review applications under section 17 for public inspection and comments for three weeks. Comments received by TPB will also be made available for public inspection. This proposal is welcomed by both organizations and members alike as a big step forward in enhancing transparency in the planning approval process. To ensure that the public will be alert to the planning applications, members have discussed in depth with the Administration on the notification system on planning applications. The Bill only requires that a notice be posted in the site concerned or published in a newspaper although the Administration undertakes to take both means as far as practicable. As an inconspicuous notice may not attract public attention, members have examined the largest feasible size of notices, and agreed that the notice should be about 16 inches x 23 inches (A2 size) or 23 inches x 32 inches (A1) in size, depending on the circumstances of individual case. It is also agreed that

where applicable and necessary, the Administration should also put up roadside notices of about 33 inches x 60 inches. To allow flexibility and to cater for different situations, these details will be specified in the TPB Guidelines instead of in the statute.

27. Other than the statutory requirements, the Administration also undertakes to adopt administrative measures to improve the effectiveness of the notification system. These include, amongst others, the following:

- (a) sending a notice to each of the Owners' Corporation of the adjoining buildings within 100 feet from the boundary of the site;
- (b) sending a notice to the LegCo members and District Council members of the concerned local areas and where appropriate, the Area Committee; and
- (c) posting a notice at an appropriate local community centre, the relevant District Planning Office, District Office and Rural Committee office, and the TPB Secretariat and its website.

28. The Bills Committee has examined whether applicants for planning permission and commenters should have a right to be heard by the TPB, as suggested by some deputations. According to the Administration, because of the large number of planning applications received each year, if applicants and commenters are to be heard by TPB, there would be a significant increase in the time required by TPB to consider applications. Based on the 2002 statistics, 70% of the 647 applications for planning permission were approved when the applications were first considered by TPB in the absence of the applicants under section 16 of the TPO. Moreover, even if the applications are turned down, applicants could lodge a review under section 17 and will then have an opportunity to be heard by TPB. In view of the need to ensure efficiency and to complete consideration of applications within two months after receipt as required by section 16 of TPO, the Administration does not agree to provide for a right to be heard when planning applications are first considered by TPB. Having considered the Administration's explanations and the decision to open up TPB meetings for attendance by the public as detailed in paragraphs 42 to 44 below, members agree to maintain the status quo of not providing for a right of applicants for planning permission to be heard by TPB.

29. Concern has also been raised by deputations about the proposal that once an applicant submits further information to supplement his application, the statutory two-month period for considering the application by TPB will be counted from the date of receipt of the further information. Members note from past statistics that submission of further information from applicants is not uncommon and in many cases the further information does not change the substance of the applications. To avoid undue delay of the planning approval

process, members agree with the Administration to take a pragmatic approach to deal with the issue. Where the further information does not have a significant impact on the application concerned, the requirement for publishing the further information for public comment will be waived and the statutory two-month period for considering the application will not be counted from the date of receipt of the further information. As it is impossible to set out exhaustively in law information which shall be regarded as minor in nature, the Bills Committee accepts that TPB will be given a discretion to decide in this respect. The Administration will move CSAs to the relevant clause to achieve the effect.

Minor amendment to planning permission (clause 17)

30. The second major proposal in the Bill concerning the planning approval process is to exempt certain minor amendments to planning permission from further application to TPB for approval. The new section 16A provides for two types of amendments, namely Class A amendments and Class B amendments. Class A amendments to planning permission are deemed to be permitted without the need to submit an application to TPB. Class B amendments have to be submitted to TPB for approval but are subject to simpler procedures than those under section 16. Applications for Class B amendments will not be published for public inspection and comment. TPB will consider these applications within two months upon receipt of the applications. Since the Bill confers TPB with the power to specify Class A and Class B amendments by notice in the Gazette which is not subsidiary legislation, members are concerned how the general public can participate in the process.

31. According to the Administration, the amendments will be very minor in nature and will not be substantially different from the application for which planning permission has been given by TPB. There are existing TPB Guidelines for Minor Amendments to Approved Development Proposals. The lists of Class A and Class B amendments will be drawn up on the basis of these Guidelines. For example, minor amendments such as reduction in Gross Floor Area (GFA) or units which are always permitted under the Guidelines will likely be specified as Class A amendments. Amendments which currently are processed by the Director of Planning under delegated authority under the Guidelines will be designated as Class B amendments and will continue to be processed by public officers. An increase in GFA by 5% to 10% or 2000 m² to 4000 m² is one such amendment. The Administration undertakes to further consult the stakeholders before finalizing the Class A and Class B amendments. The lists of minor amendments, apart from being published in the Gazette, will be uploaded onto the TPB website. Members find the proposed arrangement acceptable. The Administration will move CSAs to the clause to refine the technical details.

Consent by/notification of land owners (clause 13 (new section 12A(3)) and clause 16(a))

32. Another major proposal in the Bill concerning the planning approval process is an express requirement to obtain the consent of or notify the land owner if the applicant for planning permission and amendment of plan is not the owner of the application site. The purpose of this requirement is to remedy an existing deficiency that land owners may not be aware of any proposed development application lodged by a third party on their land.

33. The Bills Committee has received divergent views from deputations on this proposal. Some organizations welcome the proposal which, in their view, will enhance transparency of the planning approval system. Other organizations object to the proposal and point out such problems as multiple land ownership, absentee/deceased owners and the cost and time involved in identifying and locating the land owners concerned.

34. Members concur with the policy intention that affected land owners should have a right to know any proposed development on or proposed changes of permissible use to their land initiated by a third party. This will facilitate the land owners to submit to TPB their comments on the application if they wish to. Some members consider that notification is not adequate and consent of the land owners must be obtained. Most members, however, appreciate the practical difficulties identified by some deputations concerning multiple land ownership, absentee/deceased owners. In this respect, members note an option provided in the Bill which allows an applicant, who fails to obtain the consent of or notify the owners, to prove that he has taken all reasonable steps to give notification to the land owners. According to the Administration, reasonable steps may include sending a notice to the land owners of the concerned site/premises through courier service; posting a notice on site; and advertising in the local newspapers. To ensure reasonable means are used by applicants to notify the land owners, the Administration accepts members' suggestion to expressly require that the notification should be given in writing. Where affected land owners exceed a certain number such as 30 or 50, the applicant may use ordinary mail instead of double registered mail to notify them. TPB will draw up guidelines in this regard after consulting the stakeholders.

35. To plug a possible loophole that an applicant may obtain the consent of or notify the land owners a long time before lodging the application, members propose and the Administration agrees to specify in the proposed provision that the consent be obtained or notification be done within a reasonable time before an application is made. The Administration will consult the stakeholders and specify the meaning of reasonable time in the TPB Guidelines/Practice Notes. CSAs will be moved by the Administration to the relevant clauses to achieve the effect.

Recovery of cost for processing planning applications (clause 14)

36. At present applications for planning permission, amendments to planning permission and amendment of plans are free of charge. Members consider that processing of these planning applications should not be borne by public money and support a proposal in the Bill to empower the Secretary for Housing, Planning and Lands to make regulation to prescribe fees to recover the costs involved. Notwithstanding, members are concerned whether the fees charged will include the costs incurred by TPB and the Government in processing applications from Government departments as the proposed provision expressly provides that no fees shall be payable by them unless they operate under a trading fund. The Administration has assured members that the fees will be calculated on a unit cost basis and there will be no cross-subsidy of Government applications by non-Government applications. Moreover, the fees charged will not cover the costs incurred by TPB in discharging its other statutory functions such as plan-making. To allay members' concern, the Administration agrees to revise the relevant provision and will move CSAs accordingly.

Enhancing the efficiency of Town Planning Board

37. For the purpose of enhancing the efficiency of TPB in the plan-making and planning approval processes, the Bill makes several proposals concerning the operation of TPB as follows:

- (a) allowing TPB to transact any of its businesses by circulation of papers (clause 5, new section 2B);
- (b) enabling the TPB to delegate its powers to the standing committees of TPB to consider applications for amendment of plan and amendment to planning permission (clause 3, section 2(5)(a));
- (c) empowering TPB to set up ad hoc committees to consider review applications in relation to planning permission and amendment to planning permission (clause 4, section 2A); and
- (d) enabling TPB to delegate certain power to public officers (clause 3, section 2(5)(b)).

Transaction of business by circulation of papers (clause 5)

38. On the proposal to allow TPB to transact any of its businesses by circulation of papers, members note the objection of some deputations which hold the view that town planning involves important issues and should be fully deliberated at TPB meetings. Notwithstanding the Administration's

explanation that only routine and procedural matters will be transacted by circulation of papers, members consider the new provision (section 2B) failing to reflect such intention. Members propose to revise it to expressly provide that where the holding of meeting by TPB to decide a business is mandated by provisions in TPO or where any TPB member requests holding a meeting to consider a business, that business cannot be transacted by circulation of papers. The Administration has taken on board members' suggestions and will move CSAs to clause 5 to achieve the effect.

Enabling the standing committees to consider applications for amendment of plan and amendment to planning permission (clause 3(a))

39. Members agree with the proposal to enlarge the functions of standing committees of TPB appointed by CE amongst TPB members to consider applications for amendment of plan and amendment to planning permission. Members note that the power to appoint standing committees was added in 1991 to cope with the increasing workload of TPB. At present there are two standing committees, namely the Metro Planning Committee and the Rural and New Town Planning Committee. These two committees are tasked to deal with amendments to draft plans and planning applications in urban and rural areas respectively. Given the size of TPB of over 30 members, members appreciate the need to appoint standing committees to discharge the functions of TPB and support the proposal to enable the standing committees to consider applications for amendment of plan and amendment to planning permission to increase operational efficiency. However, members note that the quorum for meetings of standing committees is only five TPB members, which in their view, is too small. They call upon the Administration to review quorum of meetings of the standing committees at the Stage Two amendment to TPO.

Appointment of ad hoc committees to consider review applications (clause 4)

40. Apart from standing committees, the existing TPO (section 2A) provides for the appointment of ad hoc committees to consider objections in relation to draft plans. The Bill proposes to empower TPB to set up ad hoc committees to consider review applications in relation to planning permission and amendment to planning permission. Members, like many deputations, have reservation about this proposal. Members note that the main reason for appointing ad hoc committees to consider objections in relation to draft plans is to meet the statutory time-frame to complete consideration of objections. Members are gravely concerned that the statutory minimum size of ad hoc committee is five TPB members only and the quorum for such meetings is as few as three members. Despite the Administration's emphasis that TPB members are appointed to sit on these committees by roster and at present each ad hoc committee consists of nine members, members are unconvinced of the adequacy of representation of these committees. Under these circumstances, they consider it inappropriate to further allow TPB to appoint ad hoc

committees to consider review applications in relation to planning permission and amendment to planning permission. In view of members' objection, the Administration withdraws the proposal and will move CSAs accordingly. Members urge the Administration to comprehensively and critically review composition and operation of TPB, in particular the quorum for meetings at the Stage Two amendment.

Delegation of duty to public officers (clause 3(a))

41. Like the proposal to appoint ad hoc committee to discharge certain TPB functions, there is concern from deputations on the proposal to allow TPB to delegate to public officers to determine acceptance of further information in relation to applications for amendment of plan, planning permission, amendment to planning permission and review applications. The Bills Committee has critically examined the need to delegate such power and function of TPB to public officers. According to the Administration, submission of further information by applicants to supplement their applications is not uncommon. For example, amongst the 26 applications for amendment of plans and planning permission considered by TPB from September to November 2003, 77% submitted further information, which mostly sought to clarify particulars of the applications and provide further justifications. The processing of further information is currently undertaken by the TPB Secretariat. For the purpose of operational need and enhancing efficiency, some members accept the need to delegate the power to determine acceptance of further information to the TPB Secretariat. Other members, however, consider that such power should be delegated to TPB committees because the TPB Secretariat is staffed by civil servants and is not independent of the Administration. To cater for operational need, members agree to revise the proposal to the effect that TPB may delegate its power to the Secretary of TPB or its committees to determine acceptance of further information in relation to applications for amendment of plan, planning permission, amendment to planning permission and review applications. The Administration will move CSAs to the relevant clause.

Opening up of Town Planning Board meetings

42. While the Bill is silent on the manner in which TPB meetings should be conducted, in the course of deliberating the Bill, members received calls from many organizations concerning the opening up of TPB meetings. Since the Bill includes proposals to publish planning applications and representations and comments in relation to new and amendment plans for public comment and to allow representers and commenters on new and amendment plans to be heard by TPB, many members of the Bills Committee consider it a logical step to open up the TPB meetings.

43. The Administration originally intended to deal with this issue in the Stage Two amendment. However, in view of some members' grave concern and its undertaking to discuss the Stage Two amendment with the Panel on Planning, Lands and Works in parallel with the scrutiny work of the Bills Committee (paragraph 10 above), the Administration brought up the issue to TPB for discussion on 16 January 2004. TPB members basically supported a more open and transparent process in handling TPB's work, except for sensitive and confidential issues. To move towards this direction, TPB members agreed that the public should be allowed to attend the hearing part of TPB meetings for consideration of representations/comments and planning applications, and other meetings (except for confidential items). They had grave reservation about opening up the deliberation part of TPB meetings. Their main concern was that conducting deliberations in public might inhibit TPB members from expressing views freely. Following the TPB's line of thinking, the Administration proposed to the Bills Committee to open up by administrative means the hearing part of TPB meetings for consideration of representations/comments and planning applications, and other meetings (except, for example, items involving confidential or premature release of sensitive information).

44. In considering the Administration's proposal to open up only the hearing part of TPB meetings, the majority members of the Bills Committee consider the proposed administrative arrangement unsatisfactory. They consider it necessary to stipulate the opening up of TPB meetings in law. Some members are of the view that the deliberation part of TPB meetings should also be open to the public as how TPB comes to a decision should be put under public scrutiny. Most members, however, respect the view of TPB members to hold the deliberation part of TPB meetings in private. After discussion, the Administration accepts the Bills Committee's request to provide expressly in law that all meetings of TPB shall be open to the public, except for the deliberation part in relation to consideration of representations/comments and planning applications and under certain specified circumstances in respect of other meetings. These specified circumstances are in line with TPB's line of thinking and include, among others, where TPB considers it not in the public interest to conduct open meetings and where sensitive or legal professional privileged information will be disclosed at the meetings. The Administration will move CSAs to add a new section 2C.

45. Hon Andrew WONG Wang-fat is not satisfied with the way new section 2C is drafted. He indicates support for open hearing of TPB and agrees that TPB should deliberate in camera. However, the proposed new section 2C makes it a rule to open up all TPB meetings but includes an exception provision to enable TPB to deliberate in camera. In his view, TPB should be given a general discretion to decide on when meetings should be open to the public.

Strengthening enforcement control against unauthorized developments

Regarding manager of tso/t'ong as land owner (clause 2(a))

46. For the purpose of strengthening enforcement control against UD, the Bill makes several proposals to address the current deficiencies in the existing TPO. UD is defined under the existing TPO as any development in contravention of the TPO, i.e. a development not being an “existing use”, not permitted under the relevant statutory plans and not with planning permission. The first proposal is to include an express provision in the TPO to regard managers of tso/t'ong as land owners who are liable to offences in relation to UDs. Tso/t'ong is a kind of customary Chinese institution and an unincorporated body. The proposal is intended to clarify the legal position of tso/t'ong as confirmed in a Court of Appeal case that a tso/t'ong manager was vested with the duties and responsibility incidental to the ownership of the land.

47. This proposal is met with strong objections from many New Territories organizations. The Bills Committee received written submissions from the Heung Yee Kuk, three rural committees and 113 tsos/t'ongs, and all are against the proposal. The main reasons for their objections are that managers of tsos/t'ongs act as agents only and their powers are restricted. Decisions affecting the interests of the land such as land use rest with members of tsos/t'ongs holding the land and not the managers. Moreover, in many cases, land held by tsos/t'ongs is plenty and scattered and managers have practical difficulties in inspecting all the land held by tsos/t'ongs. Managers of hundreds of tsos/t'ongs claim that if the proposal were enacted, they would resign collectively.

48. In view of the strong objections from tsos/t'ongs, the Administration has discussed with the Heung Yee Kuk on how the proposal could proceed. According to the Heung Yee Kuk, any enforcement action should be directed at the tsos/t'ongs instead of their managers because managers of tsos/t'ongs only act as agents on a voluntary basis and do not have full control over use of the land. Against such background, the Heung Yee Kuk suggests that the Administration should consider reviewing the legal status of tsos/t'ongs, for example, the incorporation of tsos/t'ongs so that they could be subject to liability for offences imposed on such corporation, as in the case of owners' corporation under the Building Management Ordinance (Cap. 344).

49. As the suggestion would involve a fundamental change to the role of tsos/t'ongs and the rights and responsibilities of tso/t'ong managers which are outside the scope of the Bill, the Administration proposes to withdraw the proposal to regard tso/t'ong managers as land owners. The Administration assures members that the withdrawal of the proposal will not affect enforcement action taken by the Director of Planning against UD involving

tso/t'ong land. While supporting the deletion of the proposal from the Bill, members urge the Administration to expedite the review on the legal status of tso/t'ong and the rights and responsibilities of tso/t'ong managers under the New Territories Ordinance (Cap. 97). The Administration will move CSAs to the relevant clause.

Increasing the power of the Planning Authority to investigate unauthorized developments (clause 19)

50. To facilitate investigation of suspected UD, the Bill proposes to allow the Planning Authority (PA) to enter private land other than domestic premises to ascertain whether there are UDs. Members note that under the existing section 22 of TPO, the PA is already conferred with the entry power for the purpose of posting a notice and verifying whether the requirements specified in the notice have been complied with. Whilst supporting the proposal to enlarge the purposes for which the PA may enter non-domestic private land, members are concerned about the circumstances under which the PA may invoke such power. At the request of the Bills Committee, the Administration agrees to state expressly that the PA shall not exercise any such power unless he has reasonable grounds to suspect that there is or was UD.

51. In addition to expanding the entry power of the PA, the Bill also proposes to empower the PA to require any person to provide any information for the performance of his duty concerning UDs. As in the case of entry power, members consider it necessary to confine the exercise of such power to where the PA has reasonable grounds to believe that the person has relevant information. Also, the information required by the PA has to be related to ascertainment of UD and/or identification of persons responsible for the UD. The Administration will move CSAs to the relevant clause to achieve the effect.

Confining compliance with enforcement notice to discontinuance of unauthorized development (clause 20(a))

52. Another proposal in the Bill concerning UD aims to plug a frequently criticized loophole in the existing TPO. Under section 23 of TPO, when the PA serves a notice requiring the discontinuance of an UD, the land owner or occupier concerned may lodge an application for planning permission under section 16 and if the application fails, institute the review and appeal procedures. According to a High Court judgment, application for planning permission by the notice recipient is regarded as a reasonable step to comply with the notice and is a statutory defence under section 23(9)(a). As a result of this judgment, even if a notice has not been complied with, prosecution could not be instituted until after the conclusion of the planning application and associated review and appeal procedures. In other words, the UD could continue to exist. To prevent abuse of the procedures, the Bill proposes to

amend section 23 to the effect that to comply with an enforcement notice, the UD has to be discontinued, notwithstanding the submission of a planning application by the notice recipient.

53. This proposal is welcomed by the majority of deputations. However, open storage operators raise objection to the proposal and claim that they have made substantial investment and could not afford to cease operation until after planning permission has been obtained. Members reckon that the proposal will prevent notice recipients from filing planning applications in order to delay the prosecution proceedings. This will help mitigate proliferation of UDs leading to prolonged environmental problems and nuisance in the New Territories. Members note that the PA will normally issue a warning letter first to operators of UD. If the warning letter is not heeded to, a notice will then be issued. The notice recipient will be given three months to discontinue the UD and prosecution actions will only be instituted after the expiration of the period. Members consider this a reasonable time-frame. Members further note that if the notice recipient is able to obtain planning permission, even though the three-month period has expired, the PA normally will consider not proceeding with the prosecution.

Dispensing with the requirement on the prosecution to prove the existence of unauthorized development (clause 20(m))

54. Under the existing TPO, for conviction of the offence for non-compliance with a notice requiring discontinuance of UD, the prosecution has to prove beyond reasonable doubt that there is/was an UD. The Bill proposes to add an express provision (new section 23(9A)) to clarify that the prosecution would not need to prove the existence of the UD for the offence.

55. Given that a defendant is presumed to be innocent in criminal proceedings unless the prosecution can prove beyond all reasonable doubts that the defendant has committed an offence, members have queried why the burden of proof is not laid on the prosecution. According to the Administration, the offence under section 23(6) is non-compliance with a notice concerning UD. There is a defence provision in existing section 23(9) that the defendant will be acquitted if he can prove that the matters alleged in the notice do/did not constitute an UD. One such proof is that the use is an existing use, i.e. the use of the land or building immediately before the gazettal of the relevant Interim Development Permission Area Plan or Development Permission Area Plan. In most cases, the defendant should have better knowledge of the existing use than the prosecution, in particular, where the uses are underneath built structures or dense vegetation which cannot be shown on the aerial photos taken by the PA on the gazettal date of the relevant plan. Relatively speaking, it would be easier for the defendant to prove that the use is not an UD, than for the prosecution to prove beyond reasonable doubts that the use is an UD. The existing burden of proof on the prosecution is considered

unduly onerous, hence the need for new section 23(9A).

56. Members note that notwithstanding new section 23(9A), the prosecution would still need to prove beyond reasonable doubts seven elements for conviction of the offence under section 23(6). One important element is that prior to service of an enforcement notice, the PA has to form an opinion that the matter in question is or was an UD. In forming such opinion, the PA may have regard to various matters specified in new section 23(11) including photograph of the land and relevant draft or approved plans which are accessible to the public. Members further note that under the existing practice, the decision to issue an enforcement notice has to be made at an internal meeting of the Planning Department chaired by an officer at the rank of Assistant Director or above. After weighing the standards of proof for the defence and the prosecution, the Bills Committee supports the need for new section 23(9A). The Administration will move CSAs to the clause to refine technical details.

Committee Stage Amendments

57. A full set of CSAs to be moved by the Administration is in **Appendix VIII**. The Bills Committee supports the CSAs.

Recommendation

58. The Bills Committee supports the Administration's proposal to resume the Second Reading debate on the Bill at the Council meeting on 7 July 2004.

Advice sought

59. Members are invited to support the recommendation of the Bills Committee at paragraph 58 above.

Prepared by
Council Business Division 1
Legislative Council Secretariat
24 June 2004

Appendix I

Bills Committee on Town Planning (Amendment) Bill 2003

Membership list

Chairman Hon James TO Kun-sun

Members Hon Cyd HO Sau-lan (up to 26 January 2004)
Hon Albert HO Chun-yan
Hon Andrew WONG Wang-fat, JP
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

(Total : 12 members)

Clerk Miss Odelia LEUNG

Legal Adviser Mr Arthur CHEUNG

Date 27 January 2004

Appendix II

Bills Committee on Town Planning (Amendment) Bill 2003

List of individuals/organizations which had made written submissions to the Bills Committee

Individuals

1. Mr Edwin TSANG
2. Mr Ruy BARRETTO S.C.

Organizations

1. Advisory Council on the Environment
2. Civic Exchange
3. Conservancy Association
4. Heung Yee Kuk New Territories
5. Hong Kong Institute of Real Estate Administration
6. Kadoorie Farm & Botanic Garden
7. Land and Building Advisory Committee
8. Pat Heung Rural Committee
9. Planning Subcommittee of the Land and Building Advisory Committee
10. Tai Po Tsat Yeuk Rural Committee
11. The Association of Architectural Practices Ltd
12. The Association of Planning Consultants of Hong Kong
13. The Association of the New Territories Open Storage Operators Ltd
14. The Hong Kong Institute of Architects
15. The Hong Kong Institute of Planners
16. The Hong Kong Institute of Surveyors
17. The Hong Kong Institution of Engineers
18. The Law Society of Hong Kong
19. The Real Estate Developers Association of Hong Kong

20. Town Planning Board
21. Urban Watch
22. World Wide Fund for Nature Hong Kong
23. Five "tsos/t'ongs" in Kam Tin area
24. 64 tsos/t'ongs in Pat Heung area
26. 屏山鄧輯伍祖
27. San Tin Rural Committee
28. 上水鄉門口村廖新全祖
29. 36 "tsos/t'ongs" in Tsuen Wan area
30. A "tso/t'ong" in Tuen Mun area
31. Five "tsos/t'ongs" in 元朗廈村鄉鳳降村

Appendix III

Bills Committee on Town Planning (Amendment) Bill 2003

List of individual/organizations which had made oral presentation to the Bills Committee

Individual

1. Mr Edwin TSANG

Organizations

1. Civic Exchange
2. Heung Yee Kuk New Territories
3. Hong Kong Institute of Real Estate Administration
4. Hong Kong Real Estate Agencies General Association Ltd
5. Kadoorie Farm & Botanic Garden
6. The Association of Architectural Practices Ltd
7. The Association of Planning Consultants of Hong Kong
8. The Association of the New Territories Open Storage Operators Ltd
9. The Hong Kong Institute of Architects
10. The Hong Kong Institute of Planners
11. The Hong Kong Institute of Surveyors
12. The Real Estate Developers Association of Hong Kong
13. Town Planning Board
14. World Wide Fund for Nature Hong Kong

Appendix IV

Bills Committee on Town Planning (Amendment) Bill 2003

The current three-stage objection consideration process under the existing Town Planning Ordinance

- (a) TPB to publicize new plans and amendments to approved plans for two months for public inspection and objection. For amendments to draft plans, the publication period is three weeks;
- (b) If objections are received, TPB to give preliminary consideration of objections in the absence of the objectors and may propose amendments to meet objections. This is the first stage of objection consideration;
- (c) Where the objections are not withdrawn, TPB to hear them at a meeting at which the objectors or their authorized representatives may attend and present their views. This is the second stage of objection consideration;
- (d) After hearing the objections, if TPB makes amendments to meet the objections, the amendments have to be publicized for 14 days for further objections by affected persons with landed interest, other than the original objectors;
- (e) If further objections are received, TPB to hear the further objections and the related original objections at a meeting at which the objectors or their authorized representatives may attend and present their views. After this third stage of objection consideration, TPB may retain, remove or vary the proposed amendments;
- (f) TPB to submit to CE in C the draft plan with the amendments, if any, made to meet objections together with a schedule of unwithdrawn objections. The submission must be made by TPB within nine months after expiration of the plan publication period mentioned in (a) above, unless CE allows extension of time for a maximum period of six months; and
- (g) CE in C to approve, refuse to approve or refer the draft plan back to TPB for further consideration and amendment. If the draft plan is approved, it will become approved plan which will then be made available for public inspection. Where the draft plan is referred back to TPB for further consideration and amendment, the process will start from (a) again.

Appendix V

Bills Committee on Town Planning (Amendment) Bill 2003

The one-stage representation consideration process as proposed in the Bill

- (a) TPB to publicize both new and amendment plans for one month. Members of the public may make both supportive and adverse representations within the plan publication period;
- (b) After expiration of the plan publication period, TPB to publicize all representations received for public comments for three weeks;
- (c) Representers may submit further information to supplement their representations within four weeks after expiration of the plan publication period. TPB to make available further information for public inspection;
- (d) TPB to make available comments on representations for public inspection;
- (e) TPB to hear representations and comments in one go. Both representers and persons who have made comments on representations (commenters) or their authorized representatives may attend the hearing to present their views;
- (f) After hearing the representations and comments, TPB may propose amendments to the draft plan to meet representations;
- (g) TPB to submit to CE in C the draft plan and its proposed amendments, if any, to meet representations together with a schedule of unwithdrawn representations and comments. The submission must be made by TPB within six months after expiration of the plan publication period mentioned in (a) above, unless CE allows extension of time for a maximum period of three months; and
- (h) CE in C to approve, refuse to approve or refer the draft plan back to TPB for further consideration and amendments. CE in C may also approve the draft plan, subject to any amendments proposed by TPB. In other words, CE in C may choose among the amendments proposed by TPB, which is not allowed under the existing TPO.

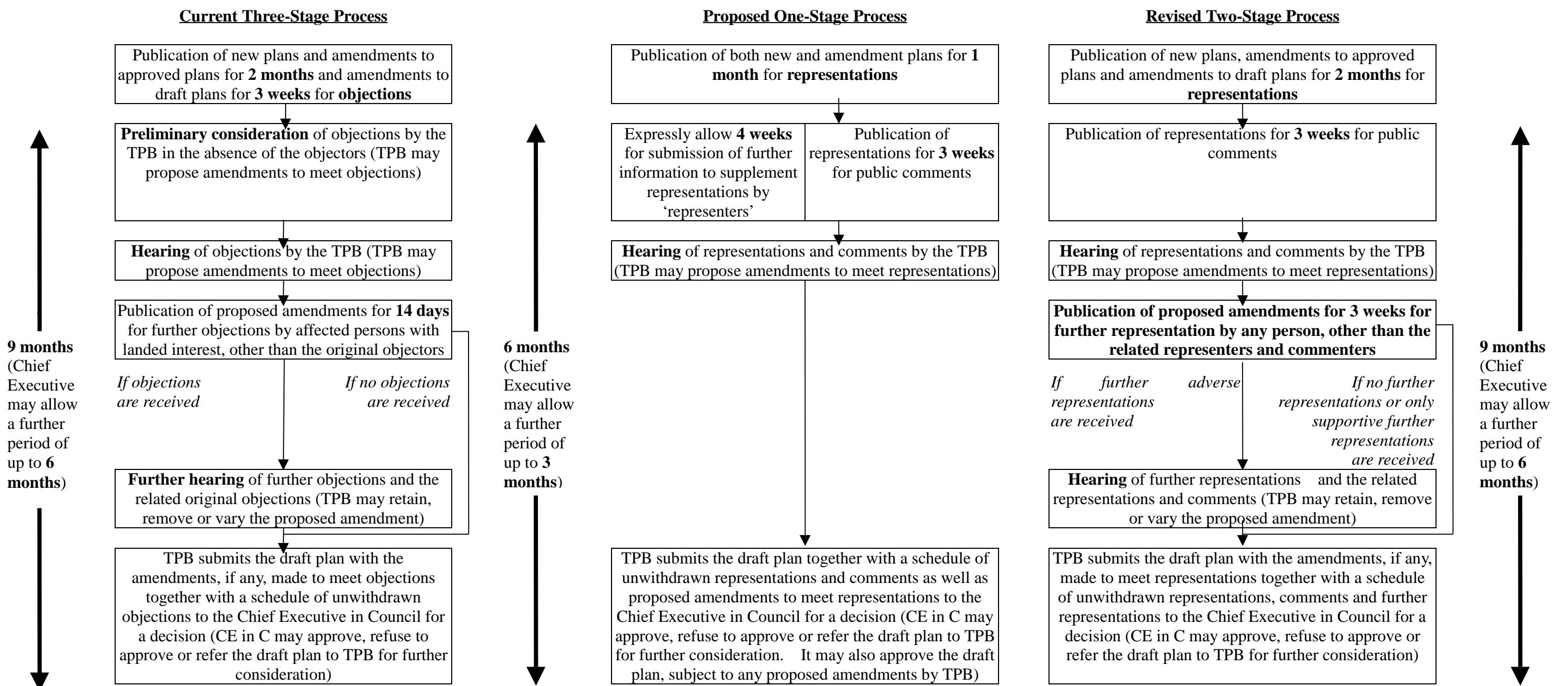
Appendix VI

Bills Committee on Town Planning (Amendment) Bill 2003

The revised two-stage representation consideration process proposed by the Administration (as at January 2004)

- (a) TPB to publish new and amendment plans for two months for the public to make representations;
- (b) TPB to publish all representations for three weeks for public comments and to make available comments on representations for public inspection;
- (c) TPB to hear representations and comments, which is the first stage of representation consideration;
- (d) If any amendments are proposed by TPB to meet representations, TPB to publish the proposed amendments for three weeks and any affected persons with landed interest, other than the related representers and commenters, may object;
- (e) If objections are received, TPB to conduct a further hearing of the objections and the related representations and comments. After this second stage of hearing, TPB may retain, remove or vary the proposed amendments;
- (f) TPB to submit to CE in C the draft plan with the amendments, if any, made to meet representations together with a schedule of unwithdrawn representations and comments within nine months after the plan publication period. This period may be extended for six months by CE, as in the existing TPO; and
- (g) CE in C to approve, refuse to approve or refer the draft plan back to TPB for further consideration and amendment. In other words, the existing power of CE in C in the plan-making process to remain unchanged.

Flow chart comparing the existing three-stage objection consideration process, one-stage process proposed in the Town Planning (Amendment) Bill 2003 and the revised two-stage process agreed with the Bills Committee in plan-making



Appendix VIII

(17.06.04 version)

TOWN PLANNING (AMENDMENT) BILL 2003

COMMITTEE STAGE

Amendments to be moved by the Secretary for Housing,
Planning and Lands

<u>Clause</u>	<u>Amendment Proposed</u>
1	<p>(a) In the heading, by adding "and commencement" after "Short title".</p> <p>(b) By renumbering the clause as clause 1(1).</p> <p>(c) By adding -</p> <p style="padding-left: 40px;">"(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Housing, Planning and Lands by notice published in the Gazette.".</p>
2	By deleting paragraph (a).
3	<p>(a) By deleting paragraph (a) and substituting -</p> <p style="padding-left: 20px;">"(a) in subsection (5) -</p> <p style="padding-left: 40px;">(i) in paragraph (a) -</p> <p style="padding-left: 60px;">(A) by repealing "16" and substituting "8, 12A, 16, 16A";</p> <p style="padding-left: 60px;">(B) by repealing "and" at the end;</p> <p style="padding-left: 20px;">(ii) in paragraph (b) -</p>

- (A) by repealing "an application for";
- (B) by repealing subparagraph (i) and substituting -
 - "(i) an application made under section 16A(2);
 - and";
- (C) in subparagraph (ii) -
 - (I) by adding "an application for" before "permission for";
 - (II) by repealing the full stop and substituting ";
 - and";
- (iii) by adding -
 - "(c) under sections 12A(12) and (13A),
 - 16(2I) and
 - (2K) and

17(2G) and
(2I) to the
secretary
of the
Board,
and, for the avoidance of
doubt, the provisions of
this Ordinance shall, with
necessary modifications,
be construed and have
application
accordingly."".

(b) By deleting paragraph (b).

4 By deleting "and 17" and substituting ", 6E, 6F,
6G, 6H, 6I and 6J, and, for the avoidance of doubt,
the provisions of this Ordinance shall, with
necessary modifications, be construed and have
application accordingly".

5 In the heading, by deleting "**Section**" and
substituting "**Sections**".

5 By deleting "is added" and substituting "are
added".

5

In the proposed section 2B -

- (a) in subsection (1), by adding ", unless the holding of a meeting for the purpose is required either by any express provision of this Ordinance or by necessary implication from any provision of this Ordinance" after "Hong Kong";
- (b) in subsection (2), by deleting "A" and substituting "Subject to subsections (3) and (4), upon the circulation of papers under subsection (1), a";
- (c) by adding -

"(3) Any member of the Board or of a committee appointed under section 2(3) or 2A may require any business which is being transacted by the circulation of papers under subsection (1) to be transacted at a meeting of the Board or of the committee, as the case may be, by giving a notice in writing to the chairman of the Board or of the committee, as the case may be, within the period specified in the

papers.

(4) Where, in respect of any business being transacted by the circulation of papers, a notice is given under subsection (3) to the chairman of the Board or of a committee appointed under section 2(3) or 2A, any resolution approved in writing under subsection (2) in respect of the business shall be void.

(5) For the avoidance of doubt, a reference to circulation of papers in this section includes circulation of information by electronic means, and the reference to the papers in this section shall be construed accordingly.".

5

By adding -

"2C. Meetings of Board and of committees

(1) Subject to subsection (2), all meetings of the Board or of any committee appointed under section 2(3) or 2A shall be open to the public.

- (2) Subsection (1) does not apply to -
- (a) in the case of any meeting held under or for the purposes of section 6D, 6H, 12A, 16, 16A or 17, such part or parts of the meeting that are held for deliberation by the Board or the committee, as the case may be, for making any decision under section 6D(8), 6H(8) (whether with or without application of section 6H(9)), 12A(21), 16(3), 16A(7) or 17(6), after hearing any person who, not being a member of the Board or the committee, as the case may be, is entitled or allowed to be heard or otherwise has an opportunity of making representations or providing information at the meeting; and
- (b) in the case of any other meeting, the meeting or any part or parts of the meeting if

in the opinion of the Board or the committee, as the case may be, it is likely that -

(i) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would not be in the public interest;

(ii) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would result in premature release of information that would prejudice the position of the Board, the Government, the Chief Executive or the Chief Executive in

Council or, in the case of a meeting of the committee, the committee in carrying out its or his functions under this Ordinance;

- (iii) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would result in a disclosure of information in breach of any duty of confidentiality owed to any person by the Board or the Government or, in the case of a meeting of the committee, the committee, or owed to the Government by the Board or, in the case

of a meeting of the committee, the committee, by virtue of any law or any requirement under any law, or in contravention of any prohibition by any order of a magistrate or a court or by any law or any requirement under any law;

(iv) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would result in a disclosure of information in respect of which a claim to legal professional privilege could be

maintained in law; or

(v) any matter transacted

at such meeting or

such part or parts of

the meeting, as the

case may be, would be

relevant to the

institution or conduct

of any legal

proceedings.

(3) Subject to the provisions of this
Ordinance, the Board or any committee
appointed under section 2(3) or 2A may
determine its practice and procedure at its
meeting.".

6

By deleting everything after "repealing" and
substituting ""a local newspaper" and substituting
"2 daily Chinese language local newspapers and 1
daily English language local newspaper".".

7

In the proposed section 6 -

(a) in subsection (1), by deleting "1 month"
and substituting "2 months";

(b) in subsection (2)(a)(ii), by adding

- "nature of and" before "reasons";
- (c) in subsection (3) -
- (i) in paragraph (a) -
- (A) by deleting "1 month" and substituting "2 months";
- (B) by adding ", it shall be treated as not having been made" after "(1)";
- (ii) by deleting everything after "(2)" and substituting ", it may be treated as not having been made.";
- (d) in subsection (4) -
- (i) by deleting "1 month" and substituting "2 months";
- (ii) by deleting "the representations have been considered at a meeting under section 6D(1)" and substituting "the Chief Executive in Council has made a decision in respect of the draft plan in question under section 9";
- (e) by deleting subsection (5) and substituting -

- "(5) In respect of any representations which are available for public inspection under subsection (4), the Board shall cause a notice that complies with subsection (6) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period during which the representations are so available for public inspection.";
- (f) in subsection (6)(a), by adding "and" at the end;
- (g) in subsection (6)(b), by deleting ";" and substituting a full stop;
- (h) by deleting subsection (6)(c).

8

- (a) In the proposed section 6A(3) -
- (i) in paragraph (a), by adding ", it shall be treated as not having been made" after "(1)";
- (ii) by deleting everything after "(2)" and substituting ", it may be

treated as not having been made.".

- (b) In the proposed section 6A(4), by deleting "the comments have been considered at a meeting under section 6D(1)" and substituting "the Chief Executive in Council has made a decision in respect of the draft plan in question under section 9".
- (c) By deleting the proposed sections 6B and 6C.
- (d) In the proposed section 6D -
 - (i) in subsection (1), by deleting everything after "after" and substituting "the expiration of the period of 3 weeks referred to in section 6A(1).";
 - (ii) in subsection (6), by deleting everything before paragraph (a) and substituting -

"(6) The Board may direct that all or some of the representations made in respect of the draft plan in question under section 6(1) shall be considered at the same meeting, whereupon such representations, as well as any comment made in

respect of any of such representations -";

(iii) in subsection (8), by deleting "consider and take a view as to whether it will propose amendments to the draft plan to which the representation and the comment (if any) relate" and substituting "decide whether or not to propose amendments to the draft plan in question".

(e) By adding -

"6E. Proposed amendments under section 6D(8) to be made available for public inspection

(1) Where the Board proposes any amendments under section 6D(8), the Board shall, as soon as reasonably practicable after the amendments are proposed, make the proposed amendments available for public inspection at reasonable hours, and shall continue to do so until the Chief Executive in Council has made a decision in respect of the draft plan in question under section 9.

(2) In respect of any proposed

amendments which are available for public inspection under subsection (1), the Board shall cause a notice that complies with subsection (3) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period during which the proposed amendments are so available for public inspection.

(3) A notice referred to in subsection (2) shall -

(a) specify the place and hours at which the proposed amendments to which the notice relates are available for public inspection under subsection (1); and

(b) indicate that further representations may be made to the Board in respect of the proposed amendments under section 6F(1) and specify the

place and hours at which
any further
representations so made
will be available for
public inspection under
section 6F(4).

**6F. Further representations
in respect of proposed
amendments**

(1) Where the Board proposes any amendments under section 6D(8), within the first 3 weeks of the period during which the proposed amendments are available for public inspection under section 6E(1), any person, other than that who has made any representation or comment after consideration of which the proposed amendments are proposed under section 6D(8), may make further representation to the Board in respect of the proposed amendments.

(2) A further representation referred to in subsection (1) shall -

(a) indicate -

(i) the proposed

amendments to
which the
further
representation
relates;

(ii) whether the
further
representation
is made in
support of, or
in opposition
to, the proposed
amendments; and

(iii) the reasons for
the further
representation;
and

(b) be made in such manner as
the Board requires.

(3) Where a further representation
referred to in subsection (1) -

(a) is made to the Board after
the expiration of the
period of 3 weeks referred
to in subsection (1), it

shall be treated as not

having been made; or

(b) does not comply with any

of the requirements

specified in or made under

subsection (2), it may be

treated as not having been

made.

(4) The Board shall, as soon as

reasonably practicable after the

expiration of the period of 3 weeks

referred to in subsection (1), make all

further representations made to it under

that subsection available for public

inspection at reasonable hours, and shall

continue to do so until the Chief

Executive in Council has made a decision

in respect of the draft plan in question

under section 9.

**6G. Withdrawal of representations,
etc.**

(1) Any person who makes any

representation under section 6(1), or

makes any comment in respect of any such

representation under section 6A(1), may

by notice in writing to the Board withdraw the representation or comment, as the case may be, at any time before the representation or comment, as the case may be, has been considered at a meeting under section 6D(1).

(2) Any person who makes any further representation under section 6F(1) may by notice in writing to the Board withdraw the further representation at any time before the further representation has been considered at a meeting under section 6H(1).

(3) Where any representation, comment or further representation is withdrawn under subsection (1) or (2) -

(a) the representation, comment or further representation, as the case may be, shall thereafter be treated as not having been made; and

(b) in the case of the withdrawal of any representation, any

comment made under section 6A(1) in respect of the representation shall thereafter be treated as not having been made.

6H. Consideration of further representations in respect of proposed amendments

(1) Where any further representation is made under section 6F(1), the Board shall hold a meeting to consider the further representation as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in that section.

(2) The Board shall, in respect of any meeting to be held under subsection (1), give reasonable notice of particulars of the meeting (including the date, time and place of the meeting) to -

- (a) the person who made the further representation to which the meeting relates under section 6F(1); and
- (b) the person who made any

representation or comment
after consideration of
which the proposed
amendments in question are
proposed under section
6D(8).

(3) At a meeting held under
subsection (1) -

(a) the person who made the
further representation to
which the meeting relates
under section 6F(1); and

(b) the person who made any
representation or comment
after consideration of
which the proposed
amendments in question are
proposed under section
6D(8),

are entitled to attend and to be heard,
either in person or by an authorized
representative.

(4) If, at a meeting held under
subsection (1), any of the persons
entitled to attend and to be heard at the

meeting under subsection (3) fails to attend, either in person or by an authorized representative, the Board may -

(a) proceed with the meeting in his absence; or

(b) adjourn the meeting to such date as it considers appropriate.

(5) Without prejudice to subsection (4), where the Board is satisfied that there are reasonable grounds to do so, it may adjourn any meeting held or to be held under subsection (1) to such date as it considers appropriate.

(6) The Board may direct that all further representations made in respect of the proposed amendments in question under section 6F(1) shall be considered at the same meeting, whereupon such further representations -

(a) shall be considered at the same meeting; and

(b) may be considered by the Board either individually

or collectively as it may determine.

(7) Where -

(a) any meeting is adjourned under subsection (4) or

(5); or

(b) the Board makes a direction under subsection (6),

the provisions of this section also apply, with necessary modifications, to the meeting so adjourned or the meeting held in accordance with the direction, as the case may be, save to the extent that the Board otherwise directs.

(8) Upon consideration of any further representation at a meeting under subsection (1), the Board shall decide whether or not to amend the draft plan in question, either by the proposed amendments in question, or by the proposed amendments as further varied in such manner as it considers appropriate.

(9) Where, in respect of any proposed amendments proposed under

section 6D(8), any further representation is made under section 6F(1) but no such further representation indicates under section 6F(2)(a)(ii) that it is made in opposition to the proposed amendments -

(a) subsections (3) and (4) shall not have application to any meeting to be held under subsection (1) in respect of any such further representation, and the other provisions of this section shall, with necessary modifications, be construed and have application accordingly; and

(b) subsection (8) shall be construed as requiring the Board, upon consideration of any such further representation, to amend the draft plan in question by the proposed

amendments.

6I. Cases where there are no further representations in respect of proposed amendments

Where, in respect of any proposed amendments proposed under section 6D(8), no further representation is made under section 6F(1) within the period of 3 weeks referred to in that section, the Board shall, as soon as reasonably practicable after the expiration of the period, amend the draft plan in question by the proposed amendments.

6J. Effect of amendments under section 6H or 6I

(1) Where the Board amends a draft plan under section 6H(8) (whether with or without application of section 6H(9)) or 6I, the draft plan shall thereafter be read as including the amendments, and, for the avoidance of doubt, any reference to the draft plan (however described) in this or any other Ordinance shall, unless the context otherwise requires, be

construed accordingly.

(2) Where any draft plan is read as including any amendments under subsection (1), the Board shall, as soon as reasonably practicable thereafter, make the amendments available for public inspection at reasonable hours, and shall continue to do so until the Chief Executive in Council has made a decision in respect of the draft plan under section 9.".

9(a) By deleting "6B, 6C and 6D" and substituting "6D, 6E, 6F, 6G, 6H, 6I and 6J".

9(b) (a) In subparagraph (i), by deleting "1 month" and substituting "2 months".
(b) In the Chinese text, by deleting subparagraph (ii) and substituting -
"(ii) 廢除 "twice" 而代以 "once" ;".

(c) By adding -
"(iia) by repealing "a local newspaper" and substituting "2 daily Chinese language local newspapers and 1 daily English language local

newspaper"; .

- 9(c) (a) In the proposed section 7(4) -
- (i) by deleting everything before paragraph (b) and substituting -
- "(4) Where the Board makes any amendments to a draft plan under subsection (1) -
- (a) subject to
- paragraph (b),
- sections 6, 6A,
- 6D, 6E, 6F, 6G,
- 6H, 6I and 6J
- shall apply,
- with necessary
- modifications,
- to and in
- relation to the
- amendments as
- they apply to
- and in relation
- to a draft plan
- exhibited under
- section 5; and";
- (ii) in paragraph (b), by deleting "(2),

(3), (4), (5) and (6), 6A, 6B, 6C
and 6D" and substituting ", 6A, 6D,
6E, 6F, 6G, 6H, 6I and 6J";

(iii) by adding before paragraph (b)(i) -
"(ia) the reference to "the
period of 2 months during
which a draft plan is
exhibited under section 5"
in section 6(1) were a
reference to the period of
2 months during which the
amendments are exhibited
under subsection (2);";

(iv) in paragraph (b)(i), by deleting
"(2)(a) were a reference to the
amendment in question" and
substituting "(1) and (2)(a) were a
reference to any of the amendments";

(v) by deleting paragraph (b)(ii) and
substituting -

"(ii) the reference to "the
representations made in
respect of the draft plan
in question under section
6(1)" in section 6D(6)

were a reference to the representations made in respect of any of the amendments under section 6(1) (as having application in the manner described in this subsection); ;

(vi) in paragraph (b)(iii) -

(A) by deleting "to which the representation and the comment (if any) relate" and substituting "in question";

(B) by deleting "amendment in question." and substituting "amendments to which the representation in question and the comment in question (if any) relate; ;

(vii) in paragraph (b), by adding -

"(iv) each of the references to "draft plan in question" in sections 6H(8) and (9)(b) and 6I, the first and second references to

- "draft plan" in section 6J(1) and the first reference to "draft plan" in section 6J(2) were a reference to the part or parts of the draft plan to which section 6D(8) (as having application in the manner described in this subsection) has application; and
- (v) each of the references to "draft plan in question" in sections 6(4), 6A(4), 6E(1) and 6F(4), the third reference to "draft plan" in section 6J(1) and the second reference to "draft plan" in section 6J(2) remained a reference to the draft plan.".
- (b) In the proposed section 7(5), by deleting "(2), (3), (4), (5) and (6), 6A, 6B, 6C and 6D" and substituting ", 6A, 6D, 6E, 6F, 6G, 6H, 6I and 6J".

- 9(d) In the proposed section 7(6), by deleting "Where" and substituting "Subject as otherwise provided in this Ordinance, where".
- 10(a) By deleting the proposed section 8(1A)(a) and (b) and substituting -
- (a) a schedule of the representations (if any) made under section 6(1) in respect of the draft plan (whether with or without any amendments made under this Ordinance) or any of the amendments made under section 7 to the draft plan (whether with or without any amendments made under this Ordinance), and the comments (if any) made under section 6A(1) in respect of any of such representations;
- (b) a schedule of the further representations (if any) made under section 6F(1) in respect of any proposed amendments to the draft plan (whether with or without any amendments made under this Ordinance); and
- (c) a schedule of the amendments (if any)

made by the Board under this Ordinance to the draft plan (whether with or without any amendments made under this Ordinance) .".

- 10(b) (a) In subparagraph (iii)(B), by deleting "1 month";" and substituting "2 months" .".
(b) By deleting subparagraphs (iv), (v) and (vi).

11 By deleting the clause.

12 By deleting paragraphs (a) and (b).

- 12(c) (a) By deleting subparagraph (i).
(b) In subparagraph (iv) -
 (i) by deleting ""is under subsection"" and substituting ""(1)(b)(ii)"";
 (ii) in the proposed section 12(3), by deleting "(1A)(b)";
 (iii) in the proposed section 12(3)(a), by deleting "6B, 6C, 6D" and substituting "6D, 6E, 6F, 6G, 6H, 6I, 6J";
 (iv) in the proposed section 12(3)(b) -
 (A) by deleting "6B, 6C, 6D" and

substituting "6D, 6E, 6F, 6G,
6H, 6I, 6J";

(B) by deleting subparagraph (ii)
and substituting -

"(ii) the reference to "the
representations made
in respect of the
draft plan in
question under
section 6(1)" in
section 6D(6) were a
reference to the
representations made
in respect of any of
the amendments under
section 6(1) (as
having application in
the manner described
in this
subsection);";

(C) in subparagraph (iii) -

(I) by deleting "plan to
which the
representation and
the comment (if any)

relate" and
substituting "plan in
question";

(II) by deleting "and the
comment (if any)
relate." and
substituting "in
question and the
comment in question
(if any) relate;
and";

(D) by adding -

"(iv) each of the references
to "draft plan in
question" in sections
6H(8) and (9)(b) and
6I, the first and
second references to
"draft plan" in section
6J(1) and the first
reference to "draft
plan" in section 6J(2)
were a reference to the
part or parts of the
plan to which section

6D(8) (as having application in the manner described in this subsection) has application.".

12(d) In the proposed section 12(3A), by deleting "6B, 6C, 6D" and substituting "6D, 6E, 6F, 6G, 6H, 6I, 6J".

13 In the proposed section 12A -
(a) in subsection (1) -
 (i) by deleting "who wishes the Board to consider" and substituting "may apply to the Board for consideration of";
 (ii) by deleting "may apply to the Board for that purpose";
(b) by deleting subsection (3)(a) and substituting -
 "(a) set out -
 (i) whether the applicant considers he has within a reasonable period before the

application is made -

(A) obtained the

consent in

writing of each

person (other

than himself)

who is a current

land owner in

respect of the

application, or

notified such

person in

writing of the

application; or

(B) taken such

reasonable steps

as the Board

requires in

order to obtain

the consent of

such person in

respect of the

application, or

to give

notification to

such person in
respect of the
application; and

(ii) particulars of such
consent or
notification or such
steps, as the case
may be;" ;

(c) in subsection (4), by deleting "At any
time after" and substituting "Where";

(d) in subsection (5)(b) -

(i) by adding "within a reasonable
period before the application
is made" after "has";

(ii) by deleting subparagraphs (i)
and (ii) and substituting -
"(i) obtained the consent
in writing of each
person (other than
the applicant) who is
a current land owner
in respect of the
application, or
notified such person
in writing of the

application; or

(ii) taken such reasonable steps as the Board requires in order to obtain the consent of such person in respect of the application, or to give notification to such person in respect of the application.";

(e) by deleting subsection (7) and substituting -

"(7) In respect of any application referred to in subsection (6), the Board -

(a) shall cause a notice that complies with subsection (8) to be posted in a prominent position on or near the land to which the application relates, or on any premises or

structure on the land, at the beginning of the period during which the application is available for public inspection under subsection (6); or

(b) shall cause a notice that complies with subsection (8) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period referred to in paragraph (a).";

(f) in subsection (8) -

(i) by adding "(a) or (b)" after "(7)";

(ii) in paragraph (b), by adding

"and specify the place and hours at which any comments so made will be available for public inspection under subsection (11A)" before the full stop;

(g) in subsection (11) -

- (i) in paragraph (a), by adding ", it shall be treated as not having been made" after "(9)";
- (ii) by deleting everything after "(10)" and substituting ", it may be treated as not having been made.";

(h) by adding -

"(11A) The Board shall, as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in subsection (9), make all comments made to it under that subsection available for public inspection at reasonable hours, and shall continue to do so until the application in question has been considered at a meeting under

subsection (14).";

(i) in subsection (13) -

(i) in paragraph (b) -

(A) by deleting "subsections

(6), (7), (8), (9), (10)

and (11)" and substituting

"subsection (6)";

(B) by deleting "they apply"

and substituting "it

applies";

(ii) in paragraph (c), by adding

before "for" -

"subject to any exemption

under subsection (13A) -

(i) subsections (7),

(8), (9), (10),

(11) and (11A)

shall further

apply, with

necessary

modifications,

to and in

relation to the

further

information as

they apply to
and in relation
to the
application; and

(ii);

(j) by adding -

"(13A) Where the Board is satisfied that there are reasonable grounds to do so, it may exempt any further information accepted by it for the purposes of an application under subsection (12) from subsection (13)(c).";

(k) in subsection (22) -

(i) in paragraphs (a), (b)(iii) and (c)(ii), by adding "in Council" after "Chief Executive";

(ii) in paragraphs (a), (b) and (c), by deleting "12(1A)(b)" wherever it appears and substituting "12(1)(b)(ii)";

(l) in subsection (23) -

(i) in the definition of "current land owner", by deleting everything after "means" and

substituting "any person whose name is registered in the Land Registry as that of an owner of the land to which the application relates, as at the commencement of such period before the application is made as is specified by the Board by notice published in the Gazette;" ;

(ii) in the definition of "referred approved plan", by deleting "12(1A)(b)" and substituting "12(1)(b)(ii)" ;

(iii) in the definition of "relevant approved plan" -

(A) by adding "(b) or" before "(c)" ;

(B) by deleting "12(1A)(b)" and substituting "12(1)(b)(ii)" ;

(iv) in the definition of "relevant draft plan", by deleting "12(1A)(b)" and substituting "12(1)(b)(ii)" .

14(c)

(a) In the proposed section 14(3) -

- (i) by adding "for the purposes of section 12A(3)(c), 16(2)(c) or 16A(3)(b)" after "subsection (2)";
- (ii) in paragraph (a), by deleting everything after "be incurred," and substituting "whether by the Board or by the Government, in relation generally to the processing of applications made under section 12A(1), 16(1) or 16A(2), as the case may be; and";
- (iii) in paragraph (b), by deleting "providing the matter, service or facility" and substituting "the processing of any particular application".

(b) By adding -

"(4A) The Secretary for Financial Services and the Treasury, and any public officer authorized by the Secretary in that behalf, may in any particular case waive or reduce any fees prescribed under subsection (2) as the Secretary or the

public officer, as the case may be, thinks fit.".

(c) In the proposed section 14(5), by adding ", and for the purposes of subsection (3)(a), any expenditure incurred, or likely to be incurred, whether by the Board or by the Government, in relation to the processing of any application made by any such Government department under section 12A(1), 16(1) or 16A(2), as the case may be, shall be disregarded" after "(Cap. 430)".

16(a) By deleting the proposed section 16(2)(a) and substituting -

"(a) set out -

(i) whether the applicant considers he has within a reasonable period before the application is made -

(A) obtained the consent in writing of each person (other than himself) who is a current land owner in respect of the application, or notified such person in

writing of the application;

or

(B) taken such reasonable steps as the Board requires in order to obtain the consent of such person in respect of the application, or to give notification to such person in respect of the application; and

(ii) particulars of such consent or notification or such steps, as the case may be;".

16(b) (a) In the proposed section 16(2A), by deleting "At any time after" and substituting "Where".

(b) In the proposed section 16(2B)(b) -

(i) by adding "within a reasonable period before the application is made" after "has";

(ii) by deleting subparagraphs (i) and (ii) and substituting -

"(i) obtained the consent in writing of each person

(other than the applicant)

who is a current land owner
in respect of the
application, or notified
such person in writing of
the application; or
(ii) taken such reasonable steps
as the Board requires in
order to obtain the consent
of such person in respect
of the application, or to
give notification to such
person in respect of the
application.".

- (c) In the proposed section 16(2C), by adding "at a
meeting" after "considered".
(d) By deleting the proposed section 16(2D) and
substituting -

"(2D) In respect of any application
referred to in subsection (2C), the
Board -

- (a) shall cause a notice that
complies with subsection
(2E) to be posted in a
prominent position on or

near the land to which the application relates, or on any premises or structure on the land, at the beginning of the period during which the application is available for public inspection under subsection (2C); or

(b) shall cause a notice that complies with subsection (2E) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period referred to in paragraph (a).".

(e) In the proposed section 16(2E) -

(i) by adding "(a) or (b)" after "(2D)";
(ii) in paragraph (b), by adding "and specify the place and hours at which any comments so made will be available for public inspection under

subsection (2HA)" before the full stop.

(f) In the proposed section 16(2H) -

(i) in paragraph (a), by adding ", it shall be treated as not having been made" after "(2F)";

(ii) by deleting everything after "(2G)" and substituting ", it may be treated as not having been made.".

(g) By adding -

"(2HA) The Board shall, as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in subsection (2F), make all comments made to it under that subsection available for public inspection at reasonable hours, and shall continue to do so until the application in question has been considered at a meeting under subsection (3).".

(h) In the proposed section 16(2I)(a), by adding "at a meeting" after "Board of the application".

(i) In the proposed section 16(2J) -

(i) in paragraph (b) -

(A) by deleting "subsections (2C),
(2D), (2E), (2F), (2G) and (2H)"
and substituting "subsection
(2C)";

(B) by deleting "they apply" and
substituting "it applies";

(ii) in paragraph (c), by adding before
"for" -

"subject to any exemption under
subsection (2K) -

(i) subsections (2D),
(2E), (2F), (2G), (2H)

and (2HA) shall
further apply, with
necessary

modifications, to and
in relation to the
further information as
they apply to and in
relation to the
application; and

(ii)".

(j) By adding -

"(2K) Where the Board is satisfied
that there are reasonable grounds to do

so, it may exempt any further information accepted by it for the purposes of an application under subsection (2I) from subsection (2J)(c).".

16

By adding -

"(ba) in subsection (3), by repealing "in the absence of the applicant" and substituting "at a meeting";".

16(c)

In the proposed section 16(3A), by adding "at a meeting" after "an application".

16(e)

In the proposed section 16(8), by deleting everything after "means" and substituting "any person whose name is registered in the Land Registry as that of an owner of the land to which the application relates, as at the commencement of such period before the application is made as is specified by the Board by notice published in the Gazette.".

17

In the proposed section 16A -

(a) by deleting subsection (1) and substituting -

- "(1) Where any permission is granted under section 16, the permission may, apart from being read as it is, be read as having effect subject to any amendments which are Class A amendments.";
- (b) in subsection (2), by deleting everything after "may" and substituting "apply to the Board for acceptance of any amendments which are Class B amendments in relation to the permission for the purposes of this section.";
- (c) by deleting subsections (5) and (6);
- (d) in subsection (7), by deleting "in the absence of the applicant";
- (e) by deleting subsection (9) and substituting -
- "(9) Where the Board has under subsection (7) accepted any application or applications in respect of any permission granted under section 16, the permission may, apart from being read as it is, be read as having effect subject to the amendments which are the subject of -

(a) where only one such application has been accepted, the application; or

(b) where two or more such applications have been accepted, any one of the applications.";

(f) by deleting subsection (11) and substituting -

"(11) Notwithstanding anything in this section, in construing any reference in this section to a permission granted under section 16 (however described), any amendments taking effect in relation to the permission under this section shall be disregarded.".

18(b) (a) By deleting the proposed section 17(2B) and substituting -

"(2B) In respect of any application referred to in subsection (2A), the Board -

(a) shall cause a notice that

complies with subsection (2C) to be posted in a prominent position on or near the land to which the application relates, or on any premises or structure on the land, at the beginning of the period during which the application is available for public inspection under subsection (2A); or

(b) shall cause a notice that complies with subsection (2C) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period referred to in paragraph (a).".

(b) In the proposed section 17(2C) -

- (i) by adding "(a) or (b)" after "(2B)";
- (ii) in paragraph (b), by adding "and

specify the place and hours at which any comments so made will be available for public inspection under subsection (2FA)" before the full stop.

(c) In the proposed section 17(2F) -

(i) in paragraph (a), by adding ", it shall be treated as not having been made" after "(2D)";

(ii) by deleting everything after "(2E)" and substituting ", it may be treated as not having been made".

(d) By adding -

"(2FA) The Board shall, as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in subsection (2D), make all comments made to it under that subsection available for public inspection at reasonable hours, and shall continue to do so until the decision in question has been reviewed under this section.".

(e) In the proposed section 17(2H) -

(i) in paragraph (b) -

(A) by deleting "subsections (2A),

(2B), (2C), (2D), (2E) and (2F)"

and substituting "subsection

(2A)";

(B) by deleting "they apply" and
substituting "it applies";

(ii) in paragraph (c) -

(A) by adding before "for" -

"subject to any exemption
under subsection (2I) -

(i) where the
application is an
application for a
review of the
Board's decision
under section 16,
subsections (2B),
(2C), (2D), (2E),
(2F) and (2FA)

shall further
apply, with
necessary
modifications, to
and in relation
to the further
information as

they apply to and
in relation to
the application;
and

(ii);

(B) by deleting "(i) the" and
substituting "(A) the";

(C) by deleting "(ii) anything done
under that subsection" and
substituting "(B) anything done
under subsection (2)".

(f) By adding -

"(2I) Where the Board is satisfied
that there are reasonable grounds to do
so, it may exempt any further information
accepted by it for the purposes of an
application under subsection (2G) from
subsection (2H)(c).".

19(a)

(a) By adding before subparagraph (i) -

"(ia) by adding ", and enter land and any
premises on it through which access
is needed for the purposes of" after
"purposes of";".

(b) In subparagraph (i), in the proposed section

22(1)(aa) -

(i) by deleting "has been" and
substituting "was";

(ii) by deleting "以".

(c) In the Chinese text, by deleting subparagraph

(ii) and substituting -

"(ii) 廢除(a)段而代以 -

"(a) 貼上第23條所指的通知書；"；".

(d) In subparagraph (iii), by deleting "已" and

substituting "曾".

19

(a) By adding -

"(aa) in subsection (2), by repealing
everything before "the Authority" and
substituting -

"(2) Notwithstanding

subsection (1) -

(a) the Authority

shall not

exercise any

power under

subsection (1)

for the purposes

of ascertaining

any matter under subsection (1)(aa) unless the Authority has reasonable grounds to suspect that there is or was unauthorized development and it is necessary to enter the land or premises in question, or to have access through the land or premises in question, as the case may be, in order to enable the Authority to ascertain the matter; and

(b)";".

(b) By deleting paragraph (b) and substituting -

"(b) in subsection (3), by repealing "has been unauthorized development and it is necessary to enter the land or premises in order to ascertain whether there is or has been" and substituting "was unauthorized development and it is necessary to enter any land or premises, or to have access through any land or premises, in order to enable the Authority to ascertain whether there is or was unauthorized development or any matters that in the opinion of the Authority constitute or constituted an" ;".

19(c) (a) By deleting the proposed section 22(7) and

substituting -

"(7) For the purposes of exercising any power or performing any duty under or for the purposes of section 20, 21 or 23, or determining whether there is or was any contravention of any of the provisions of section 20, 21 or 23, where the Authority has reasonable grounds to believe that any

person has any relevant information, the Authority may by notice in writing served on the person require him to provide the relevant information to the Authority, within the period specified in the notice.".

(b) By adding -

"(9) In subsection (7), "relevant information" (有關資料) means information reasonably required by the Authority for the purposes of -

(a) ascertaining whether there is or was unauthorized development or any matters that in the opinion of the Authority constitute or constituted an unauthorized development;

(b) identifying any person -

(i) who undertakes or continues, or undertook or continued, any development; or

(ii) on whom a notice

may be served
under section
23(1).".

20 In the Chinese text, by deleting paragraph (a)(i)
and substituting -
"(i) 廢除“凡現”而代以“凡監督認為”;".

20(b)(i) By deleting "現".

20 By deleting paragraph (e) and substituting -
"(e) in subsection (4), by repealing
"unauthorized development referred to in
subsection (3) is or was" and substituting
"relevant matters referred to in
subsection (3) were";".

20(k) In the proposed section 23(8A)(b), by deleting
"where" and substituting "if".

20 By deleting paragraph (l) and substituting -

"(l) in subsection (9) -
(i) by adding -
"(aa) the unauthorized
development which

existed according to
the opinion of the
Authority in fact was
not a development;";

- (ii) in paragraph (b), by repealing "the development" and substituting "the unauthorized development which existed according to the opinion of the Authority in fact";
 - iii) in paragraph (c), by repealing "the development is" and substituting "the unauthorized development which existed according to the opinion of the Authority in fact is";
 - (iv) in paragraph (d), by repealing "permission for the development was" and substituting "the unauthorized development which existed according to the opinion of the Authority in fact was a development for which permission had been";.

- 20(m) By deleting the proposed section 23(9A)(a) and (b) and substituting -
- "(a) the unauthorized development which existed according to the opinion of the Authority in fact was a development or was an unauthorized development; or
- (b) the relevant matters which constituted such unauthorized development according to the opinion of the Authority in fact constituted such unauthorized development.".

- 20(n) (a) In the proposed section 23(11) -
- (i) in paragraph (a), by deleting "photograph of land" where it twice appears and substituting "document";
- (ii) by deleting "現" where it twice appears;
- (iii) by deleting "已" and substituting "曾".
- (b) In the proposed section 23(12), by deleting "the unauthorized development" and substituting "such unauthorized development".

- (a) by deleting "photograph of land, or any copy of a photograph of land" and substituting "document incorporating an image of an aerial photograph of land, or any copy of such document";
- (b) by deleting "person employed in the Lands Department" and substituting "public officer authorized by the Director of Lands in that behalf".

22

- (a) In the heading, by deleting "**Section**" and substituting "**Sections**".
- (b) By deleting "is added" and substituting "are added".
- (c) By adding -

"26A. Board to supply copies of documents or materials

Where any document or material is available for public inspection under section 6(4), 6A(4), 6E(1), 6F(4), 6J(2), 12A(6) or (11A), 16(2C) or (2HA) or 17(2A) or (2FA), the Board shall supply a copy of the document or material to any person on payment of such fee as the Board may determine.".
- (d) In the proposed section 27 -
 - (i) in subsection (1), by deleting "7, 8,

9(a), (b) and (c), 10 and 11" and substituting "6, 7, 8, 9(a), (b) and (c) and 10";

(ii) in subsection (2), by deleting

"(b), ";

(iii) in subsection (6)(a) -

(A) by deleting "any plan which has been exhibited, or";

(B) by deleting ", under section 5 of" and substituting "under section 5 of";

(C) by deleting "a plan which has been exhibited, or";

(D) by deleting ", under section 5, as the case may be" and substituting "under section 5";

(iv) in subsection (6)(b), by adding "and" at the end;

(v) by deleting subsection (6)(c) and (d).

24

In the proposed section 6A(b), by deleting "where" and substituting "if".

26

(a) By adding before paragraph (a) -

"(aa) by repealing "the Board shall,
whether or not the works are shown on
any draft plan under that
Ordinance";".

(b) By deleting paragraph (a) and substituting -

"(a) in paragraph (a) -

(i) by adding "the Board shall,
whether or not the works are
shown on any draft plan
under that Ordinance,"
before "exhibit";

(ii) by repealing the semicolon
at the end and substituting
", and the provisions of
that Ordinance shall apply
accordingly; and";".

27 By deleting the clause.

28 By deleting the clause and substituting -

"28. Development schemes

Section 25(8) of the Urban Renewal
Authority Ordinance (Cap. 563) is amended -

(a) by repealing "section 6 or 7 of
the Town Planning Ordinance

(Cap. 131) and such amendment includes" and substituting "the Town Planning Ordinance (Cap. 131), whether under section 6H(8) (whether with or without application of section 6H(9) of that Ordinance) or 6I of that Ordinance or section 7 of that Ordinance, and the amendments include";

(b) by repealing "a notice is first given under section 6(7) of that Ordinance or the date when the amendment is" and substituting "the proposed amendments in question are first made available for public inspection under section 6E(1) of that Ordinance or the date when the amendments are".".