

For discussion
on 27 January 2004

Legislative Council
Panel on Planning, Lands and Works

Stage Two Amendments to the Town Planning Ordinance

Purpose

This paper presents to Members the issues proposed to be addressed in the Stage Two amendments to the Town Planning Ordinance (the Ordinance).

Background

2. At the Panel meeting on 6.12.2002, the Administration briefed Members on a phased approach to amend the Ordinance having regard to the complexity of the subject as illustrated in previous attempts to revise the Ordinance in one go. The purpose of the phased approach is to introduce amendments that are generally less contentious but, when implemented, will produce immediate benefits to the community. The Town Planning (Amendment) Bill 2003 (the Amendment Bill) covering the Stage One amendments was subsequently introduced into the Legislative Council (LegCo) on 21.5.2003 and is now being examined by a Bills Committee.

3. In the course of consideration of the Amendment Bill, Members of the Bills Committee and some deputations raised questions about further proposals which are not covered under the Bill, in particular, issues relating to the composition and operation of the Town Planning Board (TPB). In response, the Administration agreed to expedite and advance consideration of the operation of the TPB and to start discussion on proposed issues to be covered under the Stage Two amendments separately at the Panel on Planning, Lands and Works. Meanwhile, the Bills Committee would continue to examine Stage One amendments under the Amendment Bill, with a view to bringing these amendments into effect within this Legislative

session.

Issues to be Considered in Stage Two

4. As mentioned in the discussion paper submitted to the Panel in December 2002, the Stage Two amendments will include matters that require further consideration within the Administration and consultation with the stakeholders and the professional institutes, such as the operation and composition of the TPB, and the designation of “Special Design Area” (“SDA”), “Environmentally Sensitive Area” (“ESA”) and “Designated Development” (“DD”). The Administration’s current thinking and proposals on these issues are discussed in the paragraphs below.

Operation and Composition of the TPB

5. Issues relating to the TPB were discussed at the previous Panel meetings held in June and July 2003. Members’ concerns were mainly related to operation of the TPB, including the opening up of TPB meetings, declaration of interests by TPB members, quorum of TPB meetings, setting up of an independent secretariat; and composition of the TPB, including the criteria for appointment of TPB members and its chairmanship.

(a) Opening up of TPB meetings

6. In the course of considering the Amendment Bill, we received many suggestions from LegCo and the stakeholders concerning the opening up of TPB meetings. Views on the extent of opening up were diverse. Whilst some supported the opening up of meetings on grounds of greater openness and transparency of the decision-making process, others were concerned about any premature release of sensitive or confidential information, disclosure of commercially sensitive information and the impact on the operation of the TPB and its efficiency.

7. The existing Ordinance is silent on whether the TPB meetings should be held in public or private. As the provisions of the Ordinance do not prohibit the opening up of TPB meetings, the TPB has the discretion to determine its rules of meetings including any such rules as to whether members of the public are permitted to witness its meetings. However, according to legal advice, the TPB needs to ensure that the conduct of open meetings would comply with the principles of protection of personal data

under the Personal Data (Privacy) Ordinance and non-disclosure of confidential information under the equitable doctrine of confidentiality. The TPB had discussed about the opening up of its meetings back in 2000. While the then conclusion was in favour of conducting Board meetings in a more open manner, such was prohibited by constraints regarding confidentiality of information submitted to the Board contained in the existing Ordinance.

8. In the Amendment Bill, new provisions are included to require the TPB to publish all representations and comments in relation to draft plans, and all applications for planning permission and amendments to plans for public inspection. If these provisions are enacted, issues relating to protection of personal data and confidentiality may be overcome, thus paving the way for the TPB to open up its meetings.

9. At the TPB meeting on 16 January 2004, the operation of the TPB and means to enhance transparency of its operation were discussed. In its discussion, TPB members had considered the scope of the TPB's work that should be made subject to a more open process as well as the extent of opening up its meetings.

10. The TPB Members are supportive of subjecting all aspects of the TPB's work (except for confidential items) to a more open and transparent process. In other words, if opening up of TPB meetings is to be pursued, it should be applied to the plan making process as well as individual applications for planning permission and amendments of plan. In sum, this will include –

- (a) consideration of new plans or amendments to plans under section 3 (except for confidential items such as Development Permission Area Plans where the key objective is to establish effective planning control over the designated areas);
- (b) hearing of representations and comments under section 6;
- (c) consideration of applications for amendments of plan under section 12A;
- (d) consideration of applications for planning permission under section 16;

- (e) hearing of reviews of planning applications under section 17; and
- (f) discussion of general planning issues.

In respect of the above, it should be noted that under existing practice which is in accordance with the existing Ordinance, only the objectors to gazetted new plans or amendments to plans, and applicants for review of planning application under section 17 may attend the Board's hearing relating to their item while under section 16 applications, even applicants are not allowed to attend. The proposals therefore represent a very significant step in increasing the transparency of the TPB's operation.

11. In respect of the extent of opening up, while TPB Members are almost unanimous in allowing the public to witness the **hearing** part of the Board's proceedings, they have grave reservations on opening up the **deliberation** part of its meeting. Members are concerned that conducting deliberations in public might inhibit them from expressing their views and opinions freely. Also, the TPB's decision is a collective one and disclosing the stance of individual members in the deliberations might subject members to undue pressure. The TPB has therefore endorsed proposals to open up the hearing part of its meetings while deliberations will continue to be held in private. However, in order to keep the public well informed of the deliberations of the TPB in arriving at a decision, the TPB has agreed that minutes can be released for public information, e.g. by posting them on the TPB website.

12. At its meeting on 16 January 2004, the TPB has also discussed other measures to improve the transparency of the Board's operation and to achieve greater public involvement in the plan making process. Whilst noting measures introduced in this direction in recent years, such as having a TPB secretariat spokesman briefing the press after each TPB meeting on the Board's decisions and reasons for its decision, Members generally felt there is room for doing more, particularly upon enactment of the Stage One amendments which will give members of the public greater access to planning information and applications. The TPB has considered further measures such as press briefings or conferences to be held by the Chairman or members after meetings whenever major developments or issues have been discussed, regular workshops with the media and public forums to maintain a close dialogue with the public on general planning issues. The

TPB has asked the secretariat to give further thoughts to this in the context of drawing up a strategy with clear goals to be achieved.

(b) Declaration of Interests by TPB Members

13. To avoid conflict of interests, the TPB has adopted a set of detailed guidelines for declaration of interest which are drawn up in consultation with the Department of Justice and the Independent Commission Against Corruption. A copy of the guidelines is attached at the Annex. Both the guidelines and the register of members' interests are available for public inspection. Since the guidelines are adopted administratively, there have been suggestions to include an express provision for declaration of interest in the Ordinance to enhance public accountability of the TPB members. We will consider this suggestion in the context of Stage Two amendments.

(c) Quorum of TPB Meetings

14. The existing Ordinance provides that five TPB Members shall form the quorum at any TPB meeting and its Planning Committee meeting. For a committee appointed by the TPB to hear objections under section 2A of the Ordinance, the quorum is three. During the consideration of the 2000 Town Planning Bill (2000 Bill) and previous discussions at this Panel, there was considerable concern over the small size of the quorum. As the size of the TPB has increased over the years since the Ordinance was first enacted in 1939, we consider it appropriate to increase the quorum of TPB and its committee meetings. The proposed increase in quorum would need to take into account the practical difficulties of ensuring a large quorum for the meeting in case of a long agenda, the need to provide for declaration of interests in certain cases, the need to adhere to statutory time limits imposed on the TPB for performing most of its duties, and the likely increase in the setting up of objections hearing committees or review committees as proposed in the Bill. We will further consult the TPB and examine this issue in further details.

(d) TPB Secretariat

15. There are suggestions that the TPB should have an independent secretariat to ensure its independence. The secretariat of the TPB, currently

provided by the Planning Department, provides both secretarial and professional/technical support to the TPB. It is worth noting that the work of the Planning Department is subject to public monitoring and ultimately it is the TPB that makes decisions on plans and planning applications. In practical terms, while an independent secretariat mainly for the purpose of arranging meetings, answering queries and taking minutes, etc. would be more manageable in terms of resources, one that could assume also the professional/technical support role is likely to be duplicating the efforts of the Planning Department. Against the current efficiency drive, we need to give very careful consideration to any such proposition.

(e) Composition of the TPB

16. In the course of discussing the Amendment Bill, some LegCo Members have suggested to expand the TPB membership to include representatives from the LegCo and the District Councils. TPB members are appointed in their personal capacities and on the basis of their expertise, experience, integrity, commitment to public service and relevance of their background to town planning. The current membership comprises a variety of professions and community interests including business, engineering, architecture, surveying, environment, social work, education, legal and heritage conservation. In his 2004 Policy Address, the Chief Executive has pledged that more talents from different backgrounds would be brought in to the advisory committees and statutory bodies to enhance representativeness. We shall continue to review the membership of the TPB regularly to ensure that the interests of the community at large would be adequately represented.

17. As for chairmanship of the TPB, the existing Ordinance does not specify whether the TPB should be chaired by an official or a non-official. Given the unique nature of the Board's role in the making of plans and considering of planning applications each of which could have very significant implications on policy and the community at large, the TPB has been chaired by the relevant Bureau Secretary prior to the introduction of the Accountability System and since then, by the relevant Permanent Secretary. As much of its work involves approving private development proposals, it is important to identify a Chairman who is free from private interests but at the same time, has the experience, continuity and policy background in planning matters. That said, we shall further deliberate on the issue in consultation with the stakeholders.

Designation of “SDA”, “ESA” and “DD”

18. The designation of “SDA”, “ESA” and “DD” were proposals in the 2000 Bill. In gist, we then proposed to designate:

- (a) any area of architectural, archaeological, cultural or historical interest as a “SDA”;
- (b) any area which is environmentally sensitive to development or adjoins existing or potential pollution sources as an “ESA”; and
- (c) any class or description of development which may constitute a hazard to the health or safety of the public or result in an adverse environmental impact as “DD”.

19. The proposals for designation of “SDA” and “ESA” were largely supported by some green groups and professional institutes but there were opposing views from the development-related sector. The concerns were mainly related to the subjective judgment on aesthetic matters and unclear criteria for the designation of these areas. Further consultation with the key stakeholders is clearly required before we could finalize such proposals in the Stage Two amendments, lest we would only be bringing such controversy into the Bill examination process, a concern recently expressed by the LegCo House Committee.

20. There are from time to time discussions in the community on whether land along the waterfront, especially land reclaimed for a particular purpose, should be assigned with a special status so that the land may only be used for the purpose for which reclamation was justified. Indeed, in reiterating the Government’s commitment to protecting and preserving the Victoria Harbour, the Secretary for Housing, Planning and Lands (SHPL) has said that we would find some means to give effect to this suggestion. Under the existing Ordinance, any changes to land use zoning will have to go through the plan-making process whereby members of the public will have an opportunity to raise objections. The participation of the public in the objection process is strengthened through various provisions in the Amendment Bill. For example, provisions have been included to publish, for public comments, applications for amendment of plans (under section 12A) and planning permissions (under section 16). This would provide an additional

opportunity for the public to raise comment on any proposed changes in land use. In line with SHPL's stated intention, we will give consideration to incorporating further safeguards against change in land use relating to reclaimed land in the plan making process.

21. As for "DD", the power to be conferred on SHPL to designate a "DD" by regulation has attracted some concerns during the discussion of the 2000 Bill. Since the enactment of the Environmental Impact Assessment Ordinance (EIAO) in 1998, the proposed DD is likely to fall within a designated project specified in Schedules 2 and 3 of the EIAO, and environmental concerns associated with such development are now being dealt with under that separate jurisdiction. We shall reconsider whether there is still a need to pursue the designation of "DD" in the Ordinance.

Way Forward

22. Members' advice on the above issues is welcomed.

**Housing, Planning and Lands Bureau
Planning Department
January 2004**

Procedure :: Practice**== Town Planning Board Procedure and Practice ==****== DECLARATION OF INTERESTS****Preamble**

12. The guidelines for declaration of interest are drawn up to protect the integrity and reputation of the Town Planning Board (the Board) as a whole. Since the Board deals with matters that may have wide and far-reaching implications on the environment and economy of Hong Kong as well as the well-being of the community, it is necessary to ensure that the Board acts fairly and impartially in making its decision. This is particularly important as the Board's decision might affect development projects of high financial value. It will be in the interest of the Board for Members to declare their interests to the best of their knowledge.

Introduction

13. It is inevitable that from time to time Members of the Board may have interests (personal, family, or business; direct or indirect; pecuniary or otherwise) in matters that come before the Board. Under the rule against bias, an administrative decision may be quashed if the facts give rise to a real likelihood of bias or it might reasonably be thought that the decision-maker ought not to act because of some personal interests. It is therefore necessary for Members to disclose their interests when there is a real or potential conflict of interests in a matter placed before the Board.
14. A two-tier declaration system is adopted. Members should register their pecuniary interests in writing on a regular basis and, when circumstances change, should register the changes. Furthermore, Members should also declare, to the best of their knowledge, their interests (pecuniary or otherwise) in any matters to be transacted by the Board before or at the relevant Board/Committee meeting.

Registration of Pecuniary Interests

15. The Chairman, Vice-chairman and Members should register in writing their pecuniary interests upon commencement of a new term of appointment, and update the information once every year. The registration should be made on a standard form (Appendix_III). Members should complete and return the registration form within one month to the Secretary, Town Planning Board (Secy/TPB). Besides, any change of Members' interests should be registered within 14 days of any such change. A register of Members' pecuniary interests will be kept by the Secy/TPB and will be made available for inspection on request by members of the public.
16. The registrable interests are the pecuniary interests Members hold and those of their spouses and children under the age of 18 including: -
 - i. directorships or partnerships in companies;
 2. direct or indirect substantial shareholdings (1% or more of the issued share capital);
 3. holdings in land and properties; and
 4. remunerated employment, offices, trades, professions or vocations.
17. Where practicable, Members should also give a brief description of the lines of business of companies in which they are involved.
18. Guidelines for completing the registration form on Members' pecuniary interests are at Appendix_IV. Members should register their interests and those of their spouses and children under the age of 18 to the best of their knowledge.

Declaration of Interests before or at Committee/Board meetings

19. If Members or their spouses have any interest (pecuniary or otherwise) in any matter under consideration by the Board or the Committee, the Members should as soon as practicable disclose to the Chairman or Secy/TPB prior to the meeting or at the meeting prior to the discussion of the concerned item.
20. Where a substantial direct conflict of interest is known, the Secy/TPB should

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withhold the issue of the relevant papers and documents to the concerned Members and any papers or other information relating to the matter which the Members may have received should be returned to the Secy/TPB.

21. All cases of declaration of interests shall be recorded in the minutes of meeting.

General Principle

22. It is difficult to set a hard and fast rule on what constitutes a conflict of interest. The following are some general guiding principles that Members are recommended to follow in identifying potential conflicts of interests which should be declared at or before the Committee/Board meetings :-
 - a. Pecuniary interests in a matter under consideration by the Board/Committee, interests held either by a Member or by his/her spouse, children under 18, or by the Member's close relative;
 2. A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organisation which is concerned with, or the subject of, the matter under consideration;
 3. A Member or his/her spouse who, as a professional adviser, has personally or as a member of a company, advised or represented any person or body on the matter under consideration, or has business dealings with any person or body connected with the matter under consideration;
 4. Some friendships which might be so close as to warrant declaration in order to avoid situations where an objective observer might believe the Member's advice to have been influenced by the closeness of the association; and
 5. Any interest likely to lead an objective observer to believe that the Member's decision might have been motivated by personal interest rather than a duty to give impartial advice.
23. The Guidelines set out below should be followed by Members, irrespective of whether the Members are official or non-official Members.

Guidelines for Declaration of Interests at Board or Committee Meetings

24. All interests of Members and their spouses in any matter under consideration by the Board/Committee need to be declared. The onus of making a declaration rests with individual Board Members who are in the best position to judge what constitutes an interest warranting a declaration. In this respect, Members are required to declare their spouses' interests to their best of their knowledge. In exercising their judgement, Members must take into account the sunshine test, that is, should their interest become public knowledge, whether it would give rise to a public perception that their advice tendered to the Board might have been biased or influenced by that interest.
25. If the interest were direct and substantial, the Member would have to withdraw from the meeting. If the interest is direct but not substantial or indirect/insubstantial, the Member would be allowed to continue to participate in the discussion and determination of the matter.
26. It would be difficult to set out categorically all situations under which a Member has to declare interest and whether an interest is direct and substantial or otherwise depends very much on the circumstances of the case. It is intended to set out below some common situations for Members' reference.

Direct and Substantial Interest

The following situations usually constitute direct and substantial interest: -

- a. The subject matter involves a landed interest held by the Member or his/her spouse.

This applies to the situation where the application/objection/amendment to statutory plans covers land which is owned by the Member or his/her spouse. This also covers the situation where the Member or his/her spouse is the applicant/proponent/objector of a case.
2. The subject matter involves a company or organisation of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings (i.e. 1% or more of the issued share capital), advisory or client relationship, employment or other significant connection.

This applies to the situation where the Member or his/her spouse's company or organisation is involved directly in the matter under consideration by the Board/Committee, either as applicant/proponent/objector or the company/organisation has tendered professional advice (e.g. being the consultant acting for the applicant/proponent/objector) on the matter under consideration. This also applies to the situation where the Member or his/her spouse is a staff member of a company or organisation (including a Government department) which is the applicant/proponent/objector of the matter under consideration.

3. The subject matter involves a statutory/public body, club, association, union or other bodies of which the Member or his/her spouse holds a chairmanship or, in some cases, membership, or is the office bearer of an executive board, a board of directors or a management committee.

This includes the situation where the Member or his/her spouse is a member of a statutory/public body (and its sub-committee) such as Hong Kong Housing Authority(HKHA), Hong Kong Housing Society (HKHS), the Urban Renewal Authority(URA) and the District Council, which is the applicant/ proponent/objector of the matter under consideration. The fact that the Member or his/her spouse is an ordinary/corporate member of a club, association, union or other bodies would not constitute direct interest if the Member or his/her spouse were not directly involved in the matter under consideration.

4. The Member or his/her spouse has current business dealings or potential future business dealings with the applicant/ proponent/objector of the matter under consideration.

This applies to the situation where the Member or his/her spouse has current business dealings or business dealings under negotiation with the applicant/proponent/objector. The business dealings may not necessarily be related to the matter under consideration.

5. The Member who is also a member of the HKHA/HKHS/URA or other public bodies and the subject of an objection involves a project of such public bodies

This does not apply to situation where a HKHA/HKHS/URA project is the subject of an amendment to a statutory plan proposed by the Planning Department or where HKHA/HKHS/URA sites are proposed in a new plan.

Other Interest which may be Direct and Substantial

28. There are other situations of potential conflict of interest. Whether these situations would constitute direct and substantial interest would depend on the substance, scope and nature of the interest, and have to be considered on a case by case basis. As a general rule, the Member shall declare any interest, which may likely lead the public to believe that the Member's advice might have been influenced by his/her relationship with the applicant/proponent/objector. It would be up to the Board/Committee to decide whether the interest is so direct and substantial that the Member should withdraw from the meeting. For example:

- a. The subject matter affects a landed interest held by the Member, his/her spouse, and his/her close relative or close friend.
2. The subject matter affects (or in the case of the Members' close relative/friend, involves) the interest of a company or organisation of which the Member, his/her spouse, his/her close relative or close friend holds a proprietorship, partnership, directorship or substantial shareholdings, advisory or client relationship, employment or other significant connection.
3. The Member or his/her spouse has past business dealings with the applicant/proponent/objector.

[If the Member's or his/her spouse's past business dealings with the applicant/proponent/objector are related to the site under consideration, all such past business dealings should be declared. If the matter involves a completed project, the Member should be allowed to continue to participate in the discussion. However, if the matter involves an on-going project, the Member should be required to withdraw from the meeting.

If only general business dealings are involved between the Member or his/her spouse and the applicant/objector/proponent, and the dealings are not related to the site under consideration, only past dealings within 3 years should be declared, and the Member should be allowed to continue to participate in the discussion.]

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4. The Member or his/her spouse has given personal advice or opinion to an applicant/proponent/objector on any occasions on the matter under consideration.

[The situation of Government departments tendering professional advice or stating Government policies to the applicant/proponent/objector, however, should not fall within this category as it is incumbent upon the official Member to tender advice, which is consistent with the official views of the Government departments or statement of Government policy.]

29. Two common situations are illustrated in Tables 1 and 2 below for members' reference and some further examples of the circumstances constituting potential conflict of interest are given in Appendix V.

TABLE 1

Business Dealings		Declare	Withdraw from meeting
Current/Under Negotiation	General (not relating to the site)	Yes	Yes
Current/Under Negotiation	Specific (relating to the site)	Yes	Yes
Past	Past dealings not relating to the site		
	- more than three years	No	No
	- within three years	Yes	No
Past	All past dealings relating to the site		
	- project completed	Yes	No
	- project on-going	Yes	Yes

TABLE 2

Matter Involving HKHA, HKHS, URA or Other Organization	Declare	Withdraw from meeting
As Applicant/Objector/Proponent	Yes	Yes
As Proposal on New Plans or Amendments to Plans	Yes	No
As Subject of Objection	Yes	Yes

Application of the Guidelines to Chairman and Vice-chairman

30. The general guidelines on declaration of interest are applicable to the Chairman and Vice-chairman of the Board and the Committees.
31. If the Chairman or the Vice-chairman needs to declare an interest and there is nobody to take up the chairmanship, the matter should normally be adjourned to the next meeting. However, if the matter is subject to a statutory time limit, then as a matter of necessity, the Chairman/Vice-chairman should continue to assume the chairmanship if there is a conscious effort made to contain his/her scope of involvement in an administrative role to minimise any risk that he/she may be challenged.
32. In case both the Chairman and Vice-chairman of the Committees need to declare an interest, then the matter should be referred to the Board for a decision. However, if both the Chairman and Vice-chairman of the Board need to declare an interest, as a matter of necessity, the Chairman should continue to assume the chairmanship.

Last Updated : 14/11/2003

Town Planning Board Register of Pecuniary Interests			
(Name: _____) requests that interests as set out in the attached form (total pages: _____) should be included in the Register of Members' Pecuniary Interests.			
Registrable Interests	Interest to be declared by the following parties:		
	Member	Spouse	Children Under 18
<p>DIRECTORSHIPS AND PARTNERSHIPS IN COMPANIES</p> <p>Please list out at the rightward columns the remunerated directorships in any public or private company.</p> <p>Notes :</p> <ul style="list-style-type: none"> a. Remunerated directorships include all directorships for which a fee, honorarium, allowance or other material benefit is payable. b. You should give the name of the company, briefly state the nature of the business of the company in each case. c. Remunerated directorships of both local and overseas companies are registrable. d. Remunerated directorships through corporate directors are also registrable. e. Where you or your spouse are a remunerated director of a company, all subsidiary or associated directorships which you or your spouse hold within the same group, whether remunerated or not, should also be registered. f. There is no need to register the amount of remuneration received. <p>REMUNERATED EMPLOYMENTS, OFFICES, TRADES, PROFESSIONS OR VOCATIONS</p> <p>Please list out at the rightward columns the remunerated employments, offices, trades, profession, or vocation from which remuneration or pecuniary interest is obtained.</p> <p>Notes :</p> <ul style="list-style-type: none"> a. An employment, office, trade or profession is "remunerated" where a salary, honorarium, allowance or other material benefit is payable. b. "Remunerated offices" should include all "remunerated" public offices. c. Indicated the name of the employment, office, trade, or profession. Where a firm is named, please briefly indicate the nature of the firm's business if practicable. d. For paid posts as consultants or advisers, it should be indicate the nature of the consultancy in the register, e.g. "traffic consultant", "legal adviser", etc. e. There is no need to register the amount of remuneration received. <p>HOLDINGS IN LAND AND PROPERTY</p> <p>Please list out at the rightward columns the land or property in Hong Kong and/or overseas.</p> <p>Notes :</p> <ul style="list-style-type: none"> a. The requirement is to register the general nature of the interest rather than a detailed list of the holdings. The exact address and name of the land or property need not be listed out. b. There is no need to register the size or value of the land or property owned. <p>Example :</p> <ol style="list-style-type: none"> 1. A flat at No. 111, Star Street, Wan Chai. 2. 3 units in Block 123, Laguna City, Kwun Tong. 3. A house at Peak Road, Peak. 4. A piece of land at Nathan Road, Mong Kok. 5. A piece of land in Richmond Hill, Vancouver, Canada. <p>SUBSTANTIAL SHAREHOLDINGS</p> <p>Please list out at the rightward columns the shareholdings in any public or private company of a nominal value greater than 1% of the issued shared capital of the company.</p> <p>Notes :</p> <ul style="list-style-type: none"> a. "Shareholdings" is defined as personal shareholdings and do not include shareholdings held in the capacity of a nominee shareholder. b. There is no need to register the size or value of the shareholdings. 			
Use additional form(s) if necessary			
<p>DECLARATION</p> <p>I have read the POINTS TO NOTE attached to this form. I declare that the personal data voluntarily provided in this form are accurate and up-to-date to the best of my knowledge. I agree and understand that such personal data can be used according to the use and disclosure of personal data stated in the Points to Note.</p>			
Signature : _____			
Date : _____			

Procedure :: Practice**== Town Planning Board Procedure and Practice ==****== Appendix IV - Points to note on declaration of pecuniary interests****POINTS TO NOTE****Purpose of the Registration**

1. The main purpose of registering of interests by Members of the Town Planning Board is to maintain public confidence in the integrity of Members (including the Chairman) and in the impartiality of their advice tendered to the Town Planning Board. It is, therefore, important that all Members of the Town Planning Board should declare their general pecuniary interests as set out in this registration form.
2. This registration of pecuniary interests is additional to the procedures of declaration of interests (pecuniary or otherwise) at the Board/Committee meetings as set out in the guidelines on Declare of Interests by Town Planning Board Members.

Guidelines for Completing the Registration Form

3. This form should be completed by each Member upon commencement of a new term of appointment and returned to the Secretary of the Town Planning Board within one month. It will then be updated once every year. Any subsequent changes to Members' pecuniary interests should be registered within 14 days of any such change.
4. Interests owned by Members, their spouses or children under the age of 18 should be registered. Members should register such interests to the best of their knowledge.
5. Details such as the amount of remuneration received, the size and the exact address of the declared property or the size and value of the shareholdings need not to be disclosed.
6. Where applicable, Members should also give a brief description of the lines of business of companies in which they are involved.
7. Specific guidelines for completing each item are given in the notes of the registration form.

Use and Disclosure of Personal Data

8. The pecuniary interests provided in this registration form are considered as a kind of personal data and will be retained by the Secretary of the Town Planning Board for the purpose mentioned in paragraph 1 above. The personal data may be disclosed to other Government bureaux and departments for any other purpose(s) directly related to such use.
9. Your personal data, as well as your spouse's and children's (whose interests are being declared), provided in this registration form will also be made available for inspection by members of the public on request.
10. Your personal data, as well as your spouse's and children's (whose interests are being declared), provided in this registration form will not be used for purposes other than mentioned above unless you, your spouse and children have given the prescribed consent or such use is permitted by the laws of Hong Kong Special Administrative Region.

Accuracy, Duration of Retention and Security of Personal Data

11. All practicable steps will be taken to ensure that personal data in the registration form are accurate and will not be kept longer than is necessary for the fulfillment of the purpose (including any directly related purpose) for which the data are or to be used; and that the personal data are protected against unauthorized or accidental access, processing, erasure or other use.

Access to Personal Data

12. You, your spouse and children whose interests are being declared, have the right to obtain a printed copy of this registration form held by the Secretary of the Town Planning Board and to request that necessary

Points to note on declaration of pecuniary interests

correction(s) be made if the personal data are inaccurate.

Enquiry

13. All enquiries concerning personal data collected in this registration form should be addressed to:-

Secretary, Town Planning Board
15/F., North Point Government Offices,
333 Java Road,
North Point,
Hong Kong.

Declaration by Individual

1. You are requested to read carefully the Points to Note set out above. If you have any enquiries concerning the Note, please contact the Secretary of the Town Planning Board for clarification. The provision of personal data by means of this form is voluntary. Your personal data, as well as your spouse's and children's (whose interests are being declared), will be treated in compliance with the personal Data (Privacy) Ordinance (Cap. 486) and the contents of the Note. Please sign the declaration on Page 4 of the registration form and return the completed form to the Secretary of the Town Planning Board in the enclosed envelope.

Last Updated : 2/4/2001

Procedure :: Practice**▣▣ Town Planning Board Procedure and Practice ▣▣****▣▣ Appendix V -Circumstances constituting potential conflict of interests****Circumstances Constituting Potential Conflict of Interest**

I. Under the following situations, a Member should be considered as having direct and substantial interest in a matter under consideration:

a. **The subject matter involves a landed interest held by the Member or the Member's spouse**

For example:

- the Member and/or his/her spouse is the sole or part owner or the tenant of the application/objection site under consideration.
- the Member and/or his/her spouse is the applicant/objector of the matter under consideration.

The subject matter involves a public or private company or other organisation (including subsidiary or associated companies within the same group) of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings (i.e. 1% or more of the issued share capital), advisory or client relationship, employment or other significant connection.

2. **The subject matter involves a public or private company or other organisation (including subsidiary or associated companies within the same group) of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings (i.e. 1% or more of the issued share capital), advisory or client relationship, employment or other significant connection.**

For example:

- the company of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings is the applicant /proponent /objector of the matter under consideration.
- the Member or the company of which the Member or his/her spouse holds a proprietorship, partnership or directorship is the professional consultant tendering professional advice to or representing the applicant /proponent /objector in the matter under consideration.
- the Member or his/her spouse is the employee/staff of a company, an organisation or association such as the Scouts Association and the University of Hong Kong, which is the applicant /proponent /objector of the matter under consideration.
- the Member or his/her spouse is a staff of a Government department which itself is the applicant/proponent of a rezoning request under consideration.

This also applies to the situation where the subject company has a substantial shareholdings (i.e. 1% or more of the issued share capital) of the company owned by the Member or his/her spouse.

3. **The subject matter involves a statutory/public body, club, association, union or other bodies of which the Member or his/her spouse holds a chairmanship or, in some cases, membership, or is the office bearer of an executive board, a board of directors or a management committee.**

For example:

- the Member or his/her spouse is a member of a statutory/public body (including its sub-committee), such as the Hong Kong Housing Society (HKHS), the Hong Kong Housing

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Authority (HKHA), the Urban Renewal Authority (URA) and the District Council, which is the applicant/ proponent/objector of the matter under consideration.

This does not apply to the situation where the Member or his/her spouse is just an ordinary member/corporate member of a club, association or other bodies, and the Member or his/her spouse is not involved in the matter under consideration.

4. The Member or his/her spouse has current business dealings and/or business dealings under negotiation with the applicant/proponent/objector of the matter under consideration.

For example:

- the Member or his/her spouse is at present a consultant/advisor to the applicant /proponent/objector's on-going development projects irrespective of whether the dealings are related to the matter under consideration.
- Member or his/her spouse or the company owned by the Member or his/her spouse was a business partner with the applicant/ proponent/objector on on-going businesses irrespective of whether the dealings are related to the matter under consideration.

5. The Member who is also a member of the HKHA/HKHS/URA or other public bodies and the subject of an objection involves a project of such public bodies

For example:

This does not apply to situation where a HKHA/HKHS/URA project is the subject of an amendment to a statutory plan proposed by the Planning Department or where HKHA/HKHS/URA sites are proposed in a new plan.

2. The following situations would give rise to potential conflict of interest but whether the interest is direct and substantial would depend on the substance, scope and nature of the interest in relation to the case under consideration:

a. The subject matter affects a landed interest held by the Member or his/her spouse.

For example:

- the Member (and/or his/her spouse) is the sole or part owner or the tenant of a property that may be affected by the development proposal under consideration.

2. The subject matter involves or affects a landed interest held by a "close relative/friend" of the Member or his/her spouse.

For example:

- a "close relative/friend" of the Member or his/her spouse is the sole or part owner or the tenant of the application/objection site under consideration. Members themselves are the best judge of who, in the particular circumstances, is a "close relative/friend".

3. A Member or his/her spouse has given personal advice or opinion to an applicant/proponent/objector on any occasions on the subject matter under consideration.

For example:

- the Member or his/her spouse has given personal opinion or advice to the applicant/proponent/objector on the matter under consideration, which might lead the public to believe that the Member's views might be biased or not given impartially.

The situation of Government departments tendering professional advice or stating Government policies to the applicant /proponent /objector should not fall within this category as it is incumbent upon the official member to tender advice, which is consistent with the official views of the Government departments or statement of Government policy.

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4. **The subject matter involves a public or private company or other organisation (including subsidiary or associated companies within the same group) of which the Member's or his/her spouse's "close relative/friend" holds a proprietorship, partnership or directorship, advisory or client relationship, employment or other significant connection.**

For example:

- the Member's or his/her spouse's "close relative/friend" is the owner of a company/organisation and the company is the applicant/proponent/ objector of the subject matter.
- the Member's or his/her spouse's "close relative/friend" is the professional consultant tendering professional advice to the applicant/ proponent/objector in the subject matter under consideration.

This is to avoid situations where the public might believe that the Member's advice has been influenced by the closeness of the association. The Members themselves are the best judge of who, in the particular circumstances, is a "close relative/friend".

5. **The Member or his/her spouse has past business dealings with the applicant/ proponent/ objector of the matter under consideration.**

For example:

- the Member or his/her spouse or the company owned by the Member or his/her spouse was previously the professional consultant tendering professional advice to the applicant/proponent/objector in the matter under consideration but the Member or his/her spouse or the company owned by the Member or his/her spouse is no longer involved in the matter. The Member should declare all such past dealings. If the matter involves a completed project, the Member should be allowed to continue to participate in the discussion. If the matter involves an on-going project, the Member should be required to withdraw from the meeting.
- the Member or his/her spouse has general business dealings with the applicant /proponent / objector. If the business dealings are not related to the matter under consideration, the Member should declare only the recent dealings in the past 3 years, and upon declaration, the Member should be allowed to continue to participate in the discussion.

Last updated: 14/11/2003