

For discussion
on 22 March 2005

Legislative Council
Panel on Planning, Lands and Works

Overview of Planning and Land Policy

Purpose

This paper gives Members an overview of our existing planning and land policy.

Background

2. In his letter of 14 February 2005 to the Chairman of the Panel, the Hon. Lee Wing-tat made reference to a number of incidents relating to planning and land administration, and suggested that problems exist in the present system of land disposal and land-use planning. He also questioned the fairness of appointment of members to the Town Planning Board (TPB), the consultation and decision-making process of the TPB, as well as the rationality of the system with regard to change of land use.

3. To address the above concerns, this paper aims to outline the key principles governing our existing planning and land policy and demonstrate how fairness and transparency of the relevant systems are sustained.

Disposal of Government Land

4. Government's land disposal policy is operated on the principles of fairness and transparency. Our policy objective is to optimize the use of land within the framework of development plans. We have been disposing of land mainly through open bidding (such as land auction and tender) for commercial, residential, other private developments and specialized uses. The land goes to the highest bidder. The price at which the land is sold

reflects the prevailing market value of the land concerned. It is our established policy that we will not sell land in the cheap. In order to meet various policy objectives, land is also granted by private treaty, sometimes at full market value, sometimes at nominal or concessionary premiums.

(a) Sale of Government Land

5. From 2004 onward, sale of government land is only done through the Application List System. The Application List system is a market driven mechanism. It allows the market to determine the quantity and timing of land to be put up for sale. Through the Application List, Government is able to provide land to meet market demand and to maintain stability in the property market. Land for specialised purpose where the user is strictly defined and the sale is unlikely to attract general interest, such as sites for petrol filling station, is sold by way of open tender from time to time.

(b) Granting of Land by Way of Private Treaty

6. Apart from open bidding, Government also grants land by way of private treaty under certain circumstances. This method of granting land has been in use for a long time for the purpose of meeting specific policy objectives. Examples include non-profit making community uses such as schools, welfare and charitable organizations, land for essential public utility services like power station and land for promoting a certain policy such as the Science Park. The arrangement of direct land grant to these service providers for the related purposes is necessary and appropriate. The level of land premium charged on such direct land grants depends on the uses of the land. For example, nominal or concessionary premium will normally be charged for community uses because of their non-profit making nature. Full market premium will be charged for commercial land uses (like power station). Criteria for direct land grants are set according to relevant policies approved by the Chief Executive in Council (ExCo).

Modification of Lease Conditions

7. It is Government's policy to allow modifications of existing lease conditions which restrict the development permitted on a lot to allow

the lot concerned to realize its full development potential subject to the prevailing planning requirements. A premium equivalent to the difference in land value between the development permitted under the existing lease conditions and that permissible under the new lease terms is payable for any lease modification granted.

8. For lots previously acquired by owners concerned in the open market, the modification of lease conditions of the respective lot would be considered by the Lands Department, which would also decide on the appropriate premium payable to reflect the enhancement in value of the lot. If a lot was granted by private treaty by ExCo, to modify the lease conditions to a use for which no delegated authority from ExCo to make the grant exists, ExCo's approval is necessary. The level of premium payable will depend on the category of grant in question.

Town Planning System

9. Town planning is aimed to meet the needs of the Hong Kong community. Our objective is to provide a living environment which is comfortable and safe, which meets the needs of social development, achieves sustainable development and benefits the next generation. The powers in relation to land use planning in Hong Kong are vested primarily with the TPB which is established and operates in accordance with the Town Planning Ordinance (Cap. 131).

(a) Transparency of the System

10. In respect of the making of statutory town plans, the TPB is required to publish all draft plans for objections; conduct hearing of such objections; notify affected land owners of any amendments proposed to meet the objections; hear any further objections received upon such notification; and submit the draft plan together with all unwithdrawn objections/further objections and amendments made to the draft plan to ExCo for consideration and approval. As a standing practice, the concerned District Councils are consulted through the respective District Officers (DOs) before or during exhibition of the draft plans. Public views can be submitted to the TPB during the plan exhibition period and any objections received will be considered by the TPB in accordance with the requirements of the Ordinance.

11. Upon the commencement of the Town Planning (Amendment) Ordinance 2004 (the Amendment Ordinance)¹, the transparency and public participation in the plan-making process will be greatly enhanced. The public will have a longer period (two months) to comment on draft plans, representations received by the TPB will be published in full for public comments and all parties involved will be invited to attend the hearing. If amendments are proposed by the TPB in response to the representations, any persons (instead of only the affected land owners as per the existing Ordinance) can submit further representations on such proposed amendments to the TPB. All documents submitted to the TPB will be made available for public inspection.

12. As for planning applications submitted under section 16 of the existing Ordinance, although there is no provision for public consultation, the practice all along is for the relevant District Planning Officer to consult the respective DO on local views regarding the relevant applications and channel the same to the TPB for its consideration. Upon the commencement of the Amendment Ordinance, all planning applications and reviews will be published for public comments. All documents submitted by the applicant and comments received by the TPB will be made available for public inspection. Notices will be published in local newspapers or posted on or near the relevant site. In addition, the applicant is required to obtain the consent of or notify the land owner of the application site before making the application. All these should contribute to the further enhancement of the transparency of the system.

13. Moreover, upon commencement of the Amendment Ordinance, all TPB meetings (except for circumstances prescribed in section 2C(2) of the Amendment Ordinance) will be open to the public. To further enhance transparency, the TPB has agreed to make available the relevant papers submitted to the TPB for public inspection before the meeting and upload the minutes of its meetings (including the deliberation parts) onto the TPB's website for public information. Besides, the current practice of relaying departmental comments to the applicants upon their requests and holding a

¹ The Amendment Ordinance which was enacted by the Legislative Council on 7 July 2004 and gazetted on 23 July 2004. It will come into operation on a date to be appointed by the Secretary for Housing, Planning and Lands (SHPL) by notice published in the Gazette.

press briefing by a spokesperson after each meeting to explain the TPB's decisions and reasons for its decisions would continue. This would enable the public to better understand how the TPB arrives at its decisions on planning issues.

(b) TPB membership

14. At present, there are 39 TPB members of which 33 are non-officials who are appointed in their personal capacity on the basis of their expertise, experience, integrity and commitment to public service, and the relevance of their background to town planning ranging from legal, engineering, architecture, surveying, environmental protection, cultural heritage, social welfare, education and business. The Deputy Chairman of the TPB is now an unofficial member. The TPB secretariat is served by staff of the Planning Department in accordance with the rules and practices approved by the TPB.

(c) TPB meetings

15. The conduct of TPB is subject to the general principles of administrative law that it must act fairly and reasonably. In this regard, the TPB constantly reviews its procedures and practice so as to ensure consistency in conducting its business. To uphold the integrity and credibility of the TPB as a whole, all TPB members are subject to a laid-down system of declaration of interests. Details of the TPB's procedures and practice are available at the TPB's website and a register of members' interests is also available for public inspection at the TPB's secretariat.

(d) Mechanism for Changing Land Use Zoning

16. Requests for zoning amendments submitted by the public are currently processed by the TPB by administrative means and similar to planning applications, consultation is conducted mainly through the DOs concerned. This administrative practice has now been formalized and enhanced in the Amendment Ordinance. The same requirements of owner's consent/notification and publication as those for planning applications will apply. In addition, the applicant will also be allowed to attend the meeting and be heard by the TPB. If the TPB eventually agrees to the proponent's

proposals, the amendments will still have to be incorporated into the relevant draft plan for public inspection and will be subject to the representation hearing procedures under the Ordinance.

(e) Continuous Public Engagement

17. Public support is the key to success in any planning system. In Hong Kong, major planning reviews are conducted from time to time to cope with the changing environment and the public's aspiration for the development of different regions or areas. Taking the Kai Tak Planning Review as an example, public consultation in the form of public forums and community workshops have been carried out to gather and exchange views with the public on their needs and aspirations in order to ensure that the development proposal to be put forward will not only have regard to the local character of the district but also meet public aspirations. We have also made strenuous efforts in reaching out to the different stakeholders in the recent public consultation on the Concept Plan for Lantau, with a view to jointly mapping out the future of Lantau with the community. The Administration will continue to actively engage the public to ensure that our planning system does not only achieve a balance in different land use needs, but also reflect the common wishes of the public regarding the future cityscape of Hong Kong.

Conclusion

18. Fairness and transparency are our intrinsic values and are enshrined in our planning and land policy. That said, we are open to suggestions for further improvement, and will keep the relevant policies under review to ensure that they are in keeping with the changing needs and aspirations of the community. Any allegation of “collusion between business and Government” will have to be substantiated and if reports are made to the relevant authorities, they will be fully investigated.

19. Members are invited to note the paper. Suggestions for further improvement to the planning and land policy are welcome.

Housing, Planning and Lands Bureau
March 2005