

**Proposed Practice for Handling of Temporary Use in
Government Buildings/Premises in the Urban and New Town Areas**

1. Purpose

This paper is to seek Members' agreement to the proposed practice for handling of temporary use in government buildings/premises in the urban and new town areas under the planning regime.

2. Background

- 2.1 Regarding planning control on temporary use under statutory town plans, the Notes of the Outline Zoning Plans (OZPs) in the urban and new town areas stipulate that temporary uses (expected to be 5 years or less) of any land or building are always permitted as long as they comply with other relevant legislation, the conditions of the lease and any other government requirements, and there is no need for these to conform to the zoned use or the Notes of the OZPs (the '5-year rule').
- 2.2 For the rural areas, where the use or development is not provided for in terms of the OZP (i.e. neither a Column 1 nor Column 2 use), such use or development of any land or building on a temporary basis not exceeding a period of three years requires permission from the Town Planning Board (the Board)¹, unless the temporary use is otherwise permitted in terms of the Notes of the relevant OZP. For environmentally sensitive zones, open storage and port back-up uses even on a temporary basis are prohibited. Temporary use or development of land or building exceeding three years requires permission from the Board in accordance with the terms of the OZP.

¹ Except in environmentally sensitive zones, structures for carnivals, fairs, film shooting on locations, festival celebrations, religious functions or sports events not exceeding a period of two months is always permitted in the rural areas provided that no site formation (filling or excavation) is carried out.

- 2.3 On 23.3.1990, the Board endorsed the following practices² in the control of temporary uses in permanent buildings ('the 1990 practice'):
- (a) the '5-year rule' should not be applicable to temporary uses in permanent buildings. All uses in permanent buildings, irrespective of their tenure of lease/tenancy, should be considered as permanent uses unless the temporary nature of the use could be established to the satisfaction of the Board; and
 - (b) uses accommodated in temporary structures on land awaiting permanent developments would be considered as temporary uses provided that the relevant land allocation was for a period of 5 years or less. Assessment of subsequent applications for extension of permission of the temporary uses would be based on consideration at the time of application and the duration was not to be counted retrospectively.
- 2.4 It was considered at that time that the temporary nature of the use in permanent buildings could not be readily ascertained or enforced under the Town Planning Ordinance.
- 2.5 As an interim measure to meet the acute housing need, the Board agreed on 9.11.2018 to modify 'the 1990 practice' to facilitate transitional housing monitored by the Task Force under the Transport and Housing Bureau in permanent buildings in the urban and new town areas, which could be regarded as temporary use subject to the '5-year rule'. The Board was satisfied that the temporary nature of transitional housing could be established given that the need will subsequently be phased out, the use will be monitored by government, i.e. the Task Force, a fixed term of 5 years or less will be specified in the special waiver, any application for extension will be subject to fresh assessment at the time of the application, and the use still needs to comply with other relevant legislations and regulations. Based on the same principle, it is suggested that such considerations and practice may also apply to temporary uses in government buildings/premises for reasons as set out below.

² The Town Planning Ordinance (the Ordinance) was amended in 1991 to extend the statutory planning control over the rural areas with the designation of Development Permission Area. As the practice had been endorsed by the Board before the Ordinance was amended, it was only applicable to OZPs in the urban and new town areas. Different control on temporary uses is adopted for the rural areas to prevent degradation of the rural environment.

3. Proposal to Facilitate Temporary Use in Permanent Government Buildings/Premises

- 3.1 Currently, for vacant government buildings/premises with potential for temporary uses, if the permanent use of the buildings/premises or the concerned site is yet to be ascertained or implemented, they may be made available for beneficial short-term community, institutional, or other appropriate uses (such as short-term use of vacant school premises) before the implementation of the long-term use, e.g. through granting of short term tenancies by the Lands Department or renting out of the premises by the Government Property Agency. There may also be circumstances where government buildings/premises will be used for urgent temporary uses to meet the societal needs. These temporary uses, if not in line with the '5-year rule' under the '1990 practice' (i.e. involving temporary use in permanent building), will need to comply with the Notes of the relevant OZP and planning permission may be required.
- 3.2 To better utilize land resources to meet acute community demand and to streamline the planning procedures, it is proposed that the '5-year rule' should be applicable to temporary use in permanent government buildings/premises so long as its temporary nature could be ascertained by meeting the following criteria:
- (i) the concerned buildings/premises are held by the government;
 - (ii) prior policy support for the proposed temporary use is obtained from the relevant policy bureau;
 - (iii) the relevant tenancy documents, e.g. short term tenancy, are issued by the relevant government departments and the tenure of use on a fixed term of five years or less is specified; and
 - (iv) the temporary use is still required to conform to any other legislations, the conditions of the government tenancies, and other government requirements, as may be applicable.
- 3.3 Planning permission from the Board is still required for proposed temporary use (including those in permanent government buildings/premises) of not more than three years in the rural areas unless the use is permitted in the Notes of the relevant zone, following the provisions as set out in the Notes of the OZPs for the rural areas.

4. Consultation

Since the proposed practice is generally in line with the main consideration for temporary use (i.e. the temporary nature could be ascertained) and that already adopted for transitional housing, and the temporary use in permanent government buildings/premises is still required to conform to any other legislations, the conditions of the government tenancies and other government requirements, thus there should be adequate monitoring mechanism governed by the government, consultation with government departments is considered not necessary.

5. Decision Sought

5.1 Members are invited to consider and agree to the proposed practice in handling temporary use in government buildings/premises in the urban and new town areas as set out in paragraph 3.2 above.

5.2 The proposed practice is generally in line with 'the 1990 practice' as the criteria set out in paragraph 3.2 above should give the Board sufficient assurance about the temporary nature of the use concerned. Since there is no deviation from the Board's 1990 practice, press release is considered not necessary.

**PLANNING DEPARTMENT
FEBRUARY 2022**