



Hong Kong General Chamber of Commerce
香港總商會 1861

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11 September 2018

Mrs Cherry Tse, JP
Permanent Secretary for Home Affairs
Home Affairs Bureau
12/F, West Wing,
Central Government Offices
2 Tim Mei Avenue,
Tamar, Hong Kong

Dear Cherry,

Public Consultation on Policy Review of Private Recreational Leases

1. HKGCC welcomes this opportunity to comment on the proposals contained in the above consultation paper (“CP”).

Introduction

2. The CP is proposing (as its title suggests) a change in the current Government policy on private recreational leases (“PRLs”).

3. We appreciate that one of the objectives behind the proposals is to promote greater transparency in and accountability of private sports clubs given that the land that they operate on is heavily subvented by the Government. It is also recognized that a review of PRL is premised on the perceived need to address public conceptions that a scarce resource is being set aside for a minority of users and therefore not put to efficient use. These are understandable concerns, especially in the context of how public resources are allocated, although we would suggest caution in deciding whether, and if so how, the Government goes about modifying PRL. We explain our views in respect of each proposal below.

Proposal 1: The issue of renewal

4. Currently, with long term leases, there is an expectation that renewal will be the norm, unless there has been non-compliance with the lease conditions (including the existing requirement for non-member access), or there is an overriding matter of public interest which justifies non-renewal.¹

¹ CP para. 2.2.

5. There is no suggestion in the CP that either of these situations exists in respect of private sports clubs, and so they can reasonably expect their licences to be renewed. However, under this Proposal, private sports clubs would be subject to more stringent criteria, which they would have to satisfy before their PRL is renewed. The difference in treatment between private sports clubs and their non-private counterparts appears to be based on the sole consideration that the former operates on commercial principles and caters exclusively to a defined group of users, namely, members.

6. The four factors to be taken into account in deciding on lease renewal appear to be vague, arbitrary and subjective, which gives rise to such questions as a private sports club's viability if it is able to "score well" on two of the factors but less so on the other two. This leads to even greater uncertainty for private sports clubs as to whether their leases will be renewed.

7. There is a clear risk that some private sports clubs will be considered not to fulfill these new criteria, and will have to cease operations (as the CP recognises). This seems to be in direct conflict with the Bureau's stated policy objective of encouraging sports development in Hong Kong. Even in the interim period prior to expiry of their current leases, clubs might think twice about investing in new facilities if there is a real possibility that their leases will not be renewed due to a perceived failure to satisfy the new, more stringent, criteria for approval; existing members may decide not to renew subscriptions; and potential new members may be deterred from joining given the uncertainty, placing a further strain on the clubs' resources.

8. Finally, we are concerned about the signal that the proposed approach to long-term leases would send to the market and overseas investors more generally given that security and predictability of property rights (along with the rule of law) are fundamental to Hong Kong's reputation as a free market, its ability to attract overseas investors, and our economic success.

9. The Task Force on Land Supply has suggested in its consultation paper that a facility of one private sports club in particular, namely Fanling golf course, might provide a suitable site for housing. If the Task Force envisages that the land could be resumed even if the PRL is renewed, we believe that the rezoning of Fanling golf course constitutes a poor 'return on investment' and could, at the same time, hinder sports development in Hong Kong for the reasons as set out in the [Annex](#).

Proposal 2: Substantial increase in land premium

10. For those private clubs that are successful in having their leases renewed under Proposal 1, the Working Group proposes that, instead of paying a nominal land premium as at present, in common with other PRL holders, they henceforward have to pay a substantially greater land premium, i.e. one-third of the full market value of the site.

11. We appreciate the rationale behind such a proposal, which is to charge a "fair" fee on the use of public resources by a private entity. This seems to be a logical approach but other than a brief reference to the high value of the land and the largely private nature of the facilities as a justification for an increase above a nominal land premium, no other compelling

reasons were put forward. It is hard to see how this can be considered a legitimate benefit to the development of sports in Hong Kong; it is obvious that the less money private sports clubs have, the less they will be able to invest in sports facilities. Rather than a benefit, the proposal of extracting a substantial amount of revenue from the clubs would come at a considerable cost.

12. The CP itself goes into some details on the costs of its proposal. For example, “*the charging of a high land premium will create a considerable financial burden on the lessees; for some smaller clubs, it may result in their closure or the closure of the concerned sports and recreation facilities*” and “*The concerned staff will be negatively affected by closure of clubs by facing unemployment and need to change career*”.

13. It is clear that private sports clubs have an important role to play in the general scheme of sports development in Hong Kong, a fact that is acknowledged in the CP. If the intent behind levying a higher land premium on private sports clubs is to achieve equity based on the ‘ability-to-pay’ principle, we suggest instead that consideration be given to an alternative approach that emulates affirmative action policies in the areas of education and employment. Under this option, private sports clubs could set aside a defined number of places for talented athletes who would not otherwise be able to pay for membership dues. These clubs could also provide sports scholarship schemes to high performance athletes from outside of their membership base. We believe these arrangements to be less disruptive than the proposal to charge higher premiums - especially when the Government already enjoys a budget surplus - and would also be conducive to the CP’s goals of ensuring that public resources are generally accessible.

Proposal 3: Compelling further access to private club facilities by non-members

14. We are supportive of the proposal to grant the public better access to private clubs but would like to point out that such a change must also take into account a possible reduction in revenue from membership fees due the likelihood of deterring existing members from renewing subscriptions and potential new members from joining. This would in turn jeopardize the ability of the clubs to invest in and enhance sports facilities. These effects would be exacerbated if Proposal 2 was to be implemented, as this would result in a substantial increase in subscription fees, thereby rendering membership even less attractive and potentially putting clubs in financial jeopardy.

15. Private sports clubs and Government-funded sports clubs play complementary roles in sports development in Hong Kong. To the extent that the Government wishes to increase public access to sports facilities, it should invest in more facilities. There is a bigger role for private sports club to play in sports development as explained in our comments on Proposal 2 and we suggest that these be considered in the interest of the overall well-being and viability of the different types of clubs in existence, and, more importantly, to offer the public a choice.

16. We hope that you will consider our views in deciding the way forward on this review.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Aron Harilela', with a small dot above the final letter.

Aron Harilela
Chairman

cc: prl_consultation@hab.gov.hk

Fanling Golf Course

1. The exercise of consulting the public on PRL policy and land supply (the latter includes releasing PRL sites for other land uses as an option) more or less around the same time has given rise to intense debate in the community on whether PRL sites such as the Fanling Golf Course (“FGC”) should be re-designated for housing development.

2. The Task Force on Land Supply has proposed re-developing FGC either partially (32 ha) or fully (172 ha). The former would allow the construction of some 4,600 homes, which falls short of the heavy housing demand while the latter would provide 13,200 additional residential units. However, this proposal will necessarily require the uprooting of old trees, razing clan graves and the demolition of historic buildings. It would also require the relocation of the golf course, construction of ancillary facilities including transport and infrastructure, and other major investments that precede new town development, as well as the loss of irreplaceable environmentally-sensitive lowland natural habitat.

3. Given the onerous and expensive implementation process involved, we believe that repurposing FGC for residential use scores poorly on a cost-to-benefit analysis. Rather, attention should be given to other available alternatives such as brownfield sites (760 ha), farmland (1,000 ha) and appropriate reclamation. Taken in aggregate, these would provide more land for our long-term economic and sustainable development.

4. Furthermore, the proposal to redevelop FGC would come at a hefty cost to Hong Kong both in the development of sports as mentioned earlier in this paper and liveability standards that feature heavily in our attractiveness as an international city. In forgoing FGC, we would not only lose the city’s only world class golf course that has seen host to major international tournaments such as the Hong Kong Open and the Hong Kong Ladies Open, but also an internationally recognized training facility for developing and training local golf talent.