

## **PART I - INTRODUCTION**

### **Preamble**

1.1 The conduct of the Town Planning Board (the Board or TPB) is subject to the provisions of the Town Planning Ordinance (the Ordinance) (Cap. 131) and the general principles of administrative law that it must act fairly and reasonably. This document incorporates the procedure and practice adopted by the Board in conducting its business so that consistency can be ensured. This document is subject to revision as and when considered necessary.

### **Establishment and Functions of the Board**

1.2 The Board is a statutory body established under section 2 of the Ordinance.

1.3 The Board's main functions are laid down in section 3 of the Ordinance, i.e. to undertake the systematic preparation of plans for the layout of such areas of Hong Kong (i.e. Outline Zoning Plans and Development Permission Area Plans) as well as for the types of buildings suitable for erection therein with a view to the promotion of the health, safety, convenience and general welfare of the community. The Board also considers applications for amendment of plan under section 12A, for planning permission under section 16 and amendment to planning permission under section 16A of the Ordinance and conducts, under section 17, reviews on its decisions on section 16 and section 16A applications.

1.4 Furthermore, under section 25 of the Urban Renewal Authority (URA) Ordinance, Cap. 563, the URA may submit any plan prepared under subsection (3)(a) of the URA Ordinance to the Board for consideration. Upon the submission of a plan so prepared by the URA, the Board may deem the plan as suitable for publication, with or without amendments, or may refuse to deem the plan as being suitable for publication. A plan which the Board deems suitable for publication shall be deemed to be a draft plan prepared by the Board for the purposes of the Ordinance and the provisions of the Ordinance shall apply accordingly.

1.5 A description of the powers and functions of the Board is set out in **Appendix I**.

### **Composition of the Board**

1.6 The Board consists of the Chairman (currently the Permanent Secretary for Development (Planning and Lands)), the Vice-Chairman (currently a non-official Member), five other official Members [currently the Director of Planning; the Deputy Secretary (Transport) 1, Transport and Housing Bureau (Alternate member: Principal Assistant Secretary (Transport), Transport and Housing Bureau; Assistant Commissioner for Transport (New Territories), Assistant Commissioner for Transport (Urban), Chief Traffic Engineer (Hong Kong), Chief Traffic Engineer (Kowloon), Chief Traffic Engineer (New Territories East) and Chief Transport Engineer (New Territories West), Transport Department); the Director of Home Affairs (Alternate members: Deputy Director (1), Deputy Director (2), Assistant Director (1), Assistant Director (2), Assistant Director (3) and Chief Engineer (Works), Home Affairs Department); the Director of Environmental Protection (Alternate members: Deputy Director of Environmental Protection (1), Assistant Director

(Environmental Assessment), Principal Environmental Protection Officer (Metro Assessment) and Principal Environmental Protection Officer (Strategic Assessment), Environmental Protection Department); and the Director of Lands (Alternate members: Deputy Director (General), Assistant Director (Hong Kong), Assistant Director (Kowloon) and Assistant Director (New Territories), Lands Department)] and 28 other non-official Members. The Deputy Director of Planning (District) is appointed as the Secretary to the Board (Secy/Board) and is assisted by a panel of Planning Department staff at the Board's meetings.

1.7 All Members of the Board are appointed by the Chief Executive (CE) under section 2(1) of the Ordinance and the appointment is announced in the Government of the Hong Kong Special Administrative Region Gazette. There is no tenure of appointment in the Ordinance but it is usually for a period of two years. All non-official Members are appointed in their personal capacity and not as representatives of organizations to which they belong. The CE may reappoint any Member upon expiry of his/her tenure of appointment.

### **Planning Committee**

1.8 With the expansion of statutory planning jurisdiction/coverage to the non-urban areas and to cope with the increase in the Board's workload, two Planning Committees (PCs), i.e. the Metro Planning Committee (MPC) and the Rural and New Town Planning Committee (RNTPC), were set up in July 1991. The plan at **Appendix II** shows the geographical jurisdiction of the MPC and RNTPC.

1.9 Each PC comprises the chairperson (currently the Director of Planning), the vice-chairman (currently a non-official Member), four other official Members (currently the Deputy Secretary for the Transport and Housing (Transport) 1 (Alternate member: Assistant Commissioner for Transport (Urban)/(New Territories), Chief Traffic Engineer (New Territories East) and Chief Traffic Engineer (New Territories West), Transport Department); the Director of Home Affairs (Alternate members: Deputy Director (1)/(2), Assistant Director (1), (2) and (3), Home Affairs Department); the Director of Environmental Protection (Alternate members: Assistant Director (Environmental Assessment) and Principal Environmental Protection Officer (Metro Assessment)/(Strategic Assessment), Environmental Protection Department); and the Director of Lands (Alternate member: Deputy Director (General)/(Specialist) and Assistant Director (Kowloon)/(NT), Lands Department)) and 14 other non-official Members each for the MPC and RNTPC respectively.

1.10 Similar to the operation of the full Board, the Deputy Director of Planning (District) is the Secretary to the two PCs and is assisted by a panel of Planning Department staff at the PC meeting.

1.11 All Members of the PCs are appointed by the CE among the Members of the Board in accordance with section 2(3) of the Ordinance.

### **Representation Hearing Committee**

1.12 To meet the requirement that consideration of representations/further representations has to be completed and submission of a draft plan to the CE in C be made within nine months from the expiry of the plan exhibition period (or as further extended by CE by up to a maximum period of six months), the Board may appoint a Representation Hearing

Committee (RHC) from amongst its members. The RHC is normally appointed on a plan basis to exercise the Board's powers and functions under sections 6B to 6H (i.e. to hear representations made to a draft plan and comments in respect of the representations, propose amendments to the draft plan to meet the representations, consider further representations to the proposed amendments and decide whether the proposed amendments, as proposed or as further varied, should form part of the draft plan for submission to the CE in C). For those draft plans which are of significant territorial interests or would attract wide public interests, the Board may decide to consider the representations/comments/further representations itself.

1.13 While membership of a RHC is normally appointed by roster, Members with potential conflict of interest will not be appointed and those with expert knowledge relevant to the subject of the representations may be appointed. Under the Ordinance, each RHC shall consist of not less than five Members, at least 3 of whom must be non-official Members. In practice, it usually consists of nine Members including a chairman (currently the Director of Planning), two official Members and six non-official Members of whom one will be appointed the deputy chairman of the RHC. Similar to the operation of the full Board and the PC, the Deputy Director of Planning (District) is the Secretary to the RHC and is assisted by a panel of Planning Department staff at the RHC meeting.

### **Delegation of Powers and Functions**

1.14 In accordance with section 2(5)(a) of the Ordinance, the Board may delegate to the two PCs the following powers and functions:-

- (i) to prepare draft Outline Zoning Plans and Development Permission Area Plans (section 3 & section 4(1));
- (ii) to consider Comprehensive Development Schemes including the approval of Master Layout Plans and subsequent amendments to approved schemes (section 4A);
- (iii) to publish draft plans and amendments to approved plans upon reference back by the CE in C (section 5);
- (iv) to make and publish amendments to draft plans (section 7(1) to 7(3));
- (v) to submit a draft plan to the CE in C (section 8);
- (vi) to consider and decide on applications for amendment of plan (section 12A);
- (vii) to consider and decide on applications for planning permission (section 16);
- (viii) to consider and decide on applications for amendments to planning permission (section 16A); and
- (ix) to designate Development Permission Areas (section 20(1)).

1.15 In accordance with section 2A(1) of the Ordinance, the Board may also delegate its powers and functions under sections 6B, 6C, 6D, 6E, 6F, 6G and 6H to a RHC appointed

under that section.

1.16 In accordance with s.2(5)(b) of the Ordinance, the Board may delegate its powers and functions to a public officer or class of public officer in respect of:

- (i) an application for making Class B amendments to planning permission under section 16A(2); and
- (ii) an application for permission for development within a Development Permission Area provided that such development would be discontinued and the land reinstated within six months after the permission is granted.

1.17 In accordance with section 2(5)(c) of the Ordinance, the Board may also delegate its powers and functions to the Secy/Board to determine the acceptance of further information submitted by an applicant in respect of an application for amendment of plan made under section 12A, for planning permission made under section 16 and review of a decision on a section 16 application made under section 17, and to exempt the accepted further information from the requirements of publication for public comments.

1.18 The delegation of powers and functions made by the Board are attached at **Appendix I**.

### **Promulgation of Guidelines and Guidance Notes**

1.19 The Board may from time to time promulgate guidelines to provide guidance to the public on matters such as the general criteria adopted by the Board in considering planning applications and representations to draft plans. These guidelines are distributed free of charge to members of the public and are available on the Board's website. The guidelines are intended for general reference only. The decision to approve or reject an application rests entirely with the Board or its delegated authority, and will be based on the individual merits and any other specific consideration of each case.

1.20 The Board may also promulgate guidance notes to provide general information to the public on the requirements for making submissions to the Board and the general procedures adopted by the Board.

### **Handling of Information Possessed by the Board**

1.21 As disclosure of some of the information of the Board would not be in the public interest, prejudice the position of the Board, the Government or the Chief Executive in Council, or in breach of any duty of confidentiality owed to any person by the Board/PC or the Government, etc, Members are obliged to preserve the confidentiality of such sensitive information, e.g. information for the preparation of draft plans, which they obtained in their official capacity. No such materials should be published, made private copies or communicated to unauthorized persons to prevent abuse or misuse of information and to avoid hindering the proper functioning of the Board due to premature disclosure.

1.22 To safeguard and uphold the impartiality, independence and integrity of the Board, all Members should refrain from commenting or speaking on any particular case

scheduled for consideration by the Board, either in public or private discussion. If a case has been scheduled for consideration by the Board and Members have been informed of the agenda, Members should not comment on the case before the meeting. Otherwise, the Board may be taken as forming a view before completing the due process of deliberation on the case at a meeting.

1.23 It would be inevitable that Members may be approached by the media/press for information on any particular case under consideration by the Board. Members should exercise their own judgement on how to respond having regard to the code on release of information before the meeting. In general, it would be appropriate for Members to respond that they are not in a position or at liberty to make any comment as the Board would be considering the case.

1.24 Members are appointed in their personal capacity instead of representing any organization. If a Member, as a representative or member of an organization, is obliged to form a view or take a stance on a particular case from the perspective of his/her organization as a whole, he should declare an interest and refrain from participating in the discussion of the case in accordance with the guidelines on declaration of interest in Part II.

1.25 For formal release of information to the public, members may make reference to Part IV.

### **Request for Board's Ruling**

1.26 There are occasions in which the Board is requested by the public to give rulings on issues in relation to statutory planning matters. These include the interpretation of provisions and restrictions under statutory plans. If considered necessary, the Board may also be requested to consider whether building proposal would be in contravention of the provisions under the relevant statutory plan.

## **PART II – DECLARATION OF INTERESTS**

### **Preamble**

2.1 The guidelines for declaration of interest are drawn up to protect the integrity and reputation of 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**

2.2 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.

2.3 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 meeting.

### **Registration of Pecuniary Interests**

2.4 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 Secy/Board. 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/Board and will be made available for inspection on request by members of the public.

2.5 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;
- (ii) direct or indirect substantial shareholdings (1% or more of the issued share capital);
- (iii) holdings in land and properties; and

(iv) remunerated employment, offices, trades, professions or vocations.

2.6 Where practicable, Members should also give a brief description of the lines of business of companies in which they are involved.

2.7 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 meeting**

2.8 If Members or their spouses have any interest (pecuniary or otherwise) in any matter under consideration by the full Board/PC/RHC, the Members should as soon as practicable disclose to the Chairman of the Board or the chairman of the relevant PC/RHC or Secy/Board prior to the meeting or at the meeting prior to the discussion of the concerned item.

2.9 Where a substantial direct conflict of interest is known to the Secy/Board, the Secy/Board would withhold the issue of the relevant papers and documents to the concerned Members. In case where the Member believes that he/she has a direct conflict of interest in a particular matter when he/she receives the agenda and/or papers, he/she should declare before the meeting. Any papers or other information relating to the matter which the Member may have received should be returned to the Secy/Board.

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

### **General Principles**

2.11 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 meeting:-

- (a) Pecuniary interests in a matter under consideration, interests held either by a Member or by his/her spouse, children under 18, or by the Member's close relative;
- (b) 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;
- (c) 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;
- (d) 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

- (e) 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.

2.12 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**

2.13 All interests of Members and their spouses in any matter under consideration need to be declared. The onus of making a declaration rests with individual 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.

2.14 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.

2.15 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

2.16 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/representation/comment on representation/further representation/ 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/representer/commenter/further representer of a case.

- (b) **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, either as applicant/representer/commenter/further representer or the company/organisation has tendered professional advice (e.g. being the consultant acting for the applicant/representer/commenter/further representer) 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/representer/commenter/further representer of the matter under consideration.

- (c) **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/representer/commenter/further representer 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.

- (d) **The Member or his/her spouse has current business dealings or potential future business dealings with the applicant/representer/commenter/further representer 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/representer/commenter/further representer. The business dealings may not necessarily be related to the matter under consideration.

[Current business dealings include, but not limited to, the following:

- Member or his/her spouse works for and receives remuneration from the applicant/representer/commenter/further representer/his agent;
- The applicant/representer/commenter/further representer/his agent works for and receives remuneration from Member or his/her spouse; and
- Member or his/her spouse works with the applicant/representer/commenter/further representer/his agent in a project consultancy team not related to the subject matter under consideration.

For the first scenario above, the Member should declare his/her interest and withdraw from the meeting. For the second and third scenarios, the Member should declare his/her interest and it would be up to the Board or the

relevant PC/RHC to decide whether the interest is so direct and substantial that the Member should withdraw from the meeting. Normally, for the latter two scenarios, there should be no need for the concerned Member to withdraw from the meeting.]

- (e) **The Member who is also a member of the HKHA/HKHS/URA or other public bodies and the subject of a representation/comment on representation/further representation involves a project of such public bodies**

This does not apply to the 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 Interests which may be Direct and Substantial

2.17 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/representer/commenter/further representer. It would be up to the Board or the relevant PC/RHC 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.
- (b) The subject matter affects (or in the case of the Members' close relative or close 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.
- (c) The Member or his/her spouse has past business dealings with the applicant/representer/commenter/further representer.

[If the Member's or his/her spouse's past business dealings with the applicant/representer/commenter/further representer 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/representer/commenter/further representer, and the dealings are not related to the site under consideration, only past dealings within three years should be declared, and the Member should be allowed to continue to participate in the discussion.]

[Past business dealings include, but not limited to, the following:

- Member or his/her spouse once worked for and received remuneration from the applicant/representer/commenter/further representer/his agent;
- The applicant/representer/commenter/further representer/his agent once worked for and received remuneration from Member or his/her spouse; and
- Member or his/her spouse once worked with the applicant/representer/commenter/further representer/his agent in a project consultancy team not related to the subject matter under consideration.]

- (d) The Member or his/her spouse has given personal advice or opinion to an applicant/representer/commenter/further representer on any occasions on the matter under consideration.

[The situation of Government departments tendering professional advice or stating Government policies to the applicant/representer/commenter/further representer, 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 Government policy.]

2.18 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**.

2.19 There are situations in which the Member is a member of an advisory body which has expressed views on the matter under consideration. For these cases, if the advisory body to which the concerned Member belongs has only expressed views without passing a motion which represents the collective views of the body or submitting any comment/representation to the Board on the subject matter, the concerned Member should only be requested to declare interest but does not have to withdraw from the meeting.

**Table 1**

| <b>Business Dealings</b>         |  | <b>Declare</b> | <b>Withdraw from meeting</b> |
|----------------------------------|--|----------------|------------------------------|
| Current/<br>Under<br>Negotiation | General (not relating to the site)     | ✓              | ✓                            |
|                                  | Specific (relating to the site)        | ✓              | ✓                            |
| Past                             | Past dealings not relating to the site |                |                              |
|                                  | - more than three years                | x              | x                            |
|                                  | - within three years                   | ✓              | x                            |
|                                  | All past dealings relating to the site |                |                              |
|                                  | - project completed                    | ✓              | x                            |
|                                  | - project on-going                     | ✓              | ✓                            |

**Table 2**

| <b>Matter Involving HKHA, HKHS, URA or Other Organization</b>                             | <b>Declare</b> | <b>Withdraw from meeting</b> |
|---|----------------|------------------------------|
| As Applicant/Representer/Commenter/Further Representer                                    | ✓              | ✓                            |
| As Proposal on New Plans or Amendments to Plans   | ✓              | x                            |
| As Subject of Application/Representation/Comment on Representation/Further Representation | ✓              | ✓                            |

**Application of the Guidelines to Chairman and Vice-chairman/Deputy Chairman**

2.20 The general guidelines on declaration of interest are applicable to the Chairman and Vice-chairman/Deputy Chairman of the Board /PC/RHC.

2.21 If the Chairman or Vice-chairman/Deputy 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 or Vice-chairman/Deputy Chairman should continue to assume the chairmanship but a conscious effort should be made to contain his/her scope of involvement in an administrative role to minimise any risk that he/she may be challenged.

2.22 In case both the Chairman and Vice-chairman/Deputy Chairman of the relevant PC/RHC 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 interest, as a matter of necessity, the Chairman should continue to assume the chairmanship.

### **Probity Requirements**

2.23 To protect the integrity and uphold public trust of the Board and to protect the public interest, Members should observe the following principles<sup>1</sup> on solicitation and acceptance of advantages and entertainment, and use of public assets and capacity as a Board/PC member.

#### Solicitation and Acceptance of Advantage

2.24 Members should refrain from soliciting or accepting any advantage from any persons or companies having business dealings with the Board (e.g. applicants, representers, commenters and their representatives/consultants).

#### Gifts/souvenirs

2.25 Any gift/souvenir given to Members in their capacity as such should be regarded as a gift/souvenir to the Board. The handling procedures of gifts and/or souvenirs are set out at **Appendix VI**.

#### Sponsorship

2.26 Members being offered with sponsorships in their capacity for official purposes such as attending any local/overseas conferences, conventions, product trial activities, etc. should refer such to the Board for consideration of acceptance of the sponsorship and selection of suitable person for the sponsorship where appropriate.

#### Advantages offered to Members in their private capacity

2.27 Members may accept advantage in their private capacity only if such will not affect the performance of their duties as Members and will not make Members feel obliged to do something in return in connection with the Board's business for the offeror. In such case, Members should follow the guidelines for declaration of interests in paragraphs 2.13 to 2.19 above.

#### Entertainment

2.28 Although entertainment is an acceptable form of business and social behaviour, Members must not accept lavish or frequent entertainment from any persons with whom the Board has business dealings (e.g. applicants, representers, commenters and their representatives/consultants) to avoid placing themselves in a position of obligation to the offeror.

#### Offer of Advantage

2.29 Members should refrain from offering advantages to any directors, or staff of any companies or organizations, for the purpose of influencing such person or company in any dealings in connection with the business of the Board.

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<sup>1</sup> The principles are based on the "Sample Code of Conduct for Members of Public Councils" prepared by the Corruption Prevention Department of the Independent Commission Against Corruption

Records, Accounts and Other Documents

2.30 Members should ensure that any records, receipts, accounts or other documents submitted to the Board is a true representation of the events or transactions reported in the submission.

Use of Board Assets

2.31 Members should refrain from any unauthorized uses of the Board's assets, including information and intellectual property, to make personal gains.

Misuse of Capacity as a Member

2.32 Members shall not misuse their official capacity to gain benefits for themselves or others.

## **PART III - PROCEEDING OF MEETINGS**

### **Meetings**

3.1 The Board and the two PCs meets regularly to discharge its functions. The Board normally meets on the first and third Friday of each month whilst the two PCs normally meet on the second and fourth Friday of each month. The MPC meets in the morning and the RNTPC meets in the afternoon. The RHC meets on a need basis and usually on Tuesday.

3.2 The schedules of the Board and PC meetings are available from the Secretariat of the Board and the Board's website from the beginning of the year. The agenda of each meeting is usually provided to Members four days before the meeting (together with the relevant papers for consideration), and except confidential items, the agenda will also be uploaded onto the Board's website for public information on the same day. Members and the public will be notified of any subsequent change to the agenda of the meeting as soon as practicable.

3.3 For meeting arrangements during rainstorm warning or when a typhoon signal is hoisted, Members should refer to **Appendix VII**. Since most of the Board's duties, such as consideration of representations to draft plans and planning applications, are bound by their respective statutory time limits, special meetings may need to be arranged in case of adjournment/postponement of meetings due to rainstorm or typhoon. Members will be notified of any special arrangement as soon as practicable and a notice of the re-scheduled meeting will also be uploaded onto the Board's website for public information.

### **Quorum of meeting**

3.4 Under the Ordinance, five Members, one of whom must be the Chairman or Vice-Chairman, shall form a quorum at any meeting of the Board or the PC, and at any meeting of the PC, three of the Members must be non-official Members.

3.5 At any meeting of the RHC, the chairman or deputy chairman and two members shall form a quorum, and the RHC shall not meet or continue to meet unless a majority of those present are not official Members.

### **Open Meeting Requirements**

3.6 According to section 2C of the Ordinance, all meetings of the Board or any of its committees shall be open to the public except for the following circumstances:

- (a) for meetings to consider representations, comments and further representations made in the plan-making process, section 12A/16/16A applications and section 17 reviews, the part of the meetings held for deliberation for making a decision on the matter will be conducted in private;
- (b) for meetings other than those mentioned in (a), in the opinion of the Board or the committees, it is likely that the opening up of a meeting or any part of a meeting would:

- (i) not be in the public interest, e.g. matters related to invocation of section 4(2) of the Ordinance for resumption of land;
- (ii) result in premature release of information that would prejudice the position of the Board or the committees, the Government, the CE or the CE in C in carrying out its or his functions under the Ordinance;

Example: the preparation of Development Permission Area plan, new OZPs or amendments to OZPs involving sensitive issues like imposition of plot ratio or building height control, new or revision to planning documents published by the Board involving a major change in planning control (e.g. TPB Guidelines, Master Schedule of Notes to Statutory Plans), legislative proposal (fees regulation), reports in respect of planning strategies/studies or feasibility studies, or proposals/reports concerning a major change in planning and land policies/control not yet released to the public;

- (iii) result in a disclosure of information in breach of any duty of confidentiality owed to any person by the Board or the committees or the Government, or owed to the Government by the Board or the committees 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 law or any requirement under any law;

Example: “confidential” information possessed by or given to the Board or the committees for which the Board or the committees has an obligation to keep confidence. It may include unpublished documents relating to URA proposed development schemes, proposals on tendering of development projects with private sector involvement.

- (iv) result in disclosure of information in respect of which a claim to legal professional privilege could be maintained in law; and

Example: the legal advice tendered to the Board, the committees or the Government.

- (v) involve transaction of any matters which would be relevant to the institution or conduct of any legal proceedings, including possible judicial review.

Example: judicial review initiated by or against the Board, the committees or the Government, enforcement and prosecution actions against unauthorised developments taken by the Planning Authority in accordance with the Ordinance.

3.7 The matters specified in paragraphs 3.6(b) above will generally be classified as “confidential” and the relevant papers and information should not be disclosed to the public.

3.8 The open meeting arrangements are not applicable to the consideration of objections to a draft plan which was exhibited before the commencement of the Town Planning (Amendment) Ordinance 2004 (i.e. before 10 June 2005), the consideration of section 16



applications and rezoning requests made to the Board before such date, and the consideration of section 17 reviews concerning section 16 applications made to the Board before such date. The meetings for consideration of these cases will be conducted in private.

### **Observation of Open Meeting by the Public**

3.9 Due to seating and security considerations, members of the public will observe the meeting of the Board or the committees in a Public Viewing Room. The proceedings of the Board or the committees will be broadcasted simultaneously on television monitors. The broadcasting will be temporarily suspended for the part of the meeting to be conducted in private and be resumed when the meeting reverts to open session. A note on the “Rules for Observation of Open Meetings of the Town Planning Board and its Committees” has been promulgated by the Board for public information.

### **Conduct of Meetings**

3.10 The Chairman of the meeting may determine whether the meeting should be conducted in Cantonese or English, taking into account the preference of the attendees. Simultaneous interpretation service will be provided for all meetings of the Board and its committees.

3.11 In the consideration of general planning matters, new plans, proposed amendments to draft or approved plans, representatives of the Planning Department and other concerned Government departments or bodies may be invited to attend the meetings of the Board or its committees to brief Members on the background of the subject matters, present the assessment and answer Members’ queries. Such meetings will generally be held in open, except for the circumstances mentioned in paragraphs 3.6(b) above.

3.12 Consideration of section 16 and section 16A applications (where appropriate) will be conducted in two parts. The first part is conducted in open when the representatives of the Planning Department and other concerned Government departments are invited to brief Members on the background of the subject matters, present the planning assessment and answer Members’ queries. In the second part of the meeting, the Board or its committees will deliberate for making a decision on the application in private.

3.13 Similarly, the meetings for hearing of representations, comments on representations and further representations made in respect of draft plans, consideration of section 12A applications, and hearing of section 17 reviews will be divided into two parts. The first part of the meeting will be held in open when the representers/commenters/further representers or applicants are invited to attend the meeting to present their views before the Board or the committees and respond to queries raised by Members. The representatives of the Planning Department and relevant Government departments are also invited to attend the meeting to provide information on the cases, elaborate on the assessment and answer questions from Members on the case. After hearing of the views of the concerned parties, they will leave the meeting. The Board will then deliberate and make a decision in private in the second part of the meeting.

3.14 The detailed meeting arrangements are contained in Parts V, VI, VII and VIII below.

## **Decision Making Process of the Board and its Committees**

3.15 The Board and its committees operate on a majority ruling basis. Votes would not normally be taken unless Members' views on an item that requires the ruling of the Board or the committees are clearly divided.

3.16 The Chairman would decide whether a vote would be necessary to determine an item under consideration after considering Members' views. All official and non-official Members, other than those who have declared interests in the item, shall have a right to vote. Members should themselves judge whether they are in a position to vote, and if not, they may abstain from voting. Generally, Members who have not attended a substantial part of the discussion of the item, or do not have full knowledge of the case, should themselves refrain from discussion and voting on the item. In case the decision of an item is adjourned to a later meeting, Members who have not attended the earlier discussion should not take part in the discussion and voting at a later meeting unless they consider themselves have attained full knowledge of the case by reading all relevant materials including the papers and minutes of the previous meeting. Voting would normally be conducted by means of a show of hands. Dissenting views could be recorded in the relevant minutes upon request. In case of an equal number of votes for and against the item, the Chairman shall have a casting vote.

3.17 The key points of discussion and decision of a meeting would be recorded in the relevant minutes of meeting to serve as official records of the meeting. The minutes are not recorded in verbatim. Besides, the name of non-official Members would not be recorded in the minutes as the Board operates under a collective responsibility system and the decision of a meeting is the collective decision of Members.

## **Issue of Paper**

3.18 The relevant Papers for discussion at a meeting are normally despatched to Members by the Secy/Board at least four days before the meeting. In order to allow the public to better understand the subject matter under discussion when observing the meeting, the Papers to be discussed, except those classified as "confidential", are available for public inspection at the Planning Enquiry Counters of the Planning Department on the following day after the issue of the Papers to Members. The Papers will also be available at the Public Viewing Room on the day of the meeting. A bilingual gist of the planning application or representation/further representation in both Chinese and English will be available for reference by the public.

3.19 On some occasions, urgent items or supplementary information may be received after the issue of the agenda/Papers. Such information will be issued to Members as soon as practicable or, if it is not possible to do so, it will be tabled at the meeting. The information (except for confidential item) will also be made available for public inspection as soon as practicable at the Planning Enquiry Counters of the Planning Department and deposited at the Public Viewing Room on the day of the meeting.

## **Issue of Minutes**

3.20 Draft minutes of meeting of the Board or its committees are normally despatched to Members for comments within 12 days after the meeting is held and are usually confirmed at the

next scheduled meeting. Upon confirmation of the minutes, the minutes, except those parts classified as “confidential”, will be uploaded onto the Board’s website and deposited at the Planning Enquiry Counters of the Planning Department for public information. The Secy/Board will inform the representers/commenters/further representers in respect of the draft plan, and applicants in respect of the various planning applications, of the decisions of the Board or the committees and to provide them with the minutes of meeting. The public who has submitted comments on the various planning applications will be informed of the meeting date and that the minutes of meeting are available for public inspection at the Board’s website and the Planning Enquiry Counters of the Planning Department.

3.21 Minutes of meeting of the Board or its committees which are classified as “confidential” should not be released to other parties in any form or method unless with the consent of the Board or the committees.

### **Notification of Decision**

3.22 A gist of decision of the Board or the committees will be uploaded onto the Board’s website and deposited at the Planning Enquiry Counters of the Planning Department after the meeting on the same day. However, if the meeting of the Board or the committees cannot be finished before 9:00 p.m., the gist of decision will be uploaded onto the Board’s website before 9:00 a.m. on the following day. If the relevant parties request for an immediate notification on the decision, an informal reply on the result could be conveyed verbally to the concerned parties by the Secy/Board, with the advice that it will be subject to subsequent written confirmation. Request for an interim written reply may also be made to the Secy/Board in writing. The Secy/Board will formally notify the concerned parties in writing only upon confirmation of the minutes of the meeting.

3.23 All letters sent to the applicants, representers, commenters or further representers will be written in the same language they used. If an application which is submitted in Chinese is rejected, the Chinese translation of the relevant Paper and extract of minutes of meeting will be issued to the applicant to enable him to consider whether to lodge a review of the application. Similar arrangement will be made for processing representations/comments on representations/further representations.

### **Transaction of Business by Circulation of Papers**

3.24 According to section 2B of the Ordinance, the Board or its committees may transact any of its business by the circulation of papers (could be via electronic means) among its Members, no matter whether the Member is in or outside Hong Kong, unless the holding of a meeting is required either by an express provision or by necessary implication from any provision of the Ordinance. In general, a meeting is required to be held to consider and decide on:

- (a) representations in respect of a draft plan and related comments and further representations in respect of proposed amendments made by the Board after consideration of the representations; and
- (b) sections 12A and 16 applications, section 17 reviews, and the related comments on such applications/reviews.

3.25 Any resolution in writing approved by a majority of the Members of the Board or the committees by circulation shall be valid and effectual as if it had been a resolution passed at a meeting of the Board or the committees. However, upon receipt of the circulation, any Member may, within the specified period, give a notice to the Chairman of the Board or the committees and request the holding of a meeting to consider the matter. Upon receipt of such a notice, a meeting will be arranged to discuss the relevant matter. The resolution approved by the Board or the committees by circulation will also be uploaded on the Board's website.

## **PART IV - RELEASE OF INFORMATION TO THE GENERAL PUBLIC**

### **General Principles and Practice**

4.1 To enhance the transparency of the planning system and encourage greater public participation in the process, there are provisions in the Ordinance for publication of draft plans for public inspection and submission of representations, representations to draft plans for comments, proposed amendments for further representations in the plan-making process, and publication of all planning applications (except applications for Class B amendments made under section 16A(2)) and reviews for public comments. All information submitted to the Board by the applicants/representers/commenters/further representers and all comments submitted by the public on the various planning applications will be made available for public inspection. However, to avoid possible abuse of the system, only the name but not other personal data submitted to the Board will be released for public information.

4.2 All new draft plans or amendments to draft or approved plans will be exhibited for public inspection for two months. Representations received during the plan exhibition period and comments received within the first three weeks of the public inspection period of the representations will be made available for public inspection at the Planning Enquiry Counters of the Planning Department. Should the Board decide to propose amendments to meet the representations, the proposed amendments will be published for public inspection for three weeks. Further representation received during the plan exhibition will also be available for public inspection. All information will be available for public inspection until the CE in C has made a decision in respect of the draft plan in question. The public can make a copy of the representation, comment, and further representation on payment of a fee.

4.3 Similarly, planning applications made under sections 12A and 16 and section 17 reviews will be made available for public inspection at the Planning Enquiry Counters of the Planning Department. Comments received within the first three weeks of the public inspection period of the applications will also be made available for public inspection. All information will be available for public inspection until the application has been considered by the Board. The public can make a copy of the applications and comments on payment of a fee.

### **Publication Arrangement**

4.4 A notice will be published in the Gazette and two daily Chinese and one daily English local newspapers on all new draft plans or amendments to draft or approved plans, proposed amendments to plan to meet representations, approval or refusal of plans by the CE in C, revocation or reference by the CE in C of an approved plan to the Board for replacement or amendment.

4.5 In respect of planning applications made under sections 12A and 16 and 17 reviews, a notice will be published in two daily Chinese and one daily English local newspapers and posted on or near the application site (in so far as local circumstances permit). The Board has also adopted a number of administrative measures to further enhance the release of information to the general public. The notice and a gist of the application or representation will be posted or deposited at the Secretariat of the Board, the Planning Enquiry Counters and the relevant District Planning Office of the Planning Department, the local community centre in the vicinity of the application site, the relevant District Office and

Rural Committee (if applicable) to inform the public of the deadline for submission and the arrangement for public inspection of the submission received by the Board.

4.6 To enhance communication between the Board and members of the public, the Board's website provides general information relating to the work of the Board as well as the following specific information:

- the latest news/press release relating to the business of the Board
- the composition and functions of the Board and its committees
- the Board's Procedure and Practice including house rules for observation of open meetings
- schedule of meeting, agenda of meeting, gist of decision and minutes of meeting (except for those classified as "confidential")
- statutory plans, definition of terms and master schedule of notes
- notice of publication of draft or approved plan and proposed amendments to meet representations
- notice of representations/further representations together with a gist of the representations/further representations
- notice of publication of various planning applications together with a gist of the applications for comments
- progress of consideration of representations/comments on representations/further representations and various planning applications
- application forms and guidance notes for applications
- submission forms for representations/comments on representations/further representations
- TPB Guidelines and other guidance notes

### **Notification of Decision**

4.7 Pending the formal notification of the decision of the Board or its committees, the applicant/representer/commenter/further representer may request for an immediate notification of the decision. An informal reply on the result could be conveyed verbally by the Secy/Board, with the advice that it will be subject to subsequent written confirmation, after the meeting. Request for an interim written reply may also be made to the Secy/Board in writing. The Secy/Board will formally notify the concerned parties in writing only upon confirmation of the minutes of meeting.

4.8 After each meeting, a spokesman appointed by the Secy/Board will be available to answer enquiries from the press/media on the decisions of the Board or its committees. Individual Member shall refer any request from the general public for information on the decisions of the Board or the committees to the Secy/Board for a reply. For issues of considerable public interest, the Secy/Board will issue a press release or arrange a press briefing/conference to promulgate the Board's or the committees' decisions.

### **Transitional Arrangement**

4.9 Other than the information provided on the Board's website and available at the Planning Enquiry Counters, all documents submitted by the applicants/objectors/proponents in respect of planning applications/objections/requests for amendment of plan prior to the

commencement of the Town Planning (Amendment) Ordinance 2004 (i.e. before 10 June 2005) will not be released for public inspection unless with the consent of the applicants/objectors/proponents. They will only be released when ordered by the Appeal Board under s.17B(6)(a) of the Ordinance or by the Court.

## **PART V - REPRESENTATIONS/FURTHER REPRESENTATIONS TO STATUTORY PLANS**

### **Consideration of Representation/Comment on Representation/Further Representation**

5.1 According to section 6 of the Ordinance, any person may make representation to the Board within the plan exhibition of two months in respect of any new draft plan or any amendments to draft/approved plan (hereafter referred to as “the draft plan”). Upon expiry of the plan exhibition period, the Board shall publish all representations received for a period of three weeks. Any person may make comments on the representations to the Board. All representations and comments received will be made available for public inspection. Detailed arrangements for making submissions to the Board are provided in the TPB Guidelines on Submission and Publication of Representation, Comment on Representation and Further Representation.

5.2 The Board or RHC shall hold a meeting (hereafter referred to as “hearing”) to consider the representations and comments within six to nine weeks after the expiry of the three-week period for submission of comments on the representations. The representers and commenters will be invited to attend the hearing. The Board will decide whether to propose amendments to the draft plan in the manner proposed by the representers or in other manner as considered appropriate by the Board in meeting the representations.

5.3 If the Board/RHC decides to propose amendments to the draft plan after the hearing, the proposed amendments will be published for three weeks. Any person, other than the representers and commenters relating to the proposed amendments, may make further representations to the Board. All further representations received will be made available for public inspection. If any further representation made to the Board is in opposition to the proposed amendments, the Board/RHC shall hold another hearing (hereafter referred to as “further hearing”) to consider the further representations within six to nine weeks after the expiry of the three-week period. All the representers, commenters and further representers in respect of the proposed amendments will be invited to attend the further hearing. After the further hearing, the Board will decide whether to amend the draft plan either by the proposed amendments or by the proposed amendments as further varied in such manner as considered appropriate by the Board. If no further representation or no opposing further representation is received, no further hearing will be held. The Board/RHC will hold a meeting to consider any supportive further representation and amend the draft plan by the proposed amendments. The amendments made to the draft plan shall be available for public inspection until the CE in C has made a decision on the draft plan.

5.4 After completion of the consideration of representations/comments on representations/further representations, the Board shall submit the draft plan incorporating the amendments made by the Board to meet the representations to the CE in C for approval within nine months from the expiry of the plan exhibition period (or within a further period of six months granted by the CE).

### **Notification of the Arrangement of the Hearing/Further Hearing**

5.5 The Secy/Board will acknowledge receipt of a representation and inform the representer that the representation will be published for public comments. Upon the expiry of



the three-week period for making comments on the representations, the Secy/Board will inform the representer and commenter, if any, of the tentative date of the hearing. Seven days before the hearing, the representer/commenter will receive the agenda for the hearing and a copy of the relevant Paper.

5.6 The Secy/Board will make similar arrangement for further hearing. Upon receipt of a further representation, if a further hearing needs to be held by the Board/RHC, the Secy/Board will inform the representer/commenter/further representer of the tentative date of the further hearing. Seven days before the further hearing, the representer/commenter/further representer will receive the agenda for the further hearing and a copy of the relevant Paper.

### **Proceedings of Hearing/Further Hearing**

5.7 According to the Ordinance, any representations/further representations received by the Board may be heard collectively or individually. The Board or the RHC, whichever is the case, will decide whether the representations/further representations should be heard collectively or individually. Normally, if the representations/further representations are submitted in respect of the zoning of the same site(s) or the same provision on the draft plan, the representations/further representations will be heard collectively. If the representations/further representations are submitted in the form of the same standard letters or by different representatives of the same group of representers/further representers (e.g. Village Representatives of the same Rural Committee), the representations/further representations will also be heard collectively and the representers/further representers should appoint a spokesman or representative to present their case collectively.

5.8 In general, the proceedings of a hearing/further hearing are as follows:

- (a) the various parties will be invited to attend the hearing in accordance with the agenda:
  - (i) for collective hearing/further hearing, all the representers/further representers and the related commenter(s) in case of hearing and the related representer(s) and commenter(s) in case of further hearing as well as the representatives of the Planning Department and other Government departments, if any, will be invited to attend the hearing/further hearing at the same time; or
  - (ii) for individual hearing, the individual representer/further representer and the related commenter(s) in the case of hearing and the related representer(s) and commenters(s) in case of further hearing as well as the representatives of the Planning Department and other Government departments, if any, will be invited to attend the hearing/further hearing when the Board/RHC turns to consider the particular representation/further representation;
- (b) in the presence of all parties, the chairman of the meeting will briefly explain the procedures for the hearing/further hearing;
- (c) the chairman will invite the representative of the Planning Department and/or other Government department(s) to present the background to the

case;

- (d) the chairman will then invite the various parties to make submissions in turn,
  - (i) for collective hearing/further hearing, the representers or further representers, as the case may be, will be invited to make submissions according to their groupings. In case of hearing, following the presentation by the representers, the commenters will be invited to take turns to make submissions. In case of further hearing, after the presentation by the further representers, the representers will be invited to make submissions in turn, and then followed by the commenters; and
  - (ii) in case of individual hearing/further hearing, the representer/further representer will be invited to make submission first, followed by the commenter(s) in case of hearing, or the representer(s) and then commenter(s) in case of further hearing;
- (f) to avoid a prolonged hearing process, the representers/commenters/further representers will be asked not to repeat the same points or argument which have already been raised by other representers/commenters/further representers at the same hearing/further hearing;
- (g) the chairman will then invite the representatives of the Planning Department and other Government departments, if any, and the representers/commenters/further representers to answer any questions from Members;
- (h) should the representative(s) of the Planning Department and other Government departments, if any, wish to respond to statements made by the representers/commenters/further representers or to clarify any of their own statements, they should do so with the permission of the chairman and in the presence of the representers/commenters/further representers. The representers/commenters/further representers will also have an opportunity to respond to statements made by Government representatives as directed by the chairman; and
- (i) the representatives of the Planning Department and other Government departments, if any, and representers/commenters/further representers will then leave the meeting. The Board/RHC will deliberate on the representations/further representations in private.

## **Minutes of Meeting**

5.9 The draft minutes of a meeting of the Board are normally confirmed at the following scheduled meeting. The draft minutes of a meeting of the RHC are normally confirmed by circulation among the Members within two weeks after the meeting. The confirmed minutes of the meeting of the RHC will be circulated to all Members of the Board for information.

### **Confirmation of Attendance at the Hearing/Further Hearing**

5.10 Any delay of a hearing/further hearing will have significant implications on meeting the statutory nine-month time limit. The Secy/Board will ensure that reasonable notice is given to the representers/commenters/further representers of the hearing/further hearing date (normally four weeks in advance). The representers/commenters/further representers will be required to confirm attendance to the meeting within two weeks.

5.11 If any one of the representers/ commenters/further representers indicates that he/she could not attend the meeting as scheduled and seeks a deferment of the hearing/further hearing, good justifications have to be given. Since any deferment will have implications on meeting the time-limit for submission of the draft plan to the CE in C for approval and may affect other parties involved in the hearing/further hearing, a request for deferment would not normally be entertained unless with the consent of other concerned parties and there are very strong grounds to do so. If it is absolutely unavoidable, the Board/RHC may only adjourn the hearing/further hearing for a period up to a maximum of four weeks, taking into account all relevant considerations and circumstances of the case. The decision on whether to defer or not would be made by the Board or the RHC, as the case may be. If the request is not acceptable, the hearing/further hearing will proceed as scheduled. If any one of the representers/commenters/further representers fails to attend the hearing/further hearing, the Board/RHC may proceed to hold the hearing/further hearing in his/her absence.

### **Out-of-time Representation/Comment/Further representation**

5.12 Representations, comments on representations and further representations are required to be submitted to the Board within their relevant statutory time limits. All submissions made to the Board after the expiry of the time limits shall be treated as not having been made under the Ordinance.

### **Further Information Submitted to the Board**

5.13 There is no provision under the Ordinance for the Board to accept any further information submitted by the representers/commenters/further representers after the expiry of the relevant statutory time limits.

### **Withdrawal of Representation/Comment/Further Representation**

5.14 A representer/commenter may withdraw his/her representation/comment before the hearing by notifying the Board in writing. The withdrawn representation/comment shall thereafter be treated as not having been made and will not be considered by the Board/RHC. If a representation is withdrawn, its related comment(s) shall also be treated as not having been made. Upon receiving the notice of withdrawal, the Secy/Board will inform the relevant representer(s)/commenter(s) accordingly.

5.15 Similarly, a further representer may withdraw his/her further representation before the further hearing by notifying the Board in writing. The withdrawn further representation shall thereafter be treated as not having been made and will not be considered by the Board/RHC. Upon receiving the notice of withdrawal, the Secy/Board will inform

the relevant representer(s)/commenter(s)/further representer(s) accordingly.

## **PART VI – APPLICATIONS FOR AMENDMENT OF PLAN**

### **Consideration of Application for Amendment of Plan**

6.1 Under section 12A of the Ordinance, any person may make an application for amendment of plan except for matters relating to a new draft plan, or any amendment to a draft plan or an approved plan, which has not yet been approved by the CE in C. All section 12A applications are normally considered by the respective PC and shall be considered within 3 months from the date of receipt of the application. In considering a section 12A application, the Board/PC should make reference to Government departments' views, and have regard to public comments received during the first three weeks of the public inspection period of the application.

6.2. On receipt of a section 12A application, the Secy/Board will acknowledge receipt of the application and inform the applicant of the tentative date of the meeting for consideration of the application. The applicant may attend before the PC and be heard. The Secy/Board will ensure that reasonable notice is given to the applicant of the hearing date (normally four weeks in advance). The applicant will be required to confirm attendance to the hearing within two weeks. Seven days before the hearing, the applicant will receive the agenda for the hearing and a copy of the relevant Paper.

### **Proceedings of Hearing**

6.3 In general, the proceedings of hearing section 12A application are as follows:

- (a) the applicant as well as the representatives of the Planning Department and other Government departments, if any, will be invited to the meeting at the same time when the Board/PC considers the application;
- (b) the chairman of the meeting will briefly explain the hearing procedures;
- (c) the chairman will then invite the representative of the Planning Department and/or other Government department(s) to present the background of the application;
- (d) the applicant will then be invited to elaborate on the application;
- (e) the chairman will then invite the representatives of the Planning Department and other Government departments, if any, and the applicant to answer any questions from Members;
- (f) should the representative(s) of the Planning Department and other Government departments, if any, wish to respond to statements made by the applicant or to clarify any of their own statements, they should do so with the permission of the chairman and in the presence of the applicant. The applicant would also have an opportunity to respond to statements made by Government representatives as directed by the chairman; and
- (g) the representatives of the Planning Department and other Government

departments, if any, and the applicant will then leave the meeting. The Board/PC will deliberate on the application in private.

### **Submission of Further Information**

6.4 Further information may be submitted by the applicant before the application is considered by the Board/PC. The Secy/Board will decide if such further information can be accepted for inclusion into the application. Further information which will result in a material change of the nature of the application will not be accepted. Further information accepted for inclusion into the application by the Secy/Board will be made available for public inspection. Unless exempted by the Secy/Board, such further information will be published for three weeks for public comments. The Secy/Board will re-arrange a date for the Board/PC meeting, which shall be not more than three months from the date of receipt of the further information. If the further information submitted is exempted from the publication requirement, then the original date of the Board/PC meeting will be adhered to. Details on the submission of further information are contained in the TPB Guidelines on Submission of Further Information in relation to Applications for Amendment of Plan, Planning Permission, and Review made under the Town Planning Ordinance.

### **Adjournment of Hearing/Request for Deferment**

6.5 If the applicant fails to attend the meeting, the Board/PC may proceed with the meeting in his/her absence or, if appropriate, adjourn the meeting to another date. On some occasions, the applicant may request for a deferment of the hearing. According to the TPB Guidelines for Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance, each request for deferment will be considered on its merits. In considering a request for deferment, the Board will take into account all relevant factors and whether the right or interest of other concerned parties will be affected and may specify a maximum deferment period as it deems appropriate. Normally, if there are reasonable grounds for the deferment, the applicant or relevant parties will be given two months for preparation of submission of further information (if required). The case will then be re-submitted to the Board/PC for consideration within three months upon receipt of the further information.

6.6 If the applicant has reasonable grounds to support his request and informs the Secy/Board in advance before the issue of agenda and the relevant Paper, a Paper will be prepared by the Planning Department to seek the Board's/PC's agreement to the request. However, if the request is received after the issue of the agenda and relevant Paper, the representative of the Planning Department will report the case at the scheduled meeting. For request for deferment without reasonable ground, it will be submitted together with the relevant paper on the application to the Board/PC for consideration, regardless whether the request is received before or after the issue of agenda. Should the Board/PC consider that a deferment is not warranted, it may proceed to make a decision on the application or adjourn the meeting for consideration of the application to the next scheduled meeting. For the latter case, the applicant will be invited to attend the next scheduled meeting.

**Decision of the Board/PC**

6.7 The Board/PC may accept an application for amendment of plan in whole or in part or refuse the application. There is no right of review or appeal against the Board's/PC's decision on the application under the Ordinance. Should the Board accept in whole or in part an application, the Board will incorporate the accepted proposal into the relevant plan. The relevant draft plan incorporating the amendments shall be exhibited for public inspection in accordance with the provisions of the Ordinance, and the amendments shall be subject to the statutory procedures under section 6 and 6A to 6H of the Ordinance.

## **PART VII- APPLICATIONS FOR PERMISSION AND AMENDMENT TO PERMISSION**

### **Consideration of Application for Permission under Section 16**

7.1 All s.16 applications are normally considered by the respective PC and shall be considered within two months from the date of receipt of the application. In considering a section 16 application, the Board/PC will make reference to Government departments' views, and have regard to public comments received during the first three weeks of the public inspection period of the application.

7.2 On receipt of a section 16 application, the Secy/Board will acknowledge receipt of the application and inform the applicant of the tentative date of the meeting for consideration of the application.

### **Submission of Further Information to supplement a Section 16 Application**

7.3 Further information may be submitted by the applicant before the application is considered by the Board/PC. The Secy/Board will decide if such further information can be accepted for inclusion into the application. Further information which will result in a material change of the nature of the application will not be accepted. Further information accepted for inclusion into the application by the Secy/Board will be made available for public inspection. Unless exempted by the Secy/Board, such further information will be published for three weeks for public comments. The Secy/Board will re-schedule the meeting for consideration of the application. The meeting date shall be within two months of the date of receipt of the further information. If the further information submitted is exempted from the publication requirement, then the original date of the Board/PC meeting will be adhered to. Details on the submission of further information are contained in the TPB Guidelines on Submission of Further Information in relation to Applications for Amendment of Plan, Planning Permission, and Review made under the Town Planning Ordinance.

### **Request for Deferment of Decision on a Section 16 Application**

7.4 On some occasions, an applicant may request for a deferment of decision on the application. According to the TPB Guidelines for Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance, each request for deferment will be considered on its merits. In considering a request for deferment, the Board will take into account all relevant factors and whether the right or interest of other concerned parties will be affected and may specify a maximum deferment period as it deems appropriate. Normally, if there are reasonable grounds for the deferment, the applicant or relevant parties will be given two months for preparation of submission of further information (if required). The case will then be re-submitted to the Board/PC for consideration within two months upon receipt of the further information.

7.5 If the applicant has reasonable grounds to support his request and informs the Secy/Board in advance before the issue of agenda and the relevant Paper, a Paper will be prepared by the Planning Department to seek the Board's/PC's agreement to the request.



However, if the request is received after the issue of the agenda and relevant Paper, the representative of the Planning Department will report the case at the scheduled meeting. For request for deferment without reasonable ground, it will be submitted together with the relevant Paper on the application to the Board/PC for consideration, regardless whether the request is received before or after the issue of agenda. Should the Board/PC consider that a deferment is not warranted, it may proceed to make a decision on the application.

### **Consideration of Application for Amendment to Permission under Section 16A**

7.6 The applicant to whom a section 16 permission has been granted for a development proposal may apply for amendments to the approved development proposal under section 16A of the Ordinance. The Board has published, in the form of a Gazette Notice, a list of Class A and Class B amendments. Permission from the Board is not required for changes falling within Class A amendments. Class B amendments are however subject to the approval of the Board upon application made under section 16A(2). Details on the amendments to approved development proposals are contained in TPB Guidelines on Class A and Class B Amendments to Approved Development Proposals.

7.7 An application for Class B amendments may be considered by the Director of Planning or Deputy Director of Planning and Assistant Directors of Planning in the District Planning Branch of the Planning Department under the delegated authority of the Board. However, if an application is considered unacceptable by the concerned Government departments, it will be submitted to the Board/PC for consideration. An applicant for Class B amendments will normally be informed of the decision by the delegated authority of the Board within six weeks. For those cases which are to be submitted to the Board/PC, they will be considered by the Board/PC within two months from the date of receipt of the applications.

### **Decision of the Board/PC**

7.8 The Board/PC may approve, with or without condition(s), or refuse to approve an application made under section 16 or 16A. The applicant will be notified in writing of the Board's/PC's decision, including the approval conditions, if any, or the reasons for refusing the application. If the applicant is aggrieved by the decision of the Board/PC, he/she may, within 21 days of being formally notified of the decision, apply in writing to the Secy/Board for a review of the Board's/PC's decision under section 17 of the Ordinance.

## **PART VIII - REVIEW OF PLANNING APPLICATIONS**

### **Review of Decisions Made under Section 16 or 16A**

8.1 Where an application made under section 16 or 16A has been approved with conditions or refused, the applicant may apply for a review of the Board's/PC's decision under section 17 of the Ordinance. All section 17 reviews shall be considered by the Board within three months from the date of receipt of the review applications. In considering a section 17 review, the Board will make reference to Government departments' views. In respect of a section 17 review of decision made under section 16, the Board will also have regard to public comments received during the first three weeks of the public inspection period of the review application.

8.2 On receipt of an application for a section 17 review, the Secy/Board will acknowledge receipt of the review application and inform the applicant of the tentative date of the hearing for the review. The applicant may attend before the Board and be heard. The Secy/Board will ensure that reasonable notice is given to the applicant of the hearing date (normally four weeks in advance). The applicant will be required to confirm attendance to the hearing within two weeks. Seven days before the hearing, the applicant will receive the agenda for the hearing and a copy of the relevant Paper.

8.3 In considering a review, the Board will only consider the original application in the light of any further written and/or oral representations. A revised development proposal materially different from the original proposal would not be considered and must be re-submitted in the form of a fresh s.16 application.

### **Proceedings of Review Hearing**

8.4 The Ordinance has not specified the steps and manner for conducting the review of planning applications. The following procedure has been adopted:-

- (a) the applicant as well as the representatives of the Planning Department and other Government departments, if any, will be invited to the meeting at the same time;
- (b) the chairman of the meeting will briefly explain the review hearing procedure;
- (c) the chairman will then invite the representative of the Planning Department to present the background of the application;
- (d) the applicant will then be invited to elaborate on the case;
- (e) the chairman will then invite the representatives of the Planning Department and other Government departments, if any, and the applicant to answer any questions from Members;
- (f) should the representatives of Government departments wish to respond to statements made by the applicant or to clarify their own statements, they

should do so with the permission of the chairman and in the presence of the applicant. The applicant would also have an opportunity to respond to statements made by Government representatives as directed by the chairman; and

- (g) the representatives of the Planning Department and other Government departments, if any, and the applicant will then leave the meeting. The Board will deliberate on the review application in private.

### **Submission of Further Information**

8.5 Further information may be submitted by the applicant before the review hearing. The Secy/Board will decide if such further information can be accepted for inclusion into the application. Further information which will result in a material change of the nature of the application will not be accepted. Further information accepted for inclusion into the application by the Secy/Board will be made available for public inspection. In respect of a review of decision made under section 16, unless exempted by the Secy/Board, the further information will be published for three weeks for public comments. The Secy/Board will re-arrange a date for the hearing, which shall be not more than three months from the date of receipt of the further information. If the further information submitted is exempted from the publication requirement, then the original date of the hearing will be adhered to. Details on the submission of further information are contained in the TPB Guidelines on Submission of Further Information in relation to Applications for Amendment of Plan, Planning Permission, and Review made under the Town Planning Ordinance.

### **Adjournment of Hearing/Request for Deferment**

8.6 If the applicant fails to attend the hearing, the Board may proceed with the consideration of the review in his/her absence or, if appropriate, adjourn the hearing to another date. On some occasions, the applicant may request for a deferment of the hearing. According to the TPB Guidelines for Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance, each request for deferment will be considered on its merit. In considering a request for deferment, the Board will take into account all relevant factors and whether the right or interest of other concerned parties will be affected and may specify a maximum deferment period as it deems appropriate. Normally, if there are reasonable grounds for the deferment, the applicant or relevant parties will be given two months for preparation of submission of further information (if required). The case will then be re-submitted to the Board for consideration within three months upon receipt of the further information.

8.7 If the applicant has reasonable grounds to support his request and informs the Secy/Board in advance before the issue of agenda and the relevant Paper, a Paper will be prepared by the Planning Department to seek the Board's agreement to the request. However, if the request is received after the issue of the agenda and relevant Paper, the representative of the Planning Department will report the case at the scheduled meeting. For request for deferment without reasonable ground, it will be submitted together with the relevant Paper on the application to the Board for consideration, regardless whether the request is received before or after the issue of agenda. Should the Board consider that a deferment is not warranted, it may proceed to make a decision on the review or adjourn the review hearing to the

next scheduled meeting. For the latter case, the applicant will be invited to attend the next scheduled meeting.

### **Decision of the Board**

8.8 Upon review of a decision of the Board/PC, the Board may approve with or without condition(s), or refuse to approve the application. The applicant will be notified in writing of the Board's decision, including the approval conditions, if any, or the reasons for refusing the application. If the applicant is aggrieved by the decision of the Board, he/she may, within 60 days of being formally notified of the decision, lodge an appeal by completing the form for Notice of Appeal under section 17B which may be obtained from the Secretary, Town Planning Appeal Board at 17/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong. The completed form should be submitted to the Secretary, Town Planning Appeal Board and copied to the Secy/Board.

**TOWN PLANNING BOARD  
MAY 2014**