

# APPLICATION FOR AMENDMENT OF PLAN UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE (CAP. 131)

## GUIDANCE NOTES

### INTRODUCTION

- 1 The following notes give information and guidance on how to apply for amendment of plan under section 12A of the Town Planning Ordinance (the Ordinance). Please read them carefully. For submissions of planning applications via the electronic submission (e-submission) system, reference should also be made to the “Guidance Notes on Electronic Submission for Applications for Amendment of Plan, Permission, Amendment to Permission and Review under Sections 12A, 16, 16A(2) and 17 of the Ordinance (Cap.131) Respectively and the Submission of Further Information” (“Guidance Notes on e-submission”) for specific requirements on e-submission, for example, the relevant form to be used and how to make e-submission.
- 2 If further information or assistance is required, please contact **the Planning Enquiry Counters of the Planning Department (Hotline : 2231 5000) (17/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong and 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories).**

### WHEN AN APPLICATION CAN BE MADE

- 3 Any person who wishes to propose amendments to a statutory plan (the Plan), i.e. an Outline Zoning Plan or a Development Permission Area Plan, may submit an application to the Town Planning Board (the Board) for amendment of the plan under section 12A of the Ordinance. An application can be made in respect of any matter shown on the Plan and the provisions in the Notes of the Plan, except for the following:
  - (a) any matter relating to a new draft plan exhibited under section 5 of the Ordinance which has not yet been approved by the Chief Executive in Council (CE in C) under section 9;
  - (b) any matter relating to the amendment(s) incorporated into a draft plan exhibited pursuant to section 12(3) of the Ordinance and the amendment(s) has not yet been approved by the CE in C; or
  - (c) any matter relating to the amendment(s) incorporated into a draft plan exhibited under section 7 of the Ordinance and the amendment(s) has not yet been approved by the CE in C.
- 4 The exceptions set out above are to ensure that there would not be an overlap of procedures in the plan-making process. When the Board makes a new draft plan or amendments to an approved or draft plan, section 6 of the Ordinance provides that any person may make representation to the new draft plan or the amendments so exhibited. Any proposal to amend a new draft plan or the amendments under exhibition should be submitted as part of the representation in accordance with section 6(2)(a)(iii) of the Ordinance.

- 5 The application for amendment of the plan would be considered by the Board within 3 months of receipt. If the Board agrees to the proposal, the proposed amendment will be incorporated into a draft plan for exhibition in the normal plan-making process.

## WHAT CAN BE APPLIED

- 6 The Plan includes the following:
- (a) the covering Notes which set out the terms and general provisions of the Plan;
  - (b) a set of Notes which sets out for each land use zone the uses or developments that are always permitted (the “Column 1” uses) and those requiring permission from the Board (the “Column 2” uses); and
  - (c) additional restrictions, if any, on uses or developments within a particular land use zone specified under the “Remarks” in the Notes for that particular land use zone.
- 7 An application for amendment of plan may be submitted in respect of the land use zonings on the Plan, the provisions in the covering Notes, the Column 1 and 2 uses for a particular land use zone and/or the planning intentions and development restrictions stipulated in the Notes. If the application is related to a specific site, it may be supported by an indicative development proposal showing the intended development upon amendment of the Plan. The indicative development proposal should be for reference only and not be regarded as an approved development, even if the Board accepts the application in whole or in part.

## PRE-SUBMISSION DISCUSSION

- 8 Prior to the submission of an application, advice could be sought from the respective District Planning Office (DPO) of the Planning Department. If it is considered necessary, pre-submission meeting with the participation of other relevant Government departments could be arranged.

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| Hong Kong DPO                    | 14/F, North Point Government Offices,<br>333 Java Road, North Point, Hong Kong            | (Tel: 2231 4957)<br>(Fax: 2895 3957) |
| Kowloon DPO                      | 14/F, North Point Government Offices,<br>333 Java Road, North Point, Hong Kong            | (Tel: 2231 4979)<br>(Fax: 2894 9502) |
| Tsuen Wan & West<br>Kowloon DPO  | 27/F, Tsuen Wan Government Offices,<br>38 Sai Lau Kok Road, Tsuen Wan, New<br>Territories | (Tel: 2417 6658)<br>(Fax: 2412 5435) |
| Sha Tin, Tai Po & North<br>DPO   | 13/F, Sha Tin Government Offices, 1<br>Sheung Wo Che Road, Sha Tin, New<br>Territories    | (Tel: 2158 6274)<br>(Fax: 2691 2806) |
| Tuen Mun & Yuen Long<br>West DPO | 14/F, Sha Tin Government Offices, 1<br>Sheung Wo Che Road, Sha Tin, New<br>Territories    | (Tel: 2158 6301)<br>(Fax: 2489 9711) |
| Sai Kung & Islands DPO           | 15/F, Sha Tin Government Offices, 1<br>Sheung Wo Che Road, Sha Tin, New<br>Territories    | (Tel: 2158 6177)<br>(Fax: 2367 2976) |

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| Fanling Sheung Shui & Yuen Long East DPO | 13/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories | (Tel.: 2158 6208)<br>(Fax: 2691 2806) |
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## WHERE TO OBTAIN APPLICATION FORM

- 9 An application for amendment of plan should be made in a form, which can be obtained from **the Secretariat of the Board at 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong (Tel: 2231 4810 or 2231 4835) and the Planning Enquiry Counters of the Planning Department (Hotline : 2231 5000)** or downloaded from **the Board's Website (<http://www.info.gov.hk/tpb/>)**. For e-submission, the relevant e-form is available at the Board's website.

## WHO CAN APPLY

- 10 Any person can submit an application for amendment of plan under section 12A of the Ordinance.
- 11 The applicant could appoint an agent to submit an application on his/her behalf. If the application is submitted by an agent, an authorization letter signed by the applicant should be submitted together with the application. It should be noted that it is not a mandatory requirement to engage qualified professionals in making a submission.

## HOW TO COMPLETE THE APPLICATION FORM<sup>1</sup>

- 12 The application form should be typed or completed in block letters, preferably in both English and Chinese. If the space provided on the form is insufficient, please give the details on a separate sheet of paper and make reference to this on the form. A sample of a completed application form is available for reference on the Board's Website.
- 13 **Annex A** lists out the particulars which must be included in an application. If any of these particulars is missing or inconsistent with one another, the Board may refuse to consider the application.

## TOWN PLANNING BOARD GUIDELINES

- 14 A number of guidelines for planning applications have been promulgated by the Board. These guidelines set out the requirements of the Board and may therefore be of assistance to applicants in preparing their applications. The guidelines can be obtained from **the Secretariat of the Board and the Planning Enquiry Counters of the Planning Department**, or downloaded from **the Board's Website**.

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<sup>1</sup> For e-submission, reference should be made to the "Guidance Notes of e-submission" for details.

## **CONSENT OF OR NOTIFICATION TO “CURRENT LAND OWNER”**

- 15** Where an applicant is not the sole “current land owner” of the land/premises to which the application relates, he/she should indicate in the application whether he/she has within a reasonable period (normally 1 year) before making the application obtained the consent of or notified each and every other “current land owner” in respect of the application site/premises, or taken reasonable steps to do so. A “current land owner” means any person whose name is registered in the Land Registry as that of an owner of the land to which the application relates, as at 6 weeks before an application is made. For detailed requirements, please refer to the Town Planning Board Guidelines on Satisfying the Owner’s Consent/Notification Requirements under Sections 12A and 16 of the Town Planning Ordinance.
- 16** A sample format of statement of consent is attached to the said Town Planning Board Guidelines and can be obtained from the Secretariat of the Board and the Planning Enquiry Counters of the Planning Department, or downloaded from the Board’s Website. All consents should be signed by the concerned “current land owners”.
- 17** Instead of obtaining the consent from a “current land owner”, an applicant may notify such owner. The notification should be in the form of a written notification, and preferably sent by registered mail or local recorded delivery mail (e.g. courier service) to the postal address of individual “current land owner” as appeared in the record of the Land Registry (or the company’s office address registered in the Companies Registry if the “current land owner” is a corporate entity), or the relevant postal address of the land/premises under application. A sample format of the notice is attached to the said Town Planning Board Guidelines for reference. The applicant should provide a full record of such notification at the same time when he/she submits the application.
- 18** Apart from obtaining owners’ consent or giving notification, an applicant may demonstrate that reasonable steps as required by the Board have been taken to such effect. The applicant should provide a full record of the steps taken before the application is made at the same time when he/she submits the application.

## **WHAT DOCUMENTS ARE REQUIRED FOR THE SUBMISSION**

- 19** A total of 5 signed original copies of the application form together with 5 copies each of clear and accurate location plans, site plans and other relevant plans/drawings with sufficient information (if applicable) should be submitted in support of the application. However, for coloured plans/drawings or plans/drawings larger than A3 size, 70 copies each should be provided.
- 20** For applications involving any particular use or development that may have implications on the environment, drainage, traffic, infrastructure, landscape and topography, etc., technical assessments on the impacts of the proposed use or development may also be required. Please refer to **Annex B** for further details.

- 21 For application with any supplementary information (SI) such as planning studies and reports on technical assessments, either 70 copies each or a combination of 35 hard copies and 35 soft copies<sup>2</sup> should be submitted. Each report should contain an Executive Summary of not more than 500 words in both English and Chinese. If considered necessary, additional copies of the documents may be required by the Board.
- 22 For each and every lot/premises to which the application relates, the applicant should provide the following documents, if applicable:
  - (a) copy of documentary proof of ownership (e.g. copy of record issued by the Land Registry) if the applicant is the sole or one of the “current land owner(s)”;
  - (b) copy of consent signed by “current land owner”;
  - (c) copy of notification given to “current land owner”.
- 23 Where an application has made any reference to a document (including plans and drawings) of a previous application considered by the Board, sufficient copies of such document should also be submitted together with the application (please refer to paragraph 19 above).
- 24 A completed “Particulars of Applicant and Authorized Agent” and “Checklist of Documents” should be attached.
- 25 All reports and/or documents should preferably use environmentally friendly printing and binding materials such as re-cycled paper and printing should be on both sides.

## **SUBMISSION OF FURTHER INFORMATION**

- 26 It is the duty of the applicant to submit all information of his/her application in time. Otherwise it may result in delay in consideration of the application. However, further information to supplement an application may be submitted to the Board after the application is made and before it is considered by the Board. Such further information should not result in a material change of the nature of the application. If such further information is accepted by the Board, the date of receipt of the application shall be regarded as the date when the further information is received by the Board unless it is considered unnecessary to publish such further information for public comments. Please refer to the Town Planning Board Guidelines on Submission of Further Information in relation to Applications for Amendment of Plan, Planning Permission and Review made under the Town Planning Ordinance.

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<sup>2</sup> Soft copies refer to Compact Disc – Read Only Memory (CD-ROM)/Digital Versatile Disc – Read Only Memory (DVD-ROM). Documents in the disc should be in Adobe Portable Document Format (PDF) and a content page having hyperlinks to reports and chapters in the disc should be provided. Other means of digital storage of data will not be accepted.

## **HOW TO SUBMIT AN APPLICATION<sup>3</sup>**

- 27** Submission should be made either by hand or by post to “**Secretary, Town Planning Board, 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong**”.
- 28** After receiving an application, the Secretary of the Board will acknowledge receipt and inform the applicant the tentative date of meeting at which the application will be considered by the Board.
- 29** The Secretariat of the Board will check the submission and the Board may require the applicant to verify any matters or particulars set out or included in the application by statutory declaration or otherwise. In accordance with section 40(2)(c) of the Interpretation and General Clauses Ordinance (Cap. 1), the Board may withdraw its decision on an application if the applicant is found to have made any false declaration or statement on the application. Any person who knowingly or wilfully makes a false declaration or statement would be liable to prosecution under the Crimes Ordinance (Cap. 200), the Oaths and Declarations Ordinance (Cap. 11) and/or other relevant Ordinances.
- 30** Upon checking, if it is found that an applicant fails to provide the required particulars and/or sufficient copies of documents, the Board may refuse to process his/her application. The date of receipt of an application would be the date when all necessary information and documents are received and checked.

## **PUBLICATION OF APPLICATION FOR COMMENTS**

- 31** The Secretary of the Board will make available SI submitted in an application for public inspection until the application is considered by the Board. The public may make photocopies of the documents upon payment of a fee as the Board determines. Any person may make comments to the Board on the application within the first three weeks of the period during which the application is available for public inspection. All information including the name of the applicant, but excluding other personal data, included in the application (i.e. the application form and any supplementary document) and the comments received by the Board shall be made available for public inspection. For details on publication of planning applications, please refer to the Town Planning Board Guidelines on Publication of Applications for Amendment of Plan, Planning Permission and Review and Submission of Comments on Various Applications under the Town Planning Ordinance.

## **WITHDRAWAL OF AN APPLICATION OR REQUEST FOR DEFERMENT OF DECISION ON AN APPLICATION**

- 32** An applicant may withdraw the submitted application by writing to the Secretary of the Board at any time before the date on which the application is considered by the Board.
- 33** An applicant may also request for deferment of decision on his/her application. A

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<sup>3</sup> For e-submission, reference should be made to the “Guidance Notes of e-submission” for details.

request for deferment should be submitted in writing to the Secretary of the Board before the issue of agenda and the relevant paper (normally seven days before the scheduled date of the meeting). For details, please refer to the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance.

## **RIGHT OF HEARING**

- 34** An applicant and/or his/her authorized representative may attend the meeting at which the Board considers his/her application and be heard by the Board. The applicant will be notified of the date and time of the meeting and provided with a copy of the paper prepared by the Planning Department on the application seven days before the meeting.

## **HOW TO OBTAIN THE RESULT OF AN APPLICATION**

- 35** In accordance with the Ordinance, all applications for amendment of plan will be considered by the Board within three months of their receipt. The applicant will be notified in writing of the Board's decision after confirmation at the next scheduled meeting of the minutes of the meeting at which the decision is made (normally 2 weeks after the meeting).
- 36** Pending written notification of the Board's decision, an applicant may seek verbal advice on the result of his/her application from the Secretary of the Board immediately after the meeting, or make reference to the Gist of Decisions on Planning Applications which is available on the Board's Website shortly after the meeting on the same day. An applicant may also request for an interim written reply on the Board's decision. Such request should be made in writing to the Secretary of the Board. Any interim reply should not be treated as a formal notification of the decision of the Board.

## **DECISION OF THE BOARD**

- 37** The Board may accept the application in whole or in part or refuse the application. The applicant will be notified in writing of the Board's decision and the reasons of the decision to accept in part only or to refuse the application. There is no right of review or appeal under the Ordinance regarding the Board's decision on the application.
- 38** Should the Board accept in whole or in part an application, the Board will incorporate the accepted proposal into the relevant plan. The draft plan incorporating the amendment(s) shall be exhibited for public inspection in accordance with the provisions of the Ordinance, and the amendment(s) shall be subject to the statutory procedures under sections 6 and 6A to 6H of the Ordinance.

## **IMPORTANT POINTS TO NOTE**

- 39** These Guidance Notes serve only as general guidelines for the preparation of an application. The guidelines are not meant in any way to restrict the content of each

application, nor to restrict the right of the Board to require further information. Each application will be considered on its individual merits.

- 40 The information in an application submitted to the Board and the Board's decision on the application would be disclosed to the public. The public may make photocopies of the application which is made available for public inspection upon payment of a fee as the Board determines.
- 41 Applicants are advised that offering any advantage to a Civil Servant and Members of the Board in connection with the application is an offence under the Prevention of Bribery Ordinance.

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**Secretary, Town Planning Board**

15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong  
(Tel: 2231 4810 or 2231 4835).

**Town Planning Board's Website**

<http://www.info.gov.hk/tpb/>

**Planning Enquiry Counters of the Planning Department**

17/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong  
14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories  
(Hotline: 2231 5000).

**Town Planning Board  
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### **Particulars which Must be Included in an Application**

The following particulars must be included in an application. If any of these particulars is missing or inconsistent with one another, the Board may refuse to consider the application.

- (a) Particulars of the applicant and/or agent  
(Parts 1 and 2 of the application form and “Particulars of Applicant and Authorized Agent”)
- (i) *for an application without an authorized agent*
- name of the applicant and name of contact person (if the applicant is a company or an organization)
  - address, telephone number, fax number and e-mail address (if any)
- (ii) *for an application with an authorized agent*
- name of the applicant
  - name of the agent and name of contact person (if the agent is a company)
  - address, telephone number, fax number and e-mail address (if any) of the agent
  - authorization letter signed by the applicant
- (b) Location of the application site (if the application is site-specific)  
(Part 3 of the application form)

An applicant or his/her agent must clearly describe the location of the application site. A full address, if available, should be provided. Otherwise, the details of the relevant Demarcation District and Lot number(s) should be specified.

- (c) Consent of or notification to each “current land owner”  
(Parts 4, 5 and 6 of the application form)
- If the applicant is the sole or one of the “current land owner(s)”, copy of the documentary proof of ownership (e.g. copy of record issued by the Land Registry) should be provided.
  - If the applicant has obtained the consent of any “current land owner”, copy of such signed consent should be provided.
  - If the applicant has notified any “current land owner”, a full record of such notification should be provided.
  - In the circumstances that an applicant has not obtained the consent of or notified each and every “current land owner”, a full record of all the steps taken by him/her in order to obtain the consent of or give notification to the “current land owner” should be provided.

(d) Details of the Plan to which the application relates  
(Part 7 of the application form)

- Both the name and full number of the plan must be provided. The full number can be found at the bottom right-hand corner of the Plan.
- All zonings of the Plan to which the application relates must be specified.

## **Applications to be Supported by Technical Assessments**

### **Environment**

For applications involving any use or development that:

- may cause environmental impacts (either due to the nature of the proposed use or development and/or its location(s));
- is sensitive to pollution; or
- is major/large-scale,

applicants may be required to submit, together with their applications, information on environmental impacts and associated measures for their abatement. These may include the following –

- information on and an assessment of any possible activities such as reclamation works and industrial operations, that may produce aerial emissions, noise, wastes and effluents, or that may cause ecological impact, disruption to water circulation, or that are hazardous;
- information on pollution sources, if any, which may affect the proposed use or development;
- information on sensitive uses or areas, if any, which may be affected by the proposed use or development;
- information on the possible magnitude, duration and distribution of environmental effects, both beneficial and adverse, if possible;
- measure(s) to minimize environmental impacts or enhance the environment, including design and layout of the developments, pollution control measures and operational controls; and
- information on the environmental sensitivity of the application's location and the surrounding areas, if any.

For applications which may involve major/large-scale developments, applicants are advised to consult the Environmental Protection Department (EPD) (Tel: 2835 1018) prior to submitting their applications.

### **Drainage**

For applications involving any use or development that may cause drainage impact, applicants may be required to submit, together with their applications, a drainage impact assessment including a plan and calculations showing the impact on the drainage within the catchment area, and the proposed mitigation measures. For guidance and advice, please refer to Advice Note No. 1 "Application of the Drainage Impact Assessment Process to Private Sector Projects" prepared by the Drainage Services Department (DSD) or contact the DSD (Tel : 2594 7018) for details.

## **Traffic**

For applications involving any use or development that may cause traffic impacts, applicants may be required to submit, together with their applications, information on traffic impact assessment and associated measures for their abatement. The report should contain the following information:

- name(s) of the traffic consultants (if any);
- details of the indicative development proposal (including gross floor areas of different uses, provision and layout of parking and loading/unloading facilities, location and layout of run-in and if applicable, number of residential flats, provision and layout of pedestrian and other transport facilities, and turntable/car lift installation);
- a plan showing the existing transport facilities;
- a plan showing the Assessment Area and existing critical road junctions/sections;
- date of completion of the indicative development proposal and design year for the traffic forecast;
- calculation of additional traffic generated by the indicative development proposal together with the trip generation rates used;
- detailed description of the methodology and findings of the traffic counts, surveys, forecast and analysis conducted;
- detailed plans and description of the proposed road improvement and traffic management measures including preliminary feasibility assessment;
- proposed implementation programme of the improvement measures which should as far as possible tie in with the completion of the proposal; and
- supporting calculations.

For enquiry, please contact the following offices of the Transport Department:

- Urban Regional Office (Hong Kong) – Tel: 2829 5815
- Urban Regional Office (Kowloon) – Tel: 2399 2471
- New Territories Regional Office – Tel: 2399 2472

## **Man-made Slope, Retaining Wall or Natural Terrain**

For applications involving any use or development that may affect or be affected by man-made slopes, retaining walls or natural terrain, applicants should make reference to the “GEO Advice Note for Planning Applications”. The Advice Note explains the criteria for submission of a Geotechnical Planning Review Report which is required to support applications for use or development that will affect or be affected by man-made slopes, retaining walls or natural terrain. Applicants are also recommended to refer to GEO Publication No. 1/2000 “Technical Guidelines on Landscape Treatment and Bio-Engineering for Man-made Slopes and Retaining Walls” which provides useful guidelines on landscaping of man-made slopes and retaining walls.

Copies of the said Advice Note and further advice can be obtained from the Geotechnical Engineering Office of the Civil Engineering and Development Department (Tel: 2762 5401).

### **Landscape and Visual**

For applications involving any use or development that may cause landscape and/or visual impacts, applicants may be required to submit, together with their applications, information on landscape and visual impacts. On landscape impact, the information may include survey on tree and landscape resources (with site photos showing the existing conditions) and quantification of changes. Illustrations on proposed mitigation measures including compensatory planting and other landscape treatment may be necessary to suit the circumstances of each case. On visual impact, the information may include identification of visual resources and visually sensitive receivers, and illustrations to show visual compatibility or obstruction and proposal of mitigation measures.

For presentation purpose in general, photomontages would be a useful tool in demonstrating the visual and landscape impacts of the proposed development. The viewpoints for the photomontages to be selected should be agreed by the Planning Department before the submission as far as possible. Where necessary, use of computer generated and/or physical models to further demonstrate the visual impact and mitigation measures may be required. For details, please contact the respective District Planning Office of the Planning Department.

### **Water Gathering Grounds**

For applications involving any use or development within the water gathering grounds, applicants may be required to submit, together with their applications, information on the potential impacts on water quality and loss of yield in the water gathering grounds arising from the proposed use or development. Moreover, applicants should demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum. The proposed development should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. in case of Small House development, the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development).

### **Water Supply**

For applications involving any use or development that may cause water supply impacts, applicants may be required to submit, together with their applications, a water supply impact assessment (WSIA). The requirements of the WSIA should be agreed with the Water Supplies Department and contain the following information:

- a detailed demand assessment for potable water and flushing water;
- an estimated annual water demand build-up trend covering the period from initial completion to full development;
- proposal of connection points to the existing water main network and new mains to be laid from the connection points to the development. The preliminary feasibility of the alignment of any new water mains should be established;

- assessment of the impacts of the additional water demand generated by the proposed development on the existing/planned waterworks infrastructure; and
- proposed measures to improve the water supply system in case it is found that the proposed development will lead to deficiency in the existing/planned waterworks infrastructure.

The applicants may be required to provide detailed calculations and hydraulic assessment if appropriate to support the WSIA.

For enquiry, please contact the Planning Section of the Water Supplies Department (Tel: 2829 4412).