

APPLICATION FOR AMENDMENT TO PERMISSION UNDER SECTION 16A(2) OF THE TOWN PLANNING ORDINANCE (CAP. 131)

GUIDANCE NOTES

INTRODUCTION

- 1 The following notes give information and guidance on how to make an application under section 16A(2) of the Town Planning Ordinance (the Ordinance) for amendment to permission granted under section 16 of 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 of 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, on 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).**

WHETHER AN APPLICATION IS REQUIRED

- 3 Where a permission is granted by the Town Planning Board (the Board) under section 16 of the Ordinance, amendments to the permission are provided under section 16A. Such amendments are classified as Class A or Class B amendments, as published by notice in Government gazette and reproduced in the Town Planning Board Guidelines on Class A and Class B Amendments to Approved Development Proposals 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/>)**. Changes falling within Class A amendments do not require further approval from the Board. Class B amendments are, however, subject to the approval of the Board upon application made under section 16A(2) of the Ordinance. For details, please refer to the said Guidelines.
- 4 In determining an application for Class B amendments, reference shall be made to the development proposal previously approved by the Board. No reference shall be made to any Class A amendments, or any previously approved Class B amendments, or any minor amendments previously approved by a public officer under the delegated authority of the Board prior to the commencement of the Town Planning (Amendment) Ordinance 2004.
- 5 All amendments to a permission other than Class A amendments and Class B amendments shall be submitted in the form of a fresh application under section 16 of the Ordinance.

WHERE TO OBTAIN THE APPLICATION FORM

- 6 An application for Class B amendment to a permission should be made in a form, which 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**. (address: <http://www.info.gov.hk/tpb/>). For e-submission, the relevant e-form is available at the Board's website.

WHO CAN APPLY

- 7 Under section 16A(2) of the Ordinance, an application for Class B amendment to a permission can only be submitted by the person to whom the permission is granted. However, in case there is a change in land ownership, the original applicant may appoint the subsequent owner of the site as his/her authorized representative to submit an application for Class B amendments.
- 8 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 FORM¹

- 9 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.
- 10 The **Annex** lists out the particulars which must be included in an application. If any of these particulars are missing or inconsistent with one another, the Board may refuse to consider the application.

WHAT DOCUMENTS ARE REQUIRED FOR THE SUBMISSION

- 11 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 any coloured plans/drawings or plans/drawings larger than A3 size, 12 copies each should be provided.
- 12 For application with supplementary information such as planning studies and reports, traffic impact assessment and environmental assessment, 12 copies each should be submitted. If such supplementary information includes technical report(s), 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 supporting documents and

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

plans/drawings may be required by the Board².

- 13 A completed “Particulars of Applicant and Authorized Agent” and “Checklist of Documents” should be attached.
- 14 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.

HOW TO SUBMIT AN APPLICATION³

- 15 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**”.
- 16 After receiving an application, the Secretary of the Board will acknowledge receipt and inform the applicant the tentative date of consideration of the application.
- 17 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.
- 18 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.

APPLICATION TO BE CONSIDERED UNDER DELEGATED AUTHORITY

- 19 Normally, an application for Class B amendment to a permission will be considered by the Director of Planning under the Board’s delegated authority. However, the application will be submitted to the Board for consideration if it is considered unacceptable by any of the concerned government departments or involving deletion of the previously proposed Government, Institution or Community (GIC) facilities from the approved development proposal, even if the deletion is initiated and agreed by the relevant government departments and/or the requirement of the GIC facilities is subject to an approval condition.

² Should the applications need to be considered by the Board or its Committee, for the supporting documents and plans/drawings, either 48 additional hard copies each or 14 additional hard copies and 31 soft copies (i.e. Read Only Memory (CD-ROM)/Digital Versatile Disc – Read Only Memory (DVD-ROM) should be provided. 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.

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

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

- 20 An applicant may withdraw the submitted application by writing to the Secretary of the Board before the application is considered by the Board or by the Director of Planning under the Board's delegated authority.
- 21 An applicant may also request for deferment of decision on his/her application. A request for deferment should be submitted in writing to the Secretary of the Board before the application is considered by the Board or by the Director of Planning under the Board's delegated authority. 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.

HOW TO OBTAIN THE RESULT OF AN APPLICATION

- 22 In accordance with the Ordinance, all applications for Class B amendment to permission will be considered within two months of their receipt. If an application is to be considered by the Director of Planning under the Board's delegated authority, the applicant will normally be informed of the Director's decision within 6 weeks of its receipt. If an application is to be submitted to the Board for consideration, 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).
- 23 If an application has been submitted to the Board for consideration and is 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.

COMPLIANCE OF APPROVAL CONDITIONS

- 24 The Board or the Director of Planning may approve an application, with or without conditions. The approval conditions, if any, attached to a permission should be complied with by the applicant. The detailed requirements are set out in the Town Planning Board Guidelines on Compliance of Approval Conditions.

RIGHT OF REVIEW AND APPEAL

- 25 An application may be approved, with or without conditions, or refused by the Board. The applicant will be notified in writing of the decision including the approval conditions, if any, or the reasons for refusing the application. If the applicant is

aggrieved by the decision, he/she may, within 21 days of being notified of the decision, apply in writing to the Secretary of the Board for a review under section 17 of the Ordinance.

- 26 In accordance with the provisions of the Ordinance, the Board shall consider the review within 3 months of its receipt. The applicant or his/her authorized representative may attend the meeting and be heard by the Board.
- 27 If the applicant is aggrieved by the decision of the Board on a review under section 17, the applicant may, within 60 days of being notified of the decision of the review, lodge an appeal to **the Secretary of the Town Planning Appeal Board at 17/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong (Tel: 3509 8844)** with a copy sent to the Secretary of the Board.

IMPORTANT POINTS TO NOTE

- 28 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.
- 29 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.

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).

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) Particulars of the relevant permission
(Part 3 of the application form)
- An applicant or his/her agent must clearly provide the application number of the relevant permission.