

# TOWN PLANNING BOARD

**TPB PAPER NO. 9651  
FOR CONSIDERATION BY  
THE TOWN PLANNING BOARD ON 2.5.2014**

**PROPOSED REVISIONS TO GUIDANCE NOTES ON APPLICATION  
FOR PERMISSION UNDER THE TOWN PLANNING ORDINANCE**

**Proposed Revisions to Guidance Notes on  
Application for Permission under the Town Planning Ordinance**

**1. Introduction**

This paper is to seek Members' agreement to the proposed revisions to the following Guidance Notes:

- (a) Guidance Notes on Application for Amendment of Plan under Section 12A of the Town Planning Ordinance (Cap. 131) (the Ordinance);
- (b) Guidance Notes on Application for Permission under Section 16 of the Ordinance;
- (c) Guidance Notes on Application for Permission for Temporary Open Storage and Port Back-up Uses under Section 16 of the Ordinance; and
- (d) Guidance Notes on Amendment to Permission under Section 16A(2) of the Ordinance.

**2. Background**

The Guidance Notes as listed in paragraph 1 above give information and guidance on how to apply for amendment of plan/planning permission/amendment to permission under relevant sections of the Ordinance. Such information includes a list of District Planning Offices (DPOs) of the Planning Department with which the applicant could arrange for pre-submission discussion, requirements for obtaining consent or sending notification to "current land owner" of the application site/premises concerned where appropriate and important points for the applicant to note regarding the use of the information submitted and offering of advantages.

**3. Proposed Amendments to the Guidance Notes for Applications**

3.1 Due to the recent changes in the following circumstances, updating and amendments to the Guidance Notes are considered necessary:

- (a) since January 2014, a new DPO of Fanling, Sheung Shui & Yuen Long East has been set up and the former Tuen Mun & Yuen Long DPO renamed to Tuen Mun & Yuen Long West DPO;
- (b) proposed amendments to the Town Planning Board Guidelines No. 31 on Satisfying the 'Owner's Consent/Notification' Requirements under Section 12A and 16 of the Ordinance regarding obtaining the consent from owner(s); and

- (c) proposed revisions to the Town Planning Board (the Board) Procedure and Practice to promote good practices of Members of the Board.
- 3.2 Opportunity is also taken to (a) incorporate the use of the information submitted in an application and the legal implication of offering any advantage to a Civil Servant into the Guidance Notes on Application for Permission for Temporary Open Storage and Port Back-up Uses under Section 16 of the Ordinance to tally with the other Guidance Notes on Application for Amendment of Plan/Permission under Section 12A/Section 16 of the Ordinance; and (b) specify the date of receipt of an application the date when all necessary information and documents are received and checked in the Guidance Notes where appropriate.
- 3.3 The proposed revisions to the Guidance Notes to reflect the changes mentioned in paragraphs 3.1 and 3.2 above are highlighted in the draft revised Guidance Notes at **Attachment I**.

#### **4. Consultation**

Since the proposed revisions to the Guidance Notes on Applications are mainly technical in nature, consultation with government departments is considered not necessary.

#### **5. Decision Sought**

- 5.1 Members are invited to endorse the proposed revisions to the following Guidance Notes on Applications:
  - (a) Guidance Notes on Application for Amendment of Plan under Section 12A of the Ordinance;
  - (b) Guidance Notes on Application for Permission under Section 16 of the Ordinance;
  - (c) Guidance Notes on Application for Permission for Temporary Open Storage and Port Back-up Uses under Section 16 of the Ordinance; and
  - (d) Guidance Notes on Amendment to Permission under Section 16A(2) of the Ordinance.
- 5.2 Members are also invited to note that the contact information of DPOs in the Guidance Notes will be updated when such need arises in future.

#### **Attachment**

Attachment I      Draft revised Guidance Notes on Applications

**PLANNING DEPARTMENT  
MAY 2014**

**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.
- 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.

Hong Kong DPO	14/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong	(Tel: 2231 4957) (Fax: 2895 3957)
Kowloon DPO	14/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong	(Tel: 2231 4979) (Fax: 2894 9502)
Tsuen Wan & West Kowloon DPO	12/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories	(Tel: 2158 6399) (Fax: 2412 5435)
Sha Tin, Tai Po & North DPO	13/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories	(Tel: 2158 6274) (Fax: 2691 2806)
Tuen Mun & Yuen Long <u>West</u> DPO	14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories	(Tel: 2158 6301) (Fax: 2489 9711)
Sai Kung & Islands DPO	15/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories	(Tel: 2158 6177) (Fax: 2367 2976)
<u>Fanling Sheung Shui &amp; Yuen Long East DPO</u>	<u>13/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories</u>	<u>(Tel.: 2158 6208)</u> <u>(Fax: 2691 2806)</u>

## 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/>).

## **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**

- 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**.

## **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 such as planning studies and reports on technical assessments, 70 copies each 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.

## **HOW TO SUBMIT AN APPLICATION**

- 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 all documents 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 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**

**May 201~~4~~0**

**APPLICATION FOR PERMISSION UNDER SECTION 16  
OF THE TOWN PLANNING ORDINANCE (CAP. 131)**

**GUIDANCE NOTES**

**INTRODUCTION**

- 1 The following notes give information and guidance on how to apply for permission under section 16 of the Town Planning Ordinance (the Ordinance). Please read them carefully.
- 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 Prior to commencement of any use or development, please check the land use zoning of the site/premises on the relevant statutory town plan (the Plan), i.e. Outline Zoning Plan (OZP) or Development Permission Area (DPA) Plan and the provisions of the Plan to which the proposed use or development relates.
- 4 The Plan is available for public inspection at the Planning Enquiry Counters of the Planning Department and for sale at the Map Publications Centres of the Lands Department. The electronic version of the Plan can also be viewed at **the Town Planning Board's** (the Board's) **Website** (<http://www.info.gov.hk/tpb/>). Forming part of the Plan is a set of Notes which 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.
- 5 Attached to the Plan is an Explanatory Statement which provides description on the general planning intention of each land use zone. A set of "Definitions of Terms Used in Statutory Plans" is also available for public inspection at the Planning Enquiry Counters of the Planning Department and the Board's Website.
- 6 The following uses or developments are always permitted and no separate permission is required:
  - (a) uses or developments which are always permitted as specified in the covering Notes of the Plan; and
  - (b) "Column 1" uses of the relevant land use zone.

- 7 Permission from the Board is required for any proposed use or development which falls under “Column 2” or as required under the terms of the Notes.
- 8 No action is required to make the existing use of any land or building conform to the Plan. The scope of existing use is defined in the covering Notes of the OZPs and DPA Plans. For interpretation of existing use in the urban and new town areas, reference can also be made to the Town Planning Board Guidelines for Interpretation of Existing Use in the Urban and New Town Areas. Any material change of use or any other development (except minor alteration and/or modification to the development of the land or building in respect of the existing use, which is always permitted) or redevelopment must be permitted in terms of the Plan or, if permission is required, in accordance with the permission granted by the Board. It is not for the Planning Department or the Board to provide evidence to prove whether a use is an existing use. Any person who intends to claim an “existing use right” will need to provide sufficient evidence to support his claim.
- 9 If the proposed use or development is neither a use or development always permitted nor a “Column 2” use under the Notes of the Plan, there is no provision for application for such use or development, except for temporary use in the rural areas (please refer to paragraphs 10 to 13 below). Nevertheless, pursuant to section 12A of the Ordinance, an application for amendment of plan may be submitted to the Board for consideration. Please refer to the Guidance Notes on Application for Amendment of Plan under Section 12A of the Town Planning Ordinance for details.

## **PROVISION FOR TEMPORARY USE**

### ***Urban and New Town Areas***

- 10 Generally speaking, in the Notes of the OZPs covering the urban and new town areas, there is a provision that temporary uses (expected to be 5 years or less) of any land or buildings are permitted in all zones as long as they comply with other Government requirements. Temporary uses expected to be over 5 years must conform to the zoned use or the terms of the Plan.
- 11 For the interpretation of the above, all uses in permanent buildings should be considered as permanent uses unless the temporary nature of the use can be established to the satisfaction of the Board. Uses accommodated in temporary structures on land awaiting permanent development are considered as temporary uses provided that the allocation for the use is for a period of less than 5 years.

### ***Rural Areas***

- 12 Generally speaking, in the Notes of the OZPs or DPA Plans covering the rural areas, there is a provision that, except in some conservation-related zones as specified in the Notes, temporary uses of any land or buildings not exceeding a period of two months are always permitted and no permission is required provided that the use is for carnival, fair, film shooting on location, festival celebration, religious function or sports event; and no site formation (filling or excavation) is carried out.
- 13 In areas covered by the rural OZPs or DPA Plans, applications for temporary uses (usually up to a maximum period of 3 years depending on the Notes of specific OZP or DPA Plan) of any land or building, notwithstanding that they are not “Column 2” uses

under the Notes of the Plan, can be made to the Board. The Board may grant, with or without conditions, or refuse to grant permission. However, any temporary uses for open storage and port back-up purposes are prohibited in areas under conservation-related zonings, i.e. “Conservation Area”, “Coastal Protection Area”, “Site of Special Scientific Interest”, “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” and “Other Specified Uses” annotated “Comprehensive Development and Wetland Protection Area”.

## PRE-SUBMISSION DISCUSSION

- 14 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.

Hong Kong DPO	14/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong	(Tel: 2231 4957) (Fax: 2895 3957)
Kowloon DPO	14/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong	(Tel: 2231 4979) (Fax: 2894 9502)
Tsuen Wan & West Kowloon DPO	12/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories	(Tel: 2158 6399) (Fax: 2412 5435)
Sha Tin, Tai Po & North DPO	13/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories	(Tel: 2158 6274) (Fax: 2691 2806)
Tuen Mun & Yuen Long <u>West</u> DPO	14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories	(Tel: 2158 6301) (Fax: 2489 9711)
Sai Kung & Islands DPO	15/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories	(Tel: 2158 6177) (Fax: 2367 2976)
<u>Fanling Sheung Shui &amp; Yuen Long East DPO</u>	<u>13/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories</u>	<u>(Tel.: 2158 6208)</u> <u>(Fax: 2691 2806)</u>

## WHERE TO OBTAIN THE APPLICATION FORM

- 15 An application for permission 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**.

## WHO CAN APPLY

- 16 Any person can submit an application for permission under section 16 of the Ordinance.
- 17 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

- 18 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.
- 19 **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

- 20 A number of guidelines for planning applications have been promulgated by the Board. These guidelines set out the factors which the Board normally takes into account when considering particular applications, 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**.

## CONSENT OF OR NOTIFICATION TO "CURRENT LAND OWNER"

- 21 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.
- 22 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".
- 23 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 Companiesy 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.

- 24 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

- 25 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.
- 26 For fire safety reason, a plan in a scale of not less than 1:400 should be provided in the application for commercial use on the ground floor of an existing industrial premises falling within "Industrial"/"Other Specified Uses (Business)"/"Residential (Group E)" zone to show the location of the premises under application in the relevant building, and all means of exit, entry and internal passageway of the premises under application (please refer to Plan 1 for sample). For the minimum requirements for fire service installations and equipment for the aforesaid commercial uses, the applicant may make reference to the Guidance Notes on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises. The Guidance Notes 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.
- 27 For applications for 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. However, the submission of certain technical assessments is not required for the following types of applications:
- (a) for applications for renewal of approvals for temporary use or development made before the expiry of the relevant approval period, there is no need to undertake new technical assessments to support the application so long as there is no major change in planning circumstances (such as a change in the planning policy/land-use zoning for the area). Updated assessments may however need to be submitted if necessary. Please refer to the Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development for details; and
  - (b) for applications for filling of land involving an area of less than 1 ha (except for those within conservation-related zones), submission of technical assessments on the environmental, traffic, geotechnical, landscape and visual impacts of the proposed filling is not mandatory at the time of submitting the application. This is also applicable to drainage aspect if no existing river, stream, channel, drainage pipe, or overland flow path within the site will be affected by the proposed filling. Concerned Government departments will examine the planning applications and advise whether any such impact assessment is required for individual cases before submission of the applications to the Board.

- 28 For application with any supplementary information such as planning studies and reports on technical assessments, 70 copies each 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.
- 29 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”.
- 30 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 25 above).
- 31 A completed “Particulars of Applicant and Authorized Agent” and “Checklist of Documents” should be attached.
- 32 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**

- 33 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.

### **HOW TO SUBMIT AN APPLICATION**

- 34 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”**.
- 35 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.

- 36** 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.
- 37** 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**

- 38** The Secretary of the Board will make available all documents 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**

- 39** 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.
- 40** 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 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.

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

- 41** In accordance with the Ordinance, all applications for permission will be considered by the Board within two 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).

- 42 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**

- 43 The Board 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. For any permission involving commercial use on ground floor of industrial premises, the applicant may also need to refer to the Guidance Notes mentioned in paragraph 26 above for the compliance with approval condition in relation to the provision of fire safety measures.

## **RIGHT OF REVIEW AND APPEAL**

- 44 An application may be approved, with or without conditions, or refused by the Board. 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 a decision of the Board, he/she may, within 21 days of being notified of the decision of the Board, apply in writing to the Secretary of the Board for a review under section 17 of the Ordinance.
- 45 Upon receipt of an application for review, the Secretary of the Board will make available the application for public inspection until the review is considered by the Board. Any person may make comment to the Board on the review within the first three weeks of the period during which the review application is available for public inspection. All information including the name of the applicant, but excluding other personal data, included in the review application and the comments on the review application shall be made available for public inspection.
- 46 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.
- 47 If the applicant is aggrieved by the decision of the Board on a review under section 17, he/she 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 18/F, Murray Building, Garden Road, Central, Hong Kong (Tel: 2848 2022)** with a copy sent to the Secretary of the Board.

## **IMPORTANT POINTS TO NOTE**

- 48 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.
- 49 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.
- 50 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**

**May 201~~4~~0**

**APPLICATION FOR PERMISSION FOR TEMPORARY OPEN STORAGE AND  
PORT BACK-UP USES UNDER SECTION 16  
OF THE TOWN PLANNING ORDINANCE (CAP. 131)**

**GUIDANCE NOTES**

**INTRODUCTION**

- 1 In recent years, there has been an increasing number of planning applications for temporary open storage and port back-up uses in the rural areas to meet the demand of land for such uses. This set of Guidance Notes aims to give information and guidance on how to apply for permission for temporary open storage and port back-up uses under section 16 of the Town Planning Ordinance (the Ordinance) and how to comply with the approval conditions. Please read them carefully.
- 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).**

**WHAT TO APPLY?**

- 3 Generally speaking, in areas covered by the rural Outline Zoning Plans (OZPs), application for temporary use or development, including temporary open storage and port back-up uses could be made to the Town Planning Board (the Board) under section 16 of the Ordinance. The Board may grant, with or without conditions, or refuse to grant permission. However, for areas falling within certain land use zones such as “Conservation Area”, “Coastal Protection Area”, “Site of Special Scientific Interest”, “Other Specified Uses (Comprehensive Development and Wetland Enhancement Area)” and “Other Specified Uses (Comprehensive Development and Wetland Protection Area)”, open storage and port back-up uses are prohibited. Reference should be made to the latest Notes attached to individual OZPs to see if the temporary open storage and port back-up uses would require permission from the Board or are prohibited.

**HOW LONG COULD THE USES BE APPLIED FOR?**

- 4 Planning permission for temporary uses could be granted, with or without conditions, for a maximum period of **3 years**. Should the successful applicant wish to continue the approved use upon expiry of the planning permission, a fresh planning application needs to be submitted for the consideration of the Board.

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

- 5 In submitting planning applications, the following documents are required:
  - (i) **Application Form** - completed application form duly signed by the applicants.

The application form can be obtained from the office of Secretary, Town Planning Board, 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong (Tel.: 2231 4810 or 2231 4835) or the District Planning Offices (DPOs) of the Planning Department. The application form can also be downloaded from Town Planning Board's Homepage (address: <http://www.info.gov.hk/tpb/>);

- (ii) **Location and Site Plans/Drawings** - clear and accurate location and site layout plans showing the location of the application site and its surrounding area. If the access to the proposed site is via a village track, the submitted plan should cover the entire section of the track from the site to the local feeder road, which should be at least up to single two lane road standard, and the applicant should also submit photographs covering the entire track to show its cross-section, the sightline and the condition of the road pavements. Also, drawings showing the locations of the proposed drainage works, landscape works, noise barriers and boundary wall or fencing, if relevant, should be submitted;
- (iii) **Details of Proposed Uses** - details of the uses and operations proposed to be carried out on the application site. These include information such as the operation hours, the type and stacking height of stored materials, the number of parking spaces for stored vehicles or container tractors/trailers, the industrial or mechanical processes involved, the vehicular access and the vehicular trip generated. Details of any structure(s) proposed to be erected on the application site should also be provided;
- (iv) **Drainage Impact Assessment/Drainage Proposals** - to alleviate the risk of flooding caused by the proposed uses involving activities such as earth filling, hard surface paving and building of structures, drainage proposals are required to demonstrate how the applicants will collect, convey and discharge rain water falling on or flowing to their sites. For application sites larger than 1 hectare, or within flood prone areas such as low-lying areas and flooding blackspots, or adjacent to or encompassing a major stream, channel or river etc, the drainage impact of the proposed uses may be significant and drainage impact assessment (DIA) would normally be required. The primary objective of the DIA is to demonstrate that with the implementation of necessary mitigation measures, the proposed use will not cause unacceptable increase in the risk of flooding in areas upstream of, adjacent to or downstream of the development;
- (v) **Landscape Proposals** - to ensure that the landscape and visual impacts of the proposed use(s) on the surrounding areas are kept to the absolute minimum, landscape proposals are required to demonstrate how the landscape and visual impact generated by the proposed uses can be properly mitigated. The proposals should include information such as species, size, spacing, total quantity of each type of the proposed planting and their locations. Planting in movable containers/pots will not be accepted. If mature trees are found within the site, a tree preservation proposal indicating how the trees can be retained is required. No tree felling will be allowed unless approval has been obtained from relevant authority before any site operation;
- (vi) **Noise Impact Assessment/Mitigation Measures** - to ensure that the proposed uses would not cause adverse noise impact to the surrounding sensitive receivers, noise impact assessments should be undertaken for noise generating activities which involve the use of heavy machinery. Proposals on mitigation measures

to reduce the noise pollution generated by the proposed uses are required; and

- (vii) **Traffic Impact Assessment** - traffic impact assessment should be carried out for those uses generating substantial volumes of traffic, in particular container trailer/tractor park to ensure that the traffic volumes do not exceed the capacity of the local road network or that proposed mitigation measures such as junction improvements are practical and effective. Analyses of swept paths of appropriate types of goods vehicles at critical bends and junctions should also be included where appropriate. Where there are nearby residential or school developments, information on pedestrian count obtained from pedestrian surveys should be provided.

6 In the preparation of submissions as mentioned in paragraph 5 above, applicants can make reference to the following documents which are attached to this set of Guidance Notes:

- (i) Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance;
- (ii) “Technical Note on the Submission and Implementation of Landscape Proposals for Compliance with Approval Conditions for Applications for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” issued by Planning Department;
- (iii) “Code of Practice on Handling Environmental Aspects of Temporary Uses & Open Storage Sites” issued by Environmental Protection Department;
- (iv) “Technical Note to prepare a Drainage Submission” issued by Drainage Services Department; and
- (v) “Code of Practice for Container Depots” issued by Lands Department.

They could also consult the relevant Government departments and the DPOs of the Planning Department on the detailed requirements of the submissions.

7 A total of 20 copies each of the completed application form, clear and accurate location/site plans or drawings, detailed technical proposals and impact assessments, if considered appropriate, are required.

8 Reference can be made to the Guidance Notes on Application for Permission under Section 16 of the Town Planning Ordinance (Cap. 131) for the general procedure for the submission of planning applications to the Board.

9 In the assessment of planning applications for open storage and port back-up uses, general planning criteria including the planning intention of the area covering the site, compatibility with surrounding land uses, site accessibility and possible impacts generated by the proposed uses will be taken into account. For details on these general planning criteria, applicants can make reference to the “Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” mentioned in paragraph 6(i) above.

## HOW TO COMPLY WITH APPROVAL CONDITIONS?

- 10** In granting planning permission, planning conditions on the **submission**/ resubmission of technical proposals and/or **implementation** of the proposals would be imposed to ensure that the approved open storage/port back-up uses would not generate adverse drainage, landscape, environmental and traffic impacts on the surrounding area and that the proposals would be complied with and/or implemented within a specified time. Depending on the special circumstance of each case, a planning condition requiring the application site be reinstated to an amenity area upon expiry of the planning permission would normally be imposed to ensure that the site would be tidied up, after the expiry of the planning permission, with the provision of suitable landscape treatment. It is imperative that the requirements are duly observed and implemented in accordance with the planning conditions.
- 11** Successful applicants should seek advice and assistance from the respective Government departments and the DPO in the preparation of the detailed technical submissions and implementation of the approval conditions. Relevant documents providing guidance on the fulfillment of conditions are also attached to the notification letter issued by the Secretary, Town Planning Board. These documents include:
- (i) A list of contacts of concerned Government departments;
  - (ii) “Technical Note on the Submission and Implementation of Landscape Proposals for Compliance with Approval Conditions for Applications for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance”;
  - (iii) “Code of Practice on Handling Environmental Aspects of Temporary Uses & Open Storage Sites”; and
  - (iv) “Technical Note to prepare a Drainage Submission”.
- 12** Government departments will give advice on the following aspects:
- (i) **Planning Department** - preparation and implementation of landscape proposals, their maintenance and detailed reinstatement requirement;
  - (ii) **Drainage Services Department** - preparation of drainage impact assessment and drainage proposals; and implementation of drainage facilities;
  - (iii) **Transport Department** - provision of vehicular access point, junction improvement, design of parking layout and preparation of traffic impact assessment;
  - (iv) **Environmental Protection Department** - preparation of noise impact assessment and implementation of mitigation measures to reduce noise and air impact; and
  - (v) **Lands Department** - the provision of fencing and paving of the site.

### Submission of Technical Proposals

- 13** Successful applicants should submit the technical proposals as soon as they are available.

For normal cases where the conditions are required to be complied with within 6 months from date of planning approval, the applicant should submit the proposals at least 6 weeks before expiry of the 6-month compliance period to the relevant DPO of the Planning Department for central processing (for landscape proposals, a copy should be sent to the Landscape Unit of the Planning Department directly). A copy of the submissions should also be sent to the Secretary, Town Planning Board for record purpose.

- 14 The relevant DPO will circulate the technical proposals to concerned Government departments for comments and inform the applicants within one month upon receipt of the proposals whether the submitted proposals are acceptable. If the proposals do not meet the requirements of the concerned departments, the applicants should revise the proposals and resubmit the proposals for further consideration. In any case, it is important to have the revised proposals accepted by the relevant Government departments within the compliance period. If not, application for extension of time for compliance with the planning conditions should be sought.
- 15 Sometimes the Board may impose a shorter compliance period for implementing the conditions. Applicants should pay particular regard to the length of the compliance period and submit proposals to comply with the conditions as early as possible, and allow at least one month for departments concerned to vet the proposals.

#### **Implementation of Technical Proposals**

- 16 Once the technical proposals are accepted, the applicants should proceed with the implementation works without delay and notify the relevant DPO of the Planning Department and the Secretary, Town Planning Board once the works are completed. All works must be completed before the expiry of the specified time limit. For works that do not require the submission of proposals, implementation works should be undertaken once the applications are approved. Upon receipt of the applicants' notification of the completion of the required works, the relevant DPO and Government departments will arrange for site inspection and inform the applicants within one month whether the implemented works are satisfactory. The completed works/landscape/mitigation measures should be properly maintained.

#### **Reinstatement Clause**

- 17 If the planning condition contains a requirement to reinstate the application site into an amenity area upon expiry of the planning approval, the applicant is required to undertake reinstatement works which usually include removal of hard paving and planting the site with trees, shrubs and grass, and sometimes demolition of the structure/shelter on the site. Any enquiry on the reinstatement requirement should be directed to the relevant DPO of the Planning Department.

#### **HOW TO APPLY FOR EXTENSION OF TIME FOR COMPLIANCE WITH PLANNING CONDITIONS?**

- 18 If the applicants consider that more time is required to comply with the planning

conditions, they could submit applications for extension of time for compliance with planning conditions. The application form can be obtained from the office of Secretary, Town Planning Board or downloaded from the Town Planning Board's Homepage. In submitting the applications, the applicants should demonstrate that genuine efforts have been made in complying with and implementing the conditions by including in the submissions documentation on the technical proposals so far submitted and an account of works undertaken in respect of the planning conditions. Good justifications should also be given on why the planning condition(s) could not be complied with within the prescribed time limit. Such application should be submitted to the Secretary, Town Planning Board no less than 4 weeks before the expiry of the specified time limit. The general requirements and assessment criteria for this type of application are set out in the "Town Planning Board Guidelines for Renewal of Planning Permission and Extension of Time for Compliance with Planning Conditions".

## **REVOCAION OF PLANNING APPROVAL**

- 19** If the applicants fail to comply with the approval conditions within the specified time limit, the planning permissions granted for the uses will be **revoked** automatically without further notice.
- 20** Continuation of these uses without planning permissions will constitute unauthorized developments subject to enforcement action taken by the Planning Authority.
- 21** To continue the same use(s) on the site, a fresh section 16 planning application needs to be submitted to the Board for consideration. Planning permission would normally not be granted unless the applicants have included in the submissions technical assessments/proposals on such aspects as landscape, drainage and environmental mitigation to demonstrate that the proposed uses would not generate adverse drainage, environmental, landscape and traffic impacts on the surrounding areas. Furthermore, there should be no major adverse departmental comments and the concerns of the departments and local residents can be addressed through the implementation of approval conditions.

## **IMPORTANT POINT TO NOTE**

- 22** This set of Guidance Notes serves only as general guidelines for the preparation of applications for temporary open storage and port back-up uses under section 16 of the Ordinance and for the compliance of approval conditions for this type of application. The guidelines are not meant in any way to restrict the content of each development proposal, nor to restrict the right of the Board to require further information. Each application will be considered on individual merits.
- 23** It is **outside the purview** of the Board and the Town Planning Appeal Board to determine any claims in relation to 'existing use'. It is the right of an applicant/operator to bring an action for judicial review in the Court of First Instance if he genuinely believes that he has a valid claim of 'existing use' for a specific site. For further information on this matter, please contact the Central Enforcement & Prosecution Section of the Planning Department.

**24** 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.

25 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**

**May 201~~4~~0**

# 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.
- 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.**

## **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 FORM**

- 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 plans/drawings may be required by the Board.
- 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 APPLICATION**

- 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.

## **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 18/F, Murray Building, Garden Road, Central, Hong Kong (Tel: 2848 2022)** 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.

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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**

**May 201~~4~~0**