

# TOWN PLANNING BOARD

TPB PAPER No. 9653  
FOR CONSIDERATION BY  
THE TOWN PLANNING BOARD ON 16.5.2014

PROPOSED REVISIONS TO TOWN PLANNING BORAD GUIDELINES  
ON EXTENSION OF TIME FOR COMMENCEMENT OF DEVELOPMENT

**PROPOSED REVISIONS TO TOWN PLANNING BORAD GUIDELINES  
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**1. Purpose**

The purpose of the paper is to seek Members' agreement to the proposed revisions to the Town Planning Board Guidelines on Extension of Time for Commencement of Development (TPB PG-No. 35B).

**2. Background**

2.1 Any planning permission granted by the Town Planning Board (the Board), except those for regularization of uses and those granted on a temporary basis, is subject to a time-limited condition that the permission shall cease to have effect on a specified date unless prior to that date, the permitted development has commenced or an extension of time for commencement of development is granted. The standard time limit for a planning permission is currently 4 years. Where an approved development has not commenced within the specified time limit, the applicant may apply for an extension of time for commencement of the development. Any extension(s) shall not result in an aggregate extension period longer than the original duration for commencement of the approved development proposal, as stipulated under TPB PG-No. 35B (i.e. normally 4 years).

2.2 In general, the approval of building plans or the execution of land grant or lease modification in respect the approved development would constitute a commencement of development. However, it is not uncommon to find a development comprises several phases. Recent legal advice indicates that the approval of building plans or execution of land grant or lease modification in relation to any single phase of an approved development should not constitute a commencement of works for the whole scheme, given that the planning permission granted by the Board was for the development as a whole.

- 2.3 Most approved development schemes would be able to commence within 4 years from the date of the planning approval or within 8 years with the extension of time. However, for some large-scale comprehensive development schemes, for example those undertaken by the Urban Renewal Authority (URA), it is not unreasonable that their implementation would be in phases with an overall development period of more than 8 years. The existing practice may not be able to allow such developments to commence in whole before the expiry of the planning permission even with extension of time. The applicants will then be required to submit fresh planning applications in accordance with the provisions of the extant statutory plans to further proceed with the developments.
- 2.4 Moreover, there are circumstances that some approved government projects may not involve any new Government land allocation (GLA) or amendment to an existing GLA. It is sometimes difficult to determine whether the approved developments can be regarded as commenced based on the existing criteria on commencement of development.
- 2.5 To avoid creating unnecessary hurdles for development, it is considered appropriate to review the criteria on commencement of development currently set out in paragraph 2 of TPB PG-No. 35B to cater for the above situations.

### **3. Proposed Revisions to TPB PG-No. 35B**

#### URA's development schemes

- 3.1 According to the existing practice of the Buildings Department and Lands Department, it is a prerequisite to secure ownership or demonstrate reasonable prospect of control of the land involved prior to the processing of building plan submissions and land grant/lease modification applications. Due to the time required for land resumption, it is sometimes difficult for URA to meet the existing criteria on commencement of development in respect of obtaining building plan approvals or execution of land grant for the whole development before the expiry of planning permission.
- 3.2 In accordance with section 29 of the URA Ordinance, URA is required to submit an application to the Secretary for Development (SDEV) requesting

him to recommend to the Chief Executive in Council (CE in C) the resumption of land under the Lands Resumption Ordinance (LRO) (Cap. 124). The resumption application shall be submitted no later than 12 months after the approval of a development scheme plan by the CE in C. Upon the approval of the resumption application by the CE in E, resumption notice will be gazetted under LRO. As land resumption is an essential part for the implementation of the URA developments, it is considered reasonable to treat URA development schemes as commenced upon the approval of the resumption application by the CE in C.

#### Other Large-scale Comprehensive Development Schemes

- 3.3 Apart from URA's development schemes, some other large-scale comprehensive development schemes with long development programme may also not be able to commence in whole within 8 years. Where the Board is satisfied that such development schemes would require a longer implementation period based on the development programme and justifications provided by the applicants, the Board may consider granting a longer validity period of more than 4 years for commencement of development, say 5 or 6 years, and upon application, the maximum extension period could be up to the approved original duration for commencement of development.

#### Government's projects

- 3.4 To cater for circumstances where approved government projects do not involve any land administration procedure, it is considered that the approval of the necessary funding for carrying out detailed design/building works, which is necessary for each government project, may also constitute a commencement of development.
- 3.5 In view of the above, paragraph 2 of TPB PG-No. 35B is proposed to be revised accordingly. Opportunity is also taken to make other minor refinements to the guidelines. The draft TPB PG-No. 35C is at **Annex I**.

## **4. Consultation**

Since the revisions are technical in nature, consultation with government departments is considered not necessary.

**5. Decision Sought**

Members are invited to agree to the proposed revisions to TPB PG-No. 35B and endorse the draft TPB PG-No. 35C at Annex I for promulgation to the public for information.

**Attachment**

Annex I      Draft TPB Guidelines on Extension of Time for Commencement of Development (TPB PG-No. 35C)

**PLANNING DEPARTMENT**

**MAY 2014**

***DRAFT***

TPB PG-No. 35BC

**TOWN PLANNING BOARD GUIDELINES ON  
EXTENSION OF TIME FOR COMMENCEMENT OF DEVELOPMENT**

(Important Note :-

The Guidelines are intended for general reference only.

Any enquiry on this pamphlet should be directed to the Secretariat of the Town Planning Board (15th Floor, North Point Government Offices (NPGO), 333 Java Road, North Point, Hong Kong – Tel. No. 2231 4810 or 2231 4835) or the Planning Enquiry Counters of the Planning Department (Hotline : 2231 5000) (17th Floor, NPGO and 14th Floor, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin).

The Guidelines are subject to revision without prior notice.)

**1. Introduction**

- 1.1 ~~All s.16~~**Any** planning permissions granted by the Town Planning Board (the Board), except those for regularization of ~~existing uses on the application sites~~ and those granted on a temporary basis, ~~are~~**is** subject to a time-limited condition that the permission shall cease to have effect on a specified date unless prior to that date, the permitted development has commenced or an extension of time for commencement of development is granted. Where an approved development has not commenced within the specified time limit, the ~~grantee~~**applicant** may apply for an extension of the time for commencement of the development.
- 1.2 The time-limited condition attached to planning permission imposed by the Board is to ensure that the approved development proposals would be implemented within a reasonable period. With good justifications, the Board may grant an extension of time for commencement of development under s.16A of the Town Planning Ordinance (Ordinance). However, should there be new planning circumstances governing the application, the Board is under no obligation to approve the application.

**2. Commencement of Approved Development**

The determination on whether an approved development has commenced should be considered on the basis of the facts and circumstances of each case. In general, the approval of building plans would constitute a commencement of development.

However, where land grant (including small house grant) or modification of a lease is required to implement an approved development, the Board may consider that an approved development has commenced as at the date of execution of the land grant/lease modification<sup>1</sup>. ***For a development scheme undertaken by the Urban Renewal Authority, the approval of the resumption application by the Chief Executive in Council would also constitute a commencement of development.*** In the event that building plan submission or execution of the land grant/lease modification is not applicable, for instance, the conversion of chicken sheds for storage or the development of Government projects, the Board may also consider the issuance of short-term waiver (STW) of lease conditions by relevant authorities, ~~or~~ the completion of Government land allocation (GLA) ***or the approval of funding for carrying out detailed design/building works*** as a commencement of development.

### **3. Application Procedures**

- 3.1 Any extension(s) of time for commencement of development shall not result in an aggregate extension period longer than the original duration for commencement of the approved development proposal. An application for such extension(s) falls within Class B amendments published by the Board and shall be made to the Board in accordance with s.16A of the Ordinance. The application procedures set out in the Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals should be followed.
- 3.2 The applicant shall submit the application to the Board no less than 6 weeks before the expiry of the specified time limit so as to allow sufficient time for processing and consultation with concerned Government departments.
- 3.3 If the approved development is not commenced by the specified time limit as imposed by the Board, the planning permission will lapse. The Board does not have power under the Ordinance to extend time for a planning permission that has lapsed and ceased to have effect. Therefore, despite that an application is submitted before the expiry of the specified time limit, the Board will have no power to extend time in respect of a planning permission that has ceased to have effect at the time of consideration. Under such circumstances, a fresh s.16 planning application for the development in accordance with the provision of the extant statutory plan will be required.

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<sup>1</sup> Where the permitted development comprises more than one structure/premises, involving more than one approval of building plans, land grants, modification of lease or STW/GLA, the facts and circumstances in each case will be taken into consideration to decide whether the permitted development has “commenced”.

- 3.4 In support of an application for extension of time for commencement of development, the applicant is required to provide:
- (a) reasons for the application;
  - (b) time period for which an extension of time is sought; and
  - (c) an account of all actions taken to implement the development since the granting of planning permission, including evidence and documentation on the submitted proposals and any works undertaken/completed to fulfil any approval conditions.

#### **4. Assessment Criteria**

The criteria for assessing applications for extension of time for commencement of development include:

- (a) whether there has been any material change in planning circumstances since the original permission was granted (such as a change in the planning policy/land-use zoning for the area);
- (b) whether there are any adverse planning implications arising from the extension of time;
- (c) whether the commencement of development is delayed due to some technical/practical problems which are beyond the control of the applicant, e.g. delays in land administration procedures, technical issues in respect of vehicular access and drainage works or difficulties in land assembly;
- (d) whether the applicant has demonstrated that reasonable action(s), e.g. submission of building plans for approval or application for Small House/land exchange, have been taken for the implementation of the approved development;
- (e) whether the applicant has demonstrated that reasonable action(s), e.g. submission and implementation of proposals, have been taken to the satisfaction of relevant Government departments in complying with any approval

conditions;

- (f) whether the applicant has demonstrated that there is a good prospect to commence the proposed development within the extended time limit;
- (g) whether the extension period applied for is reasonable; and
- (h) any other relevant considerations.

**TOWN PLANNING BOARD**  
**~~AUGUST 2009~~ MAY 2014**