

PART I - INTRODUCTION

Preamble

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

Establishment and Functions of the Board

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

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

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

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

Composition of the Board

1.6 The Board consists of the Chairman (currently the Permanent Secretary for Development (Planning and Lands)), the Vice-Chairman (currently a non-official Member), five other official Members [currently the Director of Planning; the Deputy Secretary (Transport and Logistics) 1, Transport and Logistics Bureau (Alternate members: Principal Assistant Secretary (Transport and Logistics), Transport and Logistics Bureau; Assistant Commissioner for Transport, Chief Traffic Engineer and Chief Engineer, Transport Department); the Director of Home Affairs (Alternate members: Deputy Director (1), Deputy Director (2), Assistant Director (1), Assistant Director (2), Assistant Director (3) and Chief Engineer (Works), Home Affairs Department); the Director of Environmental Protection (Alternate members: Deputy Director of Environmental Protection (1), Assistant Director (Environmental Assessment), Principal Environmental Protection Officer (Territory South) and Principal Environmental Protection Officer (Territory North), Environmental Protection Department); and the Director of Lands (Alternate members: Deputy Director/General,

Assistant Director/Regional 1, Assistant Director/Regional 2 and Assistant Director/Regional 3, Lands Department)] and 24 other non-official Members. The Deputy Director of Planning (District) is appointed as the Secretary to the Board (Secy/Board) and is assisted by a panel of Planning Department staff at the Board's meetings.

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

Planning Committee

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

1.9 Each PC comprises the chairman (currently the Director of Planning), the vice-chairman (currently a non-official Member), four other official Members (currently the Deputy Secretary (Transport and Logistics) 1, Transport and Logistics Bureau (Alternate members: Assistant Commissioner for Transport, Chief Traffic Engineer and Chief Engineer, Transport Department); the Director of Home Affairs (Alternate members: Deputy Director (2), Assistant Director (2), Assistant Director (3) and Chief Engineer (Works), Home Affairs Department); the Director of Environmental Protection (Alternate members: Assistant Director (Environmental Assessment), Principal Environmental Protection Officer (Territory South) and Principal Environmental Protection Officer (Territory North), Environmental Protection Department); and Assistant Director/Regional 1, Lands Department (for the MPC)/Assistant Director/Regional 3, Lands Department (for the RNTPC) (Alternate members: Assistant Director/Regional 2 and Assistant Director/Regional 1 (for the RNTPC)/Assistant Director/Regional 3 (for the MPC), Lands Department) and 11 other non-official Members for the MPC and 12 for the RNTPC respectively.

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

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

Representation Hearing Committee

1.12 To meet the requirement that consideration of representations/further representations has to be completed and submission of a draft plan or the draft part of a partly approved plan (hereafter referred to as 'draft plan') to the Chief Executive in Council (CE in C) be made within five months from the expiry of the last plan exhibition period (or as extended by the Secretary for Development (SDEV) by a period of two months and thereafter, further extended by the SDEV

for two more periods (of 2 months each) under exceptional circumstances), the Board may appoint a Representation Hearing Committee (RHC) from amongst its members. The RHC is normally appointed on a plan basis to exercise the Board's powers and functions under sections 6B to 6H (i.e. to hear representations made to a draft plan, propose amendment(s) to the draft plan to meet the representations, consider further representations to the proposed amendment(s) and decide whether the proposed amendment(s), as proposed or as further varied, should form part of the draft plan for submission to the CE in C). For those draft plans which are of significant territorial interests or would attract wide public interests, the Board may decide to consider the representations/further representations itself.

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

Delegation of Powers and Functions

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

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

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

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

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

1.17 In accordance with section 2(5)(c) of the Ordinance, the Board may also delegate its powers and functions to the Secy/Board to determine the exceptional circumstance under which a representer¹ being a natural person may authorize another natural person to attend the hearing on the representer's behalf under section 6B(4A), the acceptance of further information submitted by an applicant in respect of an application for amendment of plan made under section 12A, for planning permission made under section 16 and review of a decision on a section 16 application made under section 17, and to exempt the accepted further information from the requirement of publication for public comments and/or the recounting requirement (as the case may be).

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

Promulgation of Guidelines and Guidance Notes

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

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

Handling of Information Possessed by the Board

1.21 As disclosure of some of the information of the Board would not be in the public interest, would prejudice the position of the Board, the Government or the CE in C, or would be in breach of any duty of confidentiality owed to any person by the Board/PC or the Government, etc., Members are obliged to preserve the confidentiality of such sensitive information, e.g. information for the preparation of draft plans, which they obtained in their official capacity. No

¹ A representer means a person who makes a representation under section 6(1) of the Ordinance.

such materials should be published, made private copies or communicated to unauthorized persons to prevent abuse or misuse of information and to avoid hindering the proper functioning of the Board due to premature disclosure.

1.22 To safeguard and uphold the impartiality, independence and integrity of the Board, all Members should refrain from commenting or speaking on any particular case scheduled for consideration by the Board, either in public or private discussion. If a case has been scheduled for consideration by the Board and Members have been informed of the agenda, Members should not comment on the case before the meeting. Otherwise, the Board may be taken as forming a view before completing the due process of deliberation on the case at a meeting.

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

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

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

Request for Board's Ruling

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