

## **PART V - REPRESENTATIONS/FURTHER REPRESENTATIONS TO STATUTORY PLANS**

### **Consideration of Representations/Further Representations**

5.1 According to section 6(1) of the Ordinance, any person may make representation to the Board within the plan exhibition period of two months in respect of any new plan or any amendments to the plan. The Board must, as soon as reasonably practicable after a representation is made to it, make the representation available for public inspection. Detailed arrangements for making submissions to the Board are provided in the TPB Guidelines on Submission and Processing of Representations and Further Representations.

5.2 The Board or RHC shall hold a meeting (hereafter referred to as “hearing”) to consider the representations as soon as reasonably practicable after the expiry of the two-month period for submission of representations. All representers are entitled to attend and to be heard at the hearing. If the representer is not a natural person (e.g. the representer is a company/organization/group), the representer may authorize a natural person to attend the meeting. If the representer is a natural person, he/she is required to attend the meeting in person. If the Board is satisfied that the representer is unable to attend the meeting due to exceptional circumstances, the representer may authorize another natural person to attend the meeting and speak on his/her behalf, and pursuant to section 2(5)(c) of the Ordinance, TPB has delegated to the Secy/TPB its power to determine such request for authorization. In attending the hearing, the representers (or their authorized representatives who are allowed to attend the hearing) may be accompanied by other persons<sup>4</sup> (the accompanying person(s)), such as those needed to assist the elderly person to express views or those to provide professional views. After the hearing, the Board will decide whether to propose amendment(s) to the draft plan in the manner proposed by the representers or in other manner as considered appropriate by the Board in meeting the representations. Detailed arrangements are provided in the Guidance Notes on Attending the Meeting for Consideration of Representations under the Ordinance.

5.3 If the Board/RHC decides to propose amendment(s) to the draft plan after the hearing, the proposed amendment(s) will be published (see paragraph 4.4). Any person may make further representation to the Board within the first three weeks of the publication of the proposed amendment(s). The Board must, as soon as reasonably practicable after further representations are made, make the further representations available for public inspection. Administrative arrangement would be made such that the Planning Department may seek comments on the further representations from government departments concerned and written responses from the further representers on the comments received from relevant government departments, where appropriate, to facilitate the Board’s consideration of the further representations at a meeting (representers and further representers will not be invited to attend the relevant meeting), and decide whether to amend the plan in question either by the proposed amendment(s) or by the proposed amendment(s) as varied in such manner as considered appropriate by the Board. If no opposing further representation is received, the Board/RHC will hold a meeting to consider the further representations received and amend the plan by the proposed amendment(s). If no further representation is received, the Board/RHC must amend the plan by the proposed amendment(s). The amendment(s) made to the plan shall be made available for public inspection until the CE in C has made a decision in respect of the Plan or

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<sup>4</sup> The Secy/TPB reserves the right to refuse accompanying persons to enter the meeting room out of consideration of ensuring the smooth conduct of meetings.

the relevant part of the Plan.

5.4 After completion of the consideration of representations/further representations, the Board must submit the draft plan incorporating the amendment(s) made by the Board to meet the representations (if any) to the CE in C for approval within five months from the expiry of the last plan exhibition period. Under the Ordinance, the time limit may be extended by the SDEV for a period of two months, and further extended by the SDEV for two more periods (of 2 months each) under exceptional circumstances.

### **Out-of-time Representations/Further Representations and Representations/Further Representations Concerning Related Compensation and Assistance**

5.5 Representations and further representations are required to be submitted to the Board within their relevant statutory time limits. All submissions made to the Board after the expiry of the time limits shall be treated as not having been made and will not be considered by the Board.

5.6 According to sections 6(3A) and 6D(3B) of the Ordinance, any reason for a representation or further representation is a reason concerning compensation or assistance relating to, or arising from resumption or acquisition of any land by the Government, or clearance or obtaining vacant possession of any land by the Government, that representation or further representation (to the extent that it is made for that reason) may be treated as not having been made.

### **Notification of the Arrangement of the Hearing for Representations**

5.7 The Secy/Board will acknowledge receipt of representations and inform the representers that the representations have been published for public inspection. The Secy/Board will also inform the representers of the tentative date of the hearing. Not less than one week before the scheduled hearing date, the relevant TPB paper will be uploaded to the TPB's website for viewing/downloading. A hard copy of the relevant TPB paper will be provided to the representers/authorized representatives upon request.

### **Confirmation of Attendance at the Hearing for Representations**

5.8 Any delay of a hearing will have significant implications on meeting the statutory time limit for submission to the CE in C. The Secy/Board will ensure that reasonable notice is given to the representers of the hearing date (normally four weeks in advance). The representers will be required to confirm attendance to the meeting within 10 calendar days from the date of the invitation.

5.9 If any representer, who is a natural person, cannot attend the meeting in person as scheduled because of exceptional circumstances, he/she is required to seek the Board's prior consent to authorize another natural person to attend the meeting on his/her behalf. The Secy/Board, under the delegated authority of the Board under section 2(5)(c) of the Ordinance, will consider the request and give a reply to the representer not less than one week before the hearing. While the representer may seek a deferment of the hearing, given the statutory requirement to make plan submission to the CE in C within five months from the expiry of the

last plan exhibition period as mentioned in paragraph 5.4 above, such request would not be entertained unless there are very strong reasons to do so and with the consent of the concerned parties. If deferment is absolutely unavoidable, the Board/RHC may grant a deferment up to a maximum period of two weeks, taking into account all relevant considerations and circumstances of the case. The decision on whether to defer or not would be made by the Board or the RHC, as the case may be. If the request is not acceded to, the hearing will be proceeded as scheduled. If any one of the representers fails to attend the hearing, the Board/RHC may proceed to hold the hearing in his/her absence.

5.10 In attending the meeting, the representers (or their authorized representatives who are allowed to attend the hearing) may be accompanied by the accompanying person(s) subject to completion of prior registration (see Guidance Notes on Attending the Meeting for Consideration of Representations under the Town Planning Ordinance).

### **Proceedings of Hearing for Representations**

5.11 According to the Ordinance, any representations received by the Board may be heard collectively or individually. The Board or the RHC, whichever is the case, will decide whether the representations should be heard collectively or individually. Normally, if the representations are submitted in respect of the zoning of the same site(s) or the same provision on the draft plan, the representations will be heard collectively. If the representations are submitted in the form of the same standard letters or by different representatives of the same group of representers (e.g. Village Representatives of the same Rural Committee), the representations will also be heard collectively.

5.12 In general, the proceedings of a hearing are as follows:

- (a) the various parties will be invited to attend the hearing in accordance with the agenda:
  - (i) for collective hearing, all representers as well as the representatives of the Planning Department and other Government departments, if any, will be invited to attend the hearing at the same time; or
  - (ii) for individual hearing, the individual representer as well as the representatives of the Planning Department and other Government departments, if any, will be invited to attend the hearing when the Board/RHC turns to consider the particular representation;
- (b) in the presence of all parties, the chairman of the meeting will briefly explain the procedures for the hearing;
- (c) the chairman will invite the representatives of the Planning Department and/or other Government departments to present the background to the case;
- (d) the chairman will then invite the representers to make submissions in turn;
  - (i) for collective hearing, the representers will be invited to make submissions according to their groupings; and

- (ii) in case of individual hearing, the presenter will be invited to make submission;
- (e) to avoid a prolonged hearing process, a maximum presentation time of 10 minutes will be allotted to each presenter or his/her authorized representative on non-accumulative basis, i.e. regardless of the number of presenters the authorized representative is representing, each presenter/authorized representative will only be given 10 minutes to speak once in the hearing even when the authorized representative himself/herself is also a presenter or there is any accompanying person to speak on behalf of the presenter/authorized representative. Oral submissions should focus on responding to TPB's enquiries for clarifications or departments' comments arising from the subject representations, instead of reciting the points made in the written representations which have already been provided to TPB before the meeting and had been taken into account; and should be confined to the ground of the written representations already made to TPB under the Ordinance;
- (f) the chairman will then invite the representatives of the Planning Department and other Government departments, if any, and the presenters to answer any questions from Members;
- (g) should the representatives of the Planning Department and other Government departments, if any, wish to respond to statements made by the presenters or to clarify any of their own statements, they should do so with the permission of the chairman and in the presence of the presenters. The presenters will also have an opportunity to respond to statements made by Government representatives as directed by the chairman; and
- (h) the representatives of the Planning Department and other Government departments, if any, and presenters will then leave the meeting. The Board/RHC will deliberate on the representations in private.

### **Arrangement for Consideration of Further Representations**

5.13 Similar to the presenters, further presenters will receive acknowledgement of the receipt of their further representations from the Secy/Board. The Secy/Board will also inform the further presenters of the tentative date of the Board/RHC's consideration which will be held after the process of seeking comments on the further representations from government departments and written responses from the further presenters on the departmental comments, if any, as mentioned in paragraph 5.3 above.

5.14 When the Board/RHC considers the further representations, the representatives of the Planning Department and other Government departments (where appropriate) will present the background of the amendment(s) proposed under section 6B(8) and the main points of the further representations. Afterwards, the Board/RHC will invite the representatives to leave the meeting and proceed to deliberate the further representations in private.

### **Minutes of Meeting**

5.15 If the representations/further representations are considered by the Board, the draft minutes of meeting are normally confirmed at the following scheduled Board's meeting. If the representations/further representations are considered by a RHC, the draft minutes are normally confirmed by circulation among the RHC Members within two weeks after the meeting. The confirmed minutes of the meeting of the RHC will be circulated to all Members of the Board for information.

### **Further Information Submitted to the Board**

5.16 There is no provision under the Ordinance for the Board to accept any further information submitted by the representers/further representers after the expiry of the relevant statutory time limits. All further information made to the Board after the expiry of the statutory time limits shall be treated as not having been made and will not be considered by the Board.

### **Withdrawal of Representations/Further Representations**

5.17 A representer may withdraw his/her representation before the hearing by notifying the Board in writing. The withdrawn representation shall thereafter be treated as not having been made and will not be considered by the Board/RHC. Upon receiving the notice of withdrawal, the Secy/Board will inform the relevant representer accordingly.

5.18 Similarly, a further representer may withdraw his/her further representation before the Board's consideration of the further representation by notifying the Board in writing. The withdrawn further representation shall thereafter be treated as not having been made and will not be considered by the Board/RHC. Upon receiving the notice of withdrawal, the Secy/Board will inform the relevant further representer accordingly.