

PART VI – APPLICATIONS FOR AMENDMENT OF PLAN

Consideration of Application for Amendment of Plan

6.1 Under section 12A of the Ordinance, any of the following persons/organizations are eligible to make an application for amendment of plan except for matters relating to a new plan, or any amendment to a plan, which has not yet been approved by the CE in C:

- (a) a person whose name is registered in the Land Registry as that of the sole owner or one of the owners of any non-Government land within the application site, when the application is made;
- (b) a person who has obtained written consent to the application from at least one owner as defined in (a) above;
- (c) a person who has obtained written consent to the application from the Director of Lands in relation to any Government land within the application site;
- (d) a public officer; and
- (e) a public body as defined by section 2 of the Prevention of Bribery Ordinance (Cap. 201).

6.2 All section 12A applications are normally considered by the respective PC and shall be considered within two months from the date of receipt of the application. In considering a section 12A application, the Board/PC should make reference to Government departments' views.

6.3 On receipt of a section 12A application, the Secy/Board will acknowledge receipt of the application, make the application available for public inspection and inform the applicant of the tentative date of the meeting for consideration of the application. The applicant may attend before the PC and be heard. The Secy/Board will ensure that reasonable notice is given to the applicant of the hearing date (normally four weeks in advance). The applicant will be required to confirm attendance to the hearing within two weeks. Seven days before the hearing, the applicant will receive the agenda for the hearing and a copy of the relevant Paper.

Proceedings of Hearing

6.4 In general, the proceedings of hearing on section 12A application are as follows:

- (a) the applicant as well as the representatives of the Planning Department and other Government departments, if any, will be invited to the meeting at the same time when the Board/PC considers the application;
- (b) the chairman of the meeting will briefly explain the hearing procedures;
- (c) the chairman will then invite the representative of the Planning Department

and/or other Government departments to present the background of the application;

- (d) the applicant will then be invited to elaborate on the application;
- (e) the chairman will then invite the representatives of the Planning Department and other Government departments, if any, and the applicant to answer any questions from Members;
- (f) should the representatives of the Planning Department and other Government departments, if any, wish to respond to statements made by the applicant or to clarify any of their own statements, they should do so with the permission of the chairman and in the presence of the applicant. The applicant would also have an opportunity to respond to statements made by Government representatives as directed by the chairman; and
- (g) the representatives of the Planning Department and other Government departments, if any, and the applicant will then leave the meeting. The Board/PC will deliberate on the application in private.

Submission of Further Information

6.5 Further information may be submitted by the applicant within the specified periods published in the Gazette, i.e. within two months after the day of the receipt of the application and within two months after the day on which the Board makes a decision to defer its decision on the application in order for the applicant to give further information. The Secy/Board will decide if such further information can be accepted for inclusion into the application. Further information which will result in a material change of the nature of the application will not be accepted. Further information accepted for inclusion into the application by the Secy/Board will be made available for public inspection. Unless exempted by the Secy/Board and subject to paragraph 6.6 below, the Secy/Board will re-arrange a date for the Board/PC meeting, which shall be not more than two months from the date of receipt of the further information. To comply with the Ordinance and avoid unreasonable delay in processing the application, the Board must refuse to accept further information submitted not falling within the specified periods. Details on the submission of further information are contained in the TPB Guidelines on Submission of Further Information in relation to Applications for Amendment of Plan, Planning Permission, and Review made under the Town Planning Ordinance.

Adjournment of Hearing/Request for Deferment

6.6 If the applicant fails to attend the meeting, the Board/PC may proceed with the meeting in his/her absence or, if appropriate, adjourn the meeting to another date. On some occasions, the applicant may request for a deferment of the hearing. According to the TPB Guidelines for Deferment of Decision on Representations, Further Representations and Applications made under the Town Planning Ordinance, each request for deferment will be considered on its merits. In considering a request for deferment, the Board will take into account all relevant factors and whether the right or interest of other concerned parties will be affected and may specify a maximum deferment period as it deems appropriate. If there are reasonable grounds for deferment of decision on the application for the applicant to submit further

information, the applicant will be given two months to do so. The case will then be re-submitted to the Board/PC for consideration on a date after the specified period for submission of further information but before the expiry of the statutory time limit. The Secy/Board has the discretion to schedule the meeting date for consideration of the application as soon as practicable before the expiry of the statutory time limit, with a view to expediting the processing of applications.

6.7 If the applicant has reasonable grounds to support his request and informs the Secy/Board in advance before the issue of agenda and the relevant Paper, a Paper will be prepared by the Planning Department to seek the Board's/PC's agreement to the request. However, if the request is received after the issue of the agenda and relevant Paper, the representative of the Planning Department will report the case at the scheduled meeting. For request for deferment without reasonable ground, it will be submitted together with the relevant Paper on the application to the Board/PC for consideration, regardless whether the request is received before or after the issue of agenda. Should the Board/PC consider that a deferment is not warranted, it may proceed to make a decision on the application or adjourn the meeting for consideration of the application to the next scheduled meeting. For the latter case, the applicant will be invited to attend the next scheduled meeting.

Decision of the Board/PC

6.8 The Board/PC may accept an application for amendment of plan in whole or in part or refuse the application. There is no right of review or appeal against the Board's/PC's decision on the application under the Ordinance. Should the Board accept in whole or in part an application, the Board will incorporate the accepted proposal into the relevant plan. The relevant draft plan incorporating the amendments shall be exhibited for public inspection in accordance with the provisions of the Ordinance, and the amendments shall be subject to the statutory procedures under sections 6 and 6B to 6H of the Ordinance.