

GUIDANCE NOTES ON ATTENDING THE MEETING FOR CONSIDERATION OF REPRESENTATIONS UNDER THE TOWN PLANNING ORDINANCE

INTRODUCTION

- 1 The following notes give information and guidance on attending the meeting of the Town Planning Board (the Board)¹ for consideration of the representations under section 6B (the hearing) of the Town Planning Ordinance (the Ordinance). The representer² who intends to attend the hearing should read these notes carefully.
- 2 If further information or assistance is required, please contact the Secretariat of the Board (by email: tpbpd@pland.gov.hk; by post: 15th Floor, North Point Government Offices (NPGO), 333 Java Road, North Point, Hong Kong; or by phone: 2231 4810 or 2231 4835) or the Planning Enquiry Counters of the Planning Department (Hotline : 2231 5000; email: enquire@pland.gov.hk; or by post: 17th Floor, NPGO and 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin).

HEARING BY THE BOARD

- 3 If any representation relating to a new draft plan or the amendment to a draft/partly approved plan/approved plan (hereinafter collectively known as “the plan”) has been received by the Board under section 6 of the Ordinance, the Board will hold a hearing to consider the representations. For verification, each representer is required to provide his/her full name as shown on the Hong Kong Identity (HKID) card/passport and the first four alphanumeric characters of his/her HKID card/passport number in the submission. Otherwise, the representation may be treated as not having been made pursuant to sections 6(2)(b) and (3)(b) of the Ordinance. The Secretariat of the Board reserves the right to require the representer, his/her authorized agent and his/her authorized representative to provide identity proof for verification. For further details, please refer to the Town Planning Board Guidelines on Submission and Processing of Representations and Further Representations under the Town Planning Ordinance (TPB PG-No. 29C) which can be downloaded from the Board’s website (<http://www.tpb.gov.hk/>) or obtained from the Secretariat of the Board and the Planning Enquiry Counters of the Planning Department (PlanD) (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) (hereafter collectively known as “the specified platform”).

¹ Under section 2A(1) of the Town Planning Ordinance, the TPB may appoint Representation Hearing Committee to consider representations and further representations.

² A representer means a person who makes a representation under section 6(1) of the Ordinance.

WHO CAN ATTEND

- 4 Pursuant to section 6B(3) of the Ordinance, each representer is entitled to attend the hearing in person.
- 5 If the representer is not a natural person (e.g. the representer is a company/organisation/group), the representer may authorize a natural person to attend the hearing.
- 6 If the representer is a natural person, he/she is required to attend the hearing in person. If the Board is satisfied that the representer is unable to attend the hearing due to exceptional circumstances, the representer may authorize another natural person to attend the hearing and speak on his/her behalf. Pursuant to section 2(5)(c) of the Ordinance, the Board has delegated to the Secretary of the Board (Secy/TPB) its power to determine such request for authorization. The Secy/TPB will take into account all relevant factors and circumstances of the case in considering the representer's request. In general, the following exceptional circumstances would normally be accepted:
 - (a) medical ground, e.g. sickness or hospitalisation;
 - (b) not in Hong Kong, e.g. studying abroad or having business trip;
 - (c) taken into custody or under quarantine; or
 - (d) other grounds which, in the opinion of the Secy/TPB, are considered acceptable, e.g. summoned to attend court proceedings.
- 7 If the (natural person) representer wishes to appoint an authorized representative to attend the hearing, the (natural person) representer is required to submit a request for consent to authorization of representative and provide information in support of the exceptional circumstances which made his/her attendance at the hearing not possible (with documentary proof, where appropriate), the full name and the HKID card/passport number (first four alphanumeric characters only) of the authorized representative as shown on his/her HKID card/passport and the correspondence or email address of that authorized representative in the form attached to the invitation letter, to the Secretariat of the Board by the deadline as specified by the Secy/TPB. The representer is also required to provide a copy of his/her HKID card/passport (showing the full name and the first four alphanumeric characters of the document number) to the Secretariat of the Board for verification purpose. The (natural person) representer will be informed of the Secy/TPB's decision on his/her request not less than one week before the scheduled hearing date.
- 8 Representers attending the hearing in person and authorized representatives with consents granted by the Secy/TPB to attend the hearing may be accompanied by other person(s), such as those who will assist the elderlies to express their views or those to provide professional support for representers (the accompanying person(s)), subject to their collective speaking time not exceeding the 10-minute limit in paragraph 17 below. Due to the seating capacity of the venue, pre-registration of the accompanying person(s), with procedure set out in paragraph 12 below, is required. The Secy/TPB reserves the right to refuse accompanying person(s) to enter the meeting room out of consideration of ensuring the smooth conduct of hearings.

- 9 The representatives of the PlanD and other government bureau(x)/department(s), where appropriate, will also be invited to attend the hearing.

ARRANGEMENT OF HEARING

- 10 The hearing can be held either individually or collectively, as considered appropriate by the Board.
- 11 (a) Individual hearing - the individual representer(s) will be invited to attend the hearing when that particular representation is considered by the Board.
(b) Collective hearing - all the representer(s) will be invited to attend the hearing at the same time.

PRE-HEARING ARRANGEMENTS

- 12 To facilitate communication in writing, representers and authorized representatives are required to provide correspondences or email addresses for receipt of documents issued by the Board in relation to the processing of the representations and hearing arrangement³. Normally, the Board Secretariat will inform representers who have provided their correspondence or email addresses the tentative hearing date by letter or email not less than 4 weeks before the hearing. They will be required to complete the form attached to the invitation letter and return it to the Board within 10 calendar days from the date of the invitation to provide the details of the person(s) who will attend the hearing (including the accompanying person(s), if any), as well as to provide all information/documents as required in the letter/email and the form (including, where appropriate, documentary proof as to why the representer cannot attend in person and needs to appoint an authorised representative to attend on his/her behalf). For those who have not provided correspondence or email addresses but wish to attend the hearing, they would need to check the information on the Board's website and contact the Secretariat of the Board by the deadline specified by the Secy/TPB for their attendance. Arrangement will be made for their attendance subject to verification of their identity.
- 13 Not less than one week before the scheduled hearing date, the relevant Board's paper will be uploaded to the Board's website for viewing/downloading and every concerned representer/authorized representative who has provided his/her correspondence or email address, will be informed of the date, time and venue of the hearing. Those representers who have requested to appoint authorized representatives to attend the hearing will also be notified of the result of the requests. Hard copies of the relevant Board's paper will be provided to the representers /authorized representatives upon request.

³ Representers and authorized representatives who have not provided correspondence or email address at the time of submission will be taken to indicate that they will not attend the hearing.

DEFERMENT

- 14 Under the Ordinance, the Board is required to submit the plan to the Chief Executive in Council within 5 months from the expiration of the 2-month plan exhibition period. As such, any request for deferment of consideration of any representation would not be entertained unless there are very strong reasons to do so and consent of other concerned parties has been given. If it is absolutely unavoidable, the Board may grant a deferment up to a maximum period of 2 weeks (counting from the original hearing date) taking into account all relevant considerations and circumstances of each case. For further details, please refer to the Town Planning Board Guidelines on Deferment of Decision on Representations, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No. 33B) which is available at the specified platform.

REGISTRATION FOR ATTENDANCE

- 15 The Secretariat of the Board will check the identity of the attendees prior to attending the hearing in order to ensure that the persons attending (i.e. representers or their authorized representatives) are the persons entitled to attend in such capacity. Representers and authorized representatives of representers will only be allowed to attend the hearing if their identities are duly verified by the Secretariat of the Board prior to attending the hearing. If representers or their authorized representatives bring accompanying person(s) to attend the hearing, such person(s) must also complete the registration before entering the meeting room. Failure to comply with the above requirement on registration and relevant advice of the Secretariat of the Board on the matter may be refused entry into the meeting room, although they may still be allowed to observe the proceedings in the designated viewing room.

PRESENTATION TIME

Setting and Allocation of Speaking Time

- 16 Pursuant to section 2C(4) of the Ordinance, the Board may determine the length of time for a representer, or authorized representative who is authorized by one or more representers, to present his/her/their case(s) at the hearing. The authorized representative may himself/herself be a representer, and may represent also a number of other representers.
- 17 While the Board fully respects the rights of the representers to be heard and the need to ensure procedural fairness, there is a need to ensure efficient conduct of hearings and processing/consideration of representations in accordance with the statutory time limit. In this regard, a maximum presentation time of 10 minutes will be allotted to each representer or his/her authorized representative on a non-accumulative basis, i.e. regardless of the number of representers the authorized representative is representing, each representer or authorized representative will only be given 10 minutes to speak **once** in the hearing even when the authorized representative himself/herself is also a representer or there is any accompanying person to speak on behalf of the representer/authorized representative.

- 18 TPB has the responsibility of ensuring the smooth conduct of the hearing. In discharging such responsibility, TPB may stop any oral submission which is repetitive, abusive or on any other reasonable grounds even before the allotted time expires.

Swapping of Allotted Time

- 19 For a hearing that is to be conducted with more than one session, once a representer/authorized representative has been assigned with a specific session, the representer or authorized representatives can only attend the assigned session in order to avoid affecting the convention of other scheduled sessions.
- 20 A representer may swap his/her time slot with another representer in respect of the same plan who has been allotted a different session on a one-to-one mutually agreed basis. For any such swapping, the concerned representers should provide the Secretariat of the Board with written notification duly signed by both of them indicating their mutual consent to the swapping arrangement before commencement of the relevant session. For avoidance of doubt, the 10-minute rule set out in paragraph 17 still applies.

Time Keeping

- 21 A time-keeper will be appointed by the Secretariat of the Board to ring a bell or other similar device 2 minutes before the allotted time is up to alert the representer/authorized representative that the speaking time limit is about to expire, and to do so again when the allotted time limit expires. Upon the ringing of this device when the allotted limit is up, the speaker must stop speaking immediately.

Presentation by Electronic Media

- 22 If, at the hearing, a representer/authorized representative chooses to present the submission by electronic media such as video/record tape or PowerPoint slides, he/she must do so within the total allotted time of 10 minutes. The representer/authorized representative is not allowed to submit electronic media for broadcasting at the hearing if he/she does not attend the hearing in person.

Request for Further Time

- 23 Request for further time for making oral submission from a representer or his/her authorized representative will be subject to the discretion of the Board and such discretion will only be exercised upon sufficient cause shown and after taking into account all relevant circumstances. If his/her request is acceded to, he/she will be allowed to make an oral submission continuously up to the further time allowed by the Board. If there is more than one hearing session, the representer/authorized representative will be either given further time in the same allotted session to make his/her submission (if time permits), or be notified of the date when he/she will be invited to return for such purpose.

CONTENT OF ORAL SUBMISSIONS

- 24 To allow time to be used more wisely and effectively, we strongly encourage oral submissions to respond to the Board'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 the Board before the hearing and had been taken into account. Oral submissions should also be confined to the ground of the written representations already made to the Board under the Ordinance.

- 25 To ensure a smooth and efficient conduct of the hearing, the Chairman of the Board (the Chairman) may request the representers or authorized representatives not to repeat unnecessarily the same points which have already been presented by others at that hearing. If a point has already been made by others in the hearing or is unrelated to the subject matter, the Chairman can in his/her discretion disallow repetition and may request a representer or his/her authorized representative to discontinue.
- 26 During the hearing, the representers/authorized representatives and representatives of government bureau(x)/department(s) may only address questions from the members of the Board at the invitation of the Chairman. The hearing should not be taken as an occasion for cross-examination among concerned parties.

GENERAL PROCEDURE AT THE HEARING

- 27 The hearing is normally held in the following sequence:
 - (a) the Chairman will first make an opening remark and explain the procedure of the hearing;
 - (b) the Chairman will invite the representative(s) of PlanD and/or other relevant government bureau(x)/department(s) to give a summary of the facts, background and PlanD's views on the cases;
 - (c) the Chairman will invite the representers/authorized representatives to make oral submissions in turn. The order of presentation will follow the reference number already given to each representation⁴. For collective hearing, the group of representers/authorized representatives, as the case may be, will normally be invited to make submissions in turn.
 - (d) after the oral submissions, members of the Board will be invited to ask questions which may require the representers or their authorized representatives and/or the representatives of government bureau(x)/department(s) to answer. The Chairman may refer such questions to any of such parties for response; and
 - (e) when members of the Board have no further question to ask, the representers/their authorized representatives and the government's representatives will be invited to leave the meeting room.
- 28 The deliberation part of the hearing will be conducted behind closed doors under section 2C(1) and 2C(2)(a) of the Ordinance.

⁴ Subject to the progress of the hearing, oral submissions by some representers may have to be deferred to next hearing sessions.

ORDER AND BEHAVIOUR

- 29 The rules for keeping the order inside the meeting room are as follows:
- (a) loudhailers and banners will not be allowed to be brought into the meeting room;
 - (b) all attendees must behave in an orderly manner and remain seated during the hearing;
 - (c) all attendees are expected to show courtesy to one another by allowing them to make their presentations without being disturbed or interrupted by people talking amongst themselves or by passing comments;
 - (d) offensive and insulting language must not be used at the hearing;
 - (e) photo-taking or recording is not allowed in the meeting room; and
 - (f) clamour, shouting and commotion are prohibited.
- 30 Any person who fails/refuses to follow any of the above rules or causes any disturbance to the conduct of the hearing will be given warnings by the Chairman. After repeated warnings, the Chairman can ask that person to leave the meeting room. Once excluded, that person should not be allowed to return for the remaining part of that hearing, and the Chairman shall have full discretion to consider any application by such person for further opportunities to make oral submissions at the hearing.
- 31 The Chairman has full discretion to control the conduct of the hearing and all attendees must follow his/her instructions. Attendees who do not do so may be asked to leave the meeting room and uncooperative attendees may be removed from the meeting room as appropriate, at the direction of the Chairman.

DECISION OF THE BOARD

- 32 After giving consideration to the representations at the hearing, the Board will decide whether to propose amendment(s) to the plan in the manner proposed in the representations, or to propose amendment(s) to the plan in any other manner that, in the opinion of the Board, will meet any of the representations. If the Board decides to propose amendment(s) to the plan under section 6B(8) of the Ordinance, such proposed amendment(s) shall be published for further representations in accordance with the provisions of the Ordinance.
- 33 For any further representations received with respect to the amendment(s) proposed by the Board in accordance with section 6B(8) of the Ordinance, the Board will hold a meeting to consider the further representations, but the related representers and persons who submitted the further representations (viz. further representer(s)) will not be invited to attend the relevant Board meeting. After considering the further representation(s), the

Board will decide whether to amend the plan, either by the proposed amendment(s) in question, or by the proposed amendment(s) as further varied in such manner as it considers appropriate. The plan incorporating the amendment(s) made by the Board shall be submitted to the Chief Executive in Council for approval in accordance with the provisions of the Ordinance within the statutory time limit.

- 34 The decision of the Board will be conveyed to the representers/further representers in writing by the Secy/TPB as soon as possible after the minutes of the Board meetings have been confirmed.
- 35 Pending formal notification, any representer/further representer may refer to the Gist of Decision available on the Board's website after completion of the consideration and deliberation of the concerned representations/further representations. For any other enquires on the decision of the Board, he/she may address to the Secretariat of the Board. Any interim reply should not be treated as a formal notification of the decision of the Board.

Town Planning Board
September 2023