

APPLICATION FOR AMENDMENT TO PERMISSION UNDER SECTION 16A(2) OF THE TOWN PLANNING ORDINANCE (CAP. 131)

GUIDANCE NOTES

INTRODUCTION

- 1 The following notes give information and guidance on how to make an application under section 16A(2) of the Town Planning Ordinance (the Ordinance) for amendment to permission granted under section 16 of the Ordinance. Please read them carefully. For submission of planning applications via Electronic Planning Application Submission System (EPASS submission), reference should also be made to the “Guidance Notes of Electronic Submission for Applications for Amendment of Plan, Permission, Amendment to Permission and Review under Sections 12A, 16, 16A(2) and 17 of the Ordinance (Cap.131) Respectively and the Submission of Further Information” (“Guidance Notes on EPASS Submission”) for specific requirements on EPASS submission, for example, on the relevant form to be used and how to make EPASS submission.
- 2 Further information is available on the Town Planning Board (the Board)’s website (<http://www.tpb.gov.hk/>). If any assistance is required, please contact the Secretariat of the Board (by email: tpbpd@pland.gov.hk; by post: 15/F, 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: 17/F, NPGO and 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin).

WHETHER AN APPLICATION IS REQUIRED

- 3 Where a permission is granted by the Board under section 16 of the Ordinance, amendments to the permission are provided under section 16A. Such amendments are classified as Class A or Class B amendments, as published by notice in Government gazette and reproduced in the Town Planning Board Guidelines on Class A and Class B Amendments to Approved Development Proposals which can be obtained from **the Secretariat of the Board, at 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong (Tel: 2231 4810 or 2231 4835) and the Planning Enquiry Counters of the Planning Department (Hotline : 2231 5000)**, or downloaded from **the Board’s website** (https://www.tpb.gov.hk/en/resources/tpb_guidelines/index.html). Changes falling within Class A amendments do not require further approval from the Board. Class B amendments are, however, subject to the approval of the Board upon application made under section 16A(2) of the Ordinance. For details, please refer to the said Guidelines.
- 4 In determining an application for Class B amendments, reference shall be made to the development proposal previously approved by the Board. No reference shall be made to any Class A amendments, or any previously approved Class B amendments, or any minor amendments previously approved by a public officer under the delegated authority of the Board prior to the commencement of the Town Planning (Amendment) Ordinance 2004.

- 5 All amendments to a permission other than Class A amendments and Class B amendments shall be submitted in the form of a fresh application under section 16 of the Ordinance.

WHERE TO OBTAIN THE APPLICATION FORM

- 6 An application for Class B amendment to a permission should be made in a form, which can be obtained from **the Secretariat of the Board and the Planning Enquiry Counters of the Planning Department** or downloaded from **the Board's website** (https://www.tpb.gov.hk/en/resources/application_forms_and_guidance_notes/index.html). For EPASS submission, the relevant electronic application form is available at the Board's website.

WHO CAN APPLY

- 7 Under section 16A(2) of the Ordinance, an application for Class B amendment to a permission can only be submitted by the person to whom the permission is granted. However, in case there is a change in land ownership, the original applicant may appoint the subsequent owner of the site as his/her authorised representative to submit an application for Class B amendments.
- 8 The applicant could appoint an agent to submit an application on his/her behalf. If the application is submitted by an agent, an authorisation letter signed by the applicant should be submitted together with the application. It should be noted that it is not a mandatory requirement to engage qualified professionals in making a submission.

HOW TO COMPLETE THE APPLICATION FORM

- 9 The application form should be typed or completed in block letters, preferably in both English and Chinese. If the space provided on the form is insufficient, please give the details on a separate sheet of paper and make reference to this on the form. A sample of a completed application form is available for reference on the Board's website (https://www.tpb.gov.hk/en/resources/application_forms_and_guidance_notes/index.html).
- 10 The applicant is required to duly complete the application form, including, among others, the "Particulars of Applicant and Authorised Agent" and "Checklist of Documents". To ensure prompt communication during the processing of the application, the applicant or his/her authorised agent should provide an email address and telephone number.
- 11 **Annex A** lists out the particulars which must be included in an application. If any of these particulars are missing or inconsistent with one another, the Board may refuse to process the application.

WHAT DOCUMENTS ARE REQUIRED FOR THE SUBMISSION

- 12 The applicant is required to provide a signed and completed prescribed application form, and an authorisation letter signed by the applicant, if the application is submitted by an authorised agent on the applicant's behalf. If needed, the application may also provide plans/drawings and supplementary information (SI) such as planning statements and reports on technical assessments.
- 13 No personal data (except names) should be included in the application form (excluding the part on the particulars of applicant and authorised agent), plans/drawings and SI as the Board paper prepared for the application, if any, enclosing these documents may be made available for public inspection. Under no circumstances will the Board accept any liabilities for disclosure of personal data arising from the publication of the applicant's submission.
- 14 The applicant should specify the source of any image submitted to the Board, including the date and location at which the image was taken. If the image is artificial intelligence (AI)-generated or is an artist's impression, this should be clearly specified in the image caption or at the bottom of the image in the submission. If the AI-generated image involved the use of real photo, the date and location at which the photo was taken should also be indicated.
- 15 The applicant is required to submit either via EPASS or in the prescribed manner set out at **Annex B** the soft copy of the plans/drawings and SI of the application to reduce paper consumption.

- 16 The requirements on the number of copies are as follows:

Non-EPASS Submission

- (a) 1 signed original copy of the application form (in paper form);
- (b) 3 hard copies and 1 soft copy of all plans/drawings, regardless of the size and colour, and SI;
- (c) 1 signed original copy of the authorisation letter (in paper form), if applicable;

EPASS Submission¹

- (d) 1 electronic application form completed online on EPASS;
 - (e) 3 hard copies and 1 soft copy of all plans/drawings, regardless of the size and colour, and SI; and
 - (f) 1 soft copy of the signed authorisation letter, if applicable.
- 17 Notwithstanding the copy requirement specified in paragraph 15 above, if considered necessary, additional hard copies of the documents may be required by the Board.
 - 18 All soft copies submitted to the Board must comply with the format requirements below:
 - (a) in the form of searchable Portable Document Format files with the size of each file

¹ For EPASS submission, reference should be made to the Guidance Notes on EPASS Submission for details.

not exceeding 200MB;

- (b) with files each named based on its document nature and the rules set out at **Annex C**; and
 - (c) with the resolution of each drawing/plan/photo in the soft copy between 200 DPI² and 300 DPI.
- 19** The applicant has to ensure that the hard copy is the same as the soft copy. Under no circumstances will the Board accept any liabilities for any inaccuracies or discrepancies of the information provided.
- 20** All hardcopy reports and/or documents should preferably use environmentally friendly printing and binding materials such as re-cycled paper and printing should be on both sides.

HOW TO SUBMIT AN APPLICATION

- 21** Hard copies should be submitted either by hand or by post to “**Secretary, Town Planning Board, 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong**”. Soft copies should be submitted in the prescribed manner set out at **Annex B** or via EPASS.
- 22** After receiving an application, the Secretary of the Board will acknowledge receipt and inform the applicant the tentative date of consideration of the application.
- 23** The Secretariat of the Board will check the submission and the Board may require the applicant to verify any matters or particulars set out or included in the application by statutory declaration or otherwise. In accordance with section 40(2)(c) of the Interpretation and General Clauses Ordinance (Cap. 1), the Board may withdraw its decision on an application if the applicant is found to have made any false declaration or statement on the application. Any person who knowingly or wilfully makes a false declaration or statement would be liable to prosecution under the Crimes Ordinance (Cap. 200), the Oaths and Declarations Ordinance (Cap. 11) and/or other relevant Ordinances.
- 24** Upon checking, if it is found that an applicant fails to provide the required particulars and/or sufficient copies of documents, the Board may refuse to process his/her application. The date of receipt of an application would be the date when all necessary information and documents are received and checked.

APPLICATION TO BE CONSIDERED UNDER DELEGATED AUTHORITY

- 25** Normally, an application for Class B amendment to a permission will be considered by the Director of Planning under the Board’s delegated authority. However, the application will be submitted to the Board for consideration if it is considered unacceptable by any of the concerned government departments or involving deletion of the previously proposed Government, Institution or Community (GIC) facilities from the approved development proposal, even if the deletion is initiated and agreed by the relevant government departments and/or the requirement of the GIC facilities is subject

² Dots Per Inch.

to an approval condition.

WITHDRAWAL OF AN APPLICATION OR REQUEST FOR DEFERMENT OF DECISION ON AN APPLICATION

- 26 An applicant may withdraw the submitted application by writing to the Secretary of the Board before the application is considered by the Board or by the Director of Planning under the Board's delegated authority.
- 27 An applicant may also request for deferment of decision on his/her application. A request for deferment should be submitted in writing to the Secretary of the Board before the application is considered by the Board or by the Director of Planning under the Board's delegated authority. For 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.

HOW TO OBTAIN THE RESULT OF AN APPLICATION

- 28 In accordance with the Ordinance, all applications for Class B amendment to permission will be considered within two months of their receipt. If an application is to be considered by the Director of Planning under the Board's delegated authority, the applicant will normally be informed of the Director's decision within 6 weeks of its receipt. If an application is to be submitted to the Board for consideration, the applicant will be notified in writing of the Board's decision after confirmation at the next scheduled meeting of the minutes of the meeting at which the decision is made (normally 2 weeks after the meeting).
- 29 If an application has been submitted to the Board for consideration and is pending written notification of the Board's decision, an applicant may seek verbal advice on the result of his/her application from the Secretary of the Board immediately after the meeting, or make reference to the Gist of Decisions on Planning Applications which is available on the Board's website shortly after the meeting on the same day. An applicant may also request for an interim written reply on the Board's decision. Such request should be made in writing to the Secretary of the Board. Any interim reply should not be treated as a formal notification of the decision of the Board.
- 30 For a planning application not approved by the Board, the Secretary of the Board will set out the reasons for rejection/deferral in the written notification, together with the relevant Board/Planning Committee's paper and minutes or links to these documents, to the applicant. The applicant can contact the responsible senior town planner, whose telephone number will be included in the written notification, to clarify issues related to the decision and concern of the Board.

COMPLIANCE OF APPROVAL CONDITIONS

- 31 The Board or the Director of Planning may approve an application, with or without conditions. The approval conditions, if any, attached to a permission should be complied with by the applicant. The detailed requirements are set out in the Town Planning Board Guidelines on Compliance of Approval Conditions.

RIGHT OF REVIEW AND APPEAL

- 32 An application may be approved, with or without conditions, or refused by the Board. The applicant will be notified in writing of the Board's decision including the approval conditions, if any, or the reasons for refusing the application. If the applicant is aggrieved by a decision of the Board, he may, within 21 days of being notified of the decision of the Board, apply in writing to the Secretary of the Board for a review under section 17(1) of the Ordinance. The applicant must set out the grounds for the review. According to section 17(1B) of the Ordinance, the Board must refuse the application if no ground is provided for the review.
- 33 The review application is required to comply with the requirements set out in paragraphs 13 to 19 and 21 above.
- 34 Upon receipt of an application for review, the Secretary of the Board will make available the application for public inspection until the review is considered by the Board. Any person may make comment to the Board on the review within the first 3 weeks of the period during which the review application is available for public inspection. All information including the name of the applicant, but excluding other personal data, included in the review application and the comments on the review application shall be made available for public inspection.
- 35 In accordance with the provisions of the Ordinance, the Board shall consider the review within 3 months of its receipt. The applicant or his/her authorised representative may attend the meeting and be heard by the Board. Details of the review procedures and arrangements are provided in the Guidance Notes on "Application for Permission under section 16 of the Town Planning Ordinance (Cap. 131)"
- 36 If the applicant is aggrieved by the decision of the Board on a review under section 17, he may, within 60 days of being notified of the decision of the review, lodge an appeal **to the Secretary, Appeal Board Panel (Town Planning), at 17/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong (Tel: 3509 8844 or 3509 7840)** with a copy sent to the Secretary of the Board.

IMPORTANT POINTS TO NOTE

- 37 These Guidance Notes serve only as general guidelines for the preparation of an application and attendance at the Board meeting. The guidelines are not meant in any way to restrict the content of each application, nor to restrict the right of the Board to require further information. Each application will be considered on its individual merits.
- 38 Applicants and their authorised agents are reminded that offering any advantage to a Civil Servant and Members of the Board in connection with the application is an offence under the Prevention of Bribery Ordinance.

Particulars which Must be Included in an Application

The following particulars must be included in an application. If any of these particulars is missing or inconsistent with one another, the Board may refuse to process the application.

- (a) Particulars of the applicant and/or agent
(Parts 1 and 2 of the application form and “Particulars of Applicant and Authorised Agent”)
 - (i) *for an application without an authorised agent*
 - name of the applicant and name of contact person (if the applicant is a company or an organization)
 - address, telephone number, e-mail address, and fax number (if any) (Email address is required for the Secretariat of the Board to provide the hyperlink for soft copy transmission.)
 - (ii) *for an application with an authorised agent*
 - name of the applicant
 - name of the agent and name of contact person (if the agent is a company)
 - address, telephone number, e-mail address, and fax number (if any) of the agent (Email address is required for the Secretariat of the Board to provide the hyperlink for soft copy transmission.)
 - original authorisation letter signed by the applicant with applicant’s company chop (where appropriate). The subject of the authorisation letter should include the location of the application site and the proposed use/development. Original Authorisation letter(s) signed within 1 year of submitting the application will normally be accepted. For EPASS submission, instead of the original copy, a soft copy of the letter should be submitted.
- (b) Particulars of the relevant permission
(Part 3 of the application form)
 - An applicant or his/her agent must clearly provide the application number of the relevant permission.

Submission of Soft Copy of Application Materials*

Except for EPASS submission, the applicant is required to follow the steps below for the submission:

New Application

- a. Submit the hard copies first for the Board's initial checking.
- b. Check email notification from the Board which will be sent after the Board's initial checking of the application materials and provide a hyperlink to a designated folder for soft copy submission[@].
- c. Click the hyperlink and upload the documents to the designated folder. All the documents are required to be in the searchable Portable Document Format (PDF) with the size of each file not exceeding 200 MB. Each file is required to be named in accordance with its nature (see **Annex C**).
- d. Notify the Board via email (**tpbsubmission@pland.gov.hk**) upon completion of the soft copy submission. Unless the receipt of the email notification, the soft copy submission will not be taken as completed.
- e. If rectification is required, upload the **full set** of the submissions by repeating (c) and (d) above, and submit the required number of hard copies to the Secretariat of the Board.

** For EPASS submissions, reference should be made to the Guidance Notes on EPASS Submission.*

[@] The email notification will be sent to the email address provided by the applicant. The applicant should make sure that his/her email account setting will not keep the email notification in the junk box.

A. Nature of the Supporting Documents Involved in Planning Application

1. Cover Letter
2. Plans and Drawings
3. Planning Statement
4. Responses to Comments
5. Any relevant technical assessments as appropriate and if necessary
6. Others

B. Naming Rules for Digital Files

[Application No. (e.g. A_K1_123)]_[Date of Submission (e.g. YYYY-MM-DD)]_[Nature of the Document]_[Part no.(if applicable)]*

Example

A_K1_123_2021-12-31_Plans_Drawings.pdf

A_K1_123_2021-12-31_Planing_Statement_1.pdf*

A_K1_123_2021-12-31_Planning_Statement_2.pdf*

** If an assessment/statement is larger than 200MB in file size, the applicant is required to split the assessment/statement into smaller files (parts) with each not exceeding 200MB and specify the part number of each file at the end of the respective file name. See the planning statement in the Example.*