

**TOWN PLANNING BOARD GUIDELINES ON
SUBMISSION OF FURTHER INFORMATION
IN RELATION TO APPLICATIONS FOR AMENDMENT OF PLAN,
PLANNING PERMISSION AND REVIEW
MADE UNDER THE TOWN PLANNING ORDINANCE**

[Important Note :-

The Guidelines are intended for general reference only.

Any enquiry on this pamphlet should be directed to the Secretariat of the Town Planning 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).

The Guidelines are subject to revision without prior notice.]

1. Purpose

These Guidelines set out the general practices adopted by the Town Planning Board (the Board) in dealing with further information submitted by an applicant to supplement an:

- (a) application for amendment of plan made under s.12A of the Town Planning Ordinance (the Ordinance) (s.12A application);
- (b) application for planning permission made under s.16 of the Ordinance (s.16 application); or
- (c) application for review of the Board's decision on a s.16 application made under s.17 of the Ordinance (s.17 review).

2. Delegation of the powers of the Board

- 2.1 Pursuant to s.2(5)(c) of the Ordinance, the Board has delegated to the Secretary of the Board (Secy/Board) its powers to determine acceptance of further information, and whether to exempt it from the requirements in respect of publication for public comments and recounting of the statutory time limit for consideration of the application from the receipt of the further information. The publication requirement does not apply to s.12A application.

2.2 Under s. 12A(13A), 16(2JA) and 17(2HA) of the Ordinance, the Board ***must not accept*** any further information given by the applicant to the Board for s.12A application, s.16 application or s.17 review if the further information is given at a time not falling within the specified periods published in the Gazette by the Board on 1.9.2023 (**Appendix A**), i.e. not given within two months after the day of the receipt of the application by the Board or within two months after the day on which the Board decides to defer its decision on the application for the applicant to give further information. Accordingly, the Board will only accept further information within the 2-month period starting from the day after the application is made (e.g. from 2.9.2023 to 1.11.2023 inclusive if the application is made on 1.9.2023). Nevertheless, if the Board decides to defer its decision on the application for the applicant to give further information, the Board will also accept further information within another 2-month period starting from the day after that deferment decision is made (e.g. from 2.12.2023 to 1.2.2024 inclusive if the Board decides to defer its decision on the application on 1.12.2023).

3. Processing of further information

3.1 It is the duty of the applicant to provide sufficient information when making an application to the Board. This would facilitate the Board's consideration and avoid delay in processing the application. However, an applicant may submit further information to the Secy/Board to supplement his application. The Secy/Board will determine whether the information could be accepted and, if accepted, whether the information would be exempted from the publication requirement (such requirement is only applicable to s.16 application and s.17 review) and the recounting requirement (applicable to s.12A application, s.16 application and s.17 review). In submitting any further information, the applicant should clearly indicate whether he would proceed with the original application (i.e. without the further information) in case the Secy/Board decides that the further information is not accepted, or such information is accepted but not exempted from the publication requirement and/or the recounting requirement, as the case may be.

3.2 Submission of further information should not be used as a tactic to delay consideration of applications. Further information involving various assessments should be submitted in one go and not by batches. When the Board decides to defer the decision on an application for the applicant to submit further information, the Secy/Board has the discretion to schedule the meeting date for

consideration of the application as soon as possible on a date after the specified period for submission of further information but before the expiry of the statutory time limit, with a view to expediting the processing of applications. To comply with the Ordinance and avoid unreasonable delay in processing the application, the Board must not accept further information submitted not falling within the specified periods mentioned in paragraph 2.2 above.

Whether the information could be accepted

- 3.3 If the further information is submitted within the specified periods mentioned in paragraph 2.2 above and does not result in a “material change” of the nature of the application, it will be accepted by the Secy/Board for inclusion into the application and be processed as part of the application in accordance with the relevant provisions of the Ordinance. If the further information is accepted as not resulting in a material change of the nature of the application, then the effect of submitting further information is that the statutory time limit for consideration of the application, i.e. 2 months for s.12A application and s.16 application and 3 months for s.17 review, will be automatically restarted, unless an exemption under sections 12A(15), 16(2L) and 17(2J) respectively is granted.
- 3.4 Further information resulting in a material change of the nature of the application will not be accepted by the Secy/Board. Under such circumstances, the submitted further information will not be processed. If the applicant wants to proceed with the further information that will result in a material change of the nature of application, a fresh application will need to be submitted. If the applicant chooses to proceed with the original application, then he must do so without the further information. In that case, the statutory time limit will run from the original application date and the further information will be ignored. The choice of proceeding without the further information will not prejudice the applicant’s submission of another application in future.
- 3.5 All further information on s.16 applications and s.17 reviews, if accepted by the Secy/Board, will be published for public comment, unless an exemption as mentioned below has been granted by the Secy/Board.

Whether the accepted information could be exempted

- 3.6 If the Secy/Board accepts the further information, he will simultaneously consider whether the accepted information can be exempted from the publication

requirement and/or the recounting requirement (as the case may be).

- 3.7 For s.16 applications and s.17 reviews, if the further information could be exempted, i.e. need not be published for public comments, the application, together with the further information, will be submitted to the Board for consideration as originally scheduled. On the other hand, if the further information could not be exempted, it would be published for three weeks for public comments and the statutory time limit for consideration of the application will be automatically restarted, unless the applicant has indicated at the outset that the original application should be proceeded with.
- 3.8 For s.12A applications, the publication requirement is not applicable and the Secy/Board will decide whether the further information could be exempted from the recounting requirement. If exempted, the application, together with the further information, will be submitted to the Board for consideration as originally scheduled. Otherwise, the statutory time limit for consideration of the application will be automatically restarted, unless the applicant has indicated at the outset that the original application should be proceeded with if the further information could not be exempted from the recounting requirement.
- 3.9 All accepted further information on s.12A application, s.16 application and s.17 review will be uploaded to the Board's website and available at the Planning Enquiry Counters of the Planning Department at 17/F, North Point Government Offices, 333 Java Road, Hong Kong, and 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin for public inspection until the application has been considered by the Board.

4. Types of information that constitute "a material change"

What constitutes a material change of the nature of the application is a matter of fact and degree and should be assessed on the individual merits of each case. In general, a material change is involved if the further information will lead to, for a s.12A application, a major change in site area/boundary in question, the proposed zoning, uses and development restrictions and, for a s.16 application and s.17 review, a major change in the area and configuration of the application site (e.g. enlargement of site to include additional lot), proposed use (e.g. from office to hotel), design and layout of the proposed scheme (e.g. substantial change in built-form and disposition of building blocks) and nature of approval sought (e.g. from temporary to permanent). For these types of

applications, a change in the proposed site area, plot ratio, gross floor area, site coverage or building height under application exceeding 10% would generally be considered as “material” (particularly those involving increases in any such development parameters), while the circumstances of each case should be taken into account.

5. Types of information that could be exempted

Whether an exemption is to be granted should be assessed on the circumstances of each case no matter the proposed scheme is a temporary use or a permanent use. In general, an exemption may be granted to the following types of information:

- (a) minor change in the proposed scheme under application without changing the major development parameters of the proposed scheme such as site area, plot ratio, gross floor area, site coverage, building height. Minor change in the following aspects may be exempted:
 - internal layout/disposition of premises;
 - the location of open space and ancillary major utility installation;
 - the form of the building blocks;
 - increase in the provision of open space;
 - reduction in car parking spaces with no change in the car parking ratio;
 - location and size of non-building area;
 - Landscape Master Plan regarding preservation and/or planting of more trees;
 - the provision of private indoor recreational facilities;
 - phasing and implementation; and
 - operational details and arrangements (e.g. operation hours).

In considering whether the changes are minor or not, the Secy/Board may make reference to the relevant categories of amendments as set out in the “Schedule of Class A Amendments”¹ published by the Board.

- (b) clarification and supplement of the background and supporting information of the application, e.g. applicant’s identity, site area/boundary, lot number, existing conditions of the site/premises, owner’s consent, notification means, operational aspects of the applicant’s business, lease conditions, application history, compliance

¹ Please refer to the Schedule attached to the Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals.

with other relevant legislation and Government requirements, surrounding land uses and implementation schedule;

- (c) technical clarification/responses to comments of relevant Government departments and public comments without changing the scheme;
- (d) submission of a revised technical assessment without major changes in the assumptions and methodologies, findings and proposed mitigation measures, where appropriate;
- (e) rectification of editorial and transcription errors and miscellaneous minor information; and
- (f) other information which, in the opinion of the Secy/Board, could be exempted.

6. Notification of Secy/Board's decision

The applicant will be informed of the Secy/Board's decision on whether the further information could be accepted and exempted, as soon as practicable. Unless the applicant has clearly indicated his intention to proceed with the original application at the time of submitting the further information, the statutory time limit for processing the application will be recounted and the applicant will be informed of the rescheduled date for consideration of the application, if the further information is accepted but not exempted from the publication requirement and/or recounting requirement (as the case may be). For further information that is not accepted, the original application (i.e. without the further information) will continue to be processed, unless the applicant has indicated otherwise at the time of submission.

7. Submission of Consolidated Revised Documents

Where an application involving multiple submissions of further information for planning statement and/or technical assessment(s), and such further information submissions have already been accepted by the Secy/Board, the applicant is required to submit a consolidated version to supersede the previous further information submissions, preferably at least two weeks before the scheduled meeting to facilitate the Board's consideration of the application. The applicant should ensure that the consolidated version should not contain any new information other than that already accepted by the

Secy/Board. The consolidated version with no new information will not be treated as new further information.

8. Further Information for Representation and Further Representation

Representation to a new draft plan or the amendment to a draft/partly approved plan/approved plan and further representation to amendments proposed by the Board under section 6B(8) shall be made to the Board within the relevant statutory time limits stipulated in the Ordinance. Representation and further representation made to the Board after the expiration of the relevant time limits shall be treated as not having been made and will not be considered by the Board. Under the Ordinance, there is no provision for the Board to accept further information for representation and further representation submitted to the Board after the expiry of the relevant statutory time limits for making submission.

**TOWN PLANNING BOARD
SEPTEMBER 2023**

G.N. 5200

TOWN PLANNING ORDINANCE (Chapter 131)

SPECIFIED PERIOD(S) FOR GIVING FURTHER INFORMATION

Pursuant to section 12A(24A) of the Town Planning Ordinance (Chapter 131) (the ‘Ordinance’), the Town Planning Board (the ‘Board’) hereby specifies the following periods as the periods during which an applicant may give further information to the Board to supplement the information included in an application made under section 12A(1) of the Ordinance:—

- (1) within two months after the day of the receipt of the application (for the avoidance of doubt, section 12A(14)(c)(ii) of the Ordinance does not apply for the purposes of this sub-paragraph); and
- (2) 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.

Pursuant to section 16(7A) of the Ordinance, the Board hereby specifies the following periods as the periods during which an applicant may give further information to the Board to supplement the information included in an application made under section 16(1) of the Ordinance:—

- (1) within two months after the day of the receipt of the application (for the avoidance of doubt, section 16(2K)(c)(ii) of the Ordinance does not apply for the purposes of this sub-paragraph); and
- (2) 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.

Pursuant to section 17(8) of the Ordinance, the Board hereby specifies the following periods as the periods during which an applicant may give further information to the Board to supplement the information included in an application made under section 17(1):—

- (1) within two months after the day of the receipt of the application (for the avoidance of doubt, section 17(2I)(c)(ii)(A) of the Ordinance does not apply for the purposes of this sub-paragraph); and
- (2) 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 above specifications take immediate effect.

1 September 2023

Town Planning Board