

**TOWN PLANNING BOARD GUIDELINES
ON DEFERMENT OF DECISION ON REPRESENTATIONS,
COMMENTS, FURTHER REPRESENTATIONS AND APPLICATIONS
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 (15th Floor, North Point Government Offices (NPGO), 333 Java Road, North Point, Hong Kong – Tel. No. 2231 4810 or 2231 4835) or the Planning Enquiry Counters of the Planning Department (Hotline : 2231 5000) (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 procedures and practices adopted by the Town Planning Board (the Board) in considering requests for deferment of a decision on:

- (a) representations to a draft plan (representations) and any comment on them;
- (b) further representations to amendments proposed by the Board to meet a representation (further representations);
- (c) an application for amendment of plan made under s.12A of the Town Planning Ordinance (the Ordinance) (s.12A application) and any comment on it;
- (d) an application for planning permission made under s.16 of the Ordinance (s.16 application) and any comment on it;
- (e) an application for amendments to planning permission made under s.16A of the Ordinance (s.16A application); and
- (f) an application for review of the Board's decision on a s.16 or s.16A application made under s.17 of the Ordinance (s.17 review).

2. General principles in processing request for deferment

- 2.1 Upon receipt of representations, comments, further representations, applications and reviews lodged in accordance with the Ordinance (hereafter collectively referred as “the submissions”), the Secretary of the Board (Secy/Board) will notify the representers/further representers/commenters/applicants of the date of the Board’s meeting to consider the submissions. The Board may, under various circumstances and/or upon request of the representers, further representers, commenters, applicants or the Planning Department, defer making a decision on the submissions and reschedule the relevant meeting to another date.
- 2.2. Any request for deferment should be addressed in writing to the Secy/Board. As a prerequisite, reasonable grounds must be provided to support the request and the proposed deferment period should not be indefinite. 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 the maximum period for deferment as it deems appropriate. Normally, the applicant or relevant parties will be given two months for preparation of submission of further information (if required) upon the Board’s agreement to the deferral request. The case will then be re-submitted to the Board within two months in case of a s.16 application or within three months in case of a s.12A application/s.17 review upon receipt of the further information. 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. The rescheduled date for consideration of the relevant submissions should be adhered to.

3. Request for deferment in respect of applications and reviews

Reasons for deferment

- 3.1 Each request for deferment will be considered by the Board based on its merits. The Board may, upon consideration of such request or of its own volition, decide to defer a decision on the applications for the following reasons:

(a) Need to Consult Other Relevant Government Departments

Further consultation with relevant Government departments is required to resolve major technical issues directly associated with the case in question.

(b) Provision of Important Supplementary Information

Information which is essential for the consideration of the submissions by the Board is not available but is required to be provided by the relevant parties or Government departments, e.g. assessment to address certain technical issues like Traffic Impact Assessment, Environmental Impact Assessment and Drainage Impact Assessment and refinement to the application to address public comments.

(c) Awaiting Recommendations of Major Government Planning-Related Study or Infrastructure Proposal

A major Government planning-related study due to be completed shortly or a decision on a major infrastructure proposal due to be released soon which might have significant planning implications on the subject site and would affect the decision of the Board.

3.2 Non-planning related reasons (such as the need to assess/re-assess the financial or economic viability of the proposal, or awaiting a better “economic climate”) should normally not be accepted.

3.3. Notwithstanding the above, a decision on the relevant submissions may be deferred under other circumstances. These include:

(a) where the Board accepts any further information to supplement a s.12A application, s.16 application or s.17 review, the meeting arranged to consider the application may need to be rescheduled to allow time for further processing of the information. The Secy/Board will inform the relevant parties of the arrangement accordingly. The general practices are set out in the “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”;

(b) a decision on a s.16 application or s.17 review would be deferred if the zoning of the subject site is still subject to outstanding adverse representation yet to be submitted to Chief Executive in Council (CE in C)

for consideration and the substance of the representation is relevant to the subject application/review; and

(c) any other reasonable grounds as the Board thinks fit.

3.4 Normally the first deferment requested by the applicant would be granted to allow the applicant to prepare further information to address outstanding issue(s). The request for the second deferment would not be acceded to if:

(a) the applicant fails to demonstrate that reasonable action(s) such as submission of further information has/have been taken to address the outstanding issue(s);

(b) the application site is the subject of repeated applications involving more or less the same use with similar proposal or the subject of withdrawal applications for the same use at the same site/premises; or

(c) any other factors pertinent to the application as the Board thinks relevant, such as the nature of public comments received, whether the outstanding issues are fundamental for the Board's consideration or could be dealt with at a later stage, and whether the progress of enforcement actions to be taken by the concerned departments would be affected, etc.

3.5 To avoid delay in processing application/review, the second deferment should be the last deferment. Except under very special circumstances and supported with strong justifications, further request for deferment would not be favourably considered by the Board.

4. Procedures for handling request for deferment

4.1 The applicant will normally be given two months for preparation of submission of further information upon the Board's agreement to the deferral request. The case will then be re-submitted to the Board within two months in case of a s.16 application or within three months in case of a s.12A application/s.17 review upon receipt of further information. The applicant is advised to submit the further information involving various assessments (if required) in one go as soon as possible. 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.

- 4.2 For request with reasonable grounds (i.e. those set out in paragraph 3.1 above), if it is received by the Secy/Board before the issue of agenda of the meeting and the relevant paper on the application (normally one week before the scheduled meeting date), a simple paper will be prepared by the Planning Department to seek the Board's agreement to the request. Should the request be received after the issue of the agenda, the Planning Department will report the case at the scheduled meeting. The applicant and/or his/her representative(s) will not be required to attend the meeting in case of a s.12A application/s.17 review. If the Board agrees to the deferment, the applicant will be notified of the two-month period for submission of further information and the rescheduled meeting date. However, if the Board decides not to accede to the request, it may proceed to make a decision on the application at the scheduled meeting if it is a s.16 application, or adjourn the meeting for consideration of the application to the following meeting if it is a s.12A application/s.17 review. The applicant will be informed of the Board's decision on the application or will be invited to attend the rescheduled meeting as the case may be.
- 4.3 However, for request not supported by the Planning Department, e.g. the request is without reasonable grounds, it will be submitted together with the relevant paper on the application to the Board for consideration, regardless of whether the request is received before or after the issue of agenda. In case of s.12A application and s.17 review, the applicant and/or his/her representative(s) will be required to be present before the Board to explain the reasons for the proposed deferment. Should the Board consider that a deferment is not warranted, it may proceed to make a decision on the application/review. If the applicant and/or his/her representative(s) fails to attend the scheduled meeting, the Board may proceed with the meeting in their absence.

S.16A applications

- 4.4 Pursuant to s.2(5)(b) of the Ordinance, the Board has delegated to the Director of Planning (D of Plan) the power to consider s.16A applications. Any request for deferment of decision on such applications shall be submitted to the Secy/Board as early as possible before D of Plan has made a decision on the application. D of Plan will decide on the request in accordance with these

Guidelines.

5. Request for deferment in respect of representations, comments and further representations

- 5.1 According to the Ordinance, the Board shall submit a draft plan to the CE in C within a statutory time limit of nine months (or with an extension of up to six months granted by the CE) from the expiration of the exhibition period of the draft plan. Deferment of consideration of representations, comments and/or further representations may affect the submission of the plan to CE in C and other parties involved in the hearing. Hence, such request would not be entertained unless with the consent of other concerned parties and there are very strong reasons to do so. If it is absolutely unavoidable, the Board may only adjourn the meeting for a period up to a maximum of four weeks (counting from the original hearing date) taking into account all relevant considerations and circumstances of each case.
- 5.2 To meet the statutory time limit on submission of a draft plan to the CE in C, any request for deferment should be submitted to the Secy/Board as soon as possible but in any case not later than two weeks before the scheduled meeting date. Upon receipt of a request for deferment, the Planning Department will circulate a simple paper to seek the views of the Board on the request and inform the relevant parties of the decision of the Board on the request accordingly. If the request is not acceptable to the Board, the hearing of the representation/further representation will proceed as scheduled.
- 5.3 If the request is received after the two-week deadline, it will be submitted to the Board for consideration together with the relevant paper on the representations/further representations at the scheduled meeting. The relevant parties and/or their representative(s) will be required to be present before the Board to explain the reasons for the proposed deferment. Should the Board consider that a deferment is not warranted, the hearing of the representation/further representation will proceed as scheduled. If the relevant parties and/or their representative(s) fail to attend the meeting, the Board may proceed with the meeting in their absence.

6. Notification of request for deferment

It is a statutory requirement that the Board's meetings to consider the relevant submissions, except the part on deliberation of the submissions, shall be open to public. To facilitate the public in tracking the progress of the case, the receipt of a request for deferment will be notified on the Board's website.

**TOWN PLANNING BOARD
AUGUST 2021**