

TPB PG-No. 35€D

TOWN PLANNING BOARD GUIDELINES ON EXTENSION OF TIME FOR COMMENCEMENT OF DEVELOPMENT

(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 14th Floor, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin).

The Guidelines are subject to revision without prior notice.)

1. Introduction

- 1.1 Any planning permission granted by the Town Planning Board (the Board), except those for regularization of uses and those granted on a temporary basis, is subject to a ~~time-limited condition~~ **time limit** that the permission shall cease to have effect on a specified date unless prior to that date, the permitted development has commenced or an extension of time for commencement of development is granted. Where an approved development has not commenced within the specified time limit, the applicant may apply for an extension of the time for commencement of the development.
- 1.2 The ~~time-limited condition~~ **time limit** attached to planning permission imposed by the Board is to ensure that the approved development proposals would be implemented within a reasonable period. With good justifications, the Board may grant an extension of time for commencement of development under s.16A of the Town Planning Ordinance (Ordinance). However, should there be new planning circumstances governing the application, the Board is under no obligation to approve the application.

2. Commencement of Approved Development

- 2.1 The determination on whether an approved development has commenced should be considered on the basis of the facts and circumstances of each case.

In general, the approval of building plans would constitute a commencement of development. However, where ~~land grant (including small house grant) or modification of a lease~~ **land transaction with the Government** is required to implement an approved development, the Board may consider that an approved development has commenced as at the date of ~~execution of the land grant/lease modification~~¹ **acceptance of the formal basic terms offer¹ by the applicant of the concerned transaction under the relevant land document, generally including land grant (including land sale, small house grant, etc.), lease modification (including short-term or temporary waiver, etc.), land exchange, short term tenancy agreement, and any other documents issued by the Lands Department which are required to effect the approved development.** For a development scheme undertaken by the Urban Renewal Authority, the approval of the resumption application by the Chief Executive in Council would also constitute a commencement of development. In the event that ~~Where~~ building plan submission or execution of the land **transaction** ~~grant/lease modification~~ is not applicable, for instance, the conversion of chicken sheds for storage ~~or the issuance of relevant documents for undertaking the permitted development, use(s) or works by relevant authorities may constitute a commencement of development, for instance, excavation permit for land excavation, certificate of exemption in respect of site formation works (e.g. proposed land filling for permitted New Territories Exempted House), etc.~~ For the development of Government projects **or uses**, the Board may also consider the issuance of short term waiver (STW) of lease conditions by relevant authorities, the completion **grant of the relevant** Government land allocation (GLA) or the approval of funding for carrying out detailed design/building works as a commencement of development. **For a development scheme undertaken by the Urban Renewal Authority, the approval of the resumption of land by the Chief Executive in Council would also constitute a commencement of development.**

2.2 Where the permitted development comprises more than one structure/premises, involving more than one approval of building plans or

¹ ~~Where the permitted development comprises more than one structure/premises, involving more than one approval of building plans, land grants, modification of lease or STW/GLA, the facts and circumstances in each case will be taken into consideration to decide whether the permitted development has “commenced”.~~

¹ **This refers to the basic terms, with or without premium, fee or rent, offered by the Lands Department to the applicant of the concerned transaction.**

land transactions or GLAs covering different parts of a site, the facts and circumstances in each case will be taken into consideration to decide whether the permitted development has “commenced”. For comprehensive development² which is not under single ownership and involves different implementation phases, phased commencement may be considered by the Board, provided that it has been demonstrated in the approved scheme that phased development will not undermine the planning intention of the comprehensive development³. The circumstances on what constitute a commencement of development set out in paragraph 2.1 above are applicable. For the avoidance of doubt, the project proponents of comprehensive developments with phased commencement shall make due effort to implement the remaining phases within the validity period as far as possible, or otherwise the remaining phases of the approved schemes yet to be commenced shall cease to have effect.

3. Application Procedures

- 3.1 Any extension(s) of time for commencement of development shall not result in an aggregate extension period longer than the original duration for commencement of the approved development proposal. An application for such extension(s) falls within Class B amendments published by the Board and shall be made to the Board in accordance with s.16A of the Ordinance. The application procedures set out in the Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals should be followed.
- 3.2 The applicant shall submit the application to the Board no less than 6 weeks before the expiry of the specified time limit so as to allow sufficient time for processing and consultation with concerned Government departments.

² This refers to development within zone(s), e.g. “Comprehensive Development Area” zone, on statutory plan intended for comprehensive development or redevelopment, or permitted in the form of a comprehensive development scheme.

³ In considering whether the planning intention of the comprehensive development will be undermined, reference will generally be made to the criteria on ‘Allowance for Phased Development’ as specified in the Town Planning Board Guidelines No. 17A for ‘Designation of “Comprehensive Development Area” (“CDA”) Zones and Monitoring the Progress of “CDA” Developments’.

- 3.3 If the approved development is not commenced by the specified time limit as imposed by the Board, the planning permission will lapse. The Board does not have power under the Ordinance to extend time for a planning permission that has lapsed and ceased to have effect. Therefore, despite that an application is submitted before the expiry of the specified time limit, the Board will have no power to extend time in respect of a planning permission that has ceased to have effect at the time of consideration. Under such circumstances, a fresh s.16 planning application for the development in accordance with the provision of the extant statutory plan will be required.
- 3.4 In support of an application for extension of time for commencement of development, the applicant is required to provide:
- (a) reasons for the application;
 - (b) time period for which an extension of time is sought; and
 - (c) an account of all actions taken to implement the development since the granting of planning permission, including evidence and documentation on the submitted proposals and any works undertaken/completed to fulfil any approval conditions.

4. Assessment Criteria

The criteria for assessing applications for extension of time for commencement of development include:

- (a) whether there has been any material change in planning circumstances since the original permission was granted (such as a change in the planning policy/land-use zoning for the area);
- (b) whether there are any adverse planning implications arising from the extension of time;
- (c) whether the commencement of development is delayed due to some

technical/practical problems which are beyond the control of the applicant, e.g. delays in land administration procedures, technical issues in respect of vehicular access and drainage works or difficulties in land assembly;

- (d) whether the applicant has demonstrated that reasonable action(s), e.g. submission of building plans for approval or application for Small House/land exchange, have been taken for the implementation of the approved development;
- (e) whether the applicant has demonstrated that reasonable action(s), e.g. submission and implementation of proposals, have been taken to the satisfaction of relevant Government departments in complying with any approval conditions;
- (f) whether the applicant has demonstrated that there is a good prospect to commence the proposed development within the extended time limit;
- (g) whether the extension period applied for is reasonable; and
- (h) any other relevant considerations.

TOWN PLANNING BOARD
~~MAY 2014~~ SEPTEMBER 2022