

For information

Bills Committee on Town Planning (Amendment) Bill 2003 Supplementary Information on Major Issues Raised at the Meeting on 23 October 2003

Purpose

At the Bills Committee meeting held on 23 October 2003, Members requested the Administration to provide the following information for the Committee's reference:

- (a) a breakdown of the number of official and non-official members attending each meeting of the Town Planning Board (TPB) in 2002/03;
- (b) the number of items on which voting by TPB members was held in 2002/03 and the number of members voted for and against and abstained on each occasion;
- (e) a copy of the practice and procedure governing the operation of the TPB;
- (f) results of the review carried out in 2000 on guidelines for declaration of interest by TPB members;
- (c) sanctions, if any, on TPB members for breaching rules concerning declaration of interest; and
- (d) liability of and sanctions on TPB members, if any, for disclosing contents of restricted or confidential documents.

This paper provides the requested information.

Attendance of TPB Meetings

2. A breakdown of the number of official and non-official members attending each TPB meeting in 2002/03 is at Attachment I.

Voting by TPB Members

3. The number of items on which voting by TPB members was held in 2002/03 and the number of members voted for and against and abstained on each occasion are set out at Attachment II.

TPB Procedure and Practice

4. A copy of the TPB Procedure and Practice is at Attachment III. The document is also available at TPB's website at www.info.gov.hk/tpb/.

Rules concerning Declaration of Interest

5. The TPB Secretariat, in consultation with the Department of Justice and the Independent Commission Against Corruption, carried out a review on the guidelines for declaration of interest by TPB Members in 2000. A report on the review is at Attachment IV. The revised Guidelines were then incorporated into the TPB Procedure and Practice (Part II of Attachment III).

6. There is no express provision under the Town Planning Ordinance concerning sanction on TPB Members for breaching rules concerning declaration of interests. However, the Chief Executive may remove, suspend, dismiss or revoke the appointment of a TPB Member under s.42 of the Interpretation and General Clauses Ordinance (Cap. 1) in case of misconduct.

7. According to legal advice, a TPB Member's intentional failure or omission to make a declaration of interest may constitute a common law offence of misconduct in public office subject to satisfying all the elements of the offence, i.e. a public official in the course of or in relation to his public office willfully and intentionally culpably misconducts himself and the misconduct is serious. The offence applies no matter whether there is pecuniary advantage accrued to the officer or not. In practice, in considering whether the act of deliberate failure to declare an interest is a culpable misconduct and whether the misconduct is serious, we would have to take into account the facts and circumstances of individual cases. As TPB Members are not statutorily required to declare interests, knowingly and willfully fails or omits to declare an interest would not constitute an offence under s.36 of the Crimes Ordinance (Cap. 200) which is concerned with making false statutory declarations and other false statements without oath.

Disclosure of restricted or confidential information

8. There is no express provision for sanction against a TPB Member's improper disclosure of restrictive or confidential information submitted to TPB. TPB Members are bound by the guidelines for release of information as stated in the TPB Procedure and Practice (Paragraph 42 and Part IV of Attachment III).

9. According to legal advice, the common law offence explained in paragraph 7 above may also apply to cases where a TPB Member willfully and intentionally discloses any restricted or confidential information if all elements of the offence can be proved. Besides, the power of the Chief Executive as mentioned in paragraph 6 may also apply.

Attachments

Attachment I	Attendance of TPB Meetings (April 2002 – March 2003)
Attachment II	No. of members involved in voting in TPB meetings held in 2002/03
Attachment III	TPB – Procedure and Practice
Attachment IV	Report on Review of Declaration of Interest by TPB Members

Housing, Planning and Lands Bureau
November 2003

Attachment I**Attendance of TPB Meetings (April 2002 – March 2003)**

Meeting Date	<u>Non-officials (Total : 33)</u> No. of attendance	<u>Officials (Total : 7)</u> No. of attendance	<u>All TPB Members (Total : 40)</u> No. of attendance
19.4.2002	27	6	33
3.5.2002	28	7	35
24.5.2002	27	6	33
7.6.2002	19	6	25
21.6.2002	22	7	29
5.7.2002	24	5	29
19.7.2002	21	5	26
2.8.2002	22	5	27
16.8.2002	20	5	25
6.9.2002	25	5	30
20.9.2002	23	4	27
4.10.2002	21	4	25
18.10.2002	23	7	30
1.11.2002	10	6	16
15.11.2002	29	6	35
29.11.2002	14	5	19
6.12.2002	25	6	31
20.12.2002	22	6	28
10.1.2003	25	6	31
24.1.2003	22	7	29
14.2.2003	22	7	29
28.2.2003	24	6	30
14.3.2003	22	7	29
28.3.2003	22	4	26
Average	22 (67%)	6 (86%)	28 (70%)

Attachment II**No. of members involved in voting in TPB Meetings held in 2002/03**

A total of eight items were voted by TPB Members during this period.
The details are as follows:

Item No.	No. of Votes			
	For the case	Against the case	Abstained	Total

1	8	5	2	15
2	3	17	5	25
3	9	7	3	19
4	5	10	1	16
5	2	8	2	12
6	6	4	1	11
7	5	6	1	12
8	1	3	5	9

TOWN PLANNING BOARD

PROCEDURE AND PRACTICE

November 2003

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Part II Revised	March 2001
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PART I - INTRODUCTION

Preamble

1. The conduct of the Town Planning Board (the Board or TPB) is subject to the general principles of administrative law that it must act fairly and reasonably. This document incorporates the procedure and practice adopted by the Board in conducting its business so that consistency can be ensured. This document is subject to revision as and when considered necessary.

Establishment and Functions of Town Planning Board

2. The Board is a statutory body established under section 2 of the Town Planning Ordinance (the Ordinance) Cap. 131 of the Laws of Hong Kong.

3. The Board's main functions are laid down in section 3 of the Ordinance, i.e. to undertake the systematic preparation of plans for the layout of such areas of Hong Kong (i.e. Outline Zoning Plans and Development Permission Area Plans) as well as for the types of buildings suitable for erection therein with a view to the promotion of the health, safety, convenience and general welfare of the community. The Board also considers applications for planning permission submitted under section 16 of the Ordinance and conducts reviews on its first decisions on such cases under section 17.

4. Furthermore, under section 25 of the Urban Renewal Authority (URA) Ordinance, Cap. 563, the URA may submit any plan prepared under subsection (3)(a) of the URA Ordinance to the Board for consideration. Upon the submission of a plan so prepared by the URA, the Board may deem the plan as suitable for publication, with or without amendments, or may refuse to deem the plan as being suitable for publication. A plan which the Board deems suitable for publication shall be deemed to be a draft plan prepared by the Board for the purposes of the URA Ordinance and the provisions of the URA Ordinance shall apply accordingly.

5. A description of the powers and functions of the Board is set out in **Appendix I**.

Composition of Town Planning Board

6. The Board consists of the Chairman (currently the Permanent Secretary for Housing, Planning and Lands (Planning and Lands)), the Vice-Chairman (currently the Director of Planning), five official Members (currently the Director of Housing; the Deputy Secretary (Transport)¹, Environment, Transport and Works Bureau; the Director of Home Affairs; the Director of Lands and the Director of Environmental Protection) and 30 non-official Members. The Deputy Director of Planning (District) is appointed as the Secretary to the Board (Secy/TPB) and is assisted by a panel of Planning Department staff at the Board's meetings.

7. All Members of the Board are appointed by the Chief Executive under s.2(1) of the Ordinance and the appointment is announced in the Government of the Hong Kong Special Administrative Region Gazette. The tenure of appointment is not laid down in the

Ordinance but is usually for a period of two years. All Members are appointed in their personal capacity and not as representatives of organizations to which they belong. The Chief Executive may reappoint any Members upon expiry of their tenure of appointment.

Planning Committees

8. With the expansion of statutory planning jurisdiction/coverage to the non-urban areas and to cope with the increase in the Board's workload, two Planning Committees (PCs), i.e. the Metro Planning Committee (MPC) and the Rural and New Town Planning Committee (RNTPC), were set up in July 1991. The plan at **Appendix II** shows the geographical jurisdiction of the MPC and RNTPC.

9. Each PC comprises the Committee Chairman (currently the Director of Planning), the Committee Vice-Chairman (a non-official Member), five other official Members (currently the Director of Housing; the Deputy Secretary (Transport)¹, Environment, Transport and Works Bureau; the Director of Home Affairs; the Director of Environmental Protection and the Director of Lands) and 16 and 14 other non-official Members for the MPC and RNTPC respectively.

10. Similar to the operation of the main Board, the Deputy Director of Planning (District) is the Secretary to the two PCs and is similarly assisted by a panel of Planning Department staff at the Committees' meetings.

11. All Members of the PCs are appointed by the Chief Executive among the Members of the Board in accordance with s.2(3) of the Ordinance.

PART II – DECLARATION OF INTERESTS

Preamble

12. The guidelines for declaration of interest are drawn up to protect the integrity and reputation of the Town Planning Board (the Board) as a whole. Since the Board deals with matters that may have wide and far-reaching implications on the environment and economy of Hong Kong as well as the well-being of the community, it is necessary to ensure that the Board acts fairly and impartially in making its decision. This is particularly important as the Board's decision might affect development projects of high financial value. It will be in the interest of the Board for Members to declare their interests to the best of their knowledge.

Introduction

13. It is inevitable that from time to time Members of the Board may have interests (personal, family, or business; direct or indirect; pecuniary or otherwise) in matters that come before the Board. Under the rule against bias, an administrative decision may be quashed if the facts give rise to a real likelihood of bias or it might reasonably be thought that the decision-maker ought not to act because of some personal interests. It is therefore necessary for Members to disclose their interests when there is a real or potential conflict of interests in a matter placed before the Board.

14. A two-tier declaration system is adopted. Members should register their pecuniary interests in writing on a regular basis and, when circumstances change, should register the changes. Furthermore, Members should also declare, to the best of their knowledge, their interests (pecuniary or otherwise) in any matters to be transacted by the Board before or at the relevant Board/Committee meeting.

Registration of Pecuniary Interests

15. The Chairman, Vice-chairman and Members should register in writing their pecuniary interests upon commencement of a new term of appointment, and update the information once every year. The registration should be made on a standard form (**Appendix III**). Members should complete and return the registration form within one month to the Secretary, Town Planning Board (Secy/TPB). Besides, any change of Members' interests should be registered within 14 days of any such change. A register of Members' pecuniary interests will be kept by the Secy/TPB and will be made available for inspection on request by members of the public.

16. The registrable interests are the pecuniary interests Members hold and those of their spouses and children under the age of 18 including: -

- (i) directorships or partnerships in companies;
- (ii) direct or indirect substantial shareholdings (1% or more of the issued share capital);
- (iii) holdings in land and properties; and

- (iv) remunerated employment, offices, trades, professions or vocations.

17. Where practicable, Members should also give a brief description of the lines of business of companies in which they are involved.

18. Guidelines for completing the registration form on Members' pecuniary interests are at **Appendix IV**. Members should register their interests and those of their spouses and children under the age of 18 to the best of their knowledge.

Declaration of Interests before or at Committee/Board meetings

19. If Members or their spouses have any interest (pecuniary or otherwise) in any matter under consideration by the Board or the Committee, the Members should as soon as practicable disclose to the Chairman or Secy/TPB prior to the meeting or at the meeting prior to the discussion of the concerned item.

20. Where a substantial direct conflict of interest is known, the Secy/TPB should withhold the issue of the relevant papers and documents to the concerned Members and any papers or other information relating to the matter which the Members may have received should be returned to the Secy/TPB.

21. All cases of declaration of interests shall be recorded in the minutes of meeting.

General Principles

22. It is difficult to set a hard and fast rule on what constitutes a conflict of interest. The following are some general guiding principles that Members are recommended to follow in identifying potential conflicts of interests which should be declared at or before the Committee/Board meetings :-

- (a) Pecuniary interests in a matter under consideration by the Board/ Committee, interests held either by a Member or by his/her spouse, children under 18, or by the Member's close relative;
- (b) A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organisation which is concerned with, or the subject of, the matter under consideration;
- (c) A Member or his/her spouse who, as a professional adviser, has personally or as a member of a company, advised or represented any person or body on the matter under consideration, or has business dealings with any person or body connected with the matter under consideration;
- (d) Some friendships which might be so close as to warrant declaration in order to avoid situations where an objective observer might believe the Member's advice to have been influenced by the closeness of the association; and

- (e) Any interest likely to lead an objective observer to believe that the Member's decision might have been motivated by personal interest rather than a duty to give impartial advice.

23. The Guidelines set out below should be followed by Members, irrespective of whether the Members are official or non-official Members.

Guidelines for Declaration of Interests at Board or Committee Meetings

24. All interests of Members and their spouses in any matter under consideration by the Board/Committee need to be declared. The onus of making a declaration rests with individual Board Members who are in the best position to judge what constitutes an interest warranting a declaration. In this respect, Members are required to declare their spouses' interests to their best of their knowledge. In exercising their judgement, Members must take into account the sunshine test, that is, should their interest become public knowledge, whether it would give rise to a public perception that their advice tendered to the Board might have been biased or influenced by that interest.

25. If the interest were direct and substantial, the Member would have to withdraw from the meeting. If the interest is direct but not substantial or indirect/insubstantial, the Member would be allowed to continue to participate in the discussion and determination of the matter.

26. It would be difficult to set out categorically all situations under which a Member has to declare interest and whether an interest is direct and substantial or otherwise depends very much on the circumstances of the case. It is intended to set out below some common situations for Members' reference.

Direct and Substantial Interest

27. The following situations usually constitute direct and substantial interest: -

- (a) **The subject matter involves a landed interest held by the Member or his/her spouse.**

This applies to the situation where the application/objection/amendment to statutory plans covers land which is owned by the Member or his/her spouse. This also covers the situation where the Member or his/her spouse is the applicant/proponent/objector of a case.

- (b) **The subject matter involves a company or organisation of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings (i.e. 1% or more of the issued share capital), advisory or client relationship, employment or other significant connection.**

This applies to the situation where the Member or his/her spouse's company or organisation is involved directly in the matter under consideration by the Board/Committee, either as applicant/proponent/objector or the company/organisation has tendered professional advice (e.g. being the

consultant acting for the applicant/proponent/objector) on the matter under consideration. This also applies to the situation where the Member or his/her spouse is a staff member of a company or organisation (including a Government department) which is the applicant/proponent/objector of the matter under consideration.

- (c) **The subject matter involves a statutory/public body, club, association, union or other bodies of which the Member or his/her spouse holds a chairmanship or, in some cases, membership, or is the office bearer of an executive board, a board of directors or a management committee.**

This includes the situation where the Member or his/her spouse is a member of a statutory/public body (and its sub-committee) such as Hong Kong Housing Authority(HKHA), Hong Kong Housing Society (HKHS), the Urban Renewal Authority(URA) and the District Council, which is the applicant/ proponent/objector of the matter under consideration. The fact that the Member or his/her spouse is an ordinary/corporate member of a club, association, union or other bodies would not constitute direct interest if the Member or his/her spouse were not directly involved in the matter under consideration.

- (d) **The Member or his/her spouse has current business dealings or potential future business dealings with the applicant/ proponent/objector of the matter under consideration.**

This applies to the situation where the Member or his/her spouse has current business dealings or business dealings under negotiation with the applicant/proponent/objector. The business dealings may not necessarily be related to the matter under consideration.

- (e) **The Member who is also a member of the HKHA/HKHS/URA or other public bodies and the subject of an objection involves a project of such public bodies**

This does not apply to situation where a HKHA/HKHS/URA project is the subject of an amendment to a statutory plan proposed by the Planning Department or where HKHA/HKHS/URA sites are proposed in a new plan.

Other Interest which may be Direct and Substantial

28. There are other situations of potential conflict of interest. Whether these situations would constitute direct and substantial interest would depend on the substance, scope and nature of the interest, and have to be considered on a case by case basis. As a general rule, the Member shall declare any interest, which may likely lead the public to believe that the Member's advice might have been influenced by his/her relationship with the applicant/proponent/objector. It would be up to the Board/Committee to decide whether the interest is so direct and substantial that the Member should withdraw from the meeting. For example:

- (a) The subject matter affects a landed interest held by the Member, his/her

spouse, and his/her close relative or close friend.

- (b) The subject matter affects (or in the case of the Members' close relative/friend, involves) the interest of a company or organisation of which the Member, his/her spouse, his/her close relative or close friend holds a proprietorship, partnership, directorship or substantial shareholdings, advisory or client relationship, employment or other significant connection.
- (c) The Member or his/her spouse has past business dealings with the applicant/proponent/objector.

[If the Member's or his/her spouse's past business dealings with the applicant/proponent/objector are related to the site under consideration, all such past business dealings should be declared. If the matter involves a completed project, the Member should be allowed to continue to participate in the discussion. However, if the matter involves an on-going project, the Member should be required to withdraw from the meeting.

If only general business dealings are involved between the Member or his/her spouse and the applicant/objector/proponent, and the dealings are not related to the site under consideration, only past dealings within 3 years should be declared, and the Member should be allowed to continue to participate in the discussion.]

- (d) The Member or his/her spouse has given personal advice or opinion to an applicant/proponent/objector on any occasions on the matter under consideration.

[The situation of Government departments tendering professional advice or stating Government policies to the applicant/proponent/objector, however, should not fall within this category as it is incumbent upon the official Member to tender advice, which is consistent with the official views of the Government departments or statement of Government policy.]

29. Two common situations are illustrated in Tables 1 and 2 below for members' reference and some further examples of the circumstances constituting potential conflict of interest are given in **Appendix V**.

Table 1

Business Dealings		Declare	Withdraw from meeting
Current/Under Negotiation	General (not relating to the site)	✓	✓
	Specific (relating to the site)	✓	✓
Past	Past dealings not relating to the site		
	- more than three years	x	x
	- within three years	✓	x
	All past dealings relating to the site		
	- project completed	✓	x
	- project on-going	✓	✓

Table 2

Matter Involving HKHA, HKHS, URA or Other Organization	Declare	Withdraw from meeting
As Applicant/Objector/Proponent	✓	✓
As Proposal on New Plans or Amendments to Plans	✓	x
As Subject of Objection	✓	✓

Application of the Guidelines to Chairman and Vice-chairman

30. The general guidelines on declaration of interest are applicable to the Chairman and Vice-chairman of the Board and the Committees.

31. If the Chairman or the Vice-chairman needs to declare an interest and there is nobody to take up the chairmanship, the matter should normally be adjourned to the next meeting. However, if the matter is subject to a statutory time limit, then as a matter of necessity, the Chairman/Vice-chairman should continue to assume the chairmanship if there is a conscious effort made to contain his/her scope of involvement in an administrative role to minimise any risk that he/she may be challenged.

32. In case both the Chairman and Vice-chairman of the Committees need to declare an interest, then the matter should be referred to the Board for a decision. However, if both the Chairman and Vice-chairman of the Board need to declare an interest, as a matter of necessity, the Chairman should continue to assume the chairmanship.

PART III - PROCEEDING OF MEETINGS

Meetings

33. The Board meets regularly to discharge its functions, normally on the first and third Friday of each month. The two PCs normally meet twice a month, usually on the second and fourth Friday of each month. The MPC meets in the morning and the RNTPC meets in the afternoon.

34. At any meeting of the Board, five Members, one of whom must be the Chairman or Vice-Chairman, shall form a quorum. At any meeting of any of the PCs, five Members, one of whom must be the Committee Chairman or Committee Vice-Chairman and three of whom must be non-official Members, shall form a quorum. Official Members who are not able to attend the meeting are substituted by alternate Members appointed by the Chief Executive.

Delegation of Powers and Functions

35. In accordance with s.2(5)(a) of the Ordinance, the Board delegated to the two PCs on 7.6.1991 the following powers and functions:-

- (i) to prepare new draft Outline Zoning Plans and draft Development Permission Area Plans (s.3 & s.4(1));
- (ii) to consider Comprehensive Development Schemes including the approval of Master Layout Plans and subsequent amendments to approved schemes (s. 4A);
- (iii) to gazette new draft plans (s.5);
- (iv) to make and gazette amendments to draft plans and amendments to plans referred to the Board (s.7(1)-s.7(3) and s.9(1)(c));
- (v) to consider and decide on applications for planning permission (s.16); and
- (vi) to designate Development Permission Areas (s. 20(1)).

36. In accordance with s.2(5)(b) of the Ordinance, the Board may delegate its power to a public officer to approve minor amendment to a permission previously granted under section 16. The Board has entrusted its power to the Director of Planning and District Planning Officers to approve planning applications which involve the following:-

- (i) minor amendments to approved development proposals;
- (ii) minor amendments to approved Master Layout Plans; and
- (iii) minor amendments to conditions of approval.

37. To enhance efficiency, the District Planning Officers have also been delegated to grant permissions for development, including temporary uses, on the Development Permission Area Plans within their jurisdiction provided that such development would be discontinued and the land reinstated within 6 months after the permissions are granted.

Attendance of Public Officers

38. In the consideration of new plans, proposed amendments to draft or approved plans, planning applications and objections to draft plans or amendments to plans, representatives of the Planning Department and other concerned Government departments if necessary are invited to attend the PC/TPB meetings to brief Members on the background of the subject matters, present the planning assessment and answer Members' queries.

39. In relation to the hearing of objections to draft plans and s.17 review of planning applications, arrangements have also been made for representatives of the Planning Department to attend TPB meetings to provide information on the cases, elaborate on the planning assessment and other points in the TPB papers, and answer questions from Members on the cases, planning practice and precedent or related cases. These public officers will join and leave the meetings at the same time as the objectors or applicants and will not make statements unless requested by the Board. Similarly, representatives of relevant government departments may be invited to attend the Board's meetings in the hearing of objections and review of applications to provide expert advice. They join and leave the meetings at appropriate times as decided by the Board, but they cannot join the meetings earlier or leave later than the objectors or applicants.

Issue of Papers and Minutes

40. Agenda items and relevant PC/TPB Papers are normally despatched to Members by the Secy/TPB at least 5 days before the meetings at which these items and Papers are to be considered. Exceptionally, urgent items or supplementary information may be issued as soon as they are received or may be tabled at the meetings.

41. Draft minutes of a TPB meeting are normally despatched to Members for comments within 12 days after the meeting is held and are usually confirmed in the next meeting. Similarly, the draft minutes of a PC meeting are distributed to Members for comments within 12 days after the meeting is held and are confirmed in the next meeting.

42. All papers and minutes of PC/TPB meetings are normally restricted. Members should not release such information to other parties in any form or method except with prior consent of the Board. The Secy/TPB will be responsible to inform the applicants/objectors/proponents of the decisions of the Board and the Committees and to provide the applicants/objectors/proponents with the relevant papers and minutes. Occasionally, papers and minutes are graded confidential and Members should keep these documents in safe care or to have them returned to the Secy/TPB for disposal after the meetings.

PART IV - RELEASE OF INFORMATION TO THE GENERAL PUBLIC

General Principles and Practice

43. To facilitate the public understanding on the statutory planning functions of the Board, the Secretariat of the Board will provide, without violating the provisions of the Town Planning Ordinance and the Personal Data (Privacy) Ordinance, as much information as possible to the public and the media. At present, the following information is published in the Gazette as part of the plan making process required by the Town Planning Ordinance and press releases are issued for the benefit of the media:

- (a) approval of statutory plans by the Chief Executive in Council;
- (b) reference of statutory plans by the Chief Executive in Council to the Board for amendment; and
- (c) amendments to statutory plans.

44. To enhance a more direct communication between the Board and members of the public, the TPB's Homepage (address: <http://www.info.gov.hk/tpb/>) has been set up in September 1999 to provide general information related to the work of the Board. The main information being included is the latest news/press release relating to the business of the Board; bulletin board (latest agenda of meetings, brief summary of planning applications, gist of the Board and the Committees' decisions on applications/objections/rezoning requests including approval conditions and rejection reasons), outline of composition and functions of the Board and its Committees; types/publication of statutory plans; progress of planning applications, objections and rezoning requests; TPB Procedures and Practice and TPB Guidelines.

45. Planning applications, objections and requests for amendments to statutory plans often involve confidential and commercially sensitive information or even personal data (e.g. particulars of applicants/objectors/proponents) which are third party information and, under the Personal Data (Privacy) Ordinance, full disclosure by the Board to other parties is impossible. However, the Board also recognises that the public interest in planning issues has been increasing over the years. It has been the Board's concern to strike a balance between the transparency of the Board's operation and the confidential nature of its business within the remit of the Ordinance. To facilitate the public and the media in understanding the work and decisions of the Board, administrative procedures and criteria for releasing information to the public are summarised in para. 46 to para. 51.

46. Upon receipt of planning applications/objections/rezoning requests, factual information concerning the subjects of applications, objections and amendments sought as well as the broad locations of the sites in question would be released by the Secy/TPB to the public or media upon enquiry. The latest progress of planning applications/objections/rezoning requests would also be shown on the Board's Homepage. Information such as name and address of the applicants/objectors/proponents and other details of confidential or commercially sensitive nature related to the proposals will not be disclosed. In submitting the application/objection/rezoning request, the applicant/objector/proponent can state categorically the type of information not suitable for release to the public with reasonable justifications.

47. After consideration of planning applications/review of planning applications/objections/rezoning requests by the Board or the Committees, the gist of decisions and broad development parameters would be uploaded to the bulletin board of the Board's Homepage. The same information is also available at the Planning Information and Technical Administration Unit (PITA Unit) of the Planning Department.

48. As a general rule, the applicant/objector/proponent will have the right to be informed of the decisions before their release to the mass media or members of the public. If the applicant/objector/proponent requests for an immediate notification of the decision, an informal reply on the result could be conveyed verbally by the Secy/TPB. However, it will be subject to subsequent written notification upon confirmation of the minutes of the meetings.

49. After each meeting, a spokesman appointed by the Secy/TPB will be available to answer enquiries from the press/media on the decisions of the Board. Individual TPB Member should refer any request from the general public for information on the decisions of the Board or the Committees to the Secy/TPB for a reply. For issues of considerable public interest, the Secy/TPB will issue a press release or arrange press briefings/conferences to promulgate the Board's decisions.

50. The submissions made by applicants/objectors/proponents should be treated as third party information and should not be released to other parties. All papers and deliberation at the meetings should also be treated as restricted information. The relevant papers and minutes of the meetings would be attached to the written notifications of the Board and the Committees' decisions issued by the Secy/TPB to the applicants/objectors/proponents or his/her authorised representatives after the meetings. However, details of any discussions between the applicants/objectors/proponents, the Board and Government departments would not be disclosed unless with the consent of the concerned parties.

51. Other than the information provided on the Board's Homepage and in the Planning Register at the PITA Unit, the documents submitted by the applicants/objectors/proponents regarding other applications/objections/rezoning request will not be released for public inspection unless with the consent of the applicants/objectors/proponents. They will only be released when ordered by the Appeal Board under s.17B(6)(a) of the Ordinance or by the Court.

PART V - OBJECTIONS TO STATUTORY PLANS

Consideration of Objections

52. According to section 6 of the Ordinance, any person affected by the draft plan gazetted under section 5/amendments to approved plans pursuant to section 12(3) or a subsequently amended draft plan gazetted under section 7 may lodge an objection to the Board within the plan-exhibition period of 2 months or 3 weeks respectively.

53. Upon receipt of an objection, the Board will give preliminary consideration and further consideration (hearing) to the objection. The Board may decide to propose amendment or not to propose amendment to the plan to meet the objection. The decision of the Board together with its reasons for such a decision are then conveyed to the objector who may, or may not, withdraw his objection.

54. After completion of the objection procedure, the Board shall submit the draft plan, with or without amendments, together with any unwithdrawn objections to the Chief Executive in Council (CE in C) for approval. Such submission shall be made within 9 months after the expiration of the plan-exhibition period (or within a further period of 6 months if approved by the Chief Executive)⁽¹⁾.

Appointment of Objection Hearing Committee

55. Under the Town Planning (Amendment) Ordinance 1998, the Board is empowered to appoint committees from among its members to hear objections. Each committee (the Objection Hearing Committee (OHC)) shall consist of not less than 5 members, at least 3 of whom are not public officers. From the members of the OHC so appointed, the Board shall appoint one member to be the Chairman and one to be the Deputy Chairman of the OHC. The quorum for an OHC is the Chairman or Deputy Chairman and 2 members, and the OHC shall not meet or continue to meet unless the majority of members present are not public officers. To cater for unexpected absence of members and to ensure that sufficient members would be present to form a quorum, the Board agreed that it may be expedient for each OHC to consist, in addition to the appointed chairman (the Director of Planning), of 2 official members, 6 non-official members and 2 stand-by non-official members. The Board shall also appoint from the 6 non-official members one member to be the Deputy Chairman of the committee.

56. The OHC will be appointed on a plan basis to exercise the Board's powers under sections 6(6), (6A), (6B), (7), (8) and (9) of the Ordinance. Meetings of the OHCs will be arranged, on a need basis, normally on Tuesday.

⁽¹⁾ This requirement does not apply to draft plans exhibited under section 5 or amendments to draft plans exhibited under section 7 before 14.4.1998.

Proceedings of Objection Hearing

57. Upon completion of the preliminary consideration of objections to a draft plan, the Board shall decide whether an OHC should be appointed to hear the objections and what power is to be exercised by the OHC. Under normal circumstances, an OHC will be appointed to exercise all the Board's powers under sections 6(6), (6A), (6B), (7), (8) and (9) of the Ordinance to deal with all objections. The Board may decide to conduct the hearing itself for those objections which are usually of significant territorial interests or would attract wide interests of the public.

58. The appointment of an OHC should be decided at the Board meeting after preliminary consideration of the objections. The Board or the appointed OHC, whichever is the case, will decide whether the objections should be heard collectively or individually. Normally, if the objections are submitted in the form of the same standard letters or by different representatives of the same group of objectors (e.g. Village Representatives of the same Rural Committee), or against the zoning of the same site(s) or the same provision of a draft plan, the objections will be heard collectively. In case that the objections are submitted in the form of standard letters, the objectors should be invited to appoint a spokesman or representative to present their case collectively. If several objectors and/or their representatives are present at the hearing, they will be given the opportunities to present their case in turns. To avoid a prolonged hearing process, the objectors and/or their representatives will be asked not to repeat the same points or argument which have already been raised by other objectors and/or their representatives at the same meeting.

Notification of the Arrangement of Objection Hearing

59. Upon completion of the preliminary consideration of an objection, the Secy/TPB will inform the objector of the Board's decision. A copy of the relevant paper on the preliminary consideration of the objection and relevant parts of the minutes of the Board meeting will also be given to the objector. For those objections requiring further consideration by the Board, the objector would be informed of the hearing arrangements and provided with the paper for the further consideration (hearing) of his/her objection 7 days before the hearing. After the hearing, the relevant minutes of meeting on the further consideration of the objection would also be attached to the written notification of the Board's decision to the objector.

60. For cases which involve further objection to proposed amendments notified under section 6(7) of the Ordinance (hereinafter referred to as "section 6(7)" objection), the original objector will be given a copy of the further objector's submission and vice versa. The Secy/TPB will arrange for a further hearing after the notification period. Both the original objector and the further objector will be provided with the paper for the hearing of the further objection 7 days before the meeting. After the hearing, the objector and further objector will be notified of the Board's decision and the relevant minutes of meeting on the consideration of the further objection would be attached to the written notification.

Objection Hearing Procedures

61. There is no prescribed procedure in the Ordinance for the conduct of hearing of objections held under sections 6(6) and 6(8). However, section 6(6A) of the Ordinance

provides that the Board may decide to deal with any objections in respect of the same draft plan either collectively or individually. The following procedure for hearing objections under sections 6(6) and 6(8) will be adopted:

- (i) a member who has an interest in an objection should declare it before preliminary consideration of the objection and the Board will decide whether he/she could participate in the discussion of/determination on the objection. In the event that a member only involves interest in the objection after the preliminary consideration, he/she should declare it before further consideration of the objection and the Board or the OHC will decide whether he/she could participate in the discussion of/determination on the objection;
- (ii) (a) for collective hearing, all objectors and, if any, further objectors and/or their representatives as well as the representatives of the Planning Department and other Government departments, if any, are invited to attend the meeting at the commencement of the hearing of the objections and, if any, section 6(7) objection(s); or
 - (b) for individual hearing, the objector and, if any, further objector and/or his/her(their) representative(s) as well as the representatives of the Planning Department and other Government departments, if any, are invited to attend the meeting at the commencement of the hearing of the particular objection and, if any, section 6(7) objection(s);
- (iii) the chairman of the meeting briefly explains the hearing procedures to the objector(s) and, if any, further objector(s) and/or his/her(their) representative(s). The objector(s) and, if any, further objector(s) will be given an opportunity to comment on the arrangements for the hearing;
- (iv) the representative of the Planning Department is invited to present the background to the objection(s) and, if any, section 6(7) objection(s);
- (v) the objector(s) and, if any, further objector(s) and/or his/her(their) representative(s) are then invited to elaborate on the grounds of his/her(their) objection(s) and, if any, section 6(7) objection(s), his/her(their) proposed alteration to the plan and other aspects related to the objection(s) and, if any, section 6(7) objection(s);
 - (a) for collective hearing, the objectors and, if any, further objectors and/or their representatives are invited to make submissions to the Board or the OHC in turns as directed by the chairman of the meeting; and
 - (b) in case of hearing a section 6(7) objection under section 6(8), the further objector(s) and/or his/her(their) representative(s) are invited to make submission(s) first. The original objector(s) and/or his/her(their) representative(s) are then invited to make submission(s) or clarify points in response to the submissions by the further objector(s). The original objector's representation at the hearing

should be confined to his/her objection against the proposed amendments to the plan;

- (vi) the chairman of the meeting then invites the representatives of the Planning Department and other Government departments, if any, and the objector(s) and, if any, further objector(s) and/or his/her(their) representative(s) to answer any questions from members;
- (vii) should the representative(s) of the Planning Department and other Government departments, if any, wish to respond to statements made by the objector(s) and, if any, further objector(s) or to clarify any of their own statements, they should do so with the permission of the chairman and in the presence of the objector(s) and, if any, further objector(s); and
- (viii) the representatives of the Planning Department and other Government departments, if any, and the objector(s) and, if any, further objector(s) and/or his/her (their) representative(s) then leave the meeting. The Board or the OHC will deliberate on the objection(s) and, if any, section 6(7) objection(s) in the absence of all concerned parties.

Minutes of Meeting

62. The draft minutes of a TPB meeting are normally confirmed at the following TPB meeting. The draft minutes of a meeting of the OHC are normally confirmed within two weeks after the meeting through circulation. The confirmed minutes of the meeting of the OHC will be circulated to all Members of the Board for information.

Notification of Decisions on Objections

63. When a decision has been made by the Board or the OHC on an objection/section 6(7) objection after the hearing, the Secy/TPB will notify the objector and, if any, further objector in writing upon confirmation of the minutes of the meeting. If the objector or further objector requests for an immediate notification on the decision, an informal reply on the result could be conveyed verbally to the objector or further objector with the advice that it would be subject to subsequent written confirmation. The gist of decision is also available on TPB's Homepage shortly after the meeting.

64. For cases of public interest, the general rule is that the objector and, if any, further objector should have the right to be informed of the decision before its release to the mass media or members of the public by making verbal enquiry on the decisions from Secy/TPB immediately after the meeting. The administrative procedures and criteria for releasing information to the public as summarised in para. 46 to para. 51 are relevant.

Confirmation of Attendance at the Objection Hearing

65. Any delay of an objection hearing will have significant implications on meeting the statutory 9-month time-limit. The Secy/TPB will ensure that reasonable notice is given to the objector and, if any, further objector of the hearing date (normally 9 weeks in advance

of a section 6(6) hearing and 6 weeks in advance of a section 6(8) hearing). Within 2 weeks after being notified of the hearing date, the objector and, if any, further objector will be required to confirm attendance to the meeting. Any deferment of an objection hearing should be avoided unless with very strong justifications.

66. If the objector or further objector indicates that he/she could not attend the meeting as scheduled and seeks a deferment of the objection hearing, good justifications have to be given. The decision on whether to defer or not would be made by the Board or the OHC, as the case may be. In considering such request, due regard will be given to whether the justifications are valid, whether there are issues which cannot adequately be dealt with in writing and must be clarified/resolved in a hearing, and whether there are implications on meeting the time-limit for submission of the draft plan to the CE in C for approval. Each request will be considered on its own merits.

67. Reasons such as the preparation of a section 16 application for the objection site or a request for zoning amendment or awaiting building plans approval or in the process of land exchange will not be accepted. Objections to the zoning of a site on a draft plan should be considered independently and should not be mixed up with other procedures which are governed by other statutory or administrative provisions.

68. A hearing should not be deferred indefinitely and there must be a time-limit for a deferment. A period of 4 weeks from the original hearing date is generally considered as the maximum extension of time. No further deferment would be accepted except under very special circumstances.

Further Submission by the Objector/Further Objector

69. On various occasions, the objector may lodge an objection within the plan-exhibition period and submit detailed representations at a later stage. In order to meet the statutory time-limit in processing objections, further written representations to substantiate the grounds of objection and proposals submitted under section 6(2) of the Ordinance, if any, should be submitted by the objector as early as possible. Depending on the nature of each objection case, a reasonable deadline for further submissions will be stipulated if it is considered necessary by the Board. If the further submissions include voluminous technical reports, it would be preferable if an Executive Summary of not more than 400 words highlighting the main grounds of the objection/section 6(7) objection is also prepared and attached to the submissions.

70. In notifying the objector of the date for the hearing under section 6(6) of the Ordinance, the Secy/TPB will specify a deadline for the submission of further information to the Board or the OHC. To facilitate consideration of the further submissions by the relevant Government departments, such submissions should be made within 4 weeks after being notified of the hearing date.

71. For the hearing of section 6(7) objection under section 6(8) of the Ordinance, if the further objector intends to make further written submission upon notification of the hearing date, such submission should also be made within 4 weeks after being notified of the hearing date. The original objector will be given a copy of the further objector's submission and vice versa. A copy of the relevant paper on the hearing of the further objection will be forwarded to the original objector and the further objector 7 days before the hearing.

Adjournment of Hearing

72. Section 6(6B) of the Ordinance provides that if an objector or his authorised representative(s) does not attend the meeting held for the purposes of section 6(6) or, as the case may be, for the purposes of section 6(8), the Board may proceed with the meeting or adjourn it but such meeting on the same objection should not be adjourned more than once. Whilst reasonable steps will be taken to ensure that the objector and, if any, further objector are given an opportunity to a fair hearing, undue delay in the completion of the objection consideration procedures should be avoided.

73. On some occasions, the objector or further objector may inform the Board or the OHC that he/she could not attend the meeting for some very special reasons and request for a deferment of the hearing. Normally such request would be submitted to the Board or the OHC for a decision. According to the Board's Guidance Notes for Deferment of Consideration of s.16 Applications, s.17 Reviews, Rezoning Requests and Objections, if the agenda and the relevant papers have already been distributed to the members of the Board or the OHC and parties concerned, it will be too late for the Board or the OHC to consider any request for deferment of the hearing. Under such circumstances, the Board or the OHC may proceed with the scheduled meeting and decide at the meeting whether the request for deferment should be acceded to. Having considered the justifications submitted, the Board or the OHC may, at the meeting, decide to adjourn or proceed with the hearing. Under normal circumstances, the meeting should not be adjourned for more than 4 weeks. The Ordinance also provides that the hearing may not be adjourned more than once.

74. In case of an objection scheduled for collective hearing, and a particular objector cannot attend the meeting, the hearing for the remaining objections will proceed to be conducted collectively. The Board or the OHC may decide, having regard to the justifications submitted by the objector, to adjourn the hearing of the particular objection which will be arranged to be heard individually at a later date. The Board or the OHC may decide to withhold decisions on all such objections pending the completion of the adjourned hearing of that particular objection. Nevertheless, as the objector and, if any, further objector has been given reasonable notice of the hearing arrangements, such adjournment should be avoided as far as possible. If the Board or the OHC does not consider that the justifications submitted are sufficient to merit an adjournment of the hearing, the Board or the OHC may decide to proceed with the hearing in the absence of the objector.

75. In the event of late submission of written representations received after the deadline and before the meeting of the Board or the OHC, such submissions will still need to be taken into account in the consideration of the objection. However, the Board or the OHC may consider that comments from the relevant Government departments are relevant and hence must be sought before making a decision on the objection/section 6(7) objection, particularly if the submissions are complex and technical in nature. In such instance, the Board or the OHC may decide at the scheduled meeting to adjourn the hearing. Such adjournment may only be allowed once and the hearing should not normally be adjourned for more than 4 weeks.

Absence of Objector/Further Objector at Hearing

76. Under section 6(6B) of the Ordinance, the Board or the OHC may proceed with the hearing of an objection and, if any, section 6(7) objection in the absence of the objector

and, if any, further objector if he/she and/or his/her representative(s) does not attend the meeting. If the Board or the OHC has given reasonable notice to the objector and, if any, further objector for the hearing, and the objector and, if any, further objector and/or his/her representative(s) fail to attend the meeting without good justification, the Board or the OHC may proceed to take a decision on the objection and, if any, section 6(7) objection taking into account the objector's and further objector's written representations, if any.

Out-of-time Objections

77. All objections which are filed out-of-time are considered as invalid objections.

PART VI - PLANNING APPLICATIONS

Consideration of Planning Applications

78. All s.16 applications should be considered by the respective PC within two months from the date of receipt of the application. The PCs consider applications by making reference to government departments' views as summarized in papers prepared by the Planning Department.

79. Incidental to its function to consider applications under s.16 of the Ordinance, the Board from time to time will formulate guidelines to assist prospective applicants in the submission of planning applications. These guidelines are distributed free of charge to members of the public and are available on the Board's Homepage. However, these guidelines are intended for general reference only. The decision to approve or reject an application rests entirely with the Board and will be based on individual merits and other specific aspects of the case.

80. Written submission from the applicant, if any, will be presented to the PC for consideration. In accordance with the provision under the Ordinance, the application should be considered in the absence of the applicant.

Further Written Submission for Planning Applications

81. In considering an application, the PC must take into account all material considerations. Occasionally, the applicant, shortly before the meeting, makes further submission which is relevant to the application, but is complicated or technical in nature. The Board may wish to invite comments from government departments on such further submission. If government departments require more time to assess this further submission and cannot give their views to the PC before or at the meeting, the PC may have to adjourn determination on the application. In normal circumstances, the application would be reconsidered within two months from the date of receipt of the further submission.

82. The PC should only consider and make decision on what has been applied for in the application submission. Any subsequent revisions constituting material changes will require a new application.

Request for Deferment of Consideration of Applications

83. On various occasions, the applicants may wish to prepare further written submissions to support the applications and hence request deferring the consideration of the applications. According to the Board's Guidance Notes for Deferment of Consideration of s.16 Applications, s.17 Reviews, Rezoning Requests and Objections, if an applicant can inform the Secy/TPB in advance before the issue of agenda and the relevant PC paper, the request for deferment may be met. If the PC agrees to defer consideration of the application, it will be reconsidered within two months from the date of receipt of the further submission. The relevant paper and minutes related to the request for deferment would be attached to the written notification from the Secy/TPB.

Notification of Planning Committees' Decisions on Applications

84. After a decision has been made by a PC, the Secy/TPB will notify the applicant in writing upon confirmation of the minutes of the meeting. The relevant MPC/RNTPC paper and relevant minutes of meeting will be attached to the written notification to the applicant. If the applicant requests for an immediate notification on the decision, an informal reply on the result could be conveyed verbally to the applicant by the Secy/TPB. However, it will be subject to subsequent written confirmation. The gist of decision is also available on TPB's Homepage shortly after the meeting.

85. Upon receipt of relevant paper and minutes of meeting attached to the written notification, the applicant could assess whether to seek a review of the PC's decision or submit a fresh application.

PART VII - REVIEW OF PLANNING APPLICATIONS

Review of Planning Committees' Decisions

86. Where an application has been approved with conditions or refused with reasons for refusal, the Secy/TPB, in notifying the applicant of the PC's decision, will attach to the notification letter a copy of the relevant MPC/RNTPC paper and the relevant minutes of meeting. The applicant would also be informed of his rights under s.17(1) of the Ordinance to apply to the Board for a review. If so, the applicant should inform the Secy/TPB within 21 days of the notification of the Committee's decision.

87. On receipt of an application for a review of the PC's decision, the Secy/TPB will fix a time and place for the review, which is a date not more than three months of the receipt of the application. The Secy/TPB will inform the applicant by giving reasonable notice of the date of the review when the applicant himself and/or his/her authorised representative(s) may attend before the Board and make representations. The Secy/TPB will also write to the applicant requesting him to submit to the Secy/TPB any further written representations in response to the reasons for rejection not later than 6 weeks in advance of the review hearing to facilitate the processing and preparation of a review paper. The review paper will be forwarded to the applicant not less than 7 days before the meeting.

Review Hearing Procedure

88. The Ordinance has not specified the steps and manner for conducting the review of planning applications. The following procedure has been adopted:-

- (i) A Member who has an interest should declare it and the Board will decide whether he/she could participate in the discussion/determination of the application;
- (ii) the applicant and/or his/her authorised representative(s) as well as the representatives of the Planning Department and other government departments, if any, are invited to the meeting at the same time at the commencement of the review hearing;
- (iii) the chairman of the meeting briefly explains the review hearing procedure to the applicant and gives him/her an opportunity to object to the inclusion of any Member;
- (iv) the representative of the Planning Department is invited to summarize the background of the application;
- (v) the applicant and/or his representative(s) are then invited to address the Board and elaborate on the written representations and make any further points on the case;
- (vi) the chairman of the meeting then invites the representatives of the Planning Department and other government departments, the applicant and/or his/her representative(s) to answer questions from Board Members;

- (vii) should representatives of government departments wish to react to statements made by the applicant or his representatives or to clarify their own statements, they should do so with the permission of the chairman. This should be done in the presence of the applicant and/or his/her representatives, if any, so that the applicant or his/her representatives would have an opportunity to respond to statements made by representatives of government departments;
- (viii) the chairman then asks the representatives of the Planning Department and other government departments, the applicant and/or his/her representative(s) to leave the meeting; and
- (ix) the Board then deliberates further on the case and makes a decision on it.

89. During the review hearing, the Board will only consider the original application in the light of any further written and/or oral representations. A revised development proposal materially different from the original proposal should not be considered and must be submitted to the respective PC in the form of a fresh s.16 application.

90. After further consideration at the review hearing, the Board may grant or refuse to grant the permission applied for, and may impose any conditions as it thinks fit.

Absence of Applicant in Review Hearing

91. If, without prior consent, the applicant or his/her authorized representative(s) does not attend at the time and place fixed for the review, according to s.17(4) the Board may proceed with the review in the absence of the applicant or adjourn it.

Further Submission/Evidence for Review on Planning Applications

92. In some cases, further written submissions from the applicants for the review may not reach the Secy/TPB on time or the further information produced by the applicants at the meetings raises new issues. Although the Board will consider such submissions or oral evidences if they are relevant to the applications, the Board may also wish to seek comments from government departments on these further submissions. As such, the Board may adjourn the review hearing.

Request for Deferment of s.17 Reviews

93. Although s.17(2) of the Ordinance has laid down the time limit of 3 months for the completion of the review, failure to proceed with the review within the 3 month period will not invalidate the process particularly if the deferment is made at the request of the applicant or as the result of new submissions from the applicant. Therefore, the Board can consider and decide to defer the hearing on the request for deferment of s.17 review according to the individual merits.

94. According to the Board's Guidance Notes for Deferment of Consideration of s.16 Applications, s.17 Reviews, Rezoning Requests and Objections, if the applicant applying for review informs the Secy/TPB in advance before the issue of the agenda and the relevant review papers, the Secy/TPB may take into account the justifications provided, defer and rearrange the date for the review hearing up to a maximum period of 3 months from the date when the Secy/TPB is informed. However, if the agenda and relevant papers have already been distributed to Board Members and the parties concerned, the applicant or his/her authorised representative(s) will have to appear "in person" before the Board to explain the reasons for the proposed deferment.

95. Deferment beyond 3 months may only be granted if reasonable justification are provided and if the Board is convinced. An example is that more time is required to conduct further study or survey to substantiate the arguments put forth in the application. However, the deferment should not be indefinite and the Board will decide on the period of extension having regard to the particular circumstances of each case. A period of 3 months is generally considered as the maximum extension. Once a deferment has been granted, the date should be adhered to and no further deferment should be granted except under very special circumstances.

Notification of Board's Decisions on s.17 Reviews

96. After a decision has been made by the Board, if the applicant requests for an immediate notification on the decision, an informal reply on the result could be conveyed verbally to the applicant by the Secy/TPB. However, it will be subject to subsequent written confirmation. The gist of decision is also available on TPB's Homepage shortly after the meeting. Upon confirmation of the minutes of the meeting, the Secy/TPB will notify the applicant in writing of the Board's decision. The relevant minutes of meeting will be attached to the written notification to the applicant. This would allow the applicant to assess whether to lodge an appeal or submit a new application.

Right of Appeal

97. Where a review application has been approved with conditions or refused with reasons for refusal, the Secy/TPB will also inform the applicant of his/her rights under s.17B of the Ordinance to apply for an appeal. If the applicant is still not satisfied with the decision, the applicant may, within 60 days of being notified of the decision of the Board, lodge an appeal by completing the form for Notice of Appeal under section 17B which may be obtained from the Secretary, Town Planning Appeal Board at 18/F, Murray Building, Garden Road, Central, Hong Kong. The completed form should be submitted to the Secretary, Town Planning Appeal Board and copied to the Secy/TPB.

PART VIII - OTHER REQUESTS ADDRESSED TO THE BOARD

Request for Rezoning or Amendment to Statutory Plans

98. Under the existing Ordinance, there is no provision for application to the Board to rezone a particular site or to amend any draft or approved plan. Nevertheless, a proponent may lodge to the Board a request for amendment to statutory plan or its Notes to facilitate a proposed development.

99. The current practice is that any request for rezoning or amendment which is addressed to the Board will be submitted to the relevant PC for consideration. Planning Department will circulate the request to relevant government departments for comments. After departmental consultation, the proposed rezoning proposal will be presented to the relevant PC for consideration. If the PC supports the request, the relevant statutory plan will be amended under the provisions (s.7 or s.5) of the Ordinance. The amendment is subject to the same objection procedure under s.6 of the Ordinance. If the PC does not agree to the requested rezoning, the Secy/TPB will inform the proponent accordingly. As a practice, a rezoning request, depending on its complexity, would be submitted to the relevant PC for consideration in about 3 months after receipt of such request. The party requesting the amendment to the statutory plan will not be invited to the meeting to make representations.

100. After a decision has been made by a PC, the Secy/TPB will notify the party requesting the amendment in writing about the decision of the Board upon confirmation of the minutes of the meeting. The relevant paper and minutes of meeting would be attached to the written notification to the proponent or his/her representative. If the proponent requests for an immediate notification on the decision, an informal reply on the result could be conveyed verbally by the Secy/TPB. However, it will be subject to subsequent written confirmation. The gist of decision is also available on TPB's Homepage shortly after the meeting.

Request for Board's Ruling

101. There are occasions in which the Board is requested by the land owners/developers to give rulings on issues in relation to statutory planning matters. These include the interpretation of provisions and restrictions under statutory plans. An example is the interpretation of the building height of a proposed building on a sloping site with regard to the building height restrictions as imposed under the Notes of the relevant statutory plan. If considered necessary, the Board may also be requested to consider whether building proposal would be in contravention of the provision under the relevant statutory plan.

Powers and Functions of the Town Planning Board

<u>TP Ordinance</u>	<u>Description</u>	<u>Remarks</u>
s.3 s.4(1)	Prepare new draft plans (that is, Draft Outline Zoning Plans and Draft Development Permission Area Plans).)) - Consideration is based more on district factors.))
s.4A	Comprehensive Development Area Schemes: approval of Master Layout Plans and subsequent amendments.)))
s.4(2)	Recommendation for resumption.	- Involving property right and government financial commitments which are considered important decisions.
s.5	Exhibition of new draft plans.	
s.6(3)	Preliminary consideration of objections and proposing amendments to meet objections.))))
s.6(6) s.6(7) & s.6(9)	Hearing of objections and make amendments to the plans to meet objections) - Deciding on objection to the draft plans and amendments to the plans.)))
s.6(8)	Hearing - original objectors and the objectors to the amendment.))
s.7(1)-(3)	Amendments to the draft plans and amendments to the plans referred back under s.9(1)(c).	- Amendments initiated are normally of district significance, and have no territory-wide impact.
s.8	Submission to Chief Executive in Council.	- The Board should be answerable for the schedule of amendments and the schedule of objections not withdrawn.
s.16	Applications for planning permission.	- Consideration is mainly of local and district nature and has to operate within the Board's guidelines
s.17	Review of refusal of planning permission.	- To ensure consistency in the application of guidelines for s.16 applications. - To enable the consideration of the case by wider and diversified interests and by

<u>TP Ordinance</u>	<u>Description</u>	<u>Remarks</u>
		Board Members not involved in the original decision to refuse permission.
s.20(1)	Designation of Development Permission Areas.	
<u>Others</u>	Approving Development Scheme Plans prepared by the Land Development Corporation under section 14 of the Land Development Corporation Ordinance.	
	Policy guidelines and guidelines for s.16 applications.	- To maintain consistency in planning decision.

Powers and Functions Delegated to the Planning Committees

<u>TP Ordinance</u>	<u>Description</u>	<u>Remarks</u>
s.3 *	Prepare new draft plans (that is, Draft Outline)	
s.4(1) *	Zoning Plans and Draft Development) - Consideration is based more on district	
	Permission Area Plans).) factors.	
)	
s.4A	Comprehensive Development Area Schemes:)	
	approval of Master Layout Plans and)	
	subsequent amendments.)	
s.5 *	Exhibition of new draft plans.	
s.7(1)-(3)	Amendments to the draft plans and)	
	amendments to the plans referred back under) - Amendments initiated are normally of	
	s.9(1)(c).) district significance, and have no	
s.16	Applications for planning permission.)	
		- Consideration is mainly of local and
		district nature and has to operate within
		the Board's guidelines (major
		development applications can be referred
		to the Board for consideration).
s.20(1) *	Designation of Development Permission	
	Areas.	

Remarks:

- * **The powers and functions have been delegated by the Board to the two Planning Committees on 7.6.1991 but in practice they are usually taken up by the Full Board.**

Powers and Functions Delegated to the Objection Hearing Committee

<u>TP Ordinance</u>	<u>Description</u>	<u>Remarks</u>
s.6(6) s.6(7) & s.6(9)	Hearing of objections and make amendments to the plans to meet objections (amendments have to be confirmed by the full Board).) - Deciding on objection to the draft plans and amendments to the plans.))
s.6(8)	Hearing - original objectors and the objectors to the amendment.))

Remarks:

The Board may decide to conduct the hearing itself for those objections which are of significant territorial interests or would attract wide interest of the public.

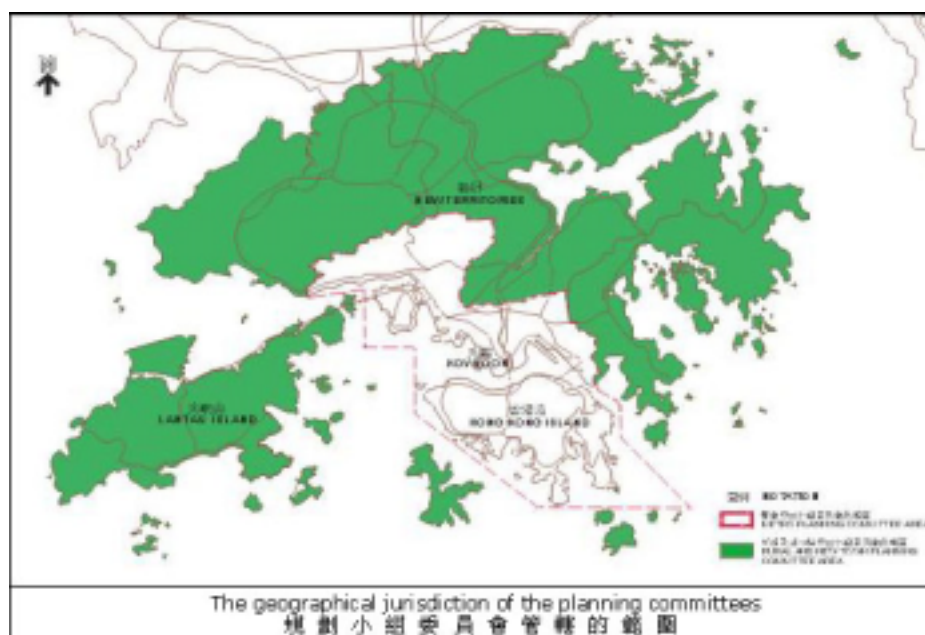
Powers and Functions Delegated to Director of Planning /District Planning Officers

<u>TP Ordinance</u>	<u>Description</u>
s. 16	Approval of minor amendment to a permission previously granted under s.16.

Powers and Functions Delegated to District Planning Officers

<u>TP Ordinance</u>	<u>Description</u>
s. 16	Approval for development on the Development Permission Area Plans which would be discontinued and the land be reinstated within 6 months.

Appendix II



Key :



Metro Planning Committee Area



Rural and New Town Planning Committee Area

Town Planning Board
Register of Pecuniary Interests

Appendix III

(Name: _____) requests that interests as set out in the attached form
 (total pages: _____) should be included in the Register of Members' Pecuniary Interests.

Registrable Interests	Interests to be declared by the following parties:		
	Member	Spouse	Children under 18
<p>DIRECTORSHIPS AND PARTNERSHIPS IN COMPANIES</p> <p>Please list out at the rightward columns the remunerated directorships in any public or private company.</p> <p>Notes:</p> <p>(a) Remunerated directorships include all directorships for which a fee, honorarium allowance or other material benefit is payable.</p> <p>(b) You should give the name of the company, briefly state the nature of the business of the company in each case.</p> <p>(c) Remunerated directorships of both local and overseas companies are registrable.</p> <p>(d) Remunerated directorships through corporate directors are also registrable.</p> <p>(e) Where you or your spouse are a remunerated director of a company, all subsidiary or associated directorships which you or your spouse hold within the same group, whether remunerated or not, should also be registered.</p> <p>(f) There is no need to register the amount of remuneration received.</p>			

Use additional form(s) if necessary

Member's Name:

Registrable Interests	Interests to be declared by the following parties:		
	Member	Spouse	Children under 18
<p>REMUNERATED EMPLOYMENTS, OFFICES, TRADES, PROFESSIONS OR VOCATIONS</p> <p>Please list out at the rightward columns the remunerated employments offices, trades, profession, or vocation from which remuneration or pecuniary interest is obtained.</p> <p>Notes:</p> <p>(a) An employment, office, trade or profession is “remunerated” where a salary, honorarium, allowance or other material benefit is payable.</p> <p>(b) “Remunerated offices” should include all “remunerated” public offices.</p> <p>(c) Indicated the name of the employment, office, trade, or profession. Where a firm is named, please briefly indicate the nature of the firm’s business if practicable.</p> <p>(d) For paid posts as consultants or advisers, it should be indicate the nature of the consultancy in the register, e.g. “traffic consultant”, “legal adviser”, etc.</p> <p>(e) There is no need to register the amount of remuneration received.</p>			

Use additional form(s) if necessary

Member's Name:

Registrable Interests	Interests to be declared by the following parties:			
	Member	Spouse	Children under 18	Company to which the party/parties listed leftwards is one of the directors.
<p>HOLDINGS IN LAND AND PROPERTY</p> <p>Please list out at the rightward columns the land or property in Hong Kong and/or overseas.</p> <p>Notes:</p> <p>(a) The requirement is to register the general nature of the interest rather than a detailed list of the holdings. The exact address and name of the land or property need not be listed out.</p> <p>(b) There is no need to register the size or value of the land or property owned.</p> <p>Example:</p> <ol style="list-style-type: none"> 1. A flat at No. 111, Star Street, Wan Chai. 2. 3 units in Block 123, Laguna City, Kwun Tong. 3. A house at Peak Road, Peak. 4. A piece of land at Nathan Road, Mong Kok. 5. A piece of land in Richmond Hill, Vancouver, Canada. 				

Use additional form(s) if necessary

Member's Name:

Registrable Interests	Interests to be declared by the following parties:		
	Member	Spouse	Children under 18
<p>SUBSTANTIAL SHAREHOLDINGS</p> <p>Please list out at the rightward columns the shareholdings in any public or private company of a nominal value greater than 1% of the issued shared capital of the company.</p> <p>Notes:</p> <p>(a) "Shareholdings" is defined as personal shareholdings and do not include shareholdings held in the capacity of a nominee shareholder.</p> <p>(b) There is no need to register the size or value of the shareholdings.</p>			

Use additional form(s) if necessary

DECLARATION

I have read the POINTS TO NOTE attached to this form. I declare that the personal data voluntarily provided in this form are accurate and up-to-date to the best of my knowledge. I agree and understand that such personal data can be used according to the use and disclosure of personal data stated in the Points to Note.

Signature : _____

Date: _____

POINTS TO NOTE

Purpose of the Registration

1. The main purpose of registering of interests by Members of the Town Planning Board is to maintain public confidence in the integrity of Members (including the Chairman) and in the impartiality of their advice tendered to the Town Planning Board. It is, therefore, important that all Members of the Town Planning Board should declare their general pecuniary interests as set out in this registration form.
2. This registration of pecuniary interests is additional to the procedures of declaration of interests (pecuniary or otherwise) at the Board/Committee meetings as set out in the guidelines on Declare of Interests by Town Planning Board Members.

Guidelines for Completing the Registration Form

3. This form should be completed by each Member upon commencement of a new term of appointment and returned to the Secretary of the Town Planning Board within one month. It will then be updated once every year. Any subsequent changes to Members' pecuniary interests should be registered within 14 days of any such change.
4. Interests owned by Members, their spouses or children under the age of 18 should be registered. Members should register such interests to the best of their knowledge.
5. Details such as the amount of remuneration received, the size and the exact address of the declared property or the size and value of the shareholdings need not to be disclosed.
6. Where applicable, Members should also give a brief description of the lines of business of companies in which they are involved.
7. Specific guidelines for completing each item are given in the notes of the registration form.

Use and Disclosure of Personal Data

8. The pecuniary interests provided in this registration form are considered as a kind of personal data and will be retained by the Secretary of the Town Planning Board for the purpose mentioned in paragraph 1 above. The personal data may be disclosed to other Government bureaux and departments for any other purpose(s) directly related to such use.
9. Your personal data, as well as your spouse's and children's (whose interests are being declared), provided in this registration form will also be made available for inspection by members of the public on request.
10. Your personal data, as well as your spouse's and children's (whose interests are being declared), provided in this registration form will not be used for purposes other than mentioned above unless you, your spouse and children have given the prescribed consent or such use is permitted by the laws of Hong Kong Special Administrative Region.

Accuracy, Duration of Retention and Security of Personal Data

11. All practicable steps will be taken to ensure that personal data in the registration form are accurate and will not be kept longer than is necessary for the fulfillment of the purpose (including any directly related purpose) for which the data are or to be used; and that the personal data are protected against unauthorized or accidental access, processing, erasure or other use.

Access to Personal Data

12. You, your spouse and children whose interests are being declared, have the right to obtain a printed copy of this registration form held by the Secretary of the Town Planning Board and to request that necessary correction(s) be made if the personal data are inaccurate.

Enquiry

13. All enquiries concerning personal data collected in this registration form should be addressed to:-

Secretary, Town Planning Board
15/F., North Point Government Offices,
333 Java Road,
North Point,
Hong Kong.

Declaration by Individual

14. You are requested to read carefully the Points to Note set out above. If you have any enquiries concerning the Note, please contact the Secretary of the Town Planning Board for clarification. The provision of personal data by means of this form is voluntary. Your personal data, as well as your spouse's and children's (whose interests are being declared), will be treated in compliance with the personal Data (Privacy) Ordinance (Cap. 486) and the contents of the Note. Please sign the declaration on Page 4 of the registration form and return the completed form to the Secretary of the Town Planning Board in the enclosed envelope.

Circumstances Constituting Potential Conflict of Interest

I. Under the following situations, a Member should be considered as having direct and substantial interest in a matter under consideration:

(a) The subject matter involves a landed interest held by the Member or the Member's spouse

For example:

- the Member and/or his/her spouse is the sole or part owner or the tenant of the application/objection site under consideration.
- the Member and/or his/her spouse is the applicant/objector of the matter under consideration.

(b) The subject matter involves a public or private company or other organisation (including subsidiary or associated companies within the same group) of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings (i.e. 1% or more of the issued share capital), advisory or client relationship, employment or other significant connection.

For example:

- the company of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings is the applicant/proponent/objector of the matter under consideration.
- the Member or the company of which the Member or his/her spouse holds a proprietorship, partnership or directorship is the professional consultant tendering professional advice to or representing the applicant/proponent/objector in the matter under consideration.
- the Member or his/her spouse is the employee/staff of a company, an organisation or association such as the Scouts Association and the University of Hong Kong, which is the applicant/proponent/objector of the matter under consideration.
- the Member or his/her spouse is a staff of a Government department which itself is the applicant/proponent of a rezoning request under consideration.

This also applies to the situation where the subject company has a substantial shareholdings (i.e. 1% or more of the issued share capital) of the company owned by the Member or his/her spouse.

- (c) **The subject matter involves a statutory/public body, club, association, union or other bodies of which the Member or his/her spouse holds a chairmanship or, in some cases, membership, or is the office bearer of an executive board, a board of directors or a management committee.**

For example:

- the Member or his/her spouse is a member of a statutory/public body (including its sub-committee), such as the Hong Kong Housing Society (HKHS), the Hong Kong Housing Authority (HKHA), the Urban Renewal Authority (URA) and the District Council, which is the applicant/ proponent/objector of the matter under consideration.

This does not apply to the situation where the Member or his/her spouse is just an ordinary member/corporate member of a club, association or other bodies, and the Member or his/her spouse is not involved in the matter under consideration.

- (d) **The Member or his/her spouse has current business dealings and/or business dealings under negotiation with the applicant/proponent/objector of the matter under consideration.**

For example:

- the Member or his/her spouse is at present a consultant/advisor to the applicant/proponent/objector's on-going development projects irrespective of whether the dealings are related to the matter under consideration.
- the Member or his/her spouse or the company owned by the Member or his/her spouse was a business partner with the applicant/proponent/objector on on-going businesses irrespective of whether the dealings are related to the matter under consideration.

- (e) ***The Member who is also a member of the HKHA/HKHS/URA or other public bodies and the subject of an objection involves a project of such public bodies***

This does not apply to situation where a HKHA/HKHS/URA project is the subject of an amendment to a statutory plan proposed by the Planning Department or where HKHA/HKHS/URA sites are proposed in a new plan.

- II. The following situations would give rise to potential conflict of interest but whether the interest is direct and substantial would depend on the substance, scope and nature of the interest in relation to the case under consideration:

- (a) **The subject matter affects a landed interest held by the Member or his/her spouse.**

For example:

- the Member (and/or his/her spouse) is the sole or part owner or the tenant of a property that may be affected by the development proposal under consideration.

(b) The subject matter involves or affects a landed interest held by a “close relative/friend” of the Member or his/her spouse.

For example:

- a “close relative/friend” of the Member or his/her spouse is the sole or part owner or the tenant of the application/objection site under consideration. Members themselves are the best judge of who, in the particular circumstances, is a “close relative/friend”.

(c) A Member or his/her spouse has given personal advice or opinion to an applicant/proponent/objector on any occasions on the subject matter under consideration.

For example:

- the Member or his/her spouse has given personal opinion or advice to the applicant/proponent/objector on the matter under consideration, which might lead the public to believe that the Member’s views might be biased or not given impartially.

The situation of Government departments tendering professional advice or stating Government policies to the applicant/proponent/objector should not fall within this category as it is incumbent upon the official member to tender advice, which is consistent with the official views of the Government departments or statement of Government policy.

(d) The subject matter involves a public or private company or other organisation (including subsidiary or associated companies within the same group) of which the Member’s or his/her spouse’s “close relative/friend” holds a proprietorship, partnership or directorship, advisory or client relationship, employment or other significant connection.

For example:

- the Member’s or his/her spouse’s “close relative/friend” is the owner of a company/organisation and the company is the applicant/proponent/objector of the subject matter.
- the Member’s or his/her spouse’s “close relative/friend” is the professional consultant tendering professional advice to the applicant/proponent/objector in the subject matter under consideration.

This is to avoid situations where the public might believe that the Member’s advice has been influenced by the closeness of the association. The Members

themselves are the best judge of who, in the particular circumstances, is a “close relative/friend”.

(f) The Member or his/her spouse has past business dealings with the applicant/ proponent/ objector of the matter under consideration.

For example:

- the Member or his/her spouse or the company owned by the Member or his/her spouse was previously the professional consultant tendering professional advice to the applicant/proponent/objector in the matter under consideration but the Member or his/her spouse or the company owned by the Member or his/her spouse is no longer involved in the matter. The Member should declare **all** such past dealings. If the matter involves a completed project, the Member should be allowed to continue to participate in the discussion. If the matter involves an on-going project, the Member should be required to withdraw from the meeting.
- the Member or his/her spouse has general business dealings with the applicant/proponent/ objector. If the business dealings are not related to the matter under consideration, the Member should declare only the recent dealings in the past 3 years, and upon declaration, the Member should be allowed to continue to participate in the discussion.

**Results of Review on Declaration of Interest by
Town Planning Board Members**

1. Background

The system of declaration of interests by Members of the Town Planning Board (the Board) was first adopted by the Board in 1992 and revised in 1995. To keep up with the changing community expectations, a comprehensive review (the Review) on the system of declaration interests was undertaken in 2000. The key points taken into consideration in the Review are reported below.

2. Past Practice

2.1 The past system was drawn up based on the Guidelines on “Declaration of Interests by Members of Public Councils, Boards and Committees” published by the Independent Commission Against Corruption (ICAC), and set out in the Town Planning Board Procedure and Practice (P&P) (**Annex I**). A two-tier reporting system was adopted. Members were to register their pecuniary interest in writing when they first joined the Board and updated them on a half-yearly basis. The registrable interests were the pecuniary interests Members held and those of their spouses and children under the age of 18 which included:

- (a) directorships or partnerships in companies;
- (b) substantial shareholdings (1% or more of the issued share capital);
- (c) substantial holdings in land and properties; and
- (d) remunerated employment, offices, trades, professions or vocations.

2.2 If a Member had any direct or personal interest (pecuniary or otherwise) in any matter under consideration by the Board or its Committees, the Member would disclose the interest either before or at the meeting prior to the discussion of the item. The declaration would be recorded in the minutes of meeting.

2.3 Some general cases on potential conflicts of interests were also set out in the P&P. They were generally in line with the ICAC’s Guidelines. Interests to be declared were classified into 3 levels and depending on the level of interests declared, the following practices were adopted:

- (a) for substantial direct interest, Members were required to withdraw from the meeting;

- (b) for less direct or substantial interest, Members might be allowed to stay in the meeting but should refrain from the discussion of and determination on the respective agenda item; and
- (c) for indirect and remote interest, Members were free to participate in the discussion of and the determination on the matter.

3. Areas of Concern

3.1 When the Town Planning Bill 2000 was scrutinised by the Bills Committee of Legislative Council, members of the Bills Committee examined the current practice of the Board with respect to declaration of interest and raised the following concerns:

- (a) no specific time set for the completion of the registration;
- (b) no specific requirement on reporting for changes in the interests registered;
- (c) difficult to define “substantial” holdings in land and properties;
- (d) difficult to define “frequent” dealings with any person or body connected with a matter under consideration by the Board; and
- (e) the three levels of interests, direct/substantial, less direct/less substantial and indirect/remote, seemed to be arbitrary and subject to query.

3.2 The Bills Committee also requested that the Board’s register of interest be made available for public inspection on the Board’s website and that the Board should consider including a provision on sanction against a Member’s failure to declare an interest.

4. Changes to the System on Declaration of Interest

4.1 In the course of the Review, advice from the Department of Justice and the Corruption Prevention Department of the ICAC had been sought. A comparison of practices adopted by some other statutory bodies/boards including Legislative Council, Hong Kong Housing Authority, Hong Kong Housing Society and Land Development Corporation had been undertaken. It was found that the general principle and practice of the Board were not substantially different from those adopted by other statutory bodies/boards. The key findings of the Review were:-

4.2 Guiding Principle on Declaration of Interest

The main purpose of registering of interests by Members of the Board is to maintain public confidence in the integrity of Members (including the Chairman) and in the impartiality of their advice tendered to the Board. It is therefore important that all Members of the Board should declare their general pecuniary interest. Besides, all interests of Members and their spouses in any matter under consideration by the Board/Committee need to be declared. The onus of making a declaration rests with individual Board Members who are in the best position to judge what constitutes an interest warranting a declaration. In exercising their judgement, Members must take into account the sunshine test, that is, should their interest become public knowledge, whether it would give rise to a public perception that their advice to the Board might have been biased or influenced by that interest. Besides, in complying with the system of declaration of interests, the interest of the Board must always come first, above and beyond those of any official or non-official Members.

4.3 Two-tier Reporting System

On registration of Members' interests, the current two-tier reporting system adopted by the Board is found to be similar to most other statutory bodies/boards. It also complies with the ICAC's Guidelines. It is therefore recommended that the current system should be retained.

Registration of Pecuniary Interests

4.3.1 There was no specific time set for the completion of the registration. In order to complete the registration process as soon as possible and avail the register for public inspection, a time limit of one month should be specified for the completion of registration. Members would be requested to return the registration form within one month upon commencement of a new term of appointment. This is in line with the practice of the Hong Kong Housing Authority. Also, any change of Members' interest should be registered within 14 days of any such change. Since Members would report changes as soon as they are known, a half-yearly updating may not be required. Instead, an annual updating should be sufficient and is in line with the practices of the Hong Kong Housing Authority and Hong Kong Housing Society.

4.3.2 The types of registrable pecuniary interest set out in the P&P are broadly the same as those for the Hong Kong Housing Authority and should be maintained. However, since it is difficult to define "substantial" holdings in land and properties, and as the nature of the Board's work mainly concerns land uses, any interests related to land and property should be declared. As such, the word "substantial"

should be deleted from “substantial holdings in land and properties”.

Declaration at Meetings

4.3.3 The current practice, which has been working smoothly, should be maintained:

- (a) if Members or their spouses have any interest (pecuniary or otherwise) in any matter under consideration by the Board/Committees, the Members should as soon as practicable disclose to the Chairman/Secretary prior to the meeting or at the meeting prior to the discussion of the concerned item;
- (b) where a substantial direct conflict of interest is known, the Secretary should withhold the issue of the relevant papers and documents to the concerned Members and any papers or other information relating to the matter which the Members may have received should be returned to the Secretary; and
- (c) all cases of declaration of interests should be recorded in the minutes of meeting.

4.3.4 In preparing the agenda for each meeting, the following should also be undertaken:

- (a) the Secretariat should check against the register of Member’s pecuniary interest to ensure compliance of 4.3.3 (b). In case of doubt, the Secretariat should check with the Member concerned; and
- (b) in arranging hearing of application or objection, the Secretariat should send to Members, in advance of each TPB meeting and together with the agenda of the meeting, the list of personnel who would attend the meeting on behalf of the applicant/proponent/objector.

4.4 Types of Interest

4.5.1 It is difficult to draw up an exhaustive list on what constitutes a conflict of interest. The following general guiding principles are set out in the P&P, for which Members should declare an interest at or before the Board/Committee meetings:

- (a) Pecuniary interests in a matter under consideration by the Board/Committee, interests held either by a Member or by

his/her spouse, children under 18, or by the Member's close relative.

- (b) A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organisation which is concerned with, or the subject of, the matter under consideration by the Board/Committees.
- (c) A Member or his/her spouse who, as a professional adviser, has personally or as a member of a company, advised or represented any person or body on the matter under consideration, or has business dealings with any person or body connected with the matter under consideration by the Board/Committees.
- (d) Some friendships which might be so close as to warrant declaration in order to avoid situations where an objective observer might believe the Member's advice to have been influenced by the closeness of the association.
- (e) Any interest likely to lead an objective observer to believe that the Member's decision might have been motivated by personal interest rather than a duty to give impartial advice.

5. Circumstances Constituting Potential Conflict of Interest

- 5.1 The classification of types of interest into direct/substantial, less direct/less substantial and indirect/remote is rather arbitrary. It is difficult to define less direct/less substantial which is a matter of fact and degree and depends on the circumstances of the case. Also, it would be difficult to explain why a Member whose interest is "less direct and less substantial" could be allowed to stay in the meeting but refrain from participation in the discussion. It might be argued that the mere presence of the Member who has an interest in an item might affect other Members' deliberation on the case.
- 5.2 To rectify this problem, the Board should adopt a similar practice as other boards and committees, i.e. all interests in any matter under consideration by the Board/Committees need to be declared. The Board/Committees would then decide whether the interest is direct and substantial and if so, the Member would have to withdraw from the meeting. If the interest is direct but not substantial or indirect/insubstantial the Member would be allowed to continue to participate in the discussion and determination of the matter.
- 5.3 It would be difficult to set out categorically all situations under which a Member has to declare interest and whether an interest is direct and substantial or otherwise depends very much on the circumstances of the case.

However, the following situations usually constitute direct and substantial interest:-

- (a) **The subject matter involves a landed interest held by the Member or his/her spouse.**

This applies to the situation where the application/objection/amendment to statutory plans covers land which is owned by the Member or his/her spouse. This also covers the situation where the Member or his/her spouse is the applicant/proponent/objector of a case.

- (b) **The subject matter involves a company or organisation of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings (i.e. 1% or more of the issued share capital), advisory or client relationship, employment or other significant connection.**

This applies to the situation where the Member or his/her spouse's company or organisation is involved directly in the matter under consideration by the Board/Committees, either as applicant/proponent/objector or the company/organisation has tendered professional advice (e.g. being the consultant acting for the applicant/proponent/objector) on the matter under consideration. This also applies to the situation where the Member or his/her spouse is a staff member of a company or organisation (including a Government department) which is the applicant/proponent/objector of the matter under consideration.

- (c) **The subject matter involves a statutory/public body, club, association, union or other bodies of which the Member or his/her spouse holds a chairmanship or, in some cases, membership, or is the office bearer of an executive board, a board of directors or a management committee.**

This includes the situation where the Member or his/her spouse is a member of a statutory/public body (and its sub-committee) such as Hong Kong Housing Authority, Hong Kong Housing Society, Land Development Corporation (and the future Urban Renewal Authority) and the District Council, which is the applicant/proponent/objector of the matter under consideration. The fact that the Member or his/her spouse is an ordinary/corporate member of a club, association, union or other bodies would not constitute direct interest if the Member or his/her spouse is not directly involved in the matter under consideration.

5.4 There are other situations of potential conflict of interest, e.g.

- The subject matter affects a landed interest held by the Member, his/her

spouse, and his/her close relative or close friend.

- The subject matter affects (or in the case of the Members' close relative/friend, involves) the interest of a company or organisation of which the Member, his/her spouse, his/her close relative or close friend holds a proprietorship, partnership, directorship or substantial shareholdings, advisory or client relationship, employment or other significant connection.
- The Member or his/her spouse has past business dealings with the applicant/proponent/objector of the matter under consideration.
- The Member or his/her spouse has given personal advice or opinion to an applicant/proponent/objector on any occasions on the matter under consideration.

Whether these situations would constitute direct and substantial interest would depend on the substance, scope and nature of the interest, and have to be considered on a case by case basis. As a general rule, the Member shall declare any interest, which may likely lead the public to believe that the Member's advice might have been influenced by his/her relationship with the applicant/proponent/objector. It would be up to the Board/Committees to decide whether the interest is so direct and substantial that the Member should withdraw from the meeting.

6. “Business Dealings” and “Close Friendship”

- 6.1 The Guidelines on declaration of interest should also be applicable to business dealings and close friendship of the spouse of a Member. Members are required to declare their spouses' interests to the best of their knowledge.
- 6.2 Since “business dealings” are pecuniary in nature, Members should declare “business dealings” with the applicant/proponent/objector to protect the impartiality and reputation of the Board as well as the Members themselves. In general, “current business dealings” and “business dealings that are under negotiation” (i.e. potential future business dealings) between the Member or his/her spouse and the applicant/proponent/objector could give the public an impression that the Member's advice to the Board might be biased or influenced by that relationship. Such dealings should be declared, and upon declaration, the Member should withdraw from the meeting.
- 6.3 On the other hand, past business dealings might not constitute direct interest particularly if the dealings are not related to the matter under consideration. However, if the past business dealings with the applicant/proponent/objector are directly related to the site under consideration, Members should declare all such past business dealings. For past dealings involving a development

project that has been physically completed on the site under consideration, the interest will be considered as not substantial, and the Member will be allowed to continue to participate in the discussion. If the past dealing involves an on-going project, the Member should declare an interest and withdraw from the meeting because the Board's decision might affect the implementation of the project and the Member's advice could have been influenced by his/her previous involvement in the project.

- 6.4 For past business dealings between the Member and the applicant/objector/proponent, which were not related to the site under consideration, only past dealings within the past three years need to be declared, but the Member could be allowed to continue to participate in the discussion.
- 6.5 The circumstances requiring declaration of interest in respect of business dealings with the applicant/objector/proponent are summarized in the following table.

Business Dealings		Declare	Withdraw From meeting
Current/Under Negotiation	General (not relating to the site)	√	√
	Specific (relating to the site)	√	√
Past	Past dealings not relating to the site		
	- More than three years	x	x
	- Within three years	√	x
	All past dealings relating to the site		
	- project completed	√	x
	- project on-going	√	√

- 6.6 Regarding the issue of “close relative/friend”, according to ICAC, there is no clear definition and Members themselves are the best judge of who, in the particular circumstances, is a “close relative/friend”.

7. Declaration of Interest in Matters Relating to Housing Projects of the Hong Kong Housing Authority (HKHA)

There is a concern on whether those official and non-official Members who are also members of the various committees of the HKHA would have direct and substantial interests dealing with matters relating to housing projects proposed and implemented by the Authority. In general, where the matters involve the HKHA as the applicant/objector/proponent, as in the case of section 16 application, section 6 objection and rezoning request, these Members would have direct and substantial interest. They should therefore declare the interests and withdraw from the meeting. However, for consideration of new plans or amendments to statutory plans proposed by the Planning Department as part of the plan-making process, even if HKHA housing sites are involved, the interests of the Members would not be considered as direct and substantial. They should declare the interests and could continue to participate in the discussion and determination of the matter. However, if a HKHA housing project is the subject of an objection to the statutory plan, these Members could be perceived as having direct and substantial interest in the matter as the decision of the Board would affect the implementation of the project. In such circumstances, these Members should withdraw from the meeting. The same guidelines should also apply to projects of the Hong Kong Housing Society, the Land Development Corporation (and the future Urban Renewal Authority) and other public bodies.

8. Application of the Guidelines to Chairman and Vice-chairman

- 8.1 The general guidelines on declaration of interest are applicable to the Chairman and Vice-chairman of the Board and the Committees.
- 8.2 If the Chairman or the Vice-chairman needs to declare an interest and there is nobody to take up the chairmanship, the matter should normally be adjourned to the next meeting. However, if the matter is subject to a statutory time limit, then as a matter of necessity, the Chairman/Vice-chairman should continue to assume the chairmanship if there is a conscious effort made to contain his/her scope of involvement in an administrative role to minimise any risk that he/she may be challenged.
- 8.3 In case both the Chairman and Vice-chairman of the Committee need to declare an interest, then the matter should be referred to the Board for a decision. However, if both the Chairman and Vice-chairman of the Board need to declare an interest, as a matter of necessity, the Chairman should continue to assume the chairmanship.

9. Availability of the Register by Members' Interests for Public Inspection

A register of Members' pecuniary interests will be kept by the Secretary for the

Board and will be made available for inspection on request by members of the public. As there are no other public boards/committees which makes available their registers of Members' interests for public inspection on their websites, the matter should be kept in view by the Secretariat and the Board would review its practice where there was a change in the circumstances.

10. Sanction

Under section 42(a) of the Interpretation and General Clauses (Cap. 1), the Chief Executive has the power to remove, suspend, dismiss or revoke the appointment of membership of the Board. Members noted that sanction could be imposed by the Chief Executive as he has the power to terminate or suspend an appointment to the Board.

11. Revised System of Declaration of Interest

After several rounds of discussion by Members of the Board, the Review was concluded in early 2001. The revised system of declaration of interest by Members of the Board, together with the Form for Registration of Pecuniary Interest, was incorporated as Part II of the Town Planning Board P&P accordingly (**Annex II**). The P&P is also available for public reference in the Town Planning Board website.

Extract of Town Planning Board Procedure and Practice**PART II – GENERAL MATTERS ON THE PROCEEDING OF MEETINGS****Meetings**

12. The Board meets regularly to discharge its functions, normally on the second or the fourth Friday of each month. The two Planning Committees normally meet twice a month, usually on the first and third Friday of each month. The MPC meets in the morning and the RNTPC meets in the afternoon.

13. At any meeting of the Board, 5 Members, one of whom must be the Chairman or Vice-Chairman, shall form a quorum. At any meeting of any of the Planning Committees, 5 Members, one of whom must be the Committee Chairman or Committee Vice-Chairman and 3 of whom must be non-official Members, shall form a quorum. Official Members who are not able to attend the meeting are substituted by alternate Members appointed by the Governor.

Declaration of Interests

14. It is inevitable that from time to time Members of the Board may have interests (personal, family, or business; direct or indirect; pecuniary or otherwise) in matters that come before the Board.

Under the rule against bias, an administrative decision may be quashed if the facts give rise to a real likelihood of bias or it might reasonably be thought that the decision-maker ought not to act because of some personal interests. Furthermore, to protect the impartiality and reputation of the Board and individual Members, it is considered necessary for Members to disclose their interests when there is a real or potential conflict with those in a matter placed before the Board. Members should register their pecuniary interests in writing on a regular basis and, when circumstances warrant, should declare these interests (pecuniary or otherwise) before or at the relevant Board meeting.

15. It is not practical to set a hard and fast rule to judge what should be declared because each individual case is different and it is difficult to cater for unusual and unforeseen circumstances. However, the following are some general cases which can assist Members to identify potential conflicts of interests : -

- (a) Pecuniary interests in a matter under consideration by the Board, interests held either by a Member or by his/her spouse, children under 18 or any close relative, should be declared.
- (b) A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organization which is connected, or the subject of, a matter under consideration by the Board, should be declared.
- (c) A Member who, as a professional adviser, has personally or as a member of a company, has advised or represented or has frequent dealings with any person or body connected with a matter under consideration by the Board, should make a declaration.
- (d) Any interest likely to lead an objective observer to believe that the Member's decision might have been motivated by personal interest rather than by a duty to act impartially,

should be declared, e.g. a private club applying for planning permission for some facilities if he/she is a member of that club.

Registration of Pecuniary Interests

16. The Chairman, Vice-chairman and Members should register in writing their pecuniary interests when first join the Board, and update the information twice a year to the Secy/TPB. The registration should be made on a standard form (Appendix IV). A register of Members' pecuniary interests should be kept by the Secy/TPB and will be made available for inspection on request by members of the public.

17. The registrable interests are the pecuniary interests Members hold and those of their spouses and children under the age of 18 including: -

- (i) directorships or partnerships in companies;
- (ii) substantial shareholdings (1% or more of the issued share capital);
- (iii) substantial holdings in land and properties; and
- (iv) remunerated employment, offices, trades, professions or vocations.

18. Where practicable, Members should also give a brief description of the lines of business of companies in which they are involved; and should advise the Secy/TPB about any changes to their registrable pecuniary interests as soon as such changes have occurred.

19. Guidelines for completing the registration form on Members' pecuniary interests are at Appendix V. Members should register their interests and those of their spouses and children under the age of 18 to the best of their knowledge.

Declaration of Interests at or before PC/Board meetings

20. If Members have any direct or personal interest (pecuniary or otherwise) in any matter under consideration by the Board or the Committees, he/she must, as soon as practicable after the Member has become aware of it, disclose to the chairman at the meeting prior to the discussion of the item, even if this interest has been registered in writing. The following are the guidelines for declaration of interests at Board or Committee meetings: -

- (a) where a Member has a substantial direct interest, where pecuniary or otherwise, he should declare this and withdraw from the meeting prior to the discussion; but, at the chairman's invitation, he may make a statement on the subject matter prior to his withdrawal if he has an important and unbiased contribution to make;
- (b) where the interests are less direct or substantial, these should be declared but, unless for special reasons he is asked to withdraw, he should be allowed to participate in the discussion but should refrain from the determination on the subject matter. He should however carefully consider whether or not to abstain from giving advice to the Board or Committee; and

- (c) where a Member has only an indirect and remote interest which is unlikely to give him any personal benefit and which a reasonable man would not consider as likely to influence his views and judgement, he should be free to participate in the discussion and determination on the subject matter. Nonetheless, he should make the interest known to the Board or Committee.

21. In case of doubt, the Member should discuss his position with the chairman prior to the meeting. If it is decided that a substantial conflict is involved, any papers or other information relating to the matter under discussion which he may have received should be returned to the Secy/TPB. Where there is a conflict with an interest, the Secy/TPB would withhold the issue of the relevant papers and documents to the concerned Member.

22. From time to time, a Member may be approached by an applicant or an objector either formally or informally to discuss an application or an objection. If he chooses to advise/discuss with the applicant/objector, he should declare an interest when the item is discussed at the meeting and withdraw from the meeting. Any written representations/petition he receives on a particular case should be made known to the Board or Committee who will decide whether they are relevant to the determining of the application/objection.

23. All cases of declaration of interests shall be recorded in the minutes of the meeting.

Town Planning Board
Register of Pecuniary Interests

(Name: _____) requests that interests as set out in the attached form
(total pages: _____) should be included in the Register of Members' Pecuniary Interests.

Registrable Interests	Interests to be declared by the following parties:		
	Member	Spouse	Children under 18
<p>DIRECTORSHIPS AND PARTNERSHIPS IN COMPANIES</p> <p>Please list out at the rightward columns the remunerated directorships in any public or private company.</p> <p>Notes:</p> <p>(a) Remunerated directorships include all directorships for which a fee, honorarium allowance or other material benefit is payable.</p> <p>(b) You should give the name of the company, briefly state the nature of the business of the company in each case.</p> <p>(c) Remunerated directorships of both local and overseas companies are registrable.</p> <p>(d) Remunerated directorships through corporate directors are also registrable.</p> <p>(e) Where you or your spouse are a remunerated director of a company, all subsidiary or associated directorships which you or your spouse hold within the same group, whether remunerated or not, should also be registered.</p> <p>(f) There is no need to register the amount of remuneration received.</p>			

Use additional form(s) if necessary

Member's Name:

Registrable Interests	Interests to be declared by the following parties:		
	Member	Spouse	Children under 18
<p>REMUNERATED EMPLOYMENTS, OFFICES, TRADES, PROFESSIONS OR VOCATIONS</p> <p>Please list out at the rightward columns the remunerated employments offices, trades, profession, or vocation from which remuneration or pecuniary interest is obtained.</p> <p>Notes:</p> <p>(a) An employment, office, trade or profession is “remunerated” where a salary, honorarium, allowance or other material benefit is payable.</p> <p>(b) “Remunerated offices” should include all “remunerated” public offices.</p> <p>(c) Indicated the name of the employment, office, trade, or profession. Where a firm is named, please briefly indicate the nature of the firm’s business if practicable.</p> <p>(d) For paid posts as consultants or advisers, it should be indicated the nature of the consultancy in the register, e.g. “traffic consultant”, “legal adviser”, etc.</p> <p>(e) There is no need to register the amount of remuneration received.</p>			

Use additional form(s) if necessary

Member's Name:

Registrable Interests	Interests to be declared by the following parties:			
	Member	Spouse	Children under 18	Company to which the party/parties listed leftwards is one of the directors.
<p>SUBSTANTIAL HOLDINGS IN LAND AND PROPERTY</p> <p>Please list out at the rightward columns the land or property in Hong Kong and/or overseas of substantial value or from which a substantial income is derived.</p> <p>Notes:</p> <p>(a) In defining what is substantial, a cautious approach should be adopted. Any land or property held that is in doubt should be declared.</p> <p>(b) The requirement is to register the general nature of the interest rather than a detailed list of the holdings. The exact address and name of the land or property need not be listed out.</p> <p>(c) There is no need to register the size or value of the land or property owned.</p> <p>Example:</p> <ol style="list-style-type: none"> 1. A flat at No. 111, Star Street, Wan Chai. 2. 3 units in Block 123, Laguna City, Kwun Tong. 3. A house at Peak Road, Peak. 4. A piece of land at Nathan Road, Mong Kok. 5. A piece of land in Richmond Hill, Vancouver, Canada. 				

Use additional form(s) if necessary

Member's Name:

Registrable Interests	Interests to be declared by the following parties:		
	Member	Spouse	Children under 18
<p>SUBSTANTIAL SHAREHOLDINGS</p> <p>Please list out at the rightward columns the shareholdings in any public or private company of a nominal value greater than 1% of the issued shared capital of the company.</p> <p>Notes:</p> <p>(a) "Shareholdings" is defined as personal shareholdings and do not include shareholdings held in the capacity of a nominee shareholder.</p> <p>(b) There is no need to register the size or value of the shareholdings.</p>			

Use additional form(s) if necessary

DECLARATION

I have read the POINTS TO NOTE attached to this form. I declare that the personal data voluntarily provided in this form are accurate and up-to-date to the best of my knowledge. I agree and understand that such personal data can be used according to the use and disclosure of personal data stated in the Points to Note.

Signature : _____

Date: _____

POINTS TO NOTE

Purpose of the Registration

1. The main purpose of registering of interests by Members of the Town Planning Board is to maintain public confidence in the integrity of Members (including the Chairman) and in the impartiality of their advice tendered to the Town Planning Board. It is, therefore, important that all Members of the Town Planning Board should declare their general pecuniary interests as set out in this registration form.
2. This registration of pecuniary interests is additional to the procedures of declaration of interests (pecuniary or otherwise) at the Board/Committee meetings as set out in paragraph 20 of “Town Planning Board Procedure and Practice”.

Guidelines for Completing the Registration Form

3. This form should be completed by each Member at the time of joining the Town Planning Board and returned to the Secretary of the Town Planning Board. It will then be updated twice a year. Any subsequent changes to Members’ pecuniary interests should be registered as soon as they have occurred.
4. Interests owned by Members, their spouses or children under the age of 18 should be registered. Members should register such interests to the best of their knowledge.
5. Details such as the amount of remuneration received, the size and the exact address of the declared property or the size and value of the shareholdings need not to be disclosed.
6. Where applicable, Members should also give a brief description of the lines of business of companies in which they are involved.
7. Specific guidelines for completing each item are given in the notes of the registration form.

Use and Disclosure of Personal Data

8. The pecuniary interests provided in this registration form are considered as a kind of personal data and will be retained by the Secretary of the Town Planning Board for the purpose mentioned in paragraph 1 above. The personal data may be disclosed to other Government bureaux and departments for any other purpose(s) directly related to such use.
9. Your personal data, as well as your spouse’s and children’s (whose interests are being declared), provided in this registration form will also be made available for inspection by members of the public on request.
10. Your personal data, as well as your spouse’s and children’s (whose interests are being declared), provided in this registration form will not be used for purposes other than mentioned above unless you, your spouse and children have given the prescribed consent or such use is permitted by the laws of Hong Kong Special Administrative Region.

Accuracy, Duration of Retention and Security of Personal Data

11. All practicable steps will be taken to ensure that personal data in the registration form are accurate and will not be kept longer than is necessary for the fulfillment of the purpose (including any directly related purpose) for which the data are or to be used; and that the personal data are protected against unauthorized or accidental access, processing, erasure or other use.

Access to Personal Data

12. You, your spouse and children whose interests are being declared, have the right to obtain a printed copy of this registration form held by the Secretary of the Town Planning Board and to request that necessary correction(s) be made if the personal data are inaccurate.

Enquiry

13. All enquiries concerning personal data collected in this registration form should be addressed to:-

Secretary, Town Planning Board
c/o Planning Department,
15/F., North Point Government Offices,
333 Java Road,
North Point,
Hong Kong.

Declaration by Individual

14. You are requested to read carefully the Points to Note set out above. If you have any enquiries concerning the Note, please contact the Secretary of the Town Planning Board for clarification. The provision of personal data by means of this form is voluntary. Your personal data, as well as your spouse's and children's (whose interests are being declared), will be treated in compliance with the personal Data (Privacy) Ordinance (Cap. 486) and the contents of the Note. Please sign the declaration on Page 4 of the registration form and return the completed form to the Secretary of the Town Planning Board in the enclosed envelope.

TOWN PLANNING BOARD

PROCEDURE AND PRACTICE

March 2001

First Published	July 1992
First Revision	March 1995
Part III Revised	May 1998
Regular Updating	October 2000
Part II Revised	March 2001

PART II – DECLARATION OF INTERESTS

Preamble

12. The guidelines for declaration of interest are drawn up to protect the integrity and reputation of the Town Planning Board (the Board) as a whole. Since the Board deals with matters that may have wide and far-reaching implications on the environment and economy of Hong Kong as well as the well-being of the community, it is necessary to ensure that the Board acts fairly and impartially in making its decision. This is particularly important as the Board's decision might affect development projects of high financial value. It will be in the interest of the Board for Members to declare their interests to the best of their knowledge.

Introduction

13. It is inevitable that from time to time Members of the Board may have interests (personal, family, or business; direct or indirect; pecuniary or otherwise) in matters that come before the Board. Under the rule against bias, an administrative decision may be quashed if the facts give rise to a real likelihood of bias or it might reasonably be thought that the decision-maker ought not to act because of some personal interests. It is therefore necessary for Members to disclose their interests when there is a real or potential conflict of interests in a matter placed before the Board.

14. A two-tier declaration system is adopted. Members should register their pecuniary interests in writing on a regular basis and, when circumstances change, should register the changes. Furthermore, Members should also declare, to the best of their knowledge, their interests (pecuniary or otherwise) in any matters to be transacted by the Board before or at the relevant Board/Committee meeting.

Registration of Pecuniary Interests

15. The Chairman, Vice-chairman and Members should register in writing their pecuniary interests upon commencement of a new term of appointment, and update the information once every year. The registration should be made on a standard form (**Appendix III**). Members should complete and return the registration form within one month to the Secretary, Town Planning Board (Secy/TPB). Besides, any change of Members' interests should be registered within 14 days of any such change. A register of Members' pecuniary interests will be kept by the Secy/TPB and will be made available for inspection on request by members of the public.

16. The registrable interests are the pecuniary interests Members hold and those of their spouses and children under the age of 18 including: -

- (i) directorships or partnerships in companies;
- (ii) direct or indirect substantial shareholdings (1% or more of the issued share capital);
- (iii) holdings in land and properties; and

(iv) remunerated employment, offices, trades, professions or vocations.

17. Where practicable, Members should also give a brief description of the lines of business of companies in which they are involved.

18. Guidelines for completing the registration form on Members' pecuniary interests are at **Appendix IV**. Members should register their interests and those of their spouses and children under the age of 18 to the best of their knowledge.

Declaration of Interests before or at Committee/Board meetings

19. If Members or their spouses have any interest (pecuniary or otherwise) in any matter under consideration by the Board or the Committee, the Members should as soon as practicable disclose to the Chairman or Secy/TPB prior to the meeting or at the meeting prior to the discussion of the concerned item.

20. Where a substantial direct conflict of interest is known, the Secy/TPB should withhold the issue of the relevant papers and documents to the concerned Members and any papers or other information relating to the matter which the Members may have received should be returned to the Secy/TPB.

21. All cases of declaration of interests shall be recorded in the minutes of meeting.

General Principles

22. It is difficult to set a hard and fast rule on what constitutes a conflict of interest. The following are some general guiding principles that Members are recommended to follow in identifying potential conflicts of interests which should be declared at or before the Committee/Board meetings :-

- (a) Pecuniary interests in a matter under consideration by the Board/ Committee, interests held either by a Member or by his/her spouse, children under 18, or by the Member's close relative;
- (b) A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organisation which is concerned with, or the subject of, the matter under consideration;
- (c) A Member or his/her spouse who, as a professional adviser, has personally or as a member of a company, advised or represented any person or body on the matter under consideration, or has business dealings with any person or body connected with the matter under consideration;
- (d) Some friendships which might be so close as to warrant declaration in order to avoid situations where an objective observer might believe the Member's advice to have been influenced by the closeness of the association; and

- (e) Any interest likely to lead an objective observer to believe that the Member's decision might have been motivated by personal interest rather than a duty to give impartial advice.

23. The Guidelines set out below should be followed by Members, irrespective of whether the Members are official or non-official Members.

Guidelines for Declaration of Interests at Board or Committee Meetings

24. All interests of Members and their spouses in any matter under consideration by the Board/Committee need to be declared. The onus of making a declaration rests with individual Board Members who are in the best position to judge what constitutes an interest warranting a declaration. In this respect, Members are required to declare their spouses' interests to their best of their knowledge. In exercising their judgement, Members must take into account the sunshine test, that is, should their interest become public knowledge, whether it would give rise to a public perception that their advice tendered to the Board might have been biased or influenced by that interest.

25. If the interest were direct and substantial, the Member would have to withdraw from the meeting. If the interest is direct but not substantial or indirect/insubstantial, the Member would be allowed to continue to participate in the discussion and determination of the matter.

26. It would be difficult to set out categorically all situations under which a Member has to declare interest and whether an interest is direct and substantial or otherwise depends very much on the circumstances of the case. It is intended to set out below some common situations for Members' reference.

Direct and Substantial Interest

27. The following situations usually constitute direct and substantial interest: -

- (a) **The subject matter involves a landed interest held by the Member or his/her spouse.**

This applies to the situation where the application/objection/amendment to statutory plans covers land which is owned by the Member or his/her spouse. This also covers the situation where the Member or his/her spouse is the applicant/proponent/objector of a case.

- (b) **The subject matter involves a company or organisation of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings (i.e. 1% or more of the issued share capital), advisory or client relationship, employment or other significant connection.**

This applies to the situation where the Member or his/her spouse's company or organisation is involved directly in the matter under consideration by the Board/Committee, either as applicant/proponent/objector or the company/organisation has tendered professional advice (e.g. being the

consultant acting for the applicant/proponent/objector) on the matter under consideration. This also applies to the situation where the Member or his/her spouse is a staff member of a company or organisation (including a Government department) which is the applicant/proponent/objector of the matter under consideration.

- (c) **The subject matter involves a statutory/public body, club, association, union or other bodies of which the Member or his/her spouse holds a chairmanship or, in some cases, membership, or is the office bearer of an executive board, a board of directors or a management committee.**

This includes the situation where the Member or his/her spouse is a member of a statutory/public body (and its sub-committee) such as Hong Kong Housing Authority(HKHA), Hong Kong Housing Society (HKHS), the Land Development Corporation (LDC)(and the future Urban Renewal Authority(URA)) and the District Council, which is the applicant/proponent/objector of the matter under consideration. The fact that the Member or his/her spouse is an ordinary/corporate member of a club, association, union or other bodies would not constitute direct interest if the Member or his/her spouse were not directly involved in the matter under consideration.

- (d) **The Member or his/her spouse has current business dealings or potential future business dealings with the applicant/ proponent/objector of the matter under consideration.**

This applies to the situation where the Member or his/her spouse has current business dealings or business dealings under negotiation with the applicant/proponent/objector. The business dealings may not necessarily be related to the matter under consideration.

- (e) **The Member who is also a member of the HKHA/HKHS/ LDC(URA) or other public bodies and the subject of an objection involves a project of such public bodies**

This does not apply to situation where a HKHA/HKHS/LDC (URA) project is the subject of an amendment to a statutory plan proposed by the Planning Department or where HKHA/HKHS/ LDC(URA) sites are proposed in a new plan.

Other Interest which may be Direct and Substantial

28. There are other situations of potential conflict of interest. Whether these situations would constitute direct and substantial interest would depend on the substance, scope and nature of the interest, and have to be considered on a case by case basis. As a general rule, the Member shall declare any interest, which may likely lead the public to believe that the Member's advice might have been influenced by his/her relationship with the applicant/proponent/objector. It would be up to the Board/Committee to decide whether the interest is so direct and substantial that the Member should withdraw from the meeting. For example:

- (a) The subject matter affects a landed interest held by the Member, his/her spouse, and his/her close relative or close friend.
- (b) The subject matter affects (or in the case of the Members' close relative/friend, involves) the interest of a company or organisation of which the Member, his/her spouse, his/her close relative or close friend holds a proprietorship, partnership, directorship or substantial shareholdings, advisory or client relationship, employment or other significant connection.
- (c) The Member or his/her spouse has past business dealings with the applicant/proponent/objector.

[If the Member's or his/her spouse's past business dealings with the applicant/proponent/objector are related to the site under consideration, all such past business dealings should be declared. If the matter involves a completed project, the Member should be allowed to continue to participate in the discussion. However, if the matter involves an on-going project, the Member should be required to withdraw from the meeting.

If only general business dealings are involved between the Member or his/her spouse and the applicant/objector/proponent, and the dealings are not related to the site under consideration, only past dealings within 3 years should be declared, and the Member should be allowed to continue to participate in the discussion.]

- (d) The Member or his/her spouse has given personal advice or opinion to an applicant/proponent/objector on any occasions on the matter under consideration.

[The situation of Government departments tendering professional advice or stating Government policies to the applicant/proponent/objector, however, should not fall within this category as it is incumbent upon the official Member to tender advice, which is consistent with the official views of the Government departments or statement of Government policy.]

29. Two common situations are illustrated in Tables 1 and 2 below for members' reference and some further examples of the circumstances constituting potential conflict of interest are given in **Appendix V**.

Table 1

Business Dealings		Declare	Withdraw from meeting
Current/Under Negotiation	General (not relating to the site)	✓	✓
	Specific (relating to the site)	✓	✓
Past	Past dealings not relating to the site		
	- more than three years	x	x
	- within three years	✓	x
	All past dealings relating to the site		
	- project completed	✓	x
	- project on-going	✓	✓

Table 2

Matter Involving HKHA, HKHS, LDC (the future URA) or Other Organization	Declare	Withdraw from meeting
As Applicant/Objector/Proponent	✓	✓
As Proposal on New Plans or Amendments to Plans	✓	x
As Subject of Objection	✓	✓

Application of the Guidelines to Chairman and Vice-chairman

30. The general guidelines on declaration of interest are applicable to the Chairman and Vice-chairman of the Board and the Committees.

31. If the Chairman or the Vice-chairman needs to declare an interest and there is nobody to take up the chairmanship, the matter should normally be adjourned to the next meeting. However, if the matter is subject to a statutory time limit, then as a matter of necessity, the Chairman/Vice-chairman should continue to assume the chairmanship if there is a conscious effort made to contain his/her scope of involvement in an administrative role to minimise any risk that he/she may be challenged.

32. In case both the Chairman and Vice-chairman of the Committees need to declare an interest, then the matter should be referred to the Board for a decision. However, if both the Chairman and Vice-chairman of the Board need to declare an interest, as a matter of necessity, the Chairman should continue to assume the chairmanship.

Town Planning Board
Register of Pecuniary Interests

Appendix III

(Name: _____) requests that interests as set out in the attached form
 (total pages: _____) should be included in the Register of Members' Pecuniary Interests.

Registrable Interests	Interests to be declared by the following parties:		
	Member	Spouse	Children under 18
<p>DIRECTORSHIPS AND PARTNERSHIPS IN COMPANIES</p> <p>Please list out at the rightward columns the remunerated directorships in any public or private company.</p> <p>Notes:</p> <p>(a) Remunerated directorships include all directorships for which a fee, honorarium allowance or other material benefit is payable.</p> <p>(b) You should give the name of the company, briefly state the nature of the business of the company in each case.</p> <p>(c) Remunerated directorships of both local and overseas companies are registrable.</p> <p>(d) Remunerated directorships through corporate directors are also registrable.</p> <p>(e) Where you or your spouse are a remunerated director of a company, all subsidiary or associated directorships which you or your spouse hold within the same group, whether remunerated or not, should also be registered.</p> <p>(f) There is no need to register the amount of remuneration received.</p>			

Use additional form(s) if necessary

Member's Name:

Registrable Interests	Interests to be declared by the following parties:		
	Member	Spouse	Children under 18
<p>REMUNERATED EMPLOYMENTS, OFFICES, TRADES, PROFESSIONS OR VOCATIONS</p> <p>Please list out at the rightward columns the remunerated employments offices, trades, profession, or vocation from which remuneration or pecuniary interest is obtained.</p> <p>Notes:</p> <p>(a) An employment, office, trade or profession is “remunerated” where a salary, honorarium, allowance or other material benefit is payable.</p> <p>(b) “Remunerated offices” should include all “remunerated” public offices.</p> <p>(c) Indicated the name of the employment, office, trade, or profession. Where a firm is named, please briefly indicate the nature of the firm’s business if practicable.</p> <p>(d) For paid posts as consultants or advisers, it should be indicate the nature of the consultancy in the register, e.g. “traffic consultant”, “legal adviser”, etc.</p> <p>(e) There is no need to register the amount of remuneration received.</p>			

Use additional form(s) if necessary

Member's Name:

Registrable Interests	Interests to be declared by the following parties:			
	Member	Spouse	Children under 18	Company to which the party/parties listed leftwards is one of the directors.
<p>HOLDINGS IN LAND AND PROPERTY</p> <p>Please list out at the rightward columns the land or property in Hong Kong and/or overseas.</p> <p>Notes:</p> <p>(a) The requirement is to register the general nature of the interest rather than a detailed list of the holdings. The exact address and name of the land or property need not be listed out.</p> <p>(b) There is no need to register the size or value of the land or property owned.</p> <p>Example:</p> <ol style="list-style-type: none"> 1. A flat at No. 111, Star Street, Wan Chai. 2. 3 units in Block 123, Laguna City, Kwun Tong. 3. A house at Peak Road, Peak. 4. A piece of land at Nathan Road, Mong Kok. 5. A piece of land in Richmond Hill, Vancouver, Canada. 				

Use additional form(s) if necessary

Member's Name:

Registrable Interests	Interests to be declared by the following parties:		
	Member	Spouse	Children under 18
<p>SUBSTANTIAL SHAREHOLDINGS</p> <p>Please list out at the rightward columns the shareholdings in any public or private company of a nominal value greater than 1% of the issued shared capital of the company.</p> <p>Notes:</p> <p>(a) "Shareholdings" is defined as personal shareholdings and do not include shareholdings held in the capacity of a nominee shareholder.</p> <p>(b) There is no need to register the size or value of the shareholdings.</p>			

Use additional form(s) if necessary

DECLARATION

I have read the POINTS TO NOTE attached to this form. I declare that the personal data voluntarily provided in this form are accurate and up-to-date to the best of my knowledge. I agree and understand that such personal data can be used according to the use and disclosure of personal data stated in the Points to Note.

Signature : _____

Date: _____

POINTS TO NOTE

Purpose of the Registration

1. The main purpose of registering of interests by Members of the Town Planning Board is to maintain public confidence in the integrity of Members (including the Chairman) and in the impartiality of their advice tendered to the Town Planning Board. It is, therefore, important that all Members of the Town Planning Board should declare their general pecuniary interests as set out in this registration form.
2. This registration of pecuniary interests is additional to the procedures of declaration of interests (pecuniary or otherwise) at the Board/Committee meetings as set out in the guidelines on Declare of Interests by Town Planning Board Members.

Guidelines for Completing the Registration Form

3. This form should be completed by each Member upon commencement of a new term of appointment and returned to the Secretary of the Town Planning Board within one month. It will then be updated once every year. Any subsequent changes to Members' pecuniary interests should be registered within 14 days of any such change.
4. Interests owned by Members, their spouses or children under the age of 18 should be registered. Members should register such interests to the best of their knowledge.
5. Details such as the amount of remuneration received, the size and the exact address of the declared property or the size and value of the shareholdings need not to be disclosed.
6. Where applicable, Members should also give a brief description of the lines of business of companies in which they are involved.
7. Specific guidelines for completing each item are given in the notes of the registration form.

Use and Disclosure of Personal Data

8. The pecuniary interests provided in this registration form are considered as a kind of personal data and will be retained by the Secretary of the Town Planning Board for the purpose mentioned in paragraph 1 above. The personal data may be disclosed to other Government bureaux and departments for any other purpose(s) directly related to such use.
9. Your personal data, as well as your spouse's and children's (whose interests are being declared), provided in this registration form will also be made available for inspection by members of the public on request.
10. Your personal data, as well as your spouse's and children's (whose interests are being declared), provided in this registration form will not be used for purposes other than mentioned above unless you, your spouse and children have given the prescribed consent or such use is permitted by the laws of Hong Kong Special Administrative Region.

Accuracy, Duration of Retention and Security of Personal Data

11. All practicable steps will be taken to ensure that personal data in the registration form are accurate and will not be kept longer than is necessary for the fulfillment of the purpose (including any directly related purpose) for which the data are or to be used; and that the personal data are protected against unauthorized or accidental access, processing, erasure or other use.

Access to Personal Data

12. You, your spouse and children whose interests are being declared, have the right to obtain a printed copy of this registration form held by the Secretary of the Town Planning Board and to request that necessary correction(s) be made if the personal data are inaccurate.

Enquiry

13. All enquiries concerning personal data collected in this registration form should be addressed to:-

Secretary, Town Planning Board
15/F., North Point Government Offices,
333 Java Road,
North Point,
Hong Kong.

Declaration by Individual

14. You are requested to read carefully the Points to Note set out above. If you have any enquiries concerning the Note, please contact the Secretary of the Town Planning Board for clarification. The provision of personal data by means of this form is voluntary. Your personal data, as well as your spouse's and children's (whose interests are being declared), will be treated in compliance with the personal Data (Privacy) Ordinance (Cap. 486) and the contents of the Note. Please sign the declaration on Page 4 of the registration form and return the completed form to the Secretary of the Town Planning Board in the enclosed envelope.

Circumstances Constituting Potential Conflict of Interest

I. Under the following situations, a Member should be considered as having direct and substantial interest in a matter under consideration:

(a) The subject matter involves a landed interest held by the Member or the Member's spouse

For example:

- the Member and/or his/her spouse is the sole or part owner or the tenant of the application/objection site under consideration.
- the Member and/or his/her spouse is the applicant/objector of the matter under consideration.

(b) The subject matter involves a public or private company or other organisation (including subsidiary or associated companies within the same group) of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings (i.e. 1% or more of the issued share capital), advisory or client relationship, employment or other significant connection.

For example:

- the company of which the Member or his/her spouse holds a proprietorship, partnership, directorship or substantial shareholdings is the applicant/proponent/objector of the matter under consideration.
- the Member or the company of which the Member or his/her spouse holds a proprietorship, partnership or directorship is the professional consultant tendering professional advice to or representing the applicant/proponent/objector in the matter under consideration.
- the Member or his/her spouse is the employee/staff of a company, an organisation or association such as the Scouts Association and the University of Hong Kong, which is the applicant/proponent/objector of the matter under consideration.
- the Member or his/her spouse is a staff of a Government department which itself is the applicant/proponent of a rezoning request under consideration.

This also applies to the situation where the subject company has a substantial shareholdings (i.e. 1% or more of the issued share capital) of the company owned by the Member or his/her spouse.

- (c) **The subject matter involves a statutory/public body, club, association, union or other bodies of which the Member or his/her spouse holds a chairmanship or, in some cases, membership, or is the office bearer of an executive board, a board of directors or a management committee.**

For example:

- the Member or his/her spouse is a member of a statutory/public body (including its sub-committee), such as the Hong Kong Housing Society (HKHS), the Hong Kong Housing Authority (HKHA), the Land Development Corporation (LDC) (and the future Urban Renewal Authority (URA)) and the District Council, which is the applicant/proponent/objector of the matter under consideration.

This does not apply to the situation where the Member or his/her spouse is just an ordinary member/corporate member of a club, association or other bodies, and the Member or his/her spouse is not involved in the matter under consideration.

- (d) **The Member or his/her spouse has current business dealings and/or business dealings under negotiation with the applicant/proponent/objector of the matter under consideration.**

For example:

- the Member or his/her spouse is at present a consultant/advisor to the applicant/proponent/objector's on-going development projects irrespective of whether the dealings are related to the matter under consideration.
- the Member or his/her spouse or the company owned by the Member or his/her spouse was a business partner with the applicant/proponent/objector on on-going businesses irrespective of whether the dealings are related to the matter under consideration.

- (e) ***The Member who is also a member of the HKHA/HKHS/ LDC(URA) or other public bodies and the subject of an objection involves a project of such public bodies***

This does not apply to situation where a HKHA/HKHS/LDC (URA) project is the subject of an amendment to a statutory plan proposed by the Planning Department or where HKHA/HKHS/ LDC(URA) sites are proposed in a new plan.

- II. The following situations would give rise to potential conflict of interest but whether the interest is direct and substantial would depend on the substance, scope and nature of the interest in relation to the case under consideration:

- (a) **The subject matter affects a landed interest held by the Member or his/her spouse.**

For example:

- the Member (and/or his/her spouse) is the sole or part owner or the tenant of a property that may be affected by the development proposal under consideration.

(b) The subject matter involves or affects a landed interest held by a “close relative/friend” of the Member or his/her spouse.

For example:

- a “close relative/friend” of the Member or his/her spouse is the sole or part owner or the tenant of the application/objection site under consideration. Members themselves are the best judge of who, in the particular circumstances, is a “close relative/friend”.

(c) A Member or his/her spouse has given personal advice or opinion to an applicant/proponent/objector on any occasions on the subject matter under consideration.

For example:

- the Member or his/her spouse has given personal opinion or advice to the applicant/proponent/objector on the matter under consideration, which might lead the public to believe that the Member’s views might be biased or not given impartially.

The situation of Government departments tendering professional advice or stating Government policies to the applicant/proponent/objector should not fall within this category as it is incumbent upon the official member to tender advice, which is consistent with the official views of the Government departments or statement of Government policy.

(d) The subject matter involves a public or private company or other organisation (including subsidiary or associated companies within the same group) of which the Member’s or his/her spouse’s “close relative/friend” holds a proprietorship, partnership or directorship, advisory or client relationship, employment or other significant connection.

For example:

- the Member’s or his/her spouse’s “close relative/friend” is the owner of a company/organisation and the company is the applicant/proponent/objector of the subject matter.
- the Member’s or his/her spouse’s “close relative/friend” is the professional consultant tendering professional advice to the applicant/proponent/objector in the subject matter under consideration.

This is to avoid situations where the public might believe that the Member's advice has been influenced by the closeness of the association. The Members themselves are the best judge of who, in the particular circumstances, is a "close relative/friend".

(f) The Member or his/her spouse has past business dealings with the applicant/proponent/ objector of the matter under consideration.

For example:

- the Member or his/her spouse or the company owned by the Member or his/her spouse was previously the professional consultant tendering professional advice to the applicant/proponent/objector in the matter under consideration but the Member or his/her spouse or the company owned by the Member or his/her spouse is no longer involved in the matter. The Member should declare all such past dealings. If the matter involves a completed project, the Member should be allowed to continue to participate in the discussion. If the matter involves an on-going project, the Member should be required to withdraw from the meeting.
- the Member or his/her spouse has general business dealings with the applicant/proponent/ objector. If the business dealings are not related to the matter under consideration, the Member should declare only the recent dealings in the past 3 years, and upon declaration, the Member should be allowed to continue to participate in the discussion.