

**Minutes of 903rd Meeting of the
Town Planning Board held on 11.1.2008**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr. Raymond Young

Chairman

Dr. Peter K.K. Wong

Vice-Chairman

Mr. Michael K.C. Lai

Dr. Greg C.Y. Wong

Ms. Carmen K.M. Chan

Professor Nora F.Y. Tam

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Professor David Dudgeon

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Director of Lands
Miss Annie Tam

Principal Assistant Secretary (Transport)
Transport and Housing Bureau
Ms. Ava Chiu

Assistant Director (Environmental Assessment)
Environmental Protection Department
Mr. C.W. Tse

Acting Director of Planning and
Deputy Director of Planning/District
Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Dr. Lily Chiang

Professor Peter R. Hills

Mr. Alfred Donald Yap

Ms. Maggie M.K. Chan

Mr. Y.K. Cheng

Professor Paul K.S. Lam

Assistant Director(2), Home Affairs Department
Ms. Margaret Hsia

In Attendance

Assistant Director of Planning/Board
Mr. S. Lau

Chief Town Planner/Town Planning Board
Ms. Brenda K.Y. Au (Items 1 to 6)

Chief Town Planner/Town Planning Board
Mr. C. T. Ling (Items 7 to 14)

Senior Town Planner/Town Planning Board
Miss Winnie B.Y. Lau (Items 1 to 6)

Senior Town Planner/Town Planning Board
Miss Fiona S.Y. Lung (Items 7 to 14)

Agenda Item 1

[Open Meeting]

1. The Secretary would perform the role of the Secretary of the Board at this meeting notwithstanding that she was also acting Director of Planning.

Confirmation of Minutes of the 902nd Meeting held on 21.12.2007

[The meeting was conducted in Cantonese.]

2. The minutes of the 902nd meeting held on 21.12.2007 were confirmed subject to amending “Mr. Michael Chiu” in paragraph 17 as “Dr. Michael Chiu” and the first sentence in paragraph 20 as “Dr. Michael Chiu clarified that as detergent was not considered as a chemical product and could only be controlled by the Water Pollution Control Ordinance, it did not constitute a concern on environmental grounds except when spillage occurred.”.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

- (i) Amendments to the Confirmed Minutes of the 901st Meeting held on 7.12.2007

3. The meeting agreed to amend paragraph 79(d) of the confirmed minutes of the 901st meeting as proposed by the representer of Representation No. 10 in respect of the draft North Point Outline Zoning Plan No. S/H8/21 in his letter tabled at the meeting, which related to a point made by the representer during the hearing on 7.12.2007. The amended paragraph should read “the argument that more people would be affected by the eastern deck and hence not desirable in view of the proximity of its landing point to the swimming pool was not sound. The representer reckoned that this would make the eastern deck more desirable as it could be more convenient for pedestrian movements to the shore of the CBTS; and”.

- (ii) Withdrawal of Judicial Review Application relating to the

Draft Sai Ying Pun & Sheung Wan Outline Zoning Plan

4. The Secretary reported the withdrawal of the captioned application for judicial review (JR) in relation to the Central Police Station (CPS) Compound made by the Heritage Hong Kong Limited (the Applicant). Following the Chief Executive's announcement of the Hong Kong Jockey Club's proposal to revitalise the CPS Compound in his Policy Address, the Applicant in mid October 2007 advised the Department of Justice that having regard to the recent development in respect of the CPS site, it was minded to withdraw the JR. With the consent from the Applicant, a consent summons was filed to the court on 7.12.2007 requesting for leave to withdraw the JR. The court granted the leave on 11.12.2007. The Chairman said that the Secretariat would follow up on submission to the Chief Executive in Council for the approval of the draft Sai Ying Pun and Sheung Wan Outline Zoning Plan.

Part I

Agenda Item 3

[Open Meeting]

Consideration of Representation in respect of the Draft North Point Outline Zoning Plan No. S/H8/21 – No. R2
(TPB Paper No. 7962)

[The meeting was conducted in Cantonese and English.]

5. The Chairman referred Members to two tabled letters both dated 10.1.2008 respectively from the planning consultant and legal adviser of Fook Lee Holdings Limited (FLHL) which had made the captioned representation and Further Objection No. F3 in respect of the proposed amendments to the draft Wan Chai North Outline Zoning Plan (OZP) No. S/H25/1. The letters raised objection to the Board's practice pertinent to declaration of interests at its meeting on 7.12.2007 before proceeding with the hearing. In the latter letter, the representor's legal adviser queried why those Members of the Board who were (a) officials of those Government bureaux and departments which were the proponents to these proposed amendments and/or the Wan Chai North Development Phase II (WDII) Review project upon which these proposed amendments were based, and

(b) members of the organizations (such as the Harbour-front Enhancement Committee (HEC) and Eastern District Council) which had endorsed and/or expressed support of the proposed amendments and/or the WDII project were allowed to remain in the meeting. It was considered that all the Members except those who had conflict of interest should be allowed to attend the hearing so that a diversity of views could be aired in a fair, equitable and transparent manner.

6. After taking Members through the letters, the Secretary said that the Town Planning Board Practice and Procedures contained detailed guidelines on declaration of interests. According to the guidelines, in situations of direct and substantial interests (e.g. pecuniary interests such as landed interests; having current business dealings with the applicant/commenter/representer/objector; or being a member or office bearer of a statutory/public body, association, political party, etc. which was the applicant/commenter/representer/objector), the concerned Members should declare interests and withdraw from the meeting.

7. The Secretary went on to say that the Board had in 2005 sought legal advice from a London Queen's Counsel on conflict of interest of Government officials and the Board had considered the legal advice before. In gist, the participation of officials in the deliberations of the Board was specifically authorized under the Town Planning Ordinance, and did not compromise its independence and impartiality so long as they acted fairly and impartially. The Board had revisited the legal advice and the practice of declaration of interests by official members in June 2007 when a similar contention was raised by an original objector in respect of the draft Wan Chai North OZP. Members at that time agreed that the Chairman and other official members could participate in the discussion of and deliberation on the original objections.

8. The Chairman said that Members at the meeting on 7.12.2007 had declared interests and decided whether a particular Member needed to leave the meeting according to the established practice and the guidelines, which were backed up by the legal advice. Having considered the guidelines, the practice of the Board and the legal advice, Members agreed to continue to adhere to the established practice and guidelines. Hence, the meeting agreed that the Chairman and official Members could participate in the discussion of and deliberation on Agenda Items 3 to 6.

9. The meeting then proceeded with declaration of interests in line with the established practice and guidelines. The Chairman said that the following Members had declared interests for Agenda Items 3 to 6 as detailed in the table below.

<u>Member</u>	<u>Interest Involved</u>	<u>Agenda Item</u>
Mr. Y.K. Cheng	) for having current business	Agenda items 3 and 4
Mr. Felix W. Fong	) dealings with Sun Hung Kai Properties Ltd. which (i) lodged Original Objection No. 374; and (ii) was the parent company of World Trade Centre, the owners of which lodged Original Objection No. 375. In addition, Mr. Felix W. Fong was a member of the Democratic Alliance for Betterment of Hong Kong (DAB) which lodged Original Objection No. 559.	(hearing of R2 and F3 which were lodged by the same company and concerned similar subject matter); and item 6 (deliberation under Part I)
Dr. Greg C.Y. Wong	for having current business dealings with (i) Sun Hung Kai Properties Ltd. which lodged/related to Original Objections No. 374 and 375 as mentioned above; and (ii) Wharf (Holdings) Ltd., the parent company of the "Star" Ferry Co. Ltd. and Wharf Estates Development Ltd. which submitted Further Objection No. 1 and Further Objection No. F7/Representation No. R10 respectively.	Agenda items 3 and 4 (hearing of R2 and F3 which were lodged by the same company and concerned similar subject matter); and item 6 (deliberations under Parts I to III)

Mr. Raymond Y.M. Chan	for having current business dealings with (i) Sun Hung Kai Properties Ltd. which lodged/related to Original Objections No. 374 and 375 as mentioned above; (ii) Henderson Land Development Co. Ltd., the parent company of Glory United Development Ltd. which submitted Representation No. R9; and (iii) Swire Pacific Limited, the parent company of Cityplaza Holdings Ltd. which lodged Representation No. R8.	Agenda items 3 and 4 (hearing of R2 and F3 which were lodged by the same company and concerned similar subject matter); item 5 (hearing of R8) and item 6 (deliberation under Parts I and V)
Mr. Alfred Donald Yap	for having current business dealings with (i) Sun Hung Kai Properties Ltd. which lodged/related to Original Objections No. 374 and 375 as mentioned above; and (ii) Henderson Land Development Co. Ltd., the parent company of Glory United Development Ltd. which submitted Representation No. R9.	Agenda items 3 and 4 (hearing of R2 and F3 which were lodged by the same company and concerned similar subject matter); and item 6 (deliberation under Part I)
Dr. Lily Chiang	for being members of the Liberal Party which lodged Original Objection No. 370. In addition, Dr. Lily Chiang was the President of the Hong Kong General Chamber of Commerce which had previously indicated support to	Agenda items 3 and 4 (hearing of R2 and F3 which were lodged by the same company and concerned similar subject matter); and item 6 (deliberation

		Further Objector No. F2's proposal for a 4-pad heliport in the Central Business District.	under Parts I and III)
Dr. James C.W. Lau		for being members of the Liberal Party which lodged Original Objection No. 370.	Agenda items 3 and 4 (hearing of R2 and F3 which were lodged by the same company and concerned similar subject matter); and item 6 (deliberation under Part I)
Ms. Maggie M.K. Chan	]	for being members of the DAB	Agenda items 3 and 4
Ms. Starry W.K. Lee	]	which lodged Original Objection No. 559.	(hearing of R2 and F3 which were lodged by the same company and concerned similar subject matter); and item 6 (deliberation under Part I)
Professor Bernard V.W.F. Lim	)	for being respectively the past president and current council	Agenda items 3 and 4 (hearing of R2 and F3
Ms. Anna S.Y. Kwong	)	member of the Hong Kong Institute of Architects which lodged Original Objection No. 778.	which were lodged by the same company and concerned similar subject matter); and item 6 (deliberation under Parts I, III and IV)

10. The following Members had also declared interests in Agenda Items 3 to 6 for having connection with the current/former HEC. Members agreed that their interests were indirect and did not have to withdraw from the meeting for having

connection with the current/former HEC:

- Mr. K.Y. Leung - for being the Chairman of the then Sub-committee on Wan Chai Development Phase II Review of the HEC (the HEC Sub-committee)
- Dr. Greg C.Y. Wong - for being a Member of the then HEC Sub-committee and a current Member of the HEC
- Mr. Leslie H.C. Chen - for being a current Member of the HEC
- Ms. Starry W.K. Lee - for being a former Member of the HEC

11. Members noted that Dr. Lily Chiang, Mr. Alfred Donald Yap, Mr. Y.K. Cheng and Ms. Maggie M.K. Chan had tendered apologies for not attending this meeting, and Dr. Greg C.Y. Wong, Mr. Felix W. Fong, Ms. Anna S.Y. Kwong, Professor Bernard V.M.F. Lim and Mr. Raymond Y.M. Chan had not yet arrived. Dr. James C.W. Lau and Ms. Starry W.K. Lee left the meeting temporarily at this point.

Presentation Session

12. The following Government team (including representatives of the concerned Government departments, the study consultants, and Outside Counsel) and representatives of the representer were invited to the meeting:

- | | |
|---------------------|--|
| Mr. Nicholas Cooney | Outside Counsel |
| Mr. Raymond Chan | Senior Assistant Law Officer (Civil Law),
Department of Justice |
| Ms. Phyllis Li | Chief Town Planner/Special Duties,
Planning Department (PlanD) |
| Miss Katy Fung | Senior Town Planner/Special Duties, PlanD |
| Mr. L.T. Ma | Project Manager (HK Island & Islands),
Civil Engineering and Development Department
(CEDD) |

Mr. Bosco Chan	Chief Engineer/Hong Kong (2), CEDD
Mr. C.K. Lam	Senior Engineer/Project Management (HK Island and Islands), CEDD
Mr. M.L. Wan	Deputy Project Manager/Major Works(2), Highways Department (HyD)
Mr. Raymond Yip	Chief Engineer/Major Works, HyD
Mr. C. Y. Wong	Senior Engineer 1/Central Wanchai Bypass, HyD
Mr. K.K. Lau	Deputy Commissioner for Transport/Planning & Technical Services, Transport Department (TD)
Mr. C. Y. Chan	Senior Engineer/Housing and Planning, TD
Mr. Eric Ma)
Mr. Peter Cheek	) Maunsell Consultant Asia Ltd.
Ms. Carmen Au)
Mr. Freeman Cheung	ENSR Asia (HK) Ltd.

Representation No. R2

Mr. Benjamin Yu]
Mr. Y.M. Ho]
Mr. Kenneth Wong]
Ms. H.Y. Au]
Mr. Kenneth K.T. To]
Ms. Keren R. Seddon]
Ms. Cindy Tsang	] Representatives of the representer
Mr. Alvin Lee]
Mr. David Yeung]
Dr. Hon T. Cheng]
Mr. Paul Horsley]
Mr. Raymond J. Cook]
Ms. Linda Chan]

13. The Chairman extended a welcome and briefly explained the hearing procedures. He then invited the Government team to brief Members on the representation. Mr. Benjamin Yu said that he would like to put on record that Woo,

Kwan, Lee & Lo had issued a letter dated 10.1.2008 to the Board, taking issues on declaration of interests of Members. The Chairman responded that the Board had already considered the matter.

14. With the aid of a Powerpoint presentation, Ms. Phyllis Li made the following main points as detailed in Paper No. 7962:

Background

- (a) on 27.7.2007, the draft North Point OZP No. S/H8/21 was gazetted. Ten representations were received. No comments were received on the representations. One of the representations was submitted by FLHL;

[Mr. Leslie H.C. Chen arrived to join the meeting at this point.]

Subject of the Representation

- (b) it was against all the amendments to the draft North Point OZP No. S/H8/21, except Amendment Item F, mainly on the ground that the amendments were based on the Tunnel Option for the Trunk Road (the representer referred it as the Shallow Tunnel Option);

Grounds of the Representation

Failure to Fulfil Statutory Requirements

- (c) the representer contended that the Central-Wan Chai Bypass (CWB) proposed by the Government contravened the Protection of the Harbour Ordinance (PHO). There were no cogent and convincing materials to demonstrate that there was no reasonable alternative for the Tunnel Option and the proposed reclamation was the minimum;
- (d) the assessment of the reclamation extent of the Tunnel Option and the Flyover Option was based on the calculation of “affected areas”.

There was no clear or logical explanation as to why “flyover structure over water” and “affected water area” (i.e. open water area between flyover and the seawall) were equivalent to reclamation. The Flyover Option would not preclude marine activities within the “affected water area”;

- (e) the Flyover Option involved less reclamation than the Tunnel Option. Temporary reclamation under the Tunnel Option was not taken into account in the comparison. There was also no assessment on the environmental and ecological impacts, which were likely to be irreversible;
- (f) not all reasonable alternatives had been addressed, including the Flyover Option and the Modified Tunnel Option proposed by the representer, both with less reclamation. The Tunnel Option did not meet the “overriding public need test” required under the PHO;

Environmental Impact Assessment Ordinance (EIAO)

- (g) the project profile of the EIA submitted by the Government in August 2006 had not disclosed the proposed reclamation in North Point and alteration of the existing Island Eastern Corridor (IEC). The EIA was in progress and details were not available for public scrutiny. Whether the Tunnel Option could be proved to be environmentally acceptable as compared to other alternatives was unknown;

Town Planning Ordinance (TPO)

- (h) the absence of any information to prove the environmental acceptability of the Trunk Road and WDII projects and failure to take into consideration the environmental impacts prior to the gazettal of the Amendment Plan meant that the Board had not performed its duty in accordance with the TPO in the preparation of the Plan;

Faulty Procedures in Option Selection

- (i) the presenter considered that the comparison between the Flyover and Tunnel Options in the “Report on Trunk Road Alignments and Harbourfront Enhancement” (Trunk Road Report) was biased as in the aspects set out in paragraph 3.9 of the Paper;
- (j) the then HEC Sub-committee was prompted to take forward only the Tunnel Option in preparing the Concept Plan for public consultation. No alternatives and insufficient details were provided for the public to make a choice. There was no meaningful public consultation on the projects;

Inadequate Compliance with Relevant Planning Principles

- (k) the process in recommending the Tunnel Option did not comply with the Government’s Technical Circular (TC) No. 1/04 as (i) the Tunnel Option was not backed up by broad community consensus; (ii) not all implications of each alternative had been properly assessed; and (iii) the Trunk Road Report and the “Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) could not justify that there was no reasonable alternative to the Tunnel Option and that the proposed reclamation was the minimum;
- (l) the WDII Review had contravened the Harbour Planning Principles (HPP) as the proposal required more reclamation, prejudiced the implementation of committed leisure/tourism/commercial uses on the North Point waterfront, restricted access to Harbour at the tunnel portal, provided less pleasant and convenient open space, resulted in a flawed planning process with insufficient information to the public, and failed to comprehensively assess the options. Inadequate stakeholder engagement had been arranged;
- (m) there was insufficient consideration of sustainability principles and indicators. The sustainability assessment undertaken for the Concept

Plan was crude;

- (n) the planning process was not in line with the Hong Kong Planning Standards and Guidelines (HKPSG) (the Chapters on Environment and Urban Design) in that (i) the Board should take into account environmental factors at the earliest planning stage with full consideration of all the implications, and should not have gazetted the alignment and related provisions before the EIAO requirements were satisfied; and (ii) the Trunk Road would result in limited access to the waterfront, land sterilization by the tunnel portal, less pleasant open space and adverse air and noise impacts near the open space;

Other Considerations

- (o) the planning intention specified in the former North Point OZP for a tourism and leisure node on the North Point waterfront was ignored;
- (p) the committed development on the representer's lot (IL 7106 s.A and Ext.) was ignored in the early planning stages of the CWB;

Modified Tunnel Option Proposed by Representer

- (q) the Modified Tunnel Option proposed by the representer followed the alignment of the Tunnel Option in its western section, rose to the portal at north of Wan Chai Sports Ground, ran in elevated structures over the ex-public cargo working area (ex-PCWA) and Causeway Bay Typhoon Shelter (CBTS), and connected with the existing IEC in front of Victoria Centre;
- (r) the Government should consider the Flyover Option and the Modified Tunnel Option for the reasons as set out in paragraph 3.18 of the Paper;

Representer's Proposal

- (s) to delete all proposed amendment items except Item F and revert back

to the original zonings; and

- (t) to undertake further studies on the CWB and assess all viable options including the Modified Tunnel Option with meaningful public engagement.

15. On the Government's assessment of the representation, Ms. Phyllis Li said that the Government had strictly abided by the PHO and the judgment of the Court of Final Appeal (CFA). In accordance with the judgment, the Government had prepared the CCM Report to demonstrate that the proposed reclamation of the WDII complied with the PHO. The CCM Report was submitted to the Board for consideration on 3.4.2007 and on the same day, the Board agreed that the Recommended Outline Development Plan (RODP) of the WDII Review would serve as the basis for amending the draft North Point OZP. Mr. Peter Cheek made the following main points as detailed in Paper No. 7962 with the aid of a Powerpoint presentation:

Assessment of the Representation

Compliance with the PHO

- (a) the CCM Report also gave an account of the process of identifying the alignment that would best serve to protect and preserve the Harbour, i.e. the alignment which involved the minimum extent of reclamation and had the least impact on the Harbour;
- (b) the CCM Report demonstrated the overriding public need for the Trunk Road, the need for reclamation for the Trunk Road, that there was no "no reclamation" option (in other words, there was no reasonable alternative to reclamation), and that the extent of reclamation was the minimum required to meet the overriding need;

Minimum Reclamation

- (c) having concluded that there was a need for reclamation, the extent of reclamation had to be demonstrated to be the minimum required to

meet the overriding public need. Based on the Foreshore Alignment, the tunnel option and the flyover option and variations of alignment had been assessed to determine the alignment which would affect the least area of the Harbour;

- (d) after thorough studies, the Trunk Road Tunnel Option Variation 1 was recommended as it affected the minimum area of the Harbour and served best to protect and preserve the Harbour. The Flyover Option had a greater impact on the Harbour. The then HEC Sub-committee endorsed Tunnel Option Variation I as the basis for the preparation of the Concept Plan for WDII;
- (e) the extent of reclamation in North Point was determined by the extent of seawall protection for the Trunk Road above the seabed, which required widening of the existing formed land to accommodate the tunnel and portal structure abutting the northern side of the existing IEC;
- (f) the area of new reclamation in North Point was 3.3 ha, and the area of new flyover structures over water was 0.4 ha;
- (g) the minimum reclamation required by the overriding public need was:

HKECE West	Water channel south of the HKCEC Extension	Wan Chai Shoreline	North Point Shoreline	Total
3.7 ha	1.6 ha	4.1 ha	3.3 ha	12.7 ha

Affected Areas of the Harbour

- (h) the PHO required the Harbour to be “protected and preserved” as a special public asset and a natural heritage. The flyover structures over water would impinge upon the water area of the Harbour and their visual impacts did not promote the protection and preservation of the Harbour. Moreover, where the marine use of existing water areas was restricted due to the presence of highway structures and the like, these affected water areas should not be regarded as “protected” or “preserved” for the purposes of the PHO;
- (i) the water areas of the Harbour affected by flyover structures were considered in order to determine which option might serve best to protect and preserve the Harbour in the sense of determining which option had the least impact on the Harbour;
- (j) for the Flyover Option, the water area at the southeastern corner of the CBTS would be further affected by the new flyover structures for the Trunk Road main line and slip roads in addition to the existing IEC flyover running across it. Besides, the water area at the ex-PCWA basin would be affected as the elevated flyover would cut across the basin. The marine use of the basin would be restricted and the basin could not be properly used as a marine recreational facility due to the highway bridge piers occupying the water area and the low headroom clearance of the flyover. The Tunnel Option would however not affect the water areas at the CBTS and the ex-PCWA;
- (k) the Flyover Option would have a greater adverse impact on the Harbour:

	Flyover Option	Tunnel option
land formed	9.8 ha	12.7 ha
flyover structures over water	3 ha	0.4 ha
affected water area	4 ha	0 ha

Temporary reclamation

- (l) temporary reclamation was temporary works and would not cause irreversible impact on the Harbour. Temporary reclamation served to enable the construction of the Trunk Road tunnel below seabed at the concerned locations without permanent reclamation;
- (m) in view of the need to achieve the end product of minimum reclamation and least affected area of the Harbour, phased temporary reclamation was needed to provide a dry working platform for the construction of the Trunk Road tunnel across the seabed of the ex-PCWA and CBTS;

Compliance with TPO, EIAO and TC

- (n) the key environmental concerns addressed in the Trunk Road Report, which were considered by the Board in April 2006, provided the basis for the consideration of the RODP and the relevant OZP amendments;
- (o) the EIA Project Profile already included reclamation in North Point and alteration of the existing IEC;
- (p) WDII and CWB were designated projects under the EIAO and the environmental matters would be dealt with under the EIAO. The TPO process and the EIAO process were two separate statutory processes and could proceed in parallel. The submitted EIA Report met the requirements of the EIA Study Brief and the EIAO-Technical Memorandum, and was being exhibited for public inspection and comments under the EIAO. The executive summary of the EIA was attached to the Paper, and a full set of the EIA report was also

deposited at the Secretariat of the Board;

- (q) the proposed reclamation and the Trunk Road projects complied with TC No. 1/04;
- (r) as revealed in the public engagement activities, the stakeholders and public had a strong preference for the Tunnel Option;

Public Engagement

- (s) an extensive 3-stage public engagement exercise (i.e. the Envisioning Stage, the Realization Stage and the Detailed Planning Stage) named “Harbour-front Enhancement Review – Wan Chai, Causeway Bay and Adjoining Areas” (HER) under the steer of the then HEC Sub-committee had been undertaken from May 2005 to June 2007 in parallel with the WDII Review. The process of deriving the recommended option for the Trunk Road had taken full account of the outcome of this extensive public engagement which identified a clear preference for the Trunk Road in the form of tunnel;
- (t) following the then HEC Sub-committee’s endorsement of the report of the Expert Panel on Sustainable Transport Planning and Central-Wan Chai Bypass (Expert Panel) and support to the construction of a CWB in December 2005, the WDII Review Consultants prepared the Trunk Road Report to present their findings on their preliminary assessment on possible trunk road alignments and its construction forms at the request of the then HEC Sub-committee. Views on the Report were solicited during April to June 2006 from, among others, the Board, the then HEC Sub-committee, four District Councils of the Hong Kong Island, the Legislative Council and the Transport Advisory Committee, and the relevant professional bodies;
- (u) the then HEC Sub-committee endorsed in June 2006 the adoption of Tunnel Option Variation 1 as the basis for the preparation of the Concept Plan;

- (v) at the Realization Stage of HER, members of the public were engaged in the Concept Plan including the Trunk Road and the corresponding harbourfront enhancement proposals through various means. They supported in principle the Concept Plan and agreed to proceed to the Detailed Planning Stage of HER based on the Concept Plan. At the Detailed Planning Stage of HER, the Concept Plan was taken forward for amending the relevant OZPs;

- (w) the entire HER process had been well published and had included wide distribution of consultation materials, press briefings and displays in prominent public locations. Consultants' reports and other relevant documents had been posted at the HEC website, and were readily available for public viewing;

Comparison of Tunnel and Flyover Options

- (x) the Trunk Road Report first determined the need of the Trunk Road, identified the constraints on its alignment, determined the feasible routing, examined alignment options and forms of construction to determine whether there would be any option that would not require reclamation (i.e. whether there would be no reasonable alternative to reclamation), and then determined and compared the impacts of the feasible Trunk Road tunnel and flyover options, to arrive at the conclusion on which option should be adopted. The primary consideration in this process was compliance with the PHO and the "overriding public need test" laid down in the CFA judgment. The public's aspirations had also been taken into account. There was no bias towards any particular alignment or form of construction in this process;

- (y) the selection of feasible routings for the Trunk Road was carried out prior to the determination of a preference for either tunnel or flyover. Three alternative alignments of the Trunk Road, namely, the Inland, Offshore and Foreshore Alignments, had been examined to determine if

there were any that did not require reclamation. The former two were found infeasible as they would be physically obstructed by existing/planned developments/infrastructure. The Foreshore Alignment was the feasible option. The Trunk Road in North Point, be it in tunnel or flyover form, had to tie in with the existing IEC and this was identified as a connection constraint. All the existing developments lied on the south side of the existing IEC, and hence the connection would have to be from the seaward side. These existing developments would not form a barrier to the Trunk Road alignments;

- (z) the Tunnel Option would result in a lesser affected area of the Harbour; cause less traffic disruption during construction; not require any major reconstruction of existing highway structures; have more opportunities for harbourfront enhancement and providing access to the waterfront; cause less extensive air and noise impacts; and have no significant visual impacts. Only in respect of cost and construction time could the Flyover Option perform better than the Tunnel Option;

Technical Feasibility

- (aa) the Tunnel Option was technically feasible. The tunnel would be at a level sufficiently below the Cross Harbour Tunnel (CHT) to avoid damage to the CHT structures;

Environmental Impacts of the Tunnel Option

- (bb) an EIA Report demonstrating the environmental acceptability of the WDII proposals was being exhibited for public inspection under the EIAO;
- (cc) the environmental impacts of the Tunnel Option during the construction and operational phases had been assessed. During the construction phase, the implementation of appropriate mitigation measures would ensure no adverse or unacceptable impact on air, noise, water quality, marine ecology, landscape and views. In North Point, it

was anticipated that there might be some localised noise exceedences for limited periods of time during the demolition works at the IEC connection. In any event, these demolition works would be required for any Trunk Road scheme to facilitate the connection of the new Trunk Road with the existing elevated IEC;

- (dd) with proper waste management procedures in place, adverse environmental impact in this regard was not anticipated. Site investigation had confirmed that no cultural heritage resources would be affected by the works;
- (ee) during the operational phase, the Trunk Road project would fully comply with the Air Quality Objectives. With the Trunk Road tunnel ventilation system designed for zero portal emission at the eastern portal, potential air quality impacts would be avoided at this sensitive area. Moreover, enhancement measures would be implemented to alleviate the existing odour problem at the CBTS. With the proposed noise barriers and semi enclosures in place at the reconstructed sections of the IEC, the predicted noise levels at sensitive receivers in North Point would comply with the noise standards. Generally, this project would bring about an overall reduction of noise;
- (ff) the reclamation for the Trunk Road construction would have minimal impact on the hydrodynamic regime of the Harbour. No unacceptable impacts associated with the operation of the project upon the water quality in the Harbour were anticipated. Although the construction works would affect some of the soft bottom benthic and sub-tidal habitats, these were of very low ecological value and no adverse ecological impact was expected;
- (gg) in respect of the landscape and visual impacts, there would be extensive new open space (13.8 ha), a substantial number of new trees, and visual mitigation measures including the provision of transparent noise barrier panels and planters along the reconstructed IEC. The landscape and visual impacts of the project would be acceptable with

mitigation measures in the short term and beneficial in the long run;

Environmental Impacts of the Flyover Option

(hh) during the construction stage, the Flyover Option would require extensive demolition of the existing IEC for the tie-in with the new road. This demolition would be far more extensive than what would be required under the Tunnel Option. During the operational stage, the Flyover Option would generate air and noise pollution along the entire open section of the highway through the Wan Chai, Causeway Bay and the North Point areas, whereas the Tunnel Option would not;

Visual Impact

- (ii) a tunnel would involve significantly fewer aboveground structures than a flyover, thus imposing comparatively less visual and physical barrier to the Harbour. The visual impact of the Flyover Option related to the significant visual impact of the flyover structures along part of the Wan Chai shoreline and through the CBTS, whereas there would be no similar visual impact induced by the Tunnel Option;
- (jj) the noise barrier requirements would be similar for the Tunnel Option, Flyover Option and Modified Tunnel Option;
- (kk) there was no support at all for the Flyover Option on visual ground during the extensive public engagement exercise;
- (ll) in urban design terms, the Tunnel Option was a better solution than the Flyover Option;

Air Ventilation

(mm) an air ventilation assessment expert evaluation (Expert Evaluation) had been carried out. The findings were that the bulk and form of the proposed development would present minimal obstruction to air flow.

The Expert Evaluation had taken due consideration of the IEC elevated flyover including the proposed noise barriers in the North Point area. The ground level structures (administration building beneath the flyover) would not form an impermeable barrier. The location of the administration building had been carefully chosen in relation to the proposed waterfront park in North Point;

Traffic Impacts

- (nn) the temporary traffic diversion required to facilitate the construction of the Tunnel Option would be short lengths of roadways bypassing the limited length of IEC demolition for the tie-in works, and they would not extend into or past adjacent interchanges or junctions. However, demolition of a far more extensive length of the IEC would be required for the Flyover Option including the existing connections to Victoria Park Road. Temporary roads through the CBTS to maintain the IEC connections and temporary diversions for the connections with Victoria Park Road would be required. These would cause major traffic disruption, whereas for the Tunnel Option, disruption would only be confined to the diversions around the tie-in to the IEC;
- (oo) for the operational phase, there would be no significant difference in terms of traffic performance or traffic impact between the Tunnel and Flyover Options;

Land Use and Harbourfront Enhancement

- (pp) the proposed reclamation for the Trunk Road tunnel construction provided the opportunity to create public open space along the new shoreline. However, for the Flyover Option, the existing land area there would be covered by additional structures relating to the Trunk Road and there was no reclamation in North Point, the Flyover Option did not provide harbourfront enhancement opportunity in North Point of a similar quality;

- (qq) marine use at the ex-PCWA would be restricted under the Flyover Option,

Deficiencies of the Modified Tunnel Option

- (rr) alignment and design deficiencies – the Modified Tunnel Option flyover section over the existing Causeway Bay promenade, apart from physically occupying the already narrow promenade, would conflict with the newly constructed footbridge of the Causeway Bay Flyover. The flyover foundations would conflict with the tie-back anchors of the existing sheet pile seawall, which would affect the stability of that section of sea-wall. In addition, Slip Road 8 of the Modified Tunnel Option would also affect the tie-back anchor and its long span flyover would cause headroom problems at Victoria Park Road. The modified alignment of the Hing Fat Street upramp might not be feasible;
- (ss) to rectify these deficiencies, the flyover under the Modified Tunnel Option would need to be shifted back to the alignment of the Flyover Option. The areas of flyover structures over water and affected water area should be similar to that of the Flyover Option as set out in the table on p.23 of the Paper;
- (tt) temporary traffic impact – the need to reconstruct a section of the existing IEC to provide sufficient strength to accommodate a major noise semi-enclosure at a location similar to that proposed under the Tunnel Option had not been addressed. The extent of temporary traffic diversion required had been under-estimated by the representer, and the modification to the existing eastbound IEC flyover required had not been accounted for fully;
- (uu) impacts on CBTS and ex-PCWA – the Modified Tunnel Option would permanently occupy the ex-PCWA by bridge piers and a low-level road deck structure, thereby greatly reducing the use of this part of the Harbour for marine purpose as well as the possible surrounding land

areas. Bridge piers would also be required at the CBTS, resulting in adverse and permanent impact on the function of the CBTS and contrary to the public's aspirations for retaining the CBTS. Moreover, reprovisioning the affected mooring area of the CBTS in Causeway Bay would involve additional permanent reclamation;

(vv) environmental impacts – the Modified Tunnel Option would have more noise and air quality impacts in Wan Chai and Causeway Bay when compared with the Tunnel Option. As far as air quality impact in North Point was concerned, there would not be any major benefit arising from relocating the tunnel portal of the Modified Tunnel Option to Wan Chai because, as part of the current objective of road tunnel design, tunnel emission at tunnel portal would be controlled at zero by the tunnel ventilation system of the Tunnel Option;

(ww) visual intrusion – the Modified Tunnel Option flyover would cause major impact to the visually sensitive receivers in Wan Chai and Causeway Bay, as well as for views from the Harbour and from Tsim Sha Tsui; and

(xx) access to the Harbour – it would occupy most of the Wan Chai North waterfront area, and this was against the public's aspirations.

16. Ms. Phyllis Li went on to make the following main points as detailed in Paper No. 7962 with the aid of a Powerpoint presentation:

Assessment of the Representation (Continued)

Previous Planning Intention for North Point Waterfront, HPP and Urban Design Guidelines

(a) with the Trunk Road tunnel and its portal, there was very limited scope for cultural, commercial, leisure and recreational uses on the North Point waterfront, and the waterfront setting of the representer's lot would be changed. To reflect the public's aspirations, open-air public

open space would be provided along the new waterfront for public enjoyment;

- (b) due regard had been given to the Board's Vision and Goals for Victoria Harbour, the HPP promulgated by the HEC and the community's aspirations in the planning of the WDII. The Amendment Plan incorporating waterfront promenade/open space and pedestrian access connecting the waterfront and the hinterland was in line with the intentions of the HPP and Harbour Planning Guidelines from the harbourfront enhancement point of view and the Urban Design Guidelines;
- (c) the Tunnel Option was preferable to the Flyover Option as it would provide unrestricted and convenient visual access to the Harbour, and the landscaped deck over the tunnel portal would improve the visual amenity of the area. An EIA had been undertaken in accordance with the EIAO to confirm the environmental acceptability of the Trunk Road; and

Conclusion

- (d) PlanD did not support Representation No. R2 in view of the above assessment and the reasons set out in paragraph 6 of Paper No. 7962.

[Mr. Tony C.N. Kan left the meeting temporarily at this point.]

17. The Chairman then invited Mr. Benjamin Yu to elaborate on the representation. The representer had tabled an Executive Summary of the representation, a bundle of reference materials and a Powerpoint presentation submission for Members' consideration. With the aid of a Powerpoint presentation, Mr. Benjamin Yu made the following main points:

Legal Requirements Not Met

- (a) the Shallow Tunnel Option adopted by the Government failed to meet

the legal requirements laid down in the PHO, the CFA's decision and the TC on minimum reclamation. The Government adopted this option primarily because its consultants (Maunsell Consultant Asia Ltd.) presented this option as involving the "least" reclamation. This was however not true as the consultants' interpretation of reclamation contradicted both the PHO and the DoJ's legal advice;

Minimum Reclamation

- (b) the PHO defined reclamation as "any works carried out or intended to be carried out for the purpose of forming land from the seabed or foreshore". However, the Government adopted a different definition of reclamation in coming to the conclusion that the Shallow Tunnel Option was better out of other alternatives as it involved less reclamation by treating "flyover over water" and "affected water area", but not "temporary reclamation", as reclamation;
- (c) the CFA (paragraph 48 of the judgment) held that the extent of the proposed reclamation should not go beyond the minimum of that required by the overriding need. TC No. 1/04 (paragraph 8.1.15), jointly issued by the then Housing, Planning and Lands Bureau and the then Environment, Transport and Works Bureau after the handing down of the CFA's judgment, stipulated that the proposed reclamation extent had to be the minimum;

[Mr. Tony C.N. Kan returned to join the meeting at this point.]

- (d) it was submitted that the Board could not be so satisfied that the Shallow Tunnel Option was the option with the minimum reclamation. While the Shallow Tunnel Option would involve 12.7 ha of permanent reclamation and 8.5 ha of temporary reclamation, the Flyover Option dropped by the Government would, according to the representer, involve only 9.4 ha (-25.98%) of permanent reclamation and no temporary reclamation (-100%);

- (e) TC No. 1/04 (paragraph 4) stated that the advice of the DoJ should be sought in case of doubt on whether certain works would constitute reclamation. Surprisingly, the Paper contained no DoJ's view on this crucial subject;
- (f) on the construction of the Atrium Link Extension (ALE) of the HKCEC where the ALE would be supported by five trusses spanning over the existing water channel, DoJ's advice was that the spanning over did not constitute reclamation under the PHO (Metro Planning Committee Paper No. A/H25/5 was relevant). The consultants had however adopted a different approach which was inconsistent with the Government's stance on the ALE for comparing the Flyover Option and the Tunnel Option. The consultants had counted those areas spanned over by the flyover structure and even open water area free from any construction works under the Flyover Option as reclamation area. On such a basis, the consultants concluded and the Government accepted that the Shallow Tunnel Option involved the least reclamation and therefore satisfied the PHO;
- (g) however, the opposite was true. Should the consultants adhere to the definition of reclamation under the PHO and the advice given by the DoJ, they would have found that the option involving the least reclamation was the Flyover Option;
- (h) it was not right to regard affected water area as reclamation as the areas were open water areas and completely undisturbed by the construction works and remained as they were during the construction and operational stages, and marine activities would not be precluded (e.g. extensive usage by vessels); and in view of DoJ's advice for structures over the water in the ALE's case;
- (i) although the figures in Table 4.2 of the Trunk Road Report had been revised, the consultants were not allowed in law to add together the three figures for "Land Formed", "Flyover Structures over Water" and "Affected Water Area";

- (j) under the Flyover Option, affected water area included the area already affected by the existing structures of the IEC at the southeastern corner of the CBTS. However, the water area already affected by the existing structures of the IEC was not counted under the Shallow Tunnel Option;

Temporary Reclamation

- (k) notwithstanding that the proposal on temporary reclamation was the subject of a judicial review, the Board should not avoid this issue because the Board did not defer the hearing pending the outcome of the judicial review;
- (l) while a total of 7 ha of flyover structures over water and affected water area was taken into account by the consultants under the Flyover Option, 8.5 ha of temporary reclamation was not counted in the Tunnel Option for the reason that it only involved temporary works of a short term. However, the temporary works would take more than 6.5 years to complete as derived from the gazette drawings;
- (m) the Paper stated that the representer had misunderstood the details of the proposed tunnel scheme and assumed that a cut-and-cover construction method would be used for passing underneath the CHT, and the method actually envisaged was a tunnelling method using mining techniques. The mining technique had never been mentioned in the CCM Report and the Trunk Road Report. However, the study profile for the EIA and paragraph 4.2.8 of the CCM Report referred to the cut-and-cover construction method. Mining technique, which was very different from the cut-and-cover method, was only first raised in the Paper. The representer cast doubt on whether the mining technique had been studied, and hence whether the duration (about 7 years) for the construction of the Trunk Road and the construction cost would remain valid;

Faulty Process of Option Selection

Failure to follow the recommendations of the Public Engagement Report for the Envisioning Stage

- (n) the consultants failed to adhere to the recommendations of the public engagement report endorsed by the then HEC Sub-committee in March 2006 to prepare concept plans based on at least two options including the Flyover Option; and not to drop the Flyover Option until more comprehensive information could be provided and sustainability indicators in quantitative terms and qualitative evaluation could be provided to assist the public to make an informed choice. None of the said recommendations had been taken forward. In June 2006, the Government only presented the Shallow Tunnel Option to the then HEC Sub-committee which accepted the Government's suggestion to adopt only the Shallow Tunnel Option for preparing the Concept Plan because that option would require the least reclamation and had the general support from the community;

Wrong interpretation of reclamation

- (o) the concerned Government official (Mr. Robin Ip) was misled by the consultants' report and hence adopted a wrong interpretation of reclamation. As revealed in the minutes of the then HEC Sub-committee on 13.6.2006, the Government official asked the then HEC Sub-committee to accept Tunnel Variation I as the basis for preparing the Concept Plan since this option would require the least extent of reclamation and was thus superior to the other options from the PHO perspective;

Failure to comply with the HKPSG and relevant TC

- (p) Chapter 9 of the HKPSG stated that it was of paramount importance to address environmental problems and incorporate environmental factors and criteria throughout the land use planning process. However, in the option selection process, no EIA was presented for evaluation by the public, the HEC Sub-committee and the Board;
- (q) the option selection process failed to comply with the Planning, Environment and Lands Bureau TC No. 3/97 and the Works Bureau TC No. 13/97 on "Revised Administrative Arrangements for Reclamation Works" in that no EIA was produced at the time of the option selection nor when the Board considered the RODP and the draft OZPs. Moreover, it did not comply with the TC in that the EIA was not a full assessment in all key aspects of the construction and operation of the reclamation and development. The EIA Report had no detailed assessment on the Flyover Option, no assessment on the mitigation measures for the Flyover Option, and no indication on whether the substantial difference in cost (the construction cost of the Tunnel Option would be HK\$10 to 11 billion higher than that of the Flyover Option) had been taken into account in the option selection process, in particular the money saved that could be used for mitigation measures should the Flyover Option be adopted;

Failure to comply with the EIA Study Brief

- (r) the EIA Report did not contain the required objective comparison of environmental benefits and dis-benefits of different options in deriving a preferred option that would avoid or minimize the adverse environmental impact to the maximum practicable extent as required by the study brief (paragraph 3.3.3). The Trunk Road Report comparing the Tunnel Option with the Flyover Option (Table 4.2 of the Trunk Road Report) was reproduced in the EIA Report without detailed study on the Flyover Option. Hence, the EIA Report did not comply with the study brief. The Board was handicapped by not providing with a full EIA report with detailed assessments on the Flyover Option;

Shallow Tunnel Option by Cut-and-Cover Method

- (s) based on the adoption of the cut-and-cover method in the consultants' report, this method was technically not feasible as the existing portal of the CHT would need to be removed and this would create problem on maintaining the traffic of the CHT;

Flyover Option superior to the Shallow Tunnel Option

- (t) should it be agreed that the Shallow Tunnel Option did not comply with the PHO, it would not be necessary to deal with the other issues. Had the consultants not dropped the Flyover Option prematurely, it would have been shown that the Flyover Option was superior when compared with the Shallow Tunnel Option in many aspects;

[Mr. Edmund K.H. Leung left the meeting temporarily at this point.]

- (u) HPP – the Flyover Option would enable better integrated planning, provide convenient, direct and traffic free access to the North Point harbourfront and enhance the cultural/tourism hub on the waterfront where five existing/committed and planned hotels were found. On the

other hand, the massive tunnel structures (the administration building and the noise and pollution screening deck) under the Shallow Tunnel Option would result in detour routes to the harbourfront and unpleasant major access to the harbourfront through the industrial area. This would destroy the committed cultural/tourism hub and affect the committed hotel development under construction;

- (v) environmental terms – the tunnel portal under the Flyover Option was next to non-sensitive uses whereas that under the Shallow Tunnel Option was close to residential developments. The 10m high landscaped noise and fume screening deck required for the Shallow Tunnel Option would be subjected to air pollution, noise and vibration, and would create adverse visual and air ventilation impacts. On the contrary, a landmark designed flyover could bring about visual enhancement with no ventilation problem. The Shallow Tunnel Option would also induce unacceptable construction noise impact and, according to the representer, generate more construction waste from demolishing the IEC and the temporary reclamation works. It was difficult to understand how the Government's consultants had concluded that the Shallow Tunnel Option would involve less demolition of the IEC and resultantly less construction waste;
- (w) while the Flyover Option did not require temporary reclamation, the Government claimed that the temporary reclamation for the Shallow Tunnel Option would help improve the water quality of the CBTS. The saving of about HK\$10 billion through adopting the Flyover Option instead would enable the Government to do a lot of things to improve the environment. Moreover, the Shallow Tunnel Option involved reclamation next to residential developments and these developments would be subjected to significant environmental impacts, but the Flyover Option did not. The Flyover Option also performed better in terms of energy consumption and maintenance cost;
- (x) visual impact – a flyover with attractive architectural design could become an urban landmark and beautify the Harbour for the enjoyment

of both the locals and tourists. The HK\$10 billion saved could be spent on employing renowned architects to draw up a flyover with good design;

- (y) reclamation – the Flyover Option (9.4 ha according to the representer) involved less reclamation than the Shallow Tunnel Option (12.7 ha);
- (z) disruption to the CBTS – the Shallow Tunnel Option would cause major disruption to the CBTS during construction;
- (aa) encroachment onto Victoria Park – the Shallow Tunnel Option would mean significant encroachment onto Victoria Park (3,700m² permanent and 27,000m² temporary) but the Flyover Option would have no encroachment;
- (bb) in gist, the Shallow Tunnel Option contravened the HPP in terms of preservation of the harbour, stakeholder engagement, sustainable development, integrated planning, proactive harbour enhancement, vibrant harbour, accessible harbour and public enjoyment as outlined in the Powerpoint presentation;

Shallow Tunnel Option Inferior in Cost and Time

- (cc) although cost was normally not a consideration of the Board, it would matter when the construction and recurrent costs of the Shallow Tunnel Option were far higher than those of the Flyover Option:

	Shallow Tunnel Option	Flyover Option
Construction Cost	\$20B	\$11B
Annual Recurrent Cost	\$110M	\$75M

- (dd) moreover, in terms of the construction period which was also a cost to the community, the Shallow Tunnel Option which required 7 years was inferior to the Flyover Option which took 6 years;

- (ee) the above estimated construction cost and time for the Shallow Tunnel Option would increase with the mining technique replacing the cut-and-cover method;

Shallow Tunnel Option Inferior in Sustainability

- (ff) the Shallow Tunnel Option was inferior in sustainability in the aspects of vibrancy, accessibility, compatibility, economic performance, visual and ventilation, environmental conservation and natural heritage conservation as outlined in the Powerpoint presentation;

Summary of the 3 Options

- (gg) the performance of the Shallow Tunnel Option, the Flyover Option and the Modified Tunnel Option was compared in terms of permanent and temporary reclamation, technical feasibility, compliance with HPP, encroachment onto Victoria Park, environmental impacts, visual impact, sustainability, construction and recurrent costs and construction period as outlined in the Powerpoint presentation; and

Conclusion

- (hh) the Board was requested by the Government to endorse a proposal contravening the PHO based on a flawed interpretation of law and a faulty process. The Shallow Tunnel Option selected by the Government was also inferior. However, it did not matter much whether the Board agreed that it was an inferior option, it was simply premature for the Board to endorse the proposal and gazette the amended OZP without further studying all viable options.

[Mr. Tony C.N. Kan left the meeting temporarily at this point.]

18. Mr. Benjamin Yu added that even assuming that the Shallow Tunnel Option would really cause less traffic disruption as claimed by the Government, albeit no assessment was available, the HK\$10 billion saved would make possible the

implementation of a lot of mitigation measures to ease traffic disruption should the flyover be built. With regard to the representer's ground of supporting a flyover option that a slip road for eastbound link to Causeway Bay could be provided, TD's response that this slip road could be substituted by alternative road improvement schemes (paragraph 4.32(k) of the Paper) was strange and questionable.

[Mr. Edmund K.H. Leung returned to the meeting while Miss Annie Tam left the meeting temporarily at this point.]

19. Mr. Paul Horsley made the following main points on the Modified Tunnel Option:

- (a) the Modified Tunnel Option was similar to the Flyover Option for the section to the west of the CHT, but in the east it tied in with the IEC at a position similar to the Shallow Tunnel Option. This would avoid the traffic impact associated with the Flyover Option, and the traffic disruption due to the tie-in with the IEC would be similar to the Shallow Tunnel Option;
- (b) in terms of waste from demolition of the IEC, the Modified Tunnel Option would generate less than one third of that under the Shallow Tunnel Option (about 7,000m² vs. 26,000m²). It was because the former involved the merging of two flyovers at similar levels whereas the latter involved the joining of the elevated IEC with a road rising up from the underground, with a level difference in the region of 25m. The level difference would affect and necessitate the demolition of a far longer extent of the IEC; and

[The Chairman left the meeting temporarily at this point and the Vice-Chairman took over the chairmanship.]

- (c) on the need of demolishing a longer section of the IEC to accommodate the noise semi-enclosure under the Modified Tunnel Option as pointed out by the Government, it was possible that more demolition of the IEC under the Modified Tunnel Option would be required than that

suggested by the representer at this stage.

[The Chairman returned and resumed chairmanship while Miss Annie Tam also returned to join the meeting at this point.]

20. A Member asked the Government team to advise whether the Shallow Tunnel Option contravened the PHO. Another Member sought DoJ's comment on whether affected water area was reclamation.

21. Mr. L.T. Ma made the following points:

- (a) CEDD had maintained close liaison with DoJ throughout the WDII Review process and DoJ had been consulted during the preparation of the CCM Report;
- (b) the PHO was enacted to protect and preserve the Harbour. Section 3(1) of the PHO provided that "the harbour is to be protected and preserved as a special public asset and a natural heritage of the Hong Kong people, and for that purpose there shall be a presumption against reclamation in the harbour" and section 3(2) read as "all public officers and public bodies shall have regard to the principle stated in subsection (1) for guidance in the exercise of any powers vested in them and established a presumption against reclamation in the harbour". This was the starting point for the WDII Review which sought to find a solution which would best serve to protect and preserve the Harbour, with the minimum area of the Harbour affected;
- (c) for the Flyover Option, the water area at the CBTS would be further affected by the new flyover structures for the Trunk Road main line and slip road connections as well as the connection with Victoria Park Road. The effect of such on the CBTS should not be ignored when considering which option served best to protect and preserve the Harbour;
- (d) as presented by the Government's consultants earlier, if the design of

the Modified Tunnel Option was to be rectified, it would be quite identical to the Flyover Option; and

- (e) in considering whether an area should be counted as an extra area affected by a proposal, the effect on the use of the concerned stretch of water body would matter. Under the Flyover Option, the flyover structures including the bridge piers, slip roads, etc. would affect the particular part of the Harbour, for example, making the Harbour less accessible to marine use. Therefore, the affected water area was an area not being protected or preserved, hence against the spirit of the PHO.

22. Mr. Raymond Chan had the following responses:

Compliance with PHO

- (a) it was confirmed that DoJ was CEDD's legal adviser and was consulted in the preparation of the CCM Report insofar as interpretation of the PHO was concerned;
- (b) DoJ had no disagreement with the Government's responses on temporary reclamation as set out in paragraph 4.17 of the Paper;
- (c) as stated in paragraph 4.14 of the Paper, the PHO required the Harbour to be protected and preserved as a special public asset and a natural heritage of the Hong Kong people, and established a presumption against reclamation in the Harbour. It was therefore essential to find the option that would best serve to protect and preserve the Harbour, with the minimum area of the Harbour affected by reclamation. In this regard, the area of the Harbour affected by the alternative Trunk Road tunnel and flyover options was of concern. When the Government was deciding which option to adopt, the Government applied the guiding principle of protecting and preserving the Harbour;

[Mr. Tony C.N. Kan returned to join the meeting at this point.]

- (d) on whether affected water area was reclamation, he had nothing further to add to the Paper which had already set out the logic behind; and
- (e) paragraph 34 of the CFA's judgment (*"It is because of its unique character that the harbour must be protected and preserved. The meaning of these words in the statutory principle is plain. There must be protection, that is, it must be kept from harm, defended and guarded. And there must be not merely protection. There must also be preservation. Preservation connotes maintenance and conservation in its present state. What must be emphasised is that under the principle, what is to be protected and preserved is the Harbour as a special public asset and a natural heritage of Hong Kong people."*) had made it abundantly clear that due regard should be made not only to physical reclamation, but also to anything that would have adverse impact on the Harbour and hence would not serve to protect and preserve the Harbour.

23. Mr. Benjamin Yu asserted that the CFA's judgment quoted by DoJ did not lend any support to the Government's view. Wan Chai North was concerned with physical reclamation but not affected water area. It was mentioned in the CFA's judgment that the Harbour had to be protected and preserved pursuant to the PHO and the PHO defined "reclamation" as "any works carried out or intended to be carried out for the purpose of forming land from the sea-bed or foreshore". The Government had not justified how affected water area would be equivalent to reclamation within the definition of the PHO. There was no ambiguity about the provision. The Government's interpretation for the present case was contrary to the previous DoJ's advice on the ALE project.

24. A Member sought Mr. Yu's comment on the Government's view that temporary reclamation was not reclamation as it would not have irreversible impact on the Harbour in the long term. Mr. Yu replied that the law looked at substance but not form. While temporary reclamation of a very short duration would probably be not caught by the PHO, the court might well consider temporary reclamation of a period of about 7 years as in the present case to be sufficient to constitute reclamation. Mr. Yu

considered that the Government did not seek to equate affected water area to reclamation, but regarded the affected water area as affecting the Harbour. Temporary reclamation was certainly also affecting the Harbour. Nonetheless, the Government was applying double standards in that the affected water area was taken into account in the Flyover Option whereas temporary reclamation was not in the Shallow Tunnel Option. He went on to say that the proposed temporary reclamation certainly involved forming land from seabed, and was of a sufficiently long period and a severe extent that the de minimis concept would not apply. Hence, the proposed temporary reclamation constituted reclamation. The Government's interpretation had to be wrong.

25. Mr. L.T. Ma advised that temporary reclamation works would be done in several stages with each stage lasting one to two years and the preceding stage would be removed before proceeding to the next stage. The construction of the entire CWB project, but not each stage of the temporary reclamation, took 7 years. A distinction between temporary and permanent effect on the Harbour should be drawn. The staged temporary reclamation was temporary works for the construction of the cut-and-cover tunnel of the CWB in order to avoid permanent reclamation in the CBTS. Hence, the temporary reclamation was for the good purpose of protecting and preserving the Harbour and to minimize the disturbance to the CBTS. In view of the need to achieve the end product of minimum reclamation and least affected area of the Harbour, the staged temporary reclamation was needed to provide a dry working platform for the construction of the Trunk Road tunnel underneath the seabed of the ex-PCWA and CBTS. Mr. Raymond Chan stressed that the extent of temporary reclamation was the minimum.

26. Members raised the following additional questions/issues and asked the Government team to respond:

- (a) the representer's allegation that the cut-and-cover method was infeasible because the Wan Chai portal of the CHT would need to be removed;
- (b) whether the Government had any further comment on the Modified Tunnel Option after hearing the representer's presentation;
- (c) the representer's allegation that the EIA Report had not addressed all

aspects;

- (d) whether a Flyover Option would have less visual impact;
- (e) the representor's allegation that a flyover would not restrict marine access underneath in view of the 11m headroom; and
- (f) the representor's assertion that the Shallow Tunnel Option would, contrary to the Government's assessment, warrant demolition of a larger section of IEC and hence generate more construction waste.

27. Mr. L.T. Ma, Ms. Phyllis Li and Mr. Peter Cheek had the following responses:

- (a) whilst cut-and-cover method was generally referred to for the construction of the CWB, for the section of the tunnel passing underneath the CHT, a section in the Trunk Road Report (paragraph 2.1.14) specifically mentioned that tunnelling method would be used. The tunnel would be deep enough to avoid the rock anchors of the CHT. The term "mining" instead of tunnelling method was used in the Paper so as to avoid using too many engineering jargons. This was just a matter of presentation;
- (b) if the deficiencies in the Modified Tunnel Option identified by the consultants were to be rectified, the Modified Tunnel Option would basically be identical to the Flyover Option, which had already been assessed in the Trunk Road Report and well presented to the public;
- (c) the previous scheme of the Trunk Road was a flyover and a detailed EIA on it had already been carried out and approved by EPD a few years ago. The current EIA presented the earlier assessment on the Flyover Option in a succinct manner. The current EIA had been carried out based on the particular option that complied with the PHO. Both the CEDD and the consultants considered that the Tunnel Option performed better in environmental terms;

- (d) the visual impact of a flyover would vary from the viewpoint selected. A flyover would look small and have insignificant visual impact only when viewed at a long distance. Nonetheless, a flyover in the built-up Causeway Bay and North Point areas which was close to the public's eyes would not be visually acceptable as it would be difficult to come up with something very different from the existing IEC having regard to the landing point of the bridge piers. Even if a suspension/cable stay bridge were built, the high masts and huge suspension cables of the bridge, being so close to the viewers, would not be visually acceptable;
- (e) the visual impact of the whole length of the Trunk Road, rather than just a section in North Point as shown in the representer's slide, should be assessed. For an option with a substantial section of elevated structure on the waterfront, according to the Chief Town Planner/Urban Design and Landscape, it would pose more visual and physical barriers to the Harbour than the Tunnel Option. A Landscape and Visual Impact Assessment of the Tunnel Option had been undertaken and it demonstrated that its visual impact was acceptable and complied with the EIAO requirements;
- (f) under the Modified Tunnel Option and the Flyover Option, as the Trunk Road had to rise as an elevated structure from the tunnel portal immediately to the west of the ex-PCWA basin, the affected water area at the basin would have a very limited headroom which would practically restrict all vessels except small dinghies. The CBTS would be affected by the IEC connection, the low-level slip road and the road deck. The Trunk Road flyover, being at a level of 12mPD, would allow just a low headroom of 8m; and
- (g) in order to build the noise barrier proposed by the representer, a section of the existing IEC would have to be reconstructed to provide sufficient strength to accommodate the noise deck. The representer had not taken into account the waste generated by the demolition of the IEC for

such works.

28. Mr. Benjamin Yu referred Members to Appendix 5 (paragraph 6.4 on page A5.8) of the representer's Objection Statement. It recorded that the proposal for a cable stay bridge with a central column for the Trunk Road put forth by the Business and Professionals Federation of Hong Kong was rejected for pre-empting the Government's assumption that "bridge options for the Trunk Road have been found to affect a greater area of the Harbour than the proposed tunnel option and thus could not comply with the PHO". On EIA, Mr. Yu said that the representer was not saying that there was no EIA, but the EIA contained no meaningful assessment in the absence of a thorough comparison of the benefits and dis-benefits of the two options.

29. A Member requested the DoJ to comment on the representer's definition of reclamation. Mr. Raymond Chan said that paragraphs 4.14 and 4.17 of the Paper had already set out the views of the Government and he had nothing further to add. On the reference to previous DoJ's advices made in the representer's tabled submissions (i.e. paragraph 1(2) and (3)(b) of the Executive Summary and an extract of paragraph 26 from the LegCo Brief – TDC's Proposal for HKCEC ALE incorporated in the Powerpoint presentation), Mr. Raymond Chan pointed out that the HKCEC ALE and the Trunk Road projects were two different projects and hence he could not see why they should be compared. Moreover, while the issue of the ALE project was whether certain works would constitute reclamation works, the issue of the Trunk Road flyover related to the affected water area in the context of protecting and preserving the Harbour. Furthermore, the reference to DoJ's legal advice was very brief and might have been quoted out-of-context.

30. At Mr. Raymond Chan's suggestion, the Chairman invited Mr. Peter Cheek to clarify whether the Government's consultants had equated the affected water area to reclamation as alleged by the representer. Mr. Cheek clarified that the Trunk Road Report had never equated the affected water area to reclamation. Only "land formed" was regarded as reclamation. The figures on land formed, flyover structures over water and affected water area had all along been separately presented.

31. Noting that the Tunnel Option and Flyover Option involved 12.7 ha and 9.8 ha of land formed respectively, a Member asked the Government team if the Flyover

Option would be the option with the minimum reclamation. Mr. L.T. Ma replied that the Government's proposal was one that served best to protect and preserve the Harbour and in full compliance with the PHO. Mr. Benjamin Yu reckoned that the Government was asking the Board to ignore the definition of reclamation and attempting to change the definition. As far as the definition of reclamation was concerned, the simple answer to the Member's question was that the Flyover Option was the option with minimum reclamation.

[Ms. Sylvia S.F. Yau left the meeting temporarily at this point.]

32. Mr. Raymond Chan responded that the Government was not changing the definition, but was attending to the guiding principle of protecting and preserving the Harbour under the PHO.

33. As Members had no further questions to raise and the Government team and representer's representatives had nothing to add, the meeting proceeded to consider the next item. The Government team and the representer's representatives stayed behind for the next item.

[The meeting adjourned for a short break of 5 minutes.]

[Mr. Stanley Y.F. Wong left the meeting while Ms. Sylvia S.F. Yau returned and Mr. B.W. Chan and Miss Annie Tam left temporarily at this point.]

Agenda Item 4

[Open Meeting]

Proposed Amendments to the Draft Wan Chai North Outline Zoning Plan No. S/H25/1 –
Consideration (Hearing) of Further Objection No. F3
(TPB Paper No. 7969)

[The meeting was conducted in Cantonese and English.]

Original Objections

No. 1-11, 13, 14, 16-48, 50, 51, 53-62, 64-75, 77-87, 89-94, 96, 97, 99-101, 103-112, 114-118, 120, 122-146, 148-156, 158-169, 171-175, 177-221, 224, 226-228, 230-237, 239, 240, 244-258, 260, 262, 263, 265-272, 274-287, 289-292, 294-298, 301-312,

315-325, 328-333, 335, 337-339, 341-348, 351-356, 358-366, 368, 370-378, 380-384, 386-90, 392-394, 396-399, 401, 402, 405, 406, 408, 409, 411-416, 418, 420, 421, 423-426, 428-438, 444, 445, 447-452, 454, 455, 457-462, 466-468, 471, 473-479, 481-518, 520- 530, 532, 534-536, 538-542, 544-560, 562-564, 566-568, 571, 572, 574, 576, 577, 579-583, 586, 592, 595, 596, 598, 601, 602, 605, 606, 608-618, 621, 622, 624, 629, 630, 633--651, 653, 655, 656, 658-660, 662, 665-669, 671-682, 685-687, 689, 690, 692-695, 697-711, 713-725, 727--739, 741-744, 746-778

34. The following original objectors were invited to the meeting to join the following Government team (including representatives of the concerned Government departments, the study consultants and Outside Counsel) and the further objector's representatives:

Mr. Nicholas Cooney	Outside Counsel
Mr. Raymond Chan	Senior Assistant Law Officer (Civil Law), Department of Justice
Ms. Phyllis Li	Chief Town Planner/Special Duties, Planning Department (PlanD)
Miss Katy Fung	Senior Town Planner/Special Duties, PlanD
Mr. L.T. Ma	Project Manager (HK Island & Islands), Civil Engineering and Development Department (CEDD)
Mr. Bosco Chan	Chief Engineer/Hong Kong (2), CEDD
Mr. C.K. Lam	Senior Engineer/Project Management (HK Island and Islands), CEDD
Mr. M.L. Wan	Deputy Project Manager/Major Works(2), Highways Department (HyD)
Mr. Raymond Yip	Chief Engineer/Major Works, HyD
Mr. C. Y. Wong	Senior Engineer 1/Central Wanchai Bypass, HyD
Mr. K.K. Lau	Deputy Commissioner for Transport/Planning & Technical Services, Transport Department (TD)
Mr. C. Y. Chan	Senior Engineer/Housing and Planning, TD
Mr. Eric Ma)

Mr. Peter Cheek) Maunsell Consultant Asia Ltd.
Ms. Carmen Au)
Mr. Freeman Cheung ENSR Asia (HK) Ltd.

Further Objection No. F3

Mr. Benjamin Yu]
Mr. Y.M. Ho]
Mr. Kenneth Wong]
Ms. H.Y. Au]
Mr. Kenneth K.T. To]
Ms. Keren R. Seddon]
Ms. Cindy Tsang] Representatives of the representer
Mr. Alvin Lee]
Mr. David Yeung]
Dr. Hon T. Cheng]
Mr. Paul Horsley]
Mr. Raymond J. Cook]
Ms. Linda Chan]

Original Objection No. 32

Mr. Nigel Kat Objector

Original Objection No. 30

Mr. Law Chiu Ning Objector

Original Objection No. 368

Mr. Shu Lok Shing Objector

Original Objections No. 374 and 375

Mr. Ian Brownlee) Objectors' representative

35. The Chairman extended a welcome and briefly explained the hearing procedures. The Chairman said that while the objectors/objectors' representatives for 5 original objectors attended the meeting, sufficient notice had been given to the remaining original objectors who could be contacted, with some responding that they would not

attend and some had given no reply. Members agreed to proceed with the hearing in the absence of the remaining original objectors. The Chairman then invited the Government team to brief Members on the further objection. Since this further objection in respect of the Wan Chai North OZP (F3) and Representation No. R2 were lodged by the same party and concerned similar subject matter, he suggested that the Government team should keep the presentation brief.

36. With the aid of a Powerpoint presentation, Ms. Phyllis Li made the following main points as detailed in Paper No. 7969:

Subject of the Further Objection

- (a) it was against all the amendment items proposed to the draft Wan Chai North OZP No. S/H25/1;

Grounds of the Further Objection

- (b) the further objection was against all the proposed amendments relating to the Central-Wan Chai Bypass (CWB) as a whole which affected the further objector's lot;
- (c) the Report on "Trunk Road Alignments & Harbour-front Enhancement" (the Trunk Road Report) was deficient in the following aspects:
 - the potential impact of the CWB on the further objector's lot was not considered as constraints of existing developments;
 - inadequate comparison and presentation in "affected water area" of the Harbour;
 - misleading comparison of landscaping treatments for the Tunnel and Flyover Options;
 - no or insufficient assessment under "Environmental Concerns" for

temporary works and reclamation, permanent reclamation and the Trunk Road options;

- no or insufficient assessment of “Impact to Existing Traffic”; and
 - no assessment of harbour-front enhancement under the Flyover Option;
- (d) there was insufficient consideration and study of the Flyover Option and insufficient information available to the Board and the public for considering the options; and
- (e) the Tunnel Option did not comply with the Protection of the Harbour Ordinance (PHO).

37. Mr. Peter Cheek continued with the Government team’s presentation with the aid of a Powerpoint presentation. He recapitulated the points made in paragraph 14 above for R2 regarding comparison of the Tunnel Option and the Flyover Option, affected areas of the Harbour, temporary reclamation, the environmental impacts of the two options, the minimum reclamation required by the overriding public need, and public engagement.

38. Ms. Phyllis Li concluded that the PlanD did not support Further Objection No. F3 in view of the above assessment and the reasons set out in paragraph 7 of Paper No. 7969.

39. The Chairman then invited the further objector to present. With the aid of a Powerpoint presentation (subsequently tabled at the meeting), Mr. Benjamin Yu made the following main points:

- (a) without repeating the issues raised in the earlier presentation for Representation No. R2 in respect of the North Point OZP, the fundamental question for the Wan Chai North OZP remained whether the Board would adopt the Flyover Option or the Tunnel Option or would ask the Government to rethink and revert;

Minimum Reclamation

- (b) the previous discussion still left two important questions unanswered by the Government. The first concerned minimum reclamation. The consultant's presentation contained a slide saying that the Tunnel Option satisfied the three criteria for complying with the PHO and one of which was minimum reclamation. It should be noted that minimum reclamation rather than minimum affected water area was used;
- (c) the Government could not change or ignore the law because it was inconsistent with its preferred option;
- (d) the Government team did not raise any point to disagree with the further objector's construction of the law. Quite plainly, the Tunnel Option did not satisfy the PHO in terms of reclamation extent;

Faulty Process

- (e) there was no answer to the further objector's assertion that the consultation process was flawed. In June 2006, a concerned Government official (Mr. Robin Ip) urged the then Sub-Committee of WDII Review of the Harbour-front Enhancement Committee to accept the Tunnel Option as this was considered as the only option complying with the law. This was a wrong interpretation of the law. However, it did not matter as the consultation process and the Environmental Impact Assessment (EIA) process were flawed for not conducting a thorough and meaningful comparison of the Tunnel Option and the Flyover Option, and
- (f) the Board should ask the Government to further assess the Flyover Option before making a decision.

[Dr. C.N. Ng left the meeting temporarily at this point.]

40. After the presentation by Further Objector No. F3, the Chairman then invited Mr. Nigel Kat, Original Objector No. 32, to present his case in relation to F3. Mr. Kat made the following main points:

Other Further Objections

- (a) Further Objections No. F4 was supported, but not F3;

Compliance with the PHO and Temporary Reclamation

- (b) in light of Mr. Benjamin Yu's submission on non-compliance with the PHO, the Board should not continue to rely on its previous legal advice. The Court of Final Appeal (CFA)'s judgment had unanimously held that the Board had to comply with the PHO;
- (c) the Board was bound to apply the PHO in considering temporary reclamation. Temporary reclamation was and could only be for the

purpose of formation of land. Temporary reclamation, subject to the the application of the de minimis concept submitted by Mr. Yu in the earlier presentation, was caught by the PHO;

[Miss Annie Tam returned to join the meeting at this point.]

- (d) neither did the PHO refer to permanent reclamation nor temporary reclamation. The purpose of the PHO was to preserve the Harbour in its present state, temporary reclamation had to be precluded in order to achieve this objective unless it satisfied the three tests;
- (e) it was a painstaking truth that no information had been placed before the Board on the extent of temporary reclamation; and if so, whether it was the minimum. There was a bare assertion in the “Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) that the temporary reclamation was the minimum without support of any cogent and convincing materials. The Board could not be satisfied that the proposed temporary reclamation complied with the PHO;
- (f) the Paper (paragraph 5.10) was not helpful in suggesting that temporary reclamation was not of concern to the Board as it was not for any planning purpose. The proposed temporary reclamation did serve a planning purpose, and it was the preamble of the Town Planning Ordinance to control the layout and use of land and to provide land use zonings for land. It was within the statutory function of the Board to control temporary reclamation. The Board was urged to stop proceeding with the amendments to the OZP. Alternatively, it was at least prudent for the Board to decline to proceed with the amendments to the OZP pending the court’s decision on the judicial review relating to temporary reclamation, so as to ensure that the Board would act lawfully. It should be noted that the Government’s current scheme could not be implemented without temporary reclamation;

- (g) the Chairman, being the Permanent Secretary for Development (Planning and Lands), should not be interfered by the government policy and departments under his purview when discharging his duties as the Chairman of the Board;
- (h) the Secretary who was also acting Director of Planning (D of Plan) on that day should not assume the role as D of Plan at the Board's meeting. She should only play a secretarial rather than advocacy role;
- (i) Members should not take into account the views of the Chairman and the Secretary if they were advocating their departmental or the project proponent's view;

Other Reclamation Issues

- (j) there was no scientific and properly worked out or tested evidence for the extent of reclamation to the east of the Hong Kong Convention and Exhibition Centre (HKCEC);
- (k) without any precise or even rough quantification on the incidence of grounding of vessels, the 120m wide land between the seawall and the tunnel to the east of the HKCEC should not be approved. The extent of land proposed was not merely for covering the tunnel, but unduly creating 75m of land in width out to the Harbour. This piece of concrete open space would likely be developed a few years later;
- (l) without assessing the possibility of grounding and exploring the alternative means to avoid grounding (e.g. the use of dolphin buoys), the "no reasonable alternatives" test under the CFA's judgment was not complied with;

Road P2

- (m) the Designing Hong Kong Harbour District (DHKHD) and its traffic

consultant had comprehensively rebutted the Government's argument in support of the road proposal. Contrary to DHKHD's assessment, TD argued that Road P2 would not increase traffic in the area but was needed to enhance and improve access to the Golden Bauhinia Square, and that the traffic condition in Wan Chai North could be managed; and

- (n) building a road for the purpose of enhancing and improving access to a tourist spot certainly did not comply with the PHO.

41. The Chairman then invited Mr. Law Chiu Ning, Original Objector No. 30, to present his case in relation to F3. Mr. Law referred to the speaking notes tabled at the meeting and wished to elaborate on his objection to the proposed exhaust vent at the eastern breakwater. Mr. Law also submitted a letter to the Board on 19.12.2007 providing more details on his proposal to relocate the eastern ventilation building (EVB) and the exhaust vent and further wrote on 7.1.2008 clarifying that his letter of 19.12.2007 was not made on behalf of the Incorporated Owners of Victoria Centre. The two said letters had been sent to Members and were tabled at the meeting. The Chairman told Mr. Law that the hearing of the objections to the EVB and the exhaust vent had been completed at the meeting on 7.12.2007 and the Board had already heard his objection on that day. In response to the Chairman's enquiry on whether he wished to make any points relating to F3, Mr. Law confirmed that he had nothing to say other than the EVB and the exhaust vent. Mr. Nigel Kat, Original Objector No. 32, left the meeting at this point.

42. The Chairman then invited Mr. Shu Lok Shing, Original Objector No. 368 to present his case in relation to F3. Mr. Shu tabled a document comprising his speaking notes and a few plans at the meeting. Mr. Shu made the following main points:

The Metroplan proposals

- (a) the original proposed reclamation for the Harbour and the related planning proposals as shown in the Metroplan prepared in 1989 were unreasonable;
- (b) the CWB scheme generated from the Metroplan, which had many lanes

intertwined, was highly unreasonable. A single traffic accident would result in gridlock at Hong Kong Island North;

- (c) the Government's decision not to pursue these Metroplan proposals further was appreciated;

The Flyover Option

- (d) the tunnel should be changed to a flyover since it would require less reclamation, save energy by allowing better penetration of natural lighting and allow dispersion of vehicle exhaust by natural ventilation. On the other hand, the Tunnel Option which took 7 years to complete would cause lots of nuisances to the public, and the vehicles using the tunnel would emit lots of exhaust;
- (e) the alignment and slip road connection of the flyover option were presented as illustrated on Plan A of the tabled Annex 4;
- (f) the waterfront promenade proposal was presented as shown on Plans C to F of the tabled Annex 3;
- (g) the temporary typhoon shelter was too large. The 3 breakwaters would require the piling up of 169,000m³ of boulders on the seabed, thereby affecting water circulation. Also, the piles holding the breakwaters would seriously affect the proposed Shatin to Central Link. To conclude, a flyover instead of a tunnel should be built; and

Other land use proposals

- (h) a park was proposed at the Oil Street sale site and the ex-North Point Estate site was proposed to develop as a waterfront park.

43. The Chairman asked if any other original objectors would like to speak. Mr. Ian Brownlee said that he represented Original Objectors No. 374 and 375 which were lodged by Sun Hung Kai Properties Ltd. and the owners of the World Trade Centre

(WTC) respectively. He made the following main points:

- (a) WTC was adversely affected by the original proposals on the first version of the Wan Chai North OZP, particularly the proposed flyover crossing the Causeway Bay Typhoon Shelter. This would also have implication on Original Objector No. 375's lot on the waterfront where sea water pump houses were found;
- (b) the Government's proposal was more acceptable than F3's proposal to the original objectors he represented. F3's proposal was not supported; and
- (c) according to his assessment, the extent of reclamation in Wan Chai North was the same for both the Government and F3's proposals. The issue of reclamation should be a matter for the North Point OZP.

44. As Members had no questions and the Government team and further/original objectors had nothing to add, the further/original objectors (except Mr. Ian Brownlee) left the meeting at this point while the Government team and Mr. Brownlee stayed behind for the next item.

Part V

Agenda Item 5

[Open Meeting]

Consideration of Representation in Respect of the Draft North Point Outline Zoning Plan No. S/H8/21 – Representation No. R8

(TPB Paper No. 7965)

[The meeting was conducted in English.]

45. Mr. Raymond Y.M. Chan had declared interest in this item for having current business dealings with Swire Pacific Limited, the parent company of Cityplaza Holdings Ltd. which lodged Representation No. 8. Mr. Raymond Chan had not yet arrived at the meeting.

46. The following Government team (including representatives of the concerned Government departments, the study consultants and Outside Counsel) and the representer's representatives were present at the meeting:

Mr. Nicholas Cooney	Outside Counsel
Mr. Raymond Chan	Senior Assistant Law Officer (Civil Law), Department of Justice
Ms. Phyllis Li	Chief Town Planner/Special Duties, Planning Department (PlanD)
Miss Katy Fung	Senior Town Planner/Special Duties, PlanD
Mr. L.T. Ma	Project Manager (HK Island & Islands), Civil Engineering and Development Department (CEDD)
Mr. Bosco Chan	Chief Engineer/Hong Kong (2), CEDD
Mr. C.K. Lam	Senior Engineer/Project Management (HK Island and Islands), CEDD
Mr. M.L. Wan	Deputy Project Manager/Major Works(2), Highways Department (HyD)
Mr. Raymond Yip	Chief Engineer/Major Works, HyD
Mr. C. Y. Wong	Senior Engineer 1/Central Wanchai Bypass, HyD
Mr. K.K. Lau	Deputy Commissioner for Transport/Planning & Technical Services, Transport Department (TD)
Mr. C. Y. Chan	Senior Engineer/Housing and Planning, TD
Mr. Eric Ma)
Mr. Peter Cheek	) Maunsell Consultant Asia Ltd.
Ms. Carmen Au)
Mr. Freeman Cheung	ENSR Asia (HK) Ltd.

Representation No. R8

Mr. Ian Brownlee)
Miss Elsa Man	) Representer's representatives
Miss Kimmy Wong)

47. The Chairman extended a welcome and briefly explained the hearing procedures. He then invited the Government team to brief Members on the representation. Mr. Ian Brownlee suggested that the presentation be focused on the land uses since the Board had already heard the submission on reclamation and the Trunk Road. Members and the Government team agreed.

48. With the aid of a Powerpoint presentation, Ms. Phyllis Li made the following main points as detailed in Paper No. 7965:

- (a) a correction was made to the Paper - “virtually restricted” in paragraph 4.24 of the Paper should read “virtually unrestricted”;

Subject of the Representation

- (b) the representation was against the zoning of portion of the proposed reclamation as and rezoning of portion of the existing land north of Harbour Heights to “Open Space” (“O”), and rezoning of the existing land immediate north of the Harbour Heights to “Commercial/Residential(2)” (“C/R(2)”);

Grounds of Representation

- (c) the representer’s lots (i.e. Marine Lot (ML) 277RP and Extension and ML 281RP and Extension), currently zoned “O” and “C/R(2)”, had marine access;
- (d) the subject site was previously zoned “Other Specified Uses” (“OU”) annotated “Cultural and/or Commercial, Leisure and Tourism Related Uses” (the “OU” zone) with the planning intention to encourage uses taking advantage of its waterfront setting. The site had been used for public car park and sand depot, and hence had made good use of its marine rights and waterfront access;
- (e) the proposed reclamation would remove the marine rights and marine

access to the subject site, affect the existing uses of the site and reduce the opportunity of redeveloping the site to provide harbour related activities, and appear to be excessive;

[Dr. C.N. Ng returned to join the meeting at this point.]

- (f) increasing the “C/R(2)” area but without additional GFA allowed for the owner’s site would prohibit any development on the subject site. The narrow width (less than 10m) of the owner’s site and no frontage onto a street would limit development possibilities of the site;
- (g) integration of the owner’s site with Harbour Heights redevelopment was not possible because of different ownership;
- (h) the representer also commented on the resumption proposal in relation to the Trunk Road project as set out in paragraph 3.12 of the Paper. While resumption of land was not a matter for the Board, Ms. Li stressed that the land within the “O” zone needed to be resumed for the construction of the Trunk Road;

Assessment of Representation

Reclamation

- (i) a Report on “Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) had been prepared by the Government to demonstrate the overriding public need for the Trunk Road, the need for reclamation for the Trunk Road, that there was no “no reclamation” option (in other words, there was no reasonable alternative to reclamation), and that the extent of reclamation was the minimum required to meet the overriding need. The proposal complied with the Protection of the Harbour Ordinance (PHO) and the Court of Final Appeal’s judgment;

“O” zone for the North Point shore

- (j) with the adoption of the Tunnel Option, the Trunk Road needed to rise to ground level, after passing the Causeway bay Typhoon Shelter (CBTS), and then onto the elevated road structure to connect with the existing elevated Island Eastern Corridor (IEC) at a level of about 15mPD. The strip of existing land adjacent to the existing IEC including the representer's lots was utilized for this purpose so as to minimise the extent of reclamation for compliance with the PHO;
- (k) the average depth of the top of the proposed tunnel structure in the North Point area was about 5m below the ground level. In order to avoid potential damage to the major transport link at such a shallow depth, no facilities and land use other than open space should be allowed to be constructed on the top of the proposed tunnel structure and within 5m from the outermost faces of the road tunnel structure. According to this clearance criterion, the area of land within this "O" zone needed to be resumed for the road project;
- (l) the land formed for the construction of the Trunk Road together with the existing land along the North Point shore was proposed for a new waterfront park for public enjoyment to reflect the public's aspirations, to help address the open space shortfall in North Point and to provide convenient at-grade pedestrian access to the waterfront;
- (m) upon the approval of the OZP, the "O" zone would form the basis for land resumption at the time of implementation.

"C/R(2)" zone for the strip of land north of Harbour Heights

- (n) the representer's proposal to allow a plot ratio of 6 on the rezoned portion of the "C/R(2)" would add in a GFA of almost 8,000m² on a very narrow strip of land (site area of about 1,332m² and width of about 10m), resulting in a congested development;
- (o) under the existing leases, the lots including the portion rezoned to

“C/R(2)” as well as a portion of the land to the west of Sea View Estate (with an area of about 14m²) should not be taken into account for the purpose of calculating plot ratio or site coverage permitted under the Buildings Ordinance (BO);

- (p) taking into account the limited development proposal, it was proposed to rezone the strip of land north of Harbour Heights (part of the representation site) and that north of Sea View Estate from “C/R(2)” and “Commercial(1)” (“C(1)”) respectively to “O” to integrate with the proposed waterfront park;

Proposal to retain the “OU” zone

- (q) it was inappropriate to retain the previous “OU” zone for the subject site in view of the changed setting of the site. With the constraints for building developments posed by the planned and existing transport infrastructure, there was little scope for cultural, commercial, leisure and tourism related uses on the site; and

Conclusion

- (r) PlanD recommended partially upholding Representation No. 8 by proposing the amendments mentioned in sub-paragraph (p) above, and not meeting the remaining part of the representation in view of the above assessment and the reasons set out in paragraph 6 of Paper No. 7965.

[Dr. C.N. Ng left the meeting at this point.]

49. With the aid of a few plans, Mr. Ian Brownlee made the following main points:

The previous “OU” zone

- (a) the previous “OU” zoning which provided scope for development up to

the soffit level of the IEC encouraged private sector to contribute lively activities along the waterfront while maintaining public access, and gave hope of a worthwhile future use to the land through modification of the existing leases which were historical;

- (b) the rezoning had completely removed the opportunity for the private sector taking part in the revitalization of the waterfront;
- (c) a continuous “O” space managed by the Leisure and Cultural Services Department would tend to be a boring open space. The community favoured improved access to and along the waterfront and focal points with restaurants and waterfront entertainment;

The “C/R(2)” zone

- (d) the “C/R(2)” zone was impractical as it was too narrow (10m) for reasonable development; could not be developed as all permitted GFA already used in the Harbour Heights development; and a road was required so as to provide vehicular access to Harbour Heights under the BO;

Resumption and Reclamation Plans

- (e) under the current resumption plan for the construction of the Trunk Road project, the outermost part of the site (about 30m wide) would be resumed permanently and would be retained by the Government for open space use. The remaining southern portion, currently also zoned “O”, would be taken for temporary occupation by the Government and returned to the owner after completing the road works which would take 6 to 7 years;
- (f) moreover, there would be reclamation of an extent of 35m wide in front of the outermost part of the site. The site would lose its waterfront setting and no longer be suitable for the current sand depot use;

Planning Blight

- (g) there were still concerns over PlanD’s proposed rezoning to partially meet the representation. The proposed “O” zoning was a real case of planning blight as private land was zoned for public open space without implementation programme;
- (h) if the Government was to take all the land for open space, then it should all be resumed at the same time and converted to public open space immediately on completion of the road works. If not, the land under temporary occupation by the Government should be reverted to the “OU” zoning so that the private owner could provide commercial/entertainment uses fronting onto the new 70m wide public park; and

Conclusion

- (i) rezoning of the whole of the representor’s lots to “O” would be acceptable to the owner only if it was to be resumed and implemented as soon as possible. If the owner had to own land zoned for a public purpose with no reasonable use or financial return for an unknown

period, the lots should be rezoned to “OU”.

50. As Members had no questions to raise, the Government team and the representer’s representatives left the meeting at this point. The meeting adjourned for a lunch break at 1:30 p.m..

51. The meeting resumed at 2:50 p.m..

[Ms. Carmen K.M. Chan and Mr. David W.M. Chan arrived to join the meeting at this point.]

52. The following Members and the Secretary were present after the lunch break:

Mr. Raymond Young

Dr. Peter K.K. Wong

Mr. Michael K.C. Lai

Ms. Carmen K.M. Chan

Professor Nora F.Y. Tam

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Professor David Dudgeon

Mr. Edmund K.H. Leung

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Mr. K.Y. Leung

Miss Annie Tam

Ms. Ava Chiu

Mr. C.W. Tse

Agenda Item 6

[Closed Meeting]

Deliberation of Further Objections in respect of Proposed Amendments to the Draft Wan Chai North Outline Zoning Plan No. S/H25/1 and Representations in respect of the Draft North Point Outline Zoning Plan No. S/H8/21

[The meeting was conducted in Cantonese and English.]

53. Members had declared interests in this item as set out in paragraphs 9 and 10 above. Members noted that Dr. Lily Chiang, Mr. Alfred Donald Yap, Mr. Y.K. Cheng and Ms. Maggie M.K. Chan had tendered apologies for not attending this meeting, and Dr. James C.W. Lau and Ms. Starry W.K. Lee had already left the meeting temporarily. Dr. Greg C.Y. Wong, Ms. Anna S.Y. Kwong, Professor Bernard V.M.F. Lim, Mr. Raymond Y.M. Chan and Mr. Felix W. Fong had not yet arrived.

54. The Chairman said that the deliberation would be conducted in 5 parts according to the grouping of the hearing of the further objections and representations. Members would be invited to consider each further objection and representation one by one under each Part. All further objection and representation papers and the confirmed minutes of the Board meeting on 7.12.2007 had been sent to Members. In addition, the following submissions had been sent to Members and tabled at the meeting:

- Copies of the letters dated 19.12.2007 and 7.1.2008 from Mr. Law Chiu Ning, Original Objector No. 30.
- Copies of the letters dated 19.12.2007 and 7.1.2008 from Mr. Tong Kam Bor, the Chairman of the Incorporated Owners of Victoria Centre, Further Objector No. F9.
- Copies of the letter dated 27.12.2007 from the Star Ferry Company, Limited, Further Objector No. F1.
- Copies of the letter dated 4.1.2008 from the planning consultant acting for Further Objector No. F2.
- Copies of the letter dated 7.1.2008 from the planning consultant acting for Further

Objector No. F7 and Representer No. R10.

- Copies of the letter dated 7.1.2008 from the Incorporated Owners of Belle House (neither an original objector nor further objector) relating to A-King Slipway site.

Part I

Representation No. R2 (Fook Lee Holdings Ltd.)

55. Since the Board had heard R2 under Part I this morning, the Chairman suggested and Members agreed to discuss R2 first. The Chairman referred Members to Paper No. 7962 which covered the representer's written submission and the Government's assessment. The Secretary supplemented that the representer's counsel made his submission from four major aspects this morning, namely compliance with the PHO and CFA's judgment, faulty selection process, inferior CWB option (the Shallow Tunnel Option) and better alternative CWB option (the Modified Tunnel Option).

56. Members had the following comments/views on the reclamation and Trunk Roads issues which were also the primary concerns of quite a number of the further objectors and representers:

Reclamation and the Trunk Road Option

- (a) the WDII and Trunk Road proposals recommended by the Government were the outcome of years of comprehensive study carried out by experts from various fields and an extensive public engagement exercise;
- (b) Members of the public and various stakeholders had been fully engaged in the WDII Review under the structured 3-stage HER public engagement process and were expecting the Board to decide on the amendments to the OZPs;
- (c) the Board had been fully engaged in the WDII Review since its inception in 2004. The Board had considered the Inception Report of the Review on 7.5.2004, the outcome of public engagement at the Envisioning Stage

of HER together with the Report of the Expert Panel on Sustainable Transport Planning and Central – Wan Chai Bypass and the Trunk Road Report on 21.4.2006, the draft Concept Plan on 25.8.2006, the outcome of public engagement at the Realization Stage of HER and the RODP together with the CCM Report on 3.4.2007, the Draft Revised Wan Chai North OZP No. S/H25/1C and the Draft Revised North Point OZP No. S/H8/19D on 20.4.2007, and the outcome of public consultation on the two said draft revised OZPs together with the outcome of public engagement at the Detailed Planning Stage of HER on 29.6.2007. In addition, the Board also had the benefits of hearing the submissions of the further/original objectors and the representers as well as the Government team. Members were well aware of the option selection process including the public engagement process and had sufficient knowledge of the issues involved to consider the matters before it;

- (d) on an original objector (No. 32)'s request that the Board should defer making a decision on the amendments to the OZPs pending the outcome of the JR on temporary reclamation, after considering the pros and cons of deferring a decision, there was consensus among Members that the Board should not withhold a decision. In particular, it was considered that the ultimate decision might only come in two to three years' time should there be appeals. It was also noted that the JR might not touch on whether the PHO covered any affected water area, an issue of contention;
- (e) on the interpretation of compliance with the PHO, a Member commented that the Government was adopting a wider interpretation based on a purposive approach whereas Representer No. R2 adopted a literal approach based on the extent of physical reclamation;
- (f) on the different views on the interpretation of compliance with the PHO, Members considered it not appropriate for the Board, which was not a court, to make a ruling on the interpretation. Indeed, the CFA had already given a ruling on the interpretation of the PHO. Members were satisfied that, to the best of their knowledge, there was no clear evidence supporting that the amendment plans contravened the PHO. Members

agreed that there were cogent and convincing materials for an overriding public need for the Trunk Road and the reclamation, and the proposed reclamation was the absolute minimum to accommodate the Trunk Road;

[Dr. Daniel B.M. To arrived to join the meeting at this point.]

- (g) there was consensus among Members that, notwithstanding that the Tunnel Option involved a larger extent of land formed through physical reclamation than the Flyover Option, the Board should approach the reclamation issue from the perspective of protecting and preserving the Harbour. Members were satisfied that the Tunnel Option served best to protect and preserve the Harbour and would have the least adverse impacts on the Harbour; and
- (h) Members reckoned that the Board should take a holistic approach and consider all relevant planning considerations in addressing the matter. The Tunnel Option was considered more preferable to the Flyover Option in terms of planning merits and benefits to the community as a whole.

57. While a Member appreciated the representer's argument on minimum reclamation, this Member agreed that the Board should adopt a holistic approach relating to the broad objective of protecting and preserving the Harbour and benefiting the community as a whole as discussed above.

58. On the comparison between the HKCEC ALE project and the Trunk Road Flyover Option drawn by the representer, a Member opined that the two projects differed in that the former involved a building structure across a water channel whereas the latter involved a stretch of flyover over the sea. Hence, the comparison was inappropriate. Moreover, the views of the public collected through the public engagement exercise did not support a flyover. Members were satisfied that the consultancy reports dealt with affected areas of the Harbour from three aspects, namely land formed through physical reclamation, flyover structures over water and affected water area, one by one. The consultants had separately presented the extent of land involved in each category.

59. On the EIA process, the Chairman advised and Members agreed that the

town planning process and the EIA process were two separate statutory processes subject to the TPO and EIAO respectively. Members were satisfied that the key environmental concerns that would materially influence the comparison of alternative Trunk Road options had already been taken into account by the Government's consultants in the option selection process, and as concluded in the Trunk Road Report, the Tunnel Option was considered better in environmental terms. Apart from noting the Executive Summary of the EIA Report attached to the Paper, Members further noted that the EIA for the WDII and CWB to demonstrate the environmental acceptability of the projects had been undertaken in accordance with the EIAO and the EIA report was being exhibited for public inspection and comments under the EIAO.

60. In sum, Members considered that there were insufficient merits and justifications in the representation for upholding the representation. The Modified Tunnel Option proposed by the representer failed to present as a better alternative to the Shallow Tunnel Option. Also, Members were in agreement with the Government's assessment of the representation.

Further Objection No. F3 (Fook Lee Holdings Ltd.)

61. The Chairman referred Members to Paper No. 7969 which covered this further objector's written submission and the Government's assessment.

62. Since R2 and F3 were both lodged by the same company and the crux of the objections was essentially the same Members agreed that the earlier discussion on R2 was also applicable to F3. In sum, Members considered that there were insufficient merits and justifications in the further objection for upholding the further objection. Also, Members were in agreement with the Government's assessment of the further objection.

Further Objection No. F4 (Designing Hong Kong Harbour District)

63. The Chairman referred Members to Paper No. 7970 which covered this further objector's written submission and the Government's assessment. The Chairman said that the further objector had raised a number of issues as covered in the Paper and the confirmed minutes of the meeting for the hearing, including the general issue on compliance with the PHO, and specific issues like the need for and extent of the proposed surface transport infrastructure, the need for the proposed GIC uses (in particular the proposed coach park in "G/IC(4)"), the diversity and mix of the planned land uses, the promotion of street activities, the support for marine supporting and water dependent land uses, compatibility of the Golden Bauhinia Square (GBS) with the future surrounding uses (the road infrastructure, helipad and convention centre), relocation of the GBS, the scope of the planned helipad facilities, the incorporation of visual corridors into the Amendment Plan, and reservation of land for a tram line on the waterfront or other environmentally friendly transport.

64. Members then went through the issues one by one. On the Trunk Road option and reclamation, Members reaffirmed their earlier views that they were satisfied that the Government's proposals, which were derived after a comprehensive study and extensive public engagement, served best to protect and preserve the Harbour and complied with the PHO.

65. In sum, Members considered that the Government had provided robust responses to the further objection, both in the Paper and during the hearing. Members were in agreement with the Government's assessment of the further objection. In particular, Members were satisfied that there was an overriding public need for the Trunk Road, and that the associated surface roads and slip roads were required to provide essential connections with the Trunk Road tunnel and improve traffic circulation in Wan Chai North. Members noted that the Government had already undertaken traffic assessment to confirm the feasibility of the WDII proposals. There were also insufficient merits and justifications in other parts of the further objection for upholding the further objection.

Further Objection No. F6 (Owners of Central Plaza)

66. The Chairman referred Members to Paper No. 7971 which covered this further objector's written submission and the Government's assessment. The major concern of the further objector was the adverse traffic impact that would be induced by the planned land uses and transport infrastructure in Wan Chai North. Apart from making proposals relating to the new railway station and requesting the Board to reconsider the alignment and configuration of the various surface roads and junctions, the further objector had asked the Board to revise the Notes of the "G/IC(1)" zone to restrict the types and development intensity of uses in the said zone.

67. In sum, Members were in agreement with the Government's assessment of the further objection. In addition to the considered view on traffic aspect as set out in paragraph 65 above, Members noted that traffic impact assessment would be separately undertaken for the Shatin to Central Link and the North Hong Kong Island Line and the proposed relocation of the Exhibition Railway Station was inappropriate. Considering the further objector's concern over the adverse traffic impact generated by the possible uses on the "G/IC(1)" site, Members accepted PlanD's recommendation of deleting 'Government Staff Quarters' under Column 1 and 'Flat', 'Hotel', 'House', 'Residential Institution' and 'Staff Quarters' uses under Column 2 from the Notes of the "G/IC" zone. Members were of the view that there were insufficient merits and justifications for upholding the remaining parts of the further objection.

Representation No. R1 (Society for Protection of the Harbour)

68. The Chairman referred Members to Paper No. 7961 which covered the representor's written submission and the Government's assessment. The central issue of R1 was whether the proposed reclamation complied with the PHO which had been dealt with by Members as a general issue in the earlier deliberation on R2. On the "OU" zones on the draft North Point OZP highlighted by the representor, Members considered that they accommodated the essential facilities for the operation of the Trunk Road, which had an overriding public need as demonstrated in the CCM Report. Members further noted DoJ's comment that the proposed "OU" uses which were essential for the operation of the tunnel did not offend either the letter or the spirit of the PHO.

69. In sum, Members considered that there were insufficient merits and justifications in the representation for upholding the representation. Also, Members were in agreement with the Government's assessment of the representation.

Representation No. R3 (Lee Leung-fung)

70. The Chairman referred Members to Paper No. 7963 which covered the representer's written submission and the Government's assessment. Objection to the proposed reclamation and the Tunnel Option was the crux of R3, and Members had dealt with this as a general issue in the earlier deliberation on R2. Besides, Members noted that the environmental impacts of the Trunk Road on the residents would be mitigated to acceptable levels, and an EIA had been undertaken in accordance with the EIAO and the environmental aspect would be further comprehensively examined under the separate EIAO process.

71. In sum, Members considered that there were insufficient merits and justifications in the representation for upholding the representation. Also, Members were in agreement with the Government's assessment of the representation.

Representation No. R4 (Mr. Shu Lok-shing)

72. The Chairman referred Members to Paper No. 7963 which covered the representer's written submission and the Government's assessment. Similar to R3, R4 was against the proposed reclamation and the Tunnel Option. The representer had proposed mainly to build the CWB in form of flyover, and to provide a waterfront promenade underneath the proposed flyover and to develop a park at the Oil Street sale site. Members had covered the fundamental objection of R4 in the earlier deliberation on R2. Members noted that waterfront open space was proposed on top of the tunnel along the North Point shore for public enjoyment.

73. In sum, Members considered that there were insufficient merits and justifications in the representation for upholding the representation. Also, Members were in agreement with the Government's assessment of the representation.

Representation No. R5 (Ku Kin-mui)

74. The Chairman referred Members to Paper No. 7963 which covered the representer's written submission and the Government's assessment. R5 was also against the proposed Trunk Road tunnel and the representer expressed concern over the environmental and traffic impacts of the Trunk Road tunnel. These issues had been covered in the earlier deliberation.

75. In sum, Members considered that there were insufficient merits and justifications in the representation for upholding the representation. Also, Members were in agreement with the Government's assessment of the representation.

Representation No. R7 (Mr. Ho King-ho)

76. The Chairman referred Members to Paper No. 7963 which covered the representer's written submission and the Government's assessment. R7 was against the rezoning of portion of the "CDA(1)" site on the waterfront near Oil Street to "OU(Landscaped Deck over Central – Wan Chai Bypass Tunnel Portal)", "OU(Central – Wan Chai Bypass Administration Building)", 'Road' for the service road of the tunnel portal, "OU(Amenity Area)" near Oil Street, and "O" for the proposed waterfront park. The representer proposed to reinstate the "CDA(1)" zoning in view of the scarce land resources for development. Members noted that the rezoned area was required to accommodate the Trunk Road and the associated facilities and to reflect the public's aspiration for waterfront open space.

77. In sum, Members considered that there were insufficient merits and justifications in the representation for upholding the representation. Also, Members were in agreement with the Government's assessment of the representation.

Representation No. R9 (Glory United Development Ltd.)

78. The Chairman referred Members to Paper No. 7963 which covered the representer's written submission and the Government's assessment. R9 was not adverse in nature. It supported the landscaped deck above the tunnel portal, and proposed seating and small retail outlets along the waterfront.

79. In sum, Members noted R9's supportive comment and agreed that the design of the proposed waterfront could be considered in the detailed planning stage.

Decision

80. After deliberation, the Board decided not to meet further objection No. F3 for the following reasons:

- (a) the Report on "Trunk Road Alignments & Harbour-front Enhancement" (the Trunk Road Report) had provided comprehensive assessments on the possible alignments of the Trunk Road (comprising the Central – Wan Chai Bypass (CWB) and Island Eastern Corridor Link) and construction forms and had considered the reclamation area together with the affected water area of the Harbour, key environmental concerns, opportunities for harbourfront enhancements, traffic impact and other relevant aspects during construction in comparing the alternative Trunk Road alignment options to facilitate an informed choice on the alignment option of the Trunk Road. A comparison between constructing the Trunk Road by Tunnel Option and by Flyover Option had been made in the Trunk Road Report. The assessment demonstrated that the Flyover Option had a greater adverse impact on the Harbour;
- (b) the Trunk Road Report had considered the key constraints by developments in determining the feasible routings of the Trunk Road. Owing to the need for connecting the Trunk Road to the existing elevated Island Eastern Corridor, the connection had to be on the seaward side in North Point;
- (c) the "Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test" (CCM Report) demonstrating that the proposed reclamation of the Wan Chai Development Phase II (WDII) project complied with the Protection of the Harbour Ordinance had been prepared by the Administration and considered by the Board. In the CCM Report, an overriding public need for the Trunk Road had been demonstrated. It had also been

demonstrated that there was no reasonable alternative to reclamation and the proposed reclamation was the absolute minimum required to accommodate the Trunk Road;

- (d) the CWB was a designated project under the Environmental Impact Assessment Ordinance (EIAO). An environmental impact assessment (EIA) to confirm the environmental acceptability of the project had been undertaken in accordance with the EIAO. An EIA report demonstrating that the project was environmentally acceptable had been completed and exhibited for public inspection under the EIAO; and
- (e) an extensive public engagement “Harbour-front Enhancement Review – Wan Chai, Causeway Bay and Adjoining Areas” had been organized under the steer of the then Sub-committee on WDII Review of Harbourfront Enhancement Committee to disseminate information and to gauge public views on the need for and the form of the Trunk Road. The outcome of the public engagement indicated a clear preference and support of the public for constructing the Trunk Road in tunnel form.

81. After deliberation, the Board decided not to meet further objection No. F4 for the following reasons:

- (a) the “Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) demonstrating that the proposed reclamation of the Wan Chai Development Phase II (WDII) project complied with the Protection of the Harbour Ordinance (PHO) had been prepared by the Administration and considered by the Board. In the CCM Report, an overriding public need for the Trunk Road had been demonstrated and it had also been demonstrated that there was no reasonable alternative to reclamation and the proposed reclamation was the absolute minimum required to accommodate the Trunk Road;
- (b) alternative measures including traffic management measures had been fully considered in determining the overriding public need for the Trunk Road, as described in the CCM Report. Using traffic management and

fiscal measures alone would not be effective to solve the traffic congestion problem in the existing east-west Connaught Road/Harcourt Road/Gloucester Road corridor (the Corridor);

- (c) there was an overriding public need for the Trunk Road. The proposed temporary reclamation at part of the ex-Public Cargo Working Area and part of the Causeway Bay Typhoon Shelter was required for the construction of the Trunk Road tunnel. Since the temporary works would be removed after the completion of the Trunk Road tunnel and the sea-bed would be reinstated, the temporary reclamation was not considered as area affecting the Harbour under the PHO. The temporary works would not cause irreversible impact to the Harbour;
- (d) the proposed surface roads were required to facilitate the traffic circulation in the Wan Chai North area and to provide essential connections with the Trunk Road tunnel. They were planned and designed in accordance with the prevailing planning and design requirements. The extent of surface roads was the minimum required to cater for the forecast traffic and no additional reclamation was required for the ground level roads over and above that already required for the Trunk Road construction;
- (e) the proposed slip roads were required to provide essential connections with the Central-Wan Chai Bypass (CWB) tunnel and to alleviate the traffic congestion problems along the Corridor. The CWB with the slip road connections at Wan Chai would not increase traffic in Wan Chai North;
- (f) a holistic approach had been adopted by integrating the provision of essential transport infrastructure with the planning and improvement of the harbourfront area. Traffic assessment had been undertaken to confirm the feasibility of the WDII developments;
- (g) within the Wan Chai North area, new pedestrian links were proposed to enhance pedestrian accessibility to the harbourfront, and view corridors were provided to enhance the visual connection between the hinterland and the waterfront;

- (h) existing and proposed “Government, Institution or Community” (“G/IC”) sites were required to meet the community needs of the district and/or the region and the territory. Different character precincts and a diversity of uses had been proposed at the new waterfront for public enjoyment. The new waterfront, together with the expansion proposal of the Golden Bauhinia Square (GBS), would become a new tourist attraction and an activity node;
- (i) traffic modelling undertaken by Transport Department for submission to the Expert Panel on Sustainable Transport Planning and Central-Wan Chai Bypass (Expert Panel) demonstrated that the Trunk Road with the slip roads and Road P2 were required even if there was no development in WDII and if all the not-yet-started developments in Central Reclamation Phase III were removed. The Expert Panel recommended the construction of the Trunk Road to tackle the problem of deteriorating traffic congestion in the Central and Wan Chai area and to improve the network reliability of the east-west link; and
- (j) regarding other specific land uses raised by the further objector:
 - (i) the GBS was and would continue to be a focal and key tourism attraction and the expansion of the GBS had been planned to further enhance the attraction;
 - (ii) the proposed coach park at the “G/IC(4)” zone provided coach parking to serve visitors to the new Wan Chai waterfront, especially visitors to the GBS;
 - (iii) adequate provision had been planned for cross-boundary helicopter services at the Macau Ferry Terminal and Kai Tak and for domestic commercial helicopter services on shared use basis at the proposed helipad site at Wan Chai North. The proposed helipad had balanced the needs for helicopter services and government operations and harbourfront enhancement;
 - (iv) water based and water recreation related uses had been provided

along the new Wan Chai North waterfront to harness the potential for marine uses. The ex-public cargo working area site was planned for water recreation related uses. Vessels providing contract-hiring service could use public piers and public landing steps provided to the east of the HKCEC, at the ex-public cargo working area and at the Causeway Bay Typhoon Shelter for embarkation and disembarkation; and

- (v) a tramline would take up additional space along the harbourfront and would compete with the limited pedestrian space along the waterfront. The feasibility on other forms of environmentally friendly transport would be subject to further study.

82. After deliberation, the Board decided to partially meet further objection No. F6 by deleting ‘Government Staff Quarters’ under Column 1 and ‘Flat’, ‘Hotel’, ‘House’, ‘Residential Institution’ and ‘Staff Quarters’ uses under Column 2 from the Notes of the “G/IC” zone as shown at Enclosure F of TPB Paper No. 7971.

83. The Board also decided not to uphold the remaining parts of further objection No. F6 for the following reasons:

- (a) the Central-Wan Chai Bypass (CWB) was a strategic transport infrastructure to provide relief to traffic congestion along the existing congested Connaught Road/Harcourt Road/Gloucester Road corridor (the Corridor). With the diversion of part of the east-west traffic from the Corridor to the CWB and modifications and improvements to the existing local road network, the local road network should be adequate to cope with the predicted traffic flow of the area. The Wan Chai North area would not be adversely affected by the CWB and the Wan Chai Development Phase II (WDII);
- (b) the slip roads provided essential and effective connections to the CWB. The local road network including the ground level roads in Wan Chai North would be modified and improved under WDII, which would provide a more efficient distribution of local traffic and relief to the local roads in Wan Chai North. The CWB with the slip road

connections at Wan Chai would not increase traffic in Wan Chai North;

- (c) traffic assessment had been undertaken to confirm the feasibility of the WDII. The planned developments primarily for harbourfront enhancement together with improved road and rail links demonstrated a proper balance between land use and transport planning for the area;
- (d) the “G/IC(1)” zone was for re-provisioning the Harbour Road Sports Centre (HRSC), Wan Chai Swimming Pool (WCSP) and Wan Chai North public transport interchange (PTI). The repovisioned sports facilities and PTI would not result in additional road traffic;
- (e) the “G/IC(1)” zone was also for incorporating the Exhibition Station which was to provide interchange for the North Hong Kong Island Line (NIL) and Shatin to Central Link (SCL) in order to enhance the convenience of the rail transport. Traffic impact assessment would be undertaken for the SCL/NIL;
- (f) on the NIL, there was not enough separation between the railway station at Hong Kong Academy for Performing Arts railway station as proposed by the further objector and the Tamar Station. The construction of the railway station in the vicinity of Noonday Gun as proposed by the further objector would affect the traffic and disrupt the pedestrian movement in the surrounding area;
- (g) the proposal to impose a maximum GFA or plot ratio on the “G/IC(1)” zone was considered not necessary as the site was earmarked for reprovisioning the affected HRSC, WCSP and Wan Chai North PTI. Building height restrictions of maximum 50mPD for the “G/IC(1)” zone was considered sufficient to control the overall development bulk on the site; and
- (h) retaining ‘Exhibition and Convention Hall’ and ‘Office’ uses under Column 2 of the Notes of the “G/IC” zone was considered appropriate taking account of the character of the Wan Chai North area as a commercial and business district.

84. After deliberation, the Board decided not to meet Representation No. R1 and not to propose any amendment to the draft North Point Outline Zoning Plan No. S/H8/21 for the following reasons:

- (a) the “Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) demonstrating that the proposed reclamation of the WDII project complied with the Protection of the Harbour Ordinance had been prepared by the Administration and considered by the Board. In the CCM Report, an overriding public need for the Trunk Road had been demonstrated. It had also been demonstrated that there was no reasonable alternative to reclamation and the proposed reclamation was the absolute minimum required to accommodate the Trunk Road;
- (b) alternative measures including traffic management measures had been fully considered in determining the overriding public need for the Trunk Road, as described in the CCM Report. Using traffic management and fiscal measures would not be effective to solve the traffic congestion problem in the existing east-west Connaught Road/Harcourt Road/Gloucester Road corridor;
- (c) all practical forms of construction of the Trunk Road had been examined, as described in the CCM Report. The proposed construction method for the Trunk Road represented the best practically feasible approach; and
- (d) the “Other Specified Uses” zones on the proposed reclamation accommodated the essential facilities for the operation of the Trunk Road, which had an overriding public need as demonstrated in the CCM Report.

85. After deliberation, the Board decided not to meet Representation No. R2 and not to propose any amendment to the draft North Point Outline Zoning Plan No. S/H8/21 for the following reasons:

- (a) the Report on “Trunk Road Alignments & Harbour-front Enhancement” (the Trunk Road Report) had provided comprehensive assessments on

the possible alignments of the Trunk Road (comprising the Central – Wan Chai Bypass (CWB) and Island Eastern Corridor Link) and construction forms and had considered the reclamation area together with the affected water area of the Harbour, key environmental concerns, opportunities for harbourfront enhancements, traffic impact and other relevant aspects during construction in comparing the alternative Trunk Road alignment options to facilitate an informed choice on the alignment option of the Trunk Road. A comparison between constructing the Trunk Road by Tunnel Option and by Flyover Option had been made in the Trunk Road Report. The assessment demonstrated that the Flyover Option had a greater adverse impact on the Harbour;

- (b) the “Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) demonstrating that the proposed reclamation of the Wan Chai Development Phase II (WDII) project complied with the Protection of the Harbour Ordinance had been prepared by the Administration and considered by the Board. In the CCM Report, an overriding public need for the Trunk Road had been demonstrated. It had also been demonstrated that there was no reasonable alternative to reclamation and the proposed reclamation was the absolute minimum required to accommodate the Trunk Road;
- (c) the Tunnel Option for the Trunk Road was technically feasible. The tunnel would be at a level sufficiently below the Cross Harbour Tunnel (CHT) to avoid damage to the CHT structures;
- (d) the CWB was a designated project under the Environmental Impact Assessment Ordinance (EIAO). An environmental impact assessment (EIA) to confirm the environmental acceptability of the project had been undertaken in accordance with the EIAO. An EIA report demonstrating that the project was environmentally acceptable had been completed and exhibited for public inspection under the EIAO;
- (e) an extensive public engagement “Harbour-front Enhancement Review –

Wan Chai, Causeway Bay and Adjoining Areas” had been organized under the steer of the then Sub-committee on WDII Review of the Harbourfront Enhancement Committee to disseminate information and to gauge public views on the need for and the form of the Trunk Road. The outcome of the public engagement indicated a clear preference and support of the public for constructing the Trunk Road in tunnel form; and

- (f) the proposed Modified Tunnel Option had a number of deficiencies, and was similar to the Flyover Option. It did not present a reasonable alternative to the Tunnel Option.

86. After deliberation, the Board decided not to meet Representation No. R3 and not to propose any amendment to the draft North Point Outline Zoning Plan No. S/H8/21 for the following reasons:

- (a) the “Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) demonstrating that the proposed reclamation of the WDII project complied with the Protection of the Harbour Ordinance had been prepared by the Administration and considered by the Board. In the CCM Report, an overriding public need for the Trunk Road had been demonstrated. It had also been demonstrated that there was no reasonable alternative to reclamation and the proposed reclamation was the absolute minimum required to accommodate the Trunk Road;
- (b) the Report on “Trunk Road Alignments and Harbour-front Enhancement” had provided comprehensive assessments on the possible Trunk Road alignments and construction forms, and had considered relevant factors. The assessment demonstrated that the flyover option had a greater adverse impact on the Harbour; and
- (c) the Central-Wan Chai Bypass (CWB) was a designated project under the Environmental Impact Assessment Ordinance (EIAO). An environmental impact assessment (EIA) to confirm the environmental acceptability of the project had been undertaken in accordance with the

EIAO. An EIA report demonstrating that the project was environmentally acceptable had been completed and exhibited for public inspection under the EIAO.

87. After deliberation, the Board decided not to meet Representation No. R4 and not to propose any amendment to the draft North Point Outline Zoning Plan No. S/H8/21 for the following reasons:

- (a) the “Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) demonstrating that the proposed reclamation of the WDII project complied with the Protection of the Harbour Ordinance had been prepared by the Administration and considered by the Board. In the CCM Report, an overriding public need for the Trunk Road had been demonstrated. It had also been demonstrated that there was no reasonable alternative to reclamation and the proposed reclamation was the absolute minimum required to accommodate the Trunk Road;
- (b) the Report on “Trunk Road Alignments and Harbour-front Enhancement” had provided comprehensive assessments on the possible Trunk Road alignments and construction forms, and had considered relevant factors. The assessment demonstrated that the flyover option had a greater adverse impact on the Harbour;
- (c) the Central-Wan Chai Bypass (CWB) was a designated project under the Environmental Impact Assessment Ordinance (EIAO). An environmental impact assessment (EIA) to confirm the environmental acceptability of the project had been undertaken in accordance with the EIAO. An EIA report demonstrating that the project was environmentally acceptable had been completed and exhibited for public inspection under the EIAO;
- (d) four slip roads were proposed in the Wan Chai North and Causeway Bay areas to provide essential connection to CWB. The proposed slip road at Oil Street was not necessary;
- (e) there was no need to rezone part of the Government site at Oil Street for

open space as environmental mitigation measures would be proposed under the CWB project; and

- (f) the Trunk Road was proposed to be built in tunnel form and waterfront open space was proposed on top of the tunnel along the North Point shore for public enjoyment. The proposal to provide a promenade underneath the CWB flyover was not applicable.

88. After deliberation, the Board decided not to meet Representation No. R5 and not to propose any amendment to the draft North Point Outline Zoning Plan No. S/H8/21 for the following reasons:

- (a) the Report on “Trunk Road Alignments and Harbour-front Enhancement” had provided comprehensive assessments on the possible Trunk Road alignments and construction forms, and had considered relevant factors. The assessment demonstrated that the flyover option had a greater adverse impact on the Harbour; and
- (b) the Central-Wan Chai Bypass (CWB) was a designated project under the Environmental Impact Assessment Ordinance (EIAO). An environmental impact assessment (EIA) to confirm the environmental acceptability of the project had been undertaken in accordance with the EIAO. An EIA report demonstrating that the project was environmentally acceptable had been completed and exhibited for public inspection under the EIAO.

89. After deliberation, the Board decided not to meet Representation No. R7 and not to propose any amendment to the draft North Point Outline Zoning Plan No. S/H8/21 for the reason that the rezoning of portion of the “Comprehensive Development Area(1)” zone was required to accommodate the Trunk Road and the associated facilities and to reflect the public’s aspiration for waterfront open space as expressed in the public engagement activities of “Harbour-front Enhancement Review – Wan Chai, Causeway Bay and Adjoining Areas”.

90. After deliberation, the Board agreed to advise the representer of Representation No. R9 that the design of the proposed waterfront including the provision

of seating facilities and small scale commercial facilities would be considered in the detailed planning stage.

91. After deliberation, the Board agreed to advise Original Objector No. 368 of the following in response to his written representations dated 6.8.2007 and 7.11.2007:

- (a) the “Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) which provided step by step the “cogent and convincing materials” for fully demonstrating that the proposed reclamation of the WDII project complied with the PHO had been prepared by the Administration and considered by the Board. In the CCM Report, an overriding public need for the Trunk Road had been demonstrated. It had also been demonstrated that there was no reasonable alternative to reclamation and the proposed reclamation was the absolute minimum required to accommodate the Trunk Road;
- (b) a comparison between constructing the Trunk Road by tunnel and by flyover had been made in the CCM Report. The flyover option had a greater adverse impact on the Harbour;
- (c) the arrangement at the crossing points of the concerned rail and road tunnels had been fully addressed in determining the Trunk Road alignment. The Trunk Road crossing over the MTR Tsuen Wan Line tunnel in the form of piled deck structure to meet relevant standards had been developed. The Trunk Road would be designed against risk of damage;
- (d) the location for reprovisioning Wan Chai Ferry Pier was subject to various constraints and there was no margin for shifting the location further west;
- (e) the helipad site would be designed in accordance with relevant safety standards with sufficient clearance from the waterfront of the Golden Bauhinia Square, and suitable noise mitigation measures would be implemented. An overriding public need for reclamation under the Protection of the Harbour Ordinance could not be established for the

proposed 3-pad and 4-pad helipad in the ex-public cargo working area (ex-PCWA);

- (f) there were provisions in the draft revised Wan Chai North OZP for waterfront related commercial and leisure uses and public waterfront open space to enhance the vibrancy of the waterfront;
- (g) the existing moorings and anchorage areas within the Causeway Bay Typhoon Shelter would not be affected after the completion of the construction of CWB;
- (h) the existing fireboat berth was a temporary facility which was intended to be relocated upon commencement of WDII project; and
- (i) the proposed car park at the ex-PCWA site was considered not appropriate. The ex-PCWA site was zoned “OU(Public Waterfront Promenade and Water Recreation Related Uses)” to enhance the waterfront with water recreation related uses for public enjoyment.

92. After deliberation, the Board agreed to advise Original Objector No. 751 of the following in response to her written representation dated 31.10.2007:

- (a) all relevant factors including the spatial requirement, patronage and public views would be considered in determining the locations of railway station entrances during detailed design;
- (b) relevant ordinances and guidelines would be taken into account in considering the building design of the development proposals;
- (c) there were technical circular and guidelines on air ventilation assessment (AVA) which set out the guidance for applying AVA to major government projects and provided air ventilation guidelines for land use planning and urban design. This helped promote the awareness of the air ventilation factor in the planning and design process of projects; and
- (d) demand for public toilet facilities would be reviewed and provision would be made to meet demand.

Part II

Further Objection No. F7 (Wharf Estates Development Ltd., Hong Kong Arts Centre and Hong Kong Festival Fringe Ltd.)

93. The Chairman referred Members to Paper No. 7972 which covered the further objector's written submission and the Government's assessment. F7 was against the rezoning of the A-King Slipway site from "OU(Leisure and Entertainment Complex and Elevated Walkway)" to "G/IC(3)" and "O" and the rezoning of portion of Victoria Park Road from "OU(Elevated Walkway)" to 'Road'. It proposed that the previous "OU(Leisure and Entertainment Complex and Elevated Walkway)" and "OU(Elevated Walkway)" zones should be reinstated to facilitate the further objector's Victoria Point proposal and to improve accessibility to the waterfront respectively. It also considered it inappropriate to relocate the floating Tin Hau Temple onshore.

94. Members noted that, based on the current Trunk Road option and reclamation proposal which complied with the PHO, the permanent reclamation at the CBTS was dropped and this necessitated re-planning of the objection site. As a result, the originally planned leisure and cultural node was dropped, and the previously proposed elevated walkway was neither required nor technically feasible. A replacement elevated walkway had been planned at a location further west to improve pedestrian circulation. Members also considered that the development intensity of the Victoria Point proposal was excessive at this prominent waterfront location and not in keeping with the surrounding developments. In sum, Members considered that there were insufficient merits and justifications in the further objection for upholding the further objection. Also, Members were in agreement with the Government's assessment of the further objection.

Representation No. R10 (Wharf Estates Development Ltd.)

95. The Chairman referred Members to Paper No. 7966 which covered the representer's written submission and the Government's assessment. Both R10 and F7 were lodged by Wharf Estates Development Limited and the crux of the objections was similar. Apart from the common grounds of objections, R10 had particularly objected

to Slip Road 8 which fell within the North Point OZP, lest its implementation would be in conflict with the originally planned elevated walkway. Members noted that Slip Road 8 was required to provide essential connection to the CWB for traffic from the Causeway Bay, Tai Hang, Fortress Hill and Tin Hau areas to enter the west bound tunnel of the CWB.

96. In sum, Members considered that there were insufficient merits and justifications in the representation for upholding the representation. Also, Members were in agreement with the Government's assessment of the representation.

Decision

97. After deliberation, the Board decided not to meet further objection No. F7 for the following reasons:

- (a) the planning for the Causeway Bay Typhoon Shelter (CBTS) was to preserve the CBTS and the historical elements of the typhoon shelter. The floating Tin Hau Temple (the Temple) was proposed to be reprovioned at the "Government, Institution or Community(3)" ("G/IC(3)") zone and at-grade public open space along the shore of CBTS was proposed to form part of the waterfront promenade for harbourfront enhancement. The "G/IC(3)" and "Open Space" ("O") zones were appropriate;
- (b) in the "O" zone, a continuous waterfront promenade had been provided within the constraints imposed by the Protection of the Harbour Ordinance, the reprovioning of the Temple and the limited existing land available along the shore of the CBTS. The promenade reflected the public aspirations collected from the extensive public engagement under the "Harbour-front Enhancement Review – Wan Chai, Causeway Bay and Adjoining Areas";
- (c) new pedestrian links to the waterfront, comprising at-grade crossings, landscaped decks and footbridge had been proposed to enhance pedestrian accessibility. The proposed landscaped deck extending from the knoll of Victoria Park was preferred for better pedestrian

connectivity and was technically feasible;

- (d) the “Other Specified Uses” (“OU”) annotated “Leisure and Entertainment Complex and Elevated Walkway” zone proposed by the further objector would encroach upon the planned public open space and disrupt the continuous waterfront promenade, and hence was considered undesirable;
- (e) the site abutted the waterfront and enjoyed an open harbourfront setting. The proposed development was visually dominating. The proposed development intensity was incompatible with the open waterfront setting and the proposed building height was not in line with the building height strategy recommended under WDII Review allowing a gradation of building heights descending towards the waterfront; and
- (f) with no permanent reclamation proposed at the CBTS and no modification to the existing Island Eastern Corridor at that location, an elevated walkway at the previous “OU(Elevated Walkway)” zone as proposed by the further objector was no longer feasible due to the narrow and insufficient space along CBTS to accommodate a landing.

98. After deliberation, the Board decided not to meet Representation No. R10 and not to propose any amendment to the draft North Point Outline Zoning Plan No. S/H8/21 for the following reasons:

- (a) Slip Road 8 provided an essential connection to the Central – Wan Chai Bypass for traffic from Causeway Bay, Tai Hang, Fortress Hill and Tin Hau areas to enter the west bound tunnel of the Bypass;
- (b) the existing at-grade pedestrian crossing across Victoria Park Road at the junction of Hing Fat Street was retained. New pedestrian links to the waterfront comprising at-grade crossings, landscaped decks and footbridge had been proposed to enhance pedestrian accessibility. The proposed landscaped deck extending from the knoll of Victoria Park was preferred for better pedestrian connectivity and was technically feasible; and

- (c) with no permanent reclamation proposed at the Causeway Bay Typhoon Shelter (CBTS) and no modification to the existing Island Eastern Corridor at that location, an elevated walkway at the previous “Other Specified Uses” annotated “Elevated Walkway” zone as proposed by the representer was no longer feasible due to the narrow and insufficient space along the CBTS to accommodate a landing.

[Dr. James C.W. Lau returned to join the meeting at this point.]

Part III

Further Objection No. F1 (The “Star” Ferry Company Limited)

99. The Chairman referred Members to Paper No. 7967 which covered the further objector’s written submission and the Government’s assessment. F1 was mainly against the relocation of the Wan Chai Ferry Pier and the new “OU(Pier)” site. It proposed to delete the planned helipad, and to reduce the “O” zone to the east of the HKCEC Extension and retain the existing Wan Chai Ferry Pier at its original location with a “OU(Pier)” zoning.

100. Considering that no reclamation was required for the proposed helipad site, the proposed helipad was required to provide emergency and other Government flying services with shared use by commercial operators of local domestic helicopter services, the proposed helipad would have to comply with relevant safety standards and would not have any impact on the navigation routes of the ferry services, Members agreed that the current “OU(Helipad)” zone was appropriate. For the existing Wan Chai Ferry Pier, its relocation was required to make way for the proposed reclamation for constructing the Trunk Road which complied with the PHO. The reprovisioning site was located as close to the existing ferry pier as practically possible, taking into account the need to maintain the existing ferry services before the new ferry pier was in operation.

101. In sum, Members considered that there were insufficient merits and justifications in the further objection for upholding the further objection. Also, Members were in agreement with the Government’s assessment of the further objection.

Further Objection No. F2 (Hong Kong Regional Heliport Working Group)

102. The Chairman referred Members to Paper No. 7968 which covered the further objector's written submission and the Government's assessment. The central issue of F2 lied in the adequacy of the "OU(Helipad)" site to meet the forecast demand for heliport services, and the further objector urged for the expansion of the planned facility. The three options put forth by the further objector were set out in paragraph 4.2 of the Paper and paragraph 100(h) of the confirmed minutes of the meeting for the hearing. All options would encroach onto the "O" zone south of the "OU(Helipad)" zone.

103. On the forecast demand, Members noted the different views of the Government and the further objector. While the Transport and Housing Bureau advised that the Government had planned for sufficient provision of helicopter landing facilities to meet the forecast demand of both domestic and cross-boundary services based on its assessment, the further objector saw the imminent need for expanding the planned heliport in Wan Chai North to meet the demand for cross-boundary services.

104. A Member had some sympathy with the further objector, and supported in principle the provision of a regional heliport in Hong Kong. Nonetheless, this Member did not support the details of the further objector's proposal for amending the OZP. Another Member also shared the need for a regional port, but considered the location not right. As pointed out by the Director General of Civil Aviation, the proposed heliport had not fully incorporated the requirements in the International Civil Aviation Organisation (i.e. the flight paths of a take-off and landing pad were required to have two take-off climb and approach surfaces separated by not less than 150°).

105. Another Member expressed appreciation of the further objector's effort. Yet, this Member did not support the further objector's proposal because the proposed expansion, which was next to the GBS, was at the wrong place. This Member reckoned that the GBS was a place of significant symbolic value to Hong Kong, and hence it was of great importance to ensure that the GBS would not be adversely affected.

106. A Member commented that the possible adverse impacts on the reprovisioned ferry pier caused by the further objector's proposed helipad did not seem to have been

satisfactorily resolved.

107. The Chairman then asked Members to consider whether it was desirable to include helipad use in Column 2 of the Notes for the “O” zone so as to provide some flexibility in future. Considering that helipad was not a compatible use in the “O” zone, the Board’s earlier decision to remove all incompatible uses from various zones in the Review of the Master Schedule of Notes (MSN) in 2003, and the current approach to zone land planned for specific uses generating nuisances as “OU” for the public to make objection/representation under the TPO, Members came to the view that it was inappropriate to add helipad use under Column 2 of the Notes for the “O” zone. Should the further objector wish to pursue the proposal further, it could submit a section 12A application for amendment of plan together with the necessary assessments. This would allow the public to comment on the proposal and the Board to scrutinize the proposal in the light of public comments.

108. In sum, Members were in agreement with the Government’s assessment of the further objection, and considered that there were insufficient merits and justifications in the further objection for upholding the further objection.

Decision

109. After deliberation, the Board decided not to meet Further Objection No. F1 for the following reasons:

- (a) the proposed helipad site to the northeast of the Hong Kong Convention and Exhibition Centre Extension was necessary for providing a permanent helipad for emergency and other government flying services whilst also allowing shared use by commercial operators of local domestic helicopter services. No reclamation was required for the site. The proposed helipad would be designed in accordance with relevant safety standards and would not have any impact on the navigation routes of the ferry services;
- (b) the existing Wan Chai Ferry Pier would be affected by the proposed reclamation for constructing the Trunk Road. A Report on “Cogent

and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test” (CCM Report) demonstrating that the proposed reclamation of the Wan Chai Development Phase II project complied with the Protection of the Harbour Ordinance had been prepared by the Administration and considered by the Board. In the CCM Report, an overriding public need for the Trunk Road had been demonstrated and it had also been demonstrated that there was no reasonable alternative to reclamation and the proposed reclamation was the absolute minimum required to accommodate the Trunk Road; and

- (c) the Wan Chai Ferry Pier would be reprovisioned in close proximity at the new shoreline of Wan Chai North to maintain the existing ferry services. The reprovisioning site was located as close to the existing ferry pier as practically possible, taking into account the need to maintain the existing ferry services before the new ferry pier was in operation. There would be adequate pedestrian connection to the reprovisioned public transport interchange and the proposed railway station.

110. After deliberation, the Board decided not to meet further objection No. F2 for the following reasons:

- (a) the proposed Government helipad would be confined to the footprint of the existing ferry pier site and the reduction of the Planning Scheme Area to delete the previously proposed reclamation for the helipad was appropriate;
- (b) the proposed reduction of the area shown as ‘Road’ to the north of Expo Drive East provided for public open space use and a larger Golden Bauhinia Square (GBS) for the enjoyment of the public. The “Open Space” zoning of the area was appropriate;
- (c) the Government had planned adequate helipad facilities to meet the forecast demand for both domestic and cross-boundary commercial helicopter services. Provision had been planned for cross-boundary

helicopter services with the expansion of the Macau Ferry Terminal and in the longer term at Kai Tak. The proposed Government helipad site at Wan Chai North had been planned for government flying services and commercial domestic helicopter services on a shared use basis, and the former should have the priority in using the helipad at all times;

- (d) the further objector's three proposed options for an expanded helipad would reduce the waterfront open space compromising the planning intention of providing a continuous waterfront promenade and expanding the GBS for public enjoyment; and
- (e) the three proposed options for expanding the "Other Specified Uses" annotated "Helipad" zone would adversely affect the visual and physical connectivity to the Harbour. The expanded helipad site and the terminal building would significantly block public view to the Harbour and reduce the space for pedestrian access to the harbourfront. They contravened the Town Planning Board's Vision and Goals for Victoria Harbour and the Harbour Planning Principles and Guidelines of the Harbour-front Enhancement Committee.

Part IV

Further Objection No. F8 (Harbour Heights (Management) Ltd.)

111. The Chairman referred Members to Paper No. 7973 which covered the further objector's written submission and the Government's assessment. The further objection was against the zoning of a portion of the eastern breakwater of the CBTS as "OU(Central – Wanchai Bypass Exhaust Vent)" mainly on the grounds of adverse air, noise and visual impacts. It suggested to relocate the exhaust vent to the western and northern breakwaters and adopt a low-rise design for the exhaust vent.

112. Members appreciated the worries expressed by the residents in the surrounding developments. After carefully considering the further objector's alternative proposals and the Government's responses on the further objection, Members agreed that

the alternative proposals were neither feasible nor beneficial in terms of reducing the air pollutants and the noise levels. Members noted that an EIA demonstrating environmental acceptability of the CWB had been undertaken in accordance with the EIAO and was being exhibited for public comments under the EIAO, and the environmental aspect would be further comprehensively examined under the separate EIAO process. On the concern over the design of the exhaust vent and the ventilation building, Members considered that there was sufficient planning control through the requirement of planning permission for the exterior design of such facilities.

Further Objection No. F9 (the Incorporated Owners of Victoria Centre and the Incorporated Owners of Kam Tao Building, Ngan Tao Building and Hoi Tao Building)

113. The Chairman referred Members to Paper No. 7973 which covered the further objector's written submission and the Government's assessment. Similar to F8, F9 objected to the location of the exhaust vent at the eastern breakwater and had put forth similar alternative proposals. The issues had been covered in the earlier deliberation.

Further Objection No. F10 (Mr. Richard T.C. Ma)

114. The Chairman referred Members to Paper No. 7973 which covered the further objector's written submission and the Government's assessment. Similar to F8 and F9, F10 was also against the "OU(Central – Wan Chai Bypass Exhaust Vent)" on environmental grounds, and proposed to relocate the exhaust vent to the northern breakwater. The issues had been covered in the earlier deliberation.

115. In sum, Members considered that there were insufficient merits and justifications in the further objections (F8, F9 and F10) for upholding these further objections. Also, Members were in agreement with the Government's assessment of these further objections.

Representation No. R6 (Mr. Richard T.C. Ma)

116. The Chairman referred Members to Paper No. 7964 which covered the representor's written submission and the Government's assessment. R6 opposed to the "OU" annotated "Landscape Deck over Central – Wan Chai Bypass Tunnel Portal" and

“OU (Central – Wan Chai Bypass Ventilation Building)” zones on grounds of adverse air, noise and visual impacts. The representer’s proposals were detailed in paragraph 3.3 of the said Paper, including relocating the eastern ventilation building (EVB) and its exhaust vent to the northern breakwater, constructing two additional ventilation facilities and reducing the capacity of the ventilation facilities.

117. Members had already considered the exhaust vent issues in the earlier deliberation. On the EVB, Members noted that the alternative location for the EVB was technically infeasible, and the current proposal with 3 ventilation buildings in Central, Wan Chai and North Point was the optimum design. In sum, Members considered that there were insufficient merits and justifications in the representation for upholding the representation. Also, Members were in agreement with the Government’s assessment of the representation.

Decision

118. After deliberation, the Board decided not to meet further objection No. F8 for the following reasons:

- (a) the Central-Wan Chai Bypass (CWB) was a designated project under the Environmental Impact Assessment Ordinance (EIAO). An environmental impact assessment (EIA) to confirm the environmental acceptability of the project had been undertaken in accordance with the EIAO. An EIA report demonstrating that the project was environmentally acceptable had been completed and exhibited for public inspection under the EIAO;
- (b) separating the exhaust vent from the East Ventilation Building of the CWB and locating it at the eastern breakwater of the Causeway Bay Typhoon Shelter (CBTS) had been adopted to address the environmental concerns raised by the local residents. Air quality, noise and visual assessments had been undertaken in accordance with the EIAO, and had indicated that the proposed exhaust vent would not have unacceptable environmental impacts to the area;

- (c) the exterior design of the exhaust vent would require planning permission from the Board to ensure planning control on the design and visual impact of the exhaust vent;
- (d) the proposal to relocate the exhaust vent to the western and northern breakwaters of the CBTS had been studied. No noticeable reduction in the air pollutant levels and no difference in noise level would be anticipated if the exhaust vent was located at the western or northern breakwater. Besides, the alternative locations for the exhaust vent at the northern or western breakwater were considered to be practically not feasible; and
- (e) an innovative electrostatic precipitator system would be incorporated in the tunnel ventilation system which would remove a high proportion of the generated respirable suspended particulates.

119. After deliberation, the Board decided not to meet further objection No. F9 for the following reasons:

- (a) the Central-Wan Chai Bypass (CWB) was a designated project under the Environmental Impact Assessment Ordinance (EIAO). An environmental impact assessment (EIA) to confirm the environmental acceptability of the project had been undertaken in accordance with the EIAO. An EIA report demonstrating that the project was environmentally acceptable had been completed and exhibited for public inspection under the EIAO;
- (b) separating the exhaust vent from the East Ventilation Building of the CWB and locating it at the eastern breakwater of the Causeway Bay Typhoon Shelter (CBTS) had been adopted to address the environmental concerns raised by the local residents. Air quality, noise and visual assessments had been undertaken in accordance with the EIAO, and had indicated that the proposed exhaust vent would not have unacceptable environmental impacts to the area;
- (c) the exterior design of the exhaust vent would require planning permission from the Board to ensure planning control on the design and

visual impact of the exhaust vent; and

- (d) the proposal to relocate the exhaust vent to the western and northern breakwaters of the CBTS had been studied. No noticeable reduction in the air pollutant levels and no difference in noise level would be anticipated if the exhaust vent was located at the western or northern breakwater. Besides, the alternative locations for the exhaust vent at the northern or western breakwater were considered to be practically not feasible.

120. After deliberation, the Board decided not to meet further objection No. F10 for the following reasons:

- (a) the Central-Wan Chai Bypass (CWB) was a designated project under the Environmental Impact Assessment Ordinance (EIAO). An environmental impact assessment (EIA) to confirm the environmental acceptability of the project had been undertaken in accordance with the EIAO. An EIA report demonstrating that the project was environmentally acceptable had been completed and exhibited for public inspection under the EIAO;
- (b) separating the exhaust vent from the East Ventilation Building (EVB) of the CWB and locating it at the eastern breakwater of the Causeway Bay Typhoon Shelter (CBTS) had been adopted to address the environmental concerns raised by the local residents. Air quality, noise and visual assessments had been undertaken in accordance with the EIAO, and had indicated that the proposed exhaust vent would not have unacceptable environmental impacts to the area;
- (c) the exterior design of the exhaust vent would require planning permission from the Board to ensure planning control on the design and visual impact of the exhaust vent;
- (d) the proposal to relocate the exhaust vent to the western and northern breakwaters of the CBTS had been studied. No noticeable reduction in the air pollutant levels and no difference in noise level would be anticipated if the exhaust vent was located at the western or northern

breakwater. Besides, the alternative locations for the exhaust vent at the northern or western breakwater were considered to be practically not feasible;

- (e) the current disposition of the three ventilation buildings for the CWB tunnel with one each located at Central, Wan Chai and North Point was an optimum arrangement for the design of ventilation system;
- (f) the use of the CWB by buses and heavy vehicles had been included in the air quality assessment and the results indicated that the predicted air pollutant levels at the nearby air sensitive receivers complied with the requirements under the Air Pollution Control Ordinance; and
- (g) it was more effective to contain or reduce the pollution at source. This had been done by designing the EVB for fresh air intake only, relocating the exhaust vent from the EVB to the tip of the eastern breakwater of the Causeway Bay Typhoon Shelter and installing an electrostatic precipitator system in the tunnel ventilation system. Installing air-filtering machines at the relevant air sensitive receivers as proposed by the further objector was not necessary.

121. After deliberation, the Board decided not to meet Representation No. R6 and not to propose any amendment to the draft North Point Outline Zoning Plan No. S/H8/21 for the following reasons:

- (a) the Central-Wan Chai Bypass (CWB) was a designated project under the Environmental Impact Assessment Ordinance (EIAO). An environmental impact assessment (EIA) to confirm the environmental acceptability of the project had been undertaken in accordance with the EIAO. An EIA report demonstrating that the project was environmentally acceptable had been completed and exhibited for public inspection under the EIAO;
- (b) air quality, noise and visual assessments had been undertaken in accordance with the EIAO. Assessments conducted had indicated that the proposed East Ventilation Building (EVB) would not have unacceptable environmental impacts on the area;

- (c) the design of the EVB had been optimised for fresh air intake only and by avoiding having the louvres facing the nearby noise sensitive receivers and locating plants underground. The proposal to relocate the EVB and the exhaust vent to the western end of the northern breakwater of the Causeway Bay Typhoon Shelter had been studied and was considered to be practically not feasible;
- (d) the height and footprint of the EVB had been reduced and exterior design of the building would require planning permission from the Board to ensure planning control on the design and visual impact of the EVB;
- (e) the current disposition of the three ventilation buildings for the CWB tunnel with one each located at Central, Wan Chai and North Point was the optimum arrangement for the design of the ventilation system;
- (f) the use of the CWB by buses and heavy vehicles had been included in the air quality assessment and the results indicated that the predicted air pollutant levels at the nearby air sensitive receivers complied with the requirements under the Air Pollution Control Ordinance. There was no reason to ban heavy vehicles from using the CWB tunnel;
- (g) it was more effective to contain or reduce the pollution at source. This had been done by designing the EVB for fresh air intake only, relocating the exhaust vent from the EVB to the tip of the eastern breakwater of the Causeway Bay Typhoon Shelter, and installing an electrostatic precipitator system in the tunnel ventilation system. Installing air-filtering machines at the relevant air sensitive receivers as proposed by the representer was not necessary; and
- (h) part of the Watson Road West Garden would be used for the temporary works and would be reinstated after the completion of the Trunk Road project. The rest of Watson Road Rest Garden would remain open for public use during the construction of the Trunk Road.

Representation No. R8 (Cityplaza Holding Ltd.)

122. The Chairman referred Members to Paper No. 7965 which covered the representer's written submission and the Government's assessment. R8 was against the "O" and "C/R(2)" zones north of Harbour Heights and the its proposals were set out in paragraph 3.13 of the Paper.

123. Members noted that the "O" zone on the OZP reflected the public's aspirations for provision of public open space on the waterfront, and part of this piece of land was formed by reclamation for the construction of the Trunk Road which complied with the PHO. Members further noted that the land resumption issue and compensation for loss of marine rights were outside the jurisdiction of the Board and would be dealt with under relevant ordinances.

124. In sum, Members were in agreement with the Government's assessment of the representation. Members agreed that there were some merits in the representer's case and considered PlanD's recommendation to partially meet the representation by rezoning the strip of land north of Harbour Heights and Sea View Estate from "C/R(2)" and "C(1)" respectively to "O" appropriate.

Decision

125. After deliberation, the Board decided to partially meet Representation No. R8 by proposing rezoning of the strip of land north of Harbour Heights and Sea View Estate from "C/R(2)" and "C(1)" respectively to "O" (Plan No. R/S/H8/21-A at Annex II of Paper No. 7965), and consequential amendments to the Notes and the Explanatory Statement of the "C/R(2)" and "C(1)" zones to delete the reference to the rezoned portions of land. The Board also agreed to publish the proposed amendments for 3 weeks under s.6C(2) of the Town Planning Ordinance for further representations.

126. The Board also decided not to uphold the remaining parts of Representation No. R8 for the following reasons:

- (a) the "Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test" (CCM Report)

demonstrating that the proposed reclamation of the Wan Chai Development Phase II (WDII) project complied with the Protection of the Harbour Ordinance (PHO) had been prepared by the Administration and considered by the Board. In the CCM Report, an overriding public need for the Trunk Road had been demonstrated. It had also been demonstrated that there was no reasonable alternative to reclamation and the proposed reclamation in North Point was the absolute minimum required to accommodate the Trunk Road;

- (b) the land formed for the construction of the Trunk Road together with the existing land along the North Point shore, after meeting the infrastructural needs, was proposed for a new waterfront park for public enjoyment and zoned “Open Space” (“O”) on the Plan. This reflected the public’s aspirations collected from the extensive public engagement under “Harbour-front Enhancement Review – Wan Chai, Causeway Bay and Adjoining Areas”. The “O” zone would also help address the open space shortfall in North Point and provide convenient at-grade pedestrian access from the hinterland to the waterfront via Watson Road and Oil Street;
- (c) the representer’s proposal of allowing a plot ratio of 6 on an existing narrow strip of land north of Harbour Heights was not appropriate as it would result in a highly congested development on the site;
- (d) the representer’s proposal of retaining the previous “Other Specified Uses” annotated “Cultural and/or Commercial, Leisure and Tourism Related Uses” zone was not appropriate owing to the community aspirations for providing public open space at the new waterfront, the significant reduction of the width of the planned waterfront open space, and the constraints for building developments posed by the Trunk Road tunnel and the existing and realigned carriageways of the Island Eastern Corridor; and
- (e) reclamation in North Point was required for the construction of the Trunk Road. Compensation for loss of marine rights would be dealt with under relevant ordinance(s).

Confirmation of Proposed Amendments to draft Wan Chai North OZP No. S/H25/1

127. The Board agreed that:

- (a) all the proposed amendments as detailed in Amendment Plan No. O/S/H25/1-B, excluding the proposed amendments to the Notes of the “Government, Institution or Community” (“G/IC”), were considered as amendments made by the Board under section 6(9) of the pre-amended Ordinance and should form part of the draft Wan Chai North OZP No. S/H25/1;
- (b) the decision made by the Board at this meeting to revise the Notes of the “G/IC” zone as shown at Enclosure F of Paper No. 7971 should be considered as amendments made by the Board under section 6(9) of the pre-amended Ordinance and should form part of the draft OZP No. S/H25/1;
- (c) the amended Explanatory Statement (ES) in relation to Amendment Plan No. O/S/H25/1-B should be adopted as the planning intentions and objectives of the Board for the various zonings on the draft OZP No. S/H25/1;
- (d) the Amendment Plan showing the confirmed amendments to the draft OZP No. S/H25/1 and the amended ES should be made available for public inspection by the Planning Department;
- (e) the Building Authority and relevant Government departments should be informed of the Board’s decision made under section 6(9) of the pre-amended Ordinance and provided with a copy of the Amendment Plan showing the confirmed amendments; and
- (f) since the objection procedures to the draft Wan Chai North OZP No. S/H25/1 were completed, the OZP incorporating the amendments made to meet/partially meet the original objections and a further objection, together with a schedule of unwithdrawn objections, would be submitted under section 8 of the pre-amended Ordinance to the Chief

Executive in Council for approval.

[Mr. Felix W. Fong and Ms. Starry W.K. Lee arrived to join the meeting at this point.]

Agenda Item 7

[Open Meeting]

Latest Approach to Implement the Stone Nullah Lane/Hing Wan Street/King Sing Street Development Scheme (the Blue House project)

(TPB Paper No. 7992)

128. The Chairman said that as the Blue House project was an urban renewal project which the Urban Renewal Authority (URA) had entrusted to the Hong Kong Housing Society (HKHS) for implementation, the following Members had declared interests on this item:

Miss Ophelia Y.S. Wong as the Acting Director of Planning	)	Being a non-executive director of the URA
Miss Annie Tam as the Director of Lands)	
Mr. Walter K.L. Chan)	
Ms. Margaret Hsia as the Assistant Director (2) of the Home Affairs Department		Being a co-opt member of the Planning, Development and Conservation Committee of the URA
Mr. Michael K.C. Lai		Being a member of the URA Wan Chai District Advisory Committee
Dr. Greg C.Y. Wong	)	Having current business dealings with the URA
Prof. Bernard V.W.F. Lim	)	Having current business dealings with the URA and HKHS
Mr. Y.K. Cheng		Being a member of HKHS
Mr. B.W. Chan		Being a member of the Supervisory Board of HKHS

129. The meeting noted that Miss Annie Tam, Dr. Greg C.Y. Wong and Mr. B.W.

Chan had not yet returned, and Prof. Bernard V.W.F. Lim had not arrived to join the meeting, Mr. Michael K.C. Lai, Mr. Walter K.L. Chan and Mr. Y.K. Cheng had already left the meeting, and Ms. Margaret Hsia had sent apologies for being unable to attend the meeting.

130. Members also noted that Miss Ophelia Y.S. Wong, being the Secretary of the Board, was acting as the Director of Planning during the absence of Mrs. Ava Ng and agreed that Miss Wong could stay at the meeting in the capacity of Secretary of the Board.

131. Ms. Christine Tse, District Planning Office/Hong Kong (DPO/HK) of the Planning Department (PlanD) was invited to the meeting at this point.

132. The Chairman extended a welcome and invited Ms. Christine Tse to brief Members on the Paper.

Presentation and Question Session

133. Ms. Christine Tse covered the following main points as detailed in the Paper:

- (a) the project site was zoned “Other Specified Uses” (“OU”) annotated “Open Space and Historical Buildings preserved for Cultural, Community and Commercial Uses” in the Stone Nullah Lane/Hing Wan Street/King Sing Street Development Scheme Plan (DSP). 2-8 Hing Wan Street were four blocks of Grade II buildings, while 72-74A Stone Nullah Lane were four blocks of Grade I buildings. The Planning Brief was endorsed by the Board on 2.3.2007, while the DSP was approved by Chief Executive in Council on 2.10.2007;
- (b) the Government had introduced the “Revitalizing Historic Buildings Through Partnership Scheme” (the Revitalization Scheme) and a new district-based approach to revitalize the old Wan Chai area. Under the Revitalization Scheme, non-profit making organizations would be eligible to submit proposals for preserving and put the identified historic buildings into adaptive re-use in the form of social enterprise;

- (c) according to the original proposal for the Blue House cluster, all occupants would have to move out. In the alternative approach in heritage conservation, the HKHS would assist in acquiring the two building blocks under private ownership, and offer rehousing and compensation to those tenants who would like to move out. Residents who wished to stay would be allowed to do so;
- (d) on completion of the acquisition and rehousing arrangement, the HKHS would hand over the Blue House cluster to the Government. Non-profit making organizations would be invited to submit preservation and revitalisation proposals. Such proposals would have to cater for the needs of the residents who wished to stay behind;
- (e) under the alternative approach, the un-graded building at 8 King Sing Street would also be preserved, and would not be demolished to make way for the open space development, as original envisaged under the DSP; and
- (f) the new uses proposed by the selected non-profit making organization would be required to comply with the provision of the “OU” zone. Any necessary town planning submissions, including rezoning applications, would be made to the Board for consideration.

Discussion Session

134. A Member noted that the alternative approach would allow the existing tenants to stay behind and asked whether there would be any improvement work to the sewerage of the preserved buildings, which was below modern standard. Ms. Christine Tse responded that the non-profit making organizations would be invited to submit preservation and re-vitalisation proposals of putting the concerned buildings into good and innovative adaptive re-use. It was expected that measures to improve the current living standard of the occupants would be included in the proposals.

135. Another Member sought clarification on the role of the Board and asked whether the Government could proceed with carrying out the alternative approach. The

Chairman responded that the Government would take forward the alternative approach for implementing the Blue House project. The Board would be responsible for granting planning permissions, as required under the approved DSP.

136. After deliberation, Members noted the latest approach to take forward the Blue House project.

137. The Chairman thanked PlanD's representative for attending the meeting. She left the meeting at this point.

Agenda Item 8

[Open Meeting (Presentation and Question Session only)]

Section 12A Application No. Y/H24/4

Application for Amendments to the Zonings of Different Sites at the Central Harbourfront and the Notes for Various Zones on the Approved Central District Outline Zoning Plan No. S/H4/12 and Approved Central District (Extension) Outline Zoning Plan No. S/H24/6 (TPB Paper No.7987)

[The hearing was conducted in English and Cantonese.]

138. The following Government's representatives were invited to the meeting at this point:

Mr. Lau Ka Keung	Deputy Commissioner/Planning & Technical Services, Transport Department (TD)
Mr. Chan Chung Yuen	Senior Engineer/Housing & Planning, TD
Mr. Eric Fung	Chief Engineer/Hong Kong (1), Civil Engineering and Development Department (CEDD)
Ms. Phyllis Li	Chief Town Planner/Special Duties, Planning Department (PlanD)
Mr. Roy Li	Senior Town Planner/Special Duties 2, PlanD

139. The following applicant's representatives were invited to the meeting at this point:

Mr. Ian Brownlee)	
Mr. Paul Zimmerman)	
Mr. Markus Shaw	)	Applicant's Representatives
Mr. Anthony Neoh)	
Mr. Uriah Tse)	
Mr. Gabriel Jor)	

140. The Chairman informed Members that in view of the territorial significance of the Central harbourfront and the general public concerns on the development at the Central

harbourfront, the Metro Planning Committee agreed on 13.7.2007 that the application should be submitted to the Board for consideration.

141. The Chairman extended a welcome and explained briefly the procedures of the hearing. The Chairman then invited Ms. Phyllis Li to brief Members on the background to the application.

Presentation and Question Session

142. With the aid of a powerpoint presentation, Ms. Phyllis Li covered the following main points as detailed in the Paper:

- (a) the application was submitted by Designing Hong Kong (DHK), proposing to rezone various sites and to amend the Notes and Explanatory Statement (ES) for various zones on the approved Central District Outline Zoning Plan (OZP) and approved Central District (Extension) OZP. Details of the applicant's proposals were summarised in paragraph 1 of the Paper, including the various zoning amendments and building height/site coverage restrictions, deletion of public transport interchange (PTI), amendments to the "Other Specified Uses" ("OU") annotated "Military Use" zone and military berth, rezoning of Road D6 and parts of Roads P1 and P2, rezoning of the Queen's Pier site, deletion of "Open Space" ("O") zone enclosing the "Marine Basin", and allowing tramway or other environmentally friendly transport system;
- (b) the justifications for the proposed amendments were summarised in paragraph 2 of the Paper. In particular, the applicant had raised a number of general concerns about the Central harbourfront, namely the need to provide more public open spaces, control the building mass, break up the building bulk of individual sites, create visual corridors and enhance pedestrian connectivity. The applicant said that the proposed amendments to the two OZPs were based on the Central Design Review Workshop organized by Citizen Envisioning @ Harbour (CE@H) and DHK on 13.11.2006;

- (c) the consideration of the application was deferred twice on 27.7.2007 and 7.12.2007 on request of the applicant. Further information was submitted by the applicant on 6.10.2007, mainly to respond to Government departments' comments, clarify the proposed amendments and provide an update on the International Planning and Design Competition organized by DHK;
- (d) parts of the application sites were subject to three previous rezoning requests submitted by Society for Protection of the Harbour Limited (SPH), Save Our Shorelines, and Clear the Air in 2004 and 2005. The proponents proposed, inter alia, to reduce reclamation, delete the "Comprehensive Development Area" ("CDA") zone north of Statue Square; rezone Roads P1, P2 and D6 to "O"; and include a tram line in the "O" zone or other zones. The Board considered and rejected the three rezoning requests on 5.8.2005 on the grounds that the claim of excessive reclamation extent was unfounded, the proposed deletion of the "CDA" zone would adversely affect Grade A office provision, and the proposed transport network and tramway were considered not acceptable in traffic terms;
- (e) part of the application sites was also the subject of a previous s.12A application (No. Y/H24/3) submitted by the Action Group on Protection of the Harbour (AGPH) on 18.1.2007. MPC decided to defer consideration of the application on 13.4.2007 pending the Government's decision on the arrangements for the Queen's Pier;
- (f) 983 public comments were received, which were detailed in paragraph 9 of the Paper. The majority of comments were generally or partially in support of the application, including the requests for lowering development intensity, providing more open space, reducing surface road and establishing tramway system, etc.. The dissenting views were mainly on concern for business needs for economic growth of the Central Business District;

[Mr. Raymond Y.M. Chan arrived to join the meeting at this point.]

- (g) departmental comments – the comments from relevant Government departments and bureaux on the proposed amendments were summarized in paragraph 10 of the Paper. The Transport and Housing Bureau (THB) and Transport Department (TD) advised that the proposed PTI was required to serve developments on the Central Reclamation area including the ferry piers, and its proposed deletion was not acceptable. They did not support the rezoning of Road D6 and parts of Roads P1 and P2 mainly on the grounds that it would adversely affect traffic flow. The width of Road P2 had been determined by previous traffic studies and the applicant had not submitted any traffic impact assessment to support the proposals. They also commented that the proposed tramway would take up road space and might not be commercially viable. The Security Bureau (SB) advised that the Central Barracks was listed in the Defence Land Agreement and the entire site was required for defence purpose. The CEDD advised that the proposed T-shaped People’s Liberation Army (PLA) berth would be outside the gazette limit of the Central Reclamation Phase III and the applicant would need to justify that it complied with the Protection of the Harbour Ordinance (PHO);
- (h) PlanD did not support the application for reasons detailed in paragraph 11 of the Paper. The approved OZPs set out land use planning framework to ensure a balanced development to meet various land use needs. The OZPs could allow different design possibilities and the development parameters stipulated for individual zones were only setting out the maximum limits. Many of the applicant’s proposals and ideas could be accommodated within the current OZPs;
- (i) the Urban Design Study for the New Central Harbourfront (UDS) was undertaken to respond to the Board’s request to refine the existing urban design framework and to prepare planning/design briefs for key sites in the new Central harbourfront. The Board, the Harbourfront Enhancement Committee (HEC) and relevant panel of the Legislative

Council (LegCo) had been briefed on the scope and methodology of the UDS. Comprehensive assessments were being undertaken, including building mass analysis, air ventilation assessment, and visual impact appraisal. The various design objectives and issues raised by the applicant would be addressed in the UDS. The UDS had been and would be subject to extensive public engagement. It would take into account public views as well as the design merits and useful ideas gathered from the planning and design competition mentioned by the applicant. Stage 2 public engagement on the UDS was scheduled for commencement in March 2008 and public views would be widely canvassed. It would be inappropriate to conclude at this stage that the OZPs should be amended based on the applicant's proposals;

[Ms. Anna S.Y. Kwong arrived to join the meeting at this point.]

- (j) the applicant had not provided sufficient or strong justifications or detailed assessments in support of the proposed amendments. The specific proposals also lacked justifications as shown in the comments made by THB, TD, SB and CEDD on some of the proposals. Regarding the proposed rezoning of the Queen's Pier site, the Government had consulted professional bodies and stakeholders and explained to the LegCo that preserving the Queen's Pier in-situ by shifting the planned infrastructure was not practical. The more practical proposal would be to reassemble the pier in close proximity to its original location or at another appropriate location. Sufficient land had already been reserved for public open space and the applicant had not provided strong justifications for excising part of the Central Barracks for "O" use. The proposed deletion of the "O" zone enclosing the "Marine Basin" was not appropriate at this stage as the design of this part of the waterfront was being examined in detail in the UDS. The proposed relocation of the PLA berth would involve reclamation. Its compliance with the PHO and the feasibility of the T-shaped berth had not been established. While the Board had previously considered and rejected a tram line proposal on traffic grounds, the UDS would examine the possibility of providing an

environmentally and pedestrian friendly transport system in the waterfront promenade;

- (k) PlanD's view on the public comments was set out in paragraph 11.2 of the Paper. The current land use framework of the OZPs had balanced various land use needs and would promote diverse use and add vibrancy to the harbourfront; and
- (l) in conclusion, the approved OZPs provided a broad land use framework within which there could be different design possibilities and many of the applicant's proposals and urban design objections could be accommodated within the OZPs. The UDS, together with relevant assessments and public engagement, was still on-going. Adopting the applicant's proposal at this juncture would pre-empt the study. The proposed amendments in relation to the deletion of the PTI, rezoning of the "OU (Military Use)" site to "O", relocation of the PLA berth, and deletion/reduction in width of Roads D6, P1 and P2 lacked strong justifications or the support of detailed assessments.

[Dr. Greg C. Y. Wong arrived to join the meeting at this point.]

143. The Chairman then invited the applicant's representatives to elaborate on the application. Mr. Anthony Neoh made the following main points:

- (a) this application was not an ordinary application by an interested land owner but by an organisation which promoted the public interest. Extensive engagement of many public bodies and individuals who deeply cared about the waterfront had been conducted;
- (b) the application had been formulated from a workshop conducted in November 2006 and attended by 70 individuals representing themselves as well as a coalition of 16 professional, academic and community organizations. The proposed amendments to the OZPs had been made on the basis of the report of this workshop. The conclusions of the workshop showed that the Central District OZP and

Central District (Extension) OZP were fundamentally flawed in that they were no longer consistent with current community aspirations;

- (c) the planning vision stated in these two OZPs was the creation of ‘a world class waterfront which is vibrant, accessible and symbolic of Hong Kong’. This was an aspirational statement. All aspirational statements were meaningless if they were not consistent with currently expressed aspirations of the community;
- (d) the essential community aspiration was that the OZPs offered far too little opportunity to create a world-class waterfront experience for visitors and residents, and did not offer scope or sufficient scope for common planning parameters to be adopted to ensure re-distribution of the development within the areas covered by these two OZPs using smaller footprints, natural ventilation, lower plot ratios, visual corridors, and the option of placing service facilities underground. The current level of development within the layout areas of these two OZPs would produce traffic of a volume which would definitely increase the amount of pollution in the areas;
- (e) there was a need for a comprehensive rethinking of the transport facilities and roads within these two layout areas. There should be more open space, lower development intensities, an improved mix of uses and better distribution of the development to achieve the planning vision;
- (f) there was a major problem with the Study Brief for the UDS because it was limited to the existing zonings and the development restrictions in the two OZPs. The OZPs were inconsistent with public aspirations and therefore did not comply with the planning vision they purported to implement;
- (g) the applicant had translated the aspirations expressed in the workshop into a set of concrete proposals. The overwhelming public support given to these proposals was a clear signal that these proposals were

consistent with current community aspirations, and that the OZPs were outdated and flawed;

- (h) the international planning and design competition drew over 80 entries from around the world. An independent jury picked four entries as winners. The majority of all entries would show how, through changes to the two OZPs, a harbourfront consistent with the planning vision expressed in the two OZPs could be created;
- (i) there was broad acceptance of the workshop's conclusion that there should be a broader and more coherent approach in planning for the two layout areas, which was echoed by Mrs. Carrie Lam, the Secretary for Development, in her speech delivered on 13.1.2007 at the Awards Ceremony for the winning entries of a design competition. In his letter to the Chief Executive dated 12.7.2007, Mr. Lau Wang-fat, the Chairman of the Sub-committee to Review the Planning for the Central Waterfront of the then Panel on Planning, Lands and Works of LegCo, also considered it necessary to revamp the planning approach for the new Central harbourfront and that the Government should go for a master design for the entire Central harbourfront area. The sentiments of Mr. Lau aptly captured the aspirations of the people of Hong Kong;
- (j) if the UDS proceeded along present lines, the constraints of the present two OZPs would guarantee that the result would fail to meet current public aspirations. The issue of central importance was the availability of activities and experiences along the waterfront through quality public spaces and uses which the current OZPs did not offer. No amount of refinement would achieve this;
- (k) since the present OZPs failed to meet current aspirations, the Board was well justified in seeking a broader study from the Government. The Board had a discretion to make inquiry under s.3 of the Town Planning Ordinance (TPO) as it might consider necessary for the preparation of OZP;

- (l) the UDS, being predicated on the two OZPs, could not produce valid results. The Board would not be taking its statutory duty to make inquires seriously if it did not insist that the UDS were not limited by the current OZPs; and

- (m) the Board should request the Government to widen the UDS without the limitations of the current OZPs and direct the UDS to take account of the conclusions of the workshop, this application and the designs submitted. The Board should also examine and review publicly the Stage 1 report of the UDS and to direct the Government to hear the public on the Study Brief for the design options to be developed for the Stage 2 consultation. DHK would fully co-operate in this effort and supply any materials which was required for the UDS.

144. With the aid of a powerpoint presentation, Mr. Ian Brownlee made the following main points:

- (a) the Central Design Review workshop was organised by DHK and CE @ H in November 2006 and attended by 70 people. The workshop aimed to consolidate the various urban design schemes that had been produced by both the Government and the private sector;

- (b) the process at the workshop consisted of a presentation of the various schemes and studies which had been completed by various bodies, followed by a focus group discussion at particular sites. After the discussion, each group presented their findings. The workshop was then concluded by bringing the general themes together;

- (c) the following schemes or studies, which were compiled as base information for the workshop, were briefly explained:
 - the Central District and Central District (Extension) OZPs and the planning and urban design concepts illustrated in the figures attached to the Explanatory Statement;
 - the SPH scheme which was prepared as part of a rezoning request to the Board to amend the OZP and reduce the amount of

- reclamation of the Harbour;
 - International Finance Centre (IFC) Owners' study which focused solely on the areas in front of IFC;
 - Charm (Central Harbourfront and Me), a public consultation conducted by the HEC regarding areas behind the Central Ferry Piers;
 - Civic Exchange: Central Park scheme, a very broad-brush scheme to illustrate that there were other possibilities which could produce a unique waterfront;
 - Harbour Business Forum's critique of OZP and recommendations by using the harbour planning principles;
 - CE @ H's scheme which emphasised on a vibrant harbourfront;
 - Xintiandi on Victoria Harbour by Tom Schmidt – AIA;
 - Ocean Boulevard scheme by DHK;
 - Rain Forest scheme by the Chinese University of Hong Kong;
 - New Central Harbourfront by the PlanD in 2006 which centred around three corridors: Statute Square; Civic, Arts and Entertainment Corridor; and the waterfront promenade; and
 - Harbour Business Forum Harbour Values Study which studied the contingent value that the community placed on waterfront sites;
- (d) a number of common concerns arose at the conclusion of the workshop. The common planning themes were the need for more open space, small building footprint, natural ventilation, lower PR and visual corridor. The common design features included north-south connectivity, water features, alternative mode of transport, change Road P2 to boulevard, create a focal point in Central and multi-partnership ownership and management;
- (e) the UDS conducted by the Government should require the consultants to review all the schemes and documents prepared for the Central reclamation, other than the OZPs and Government scheme. The Study Brief of the UDS had unnecessarily limited the study to taking place within the existing zoning and development restrictions on the

two OZPs. The constraints of the OZPs would not enable the achievement of the best design and development for the waterfront;

- (f) it was agreed at the workshop that the workshop findings should be presented to the relevant Government departments and other bodies such as the Board and the HEC;
- (g) the proposed amendments submitted by DHK reflected the outcome of the workshop and was consistent with the widely held public views. Among the public comments received on this application, 981 were in support and only 2 were against. The proposed amendments were supported by the Central and Western District Council and the LegCo Panel, and were in line with the public input to PlanD's Stage 1 public engagement of the UDS; and
- (h) regarding the points made by CTP/SD, as the public was not consulted on the Study Brief for the UDS, it could not be taken as reflecting the public aspirations. The proposed PTI should not be used for bus parking, but to provide interchange facilities to allow the public to change from one mode of transport to another in the waterfront. The proposed tram system had the support of the tram company. The Queen's pier should be rebuilt on its original location as the TD had already agreed that Road P2 could be realigned if needed.

145. With the aid of a powerpoint presentation, Mr. Paul Zimmerman made the following main points:

- (a) the Board should request PlanD to revise the Study Brief for the UDS to allow design options to go beyond the constraints of the OZPs, and seek public views on the Study Brief before working on the design options;
- (b) DHK assisted in organising an International Planning and Design Competition for the future design and use of the Central harbourfront. As shown in the powerpoint, many proposals were innovative, yet

feasible and practical. The 82 entries were assessed by an independent technical panel and jury members. Four winners, namely Amphibian Carpet (first prize), Hong Kong Waterfront (second prize), Central Harbourfront Emerald Necklace (third prize) and Sky for Dragon, Earth for People (fourth prize), were shown to Members in turn; and

- (c) 90% of the submissions called for changes to the OZPs and 75% called for alternative transport planning. The mandate of the UDS should be expanded to allow design options to go beyond the OZPs. Transport planning for the area should be reviewed to allow provision of an environmentally friendly form of transport through the reclamation, and better connections and infrastructure design. The Study Brief of the UDS should be examined and public views on the Study Brief for the Stage 2 consultation should be sought.

146. In summing up, Mr. Anthony Neoh made the following main points:

- (a) as stated in paragraph 4.9 of the Paper, the Board was briefed on the Recommended Outline Development Plan (RODP) and a Cogent and Convincing Materials (CCM) Report prepared by the Government and noted that amendments to the Central District (Extension) OZP would be withheld pending the completion of the UDS. In other words, the Board had acknowledged the need for change to the OZP;
- (b) if OZPs were not revised, they could not address the public aspirations for smaller building footprint, better access to the harbour, and more public open space;
- (c) the response of the SB in paragraph 10.1(e) of the Paper which stated that the Hong Kong Garrison had not indicated that any of the Central Barracks was no longer needed for defence purposes should not bar the Board from planning the long-term land use of this area. Should the Board decide to rezone the land to other uses, the Government could then take the lead to liaise with the Central Government on releasing

the land;

- (d) some raised objection to the proposed amendments on concern about the need for growth of the Central Business District. The proposed amendments would mainly amount to redistributing the GFA. Many financial institutions had started to move out from Central to Tsim Sha Tsui and Causeway Bay. The same decentralization trend was also occurring overseas; and
- (e) the Board should give due regard to the changing public aspirations and agree to amend the two OZPs. The Board should also request the Government to consult the public on the Study Brief for the UDS and widen the study scope. Should Members consider appropriate, the Board might defer a decision on the application and ask the Government to further consider DHK's recommendations.

147. A Member raised the following six questions, the first three to CTP/SD and the remaining three to the applicant's representatives:

- (a) what the views of the Government were to the applicant's proposal of imposing site coverage restriction for the "OU(2)" zone north of City Hall and putting an "O" zone in the middle portion of this "OU(2)" zone;
- (b) what the building height restrictions for the "OU(1)", "OU(2)" and "G/IC(2)" zones north of CITIC Tower were on the current OZP;
- (c) whether there was any mechanism to change the land use of the Central Barracks to reflect the long-term planning intention of the site;
- (d) as the building heights of IFC and CITIC Tower were some 80 storeys and 40 storeys respectively, why there was a need to reduce the heights of buildings located in front of the IFC from 28 storeys to 11 storeys, and to limit the buildings north of CITIC Tower to 5m (for "OU(1)" and "OU(2)" zones) or 5 storeys (for "G/IC(2)" zone) as proposed by

the applicant;

- (e) the applicant's representatives said that the proposed amendments would mainly redistribute the GFA. With the proposed reduction of building height for the building in front of IFC from 28 storeys to 11 storeys and the reduction in the site area of the groundscraper, there would likely be a reduction in GFA. Clarification on whether the proposed amendments would bring about a reduction in GFA was required; and
- (f) whether the proposal of creating a boulevard by cutting the "OU(2)" zone north of City Hall into two and rezoning the middle portion to "O" could be dealt with as a design matter instead of as an amendment to the land use zoning on the OZP.

148. Ms. Phyllis Li, CTP/SD, made the following main points:

- (a) the "OU(2)" zone was subject to a maximum building height restriction of 25 metres above Principal Datum (mPD) on the OZP. The zone was intended for low-rise development and flexibility was allowed for different design options under the OZP. View corridor could be incorporated within the site, e.g. in front of the City Hall, one of the major landmarks in the area. There was no strong justification to putting the "O" zone in front of Road D7 as proposed by the applicant;
- (b) the building height restrictions on the current OZP for the "OU(1)" and "OU(2)" zones north of CITIC Tower were 15mPD and 25mPD respectively, whereas that for "G/IC(2)" zone was 80mPD. The building height restriction followed a stepped height profile and was in harmony with the proposed building height restriction for the Tamar site, which ranged from 130mPD to 160mPD; and
- (c) the Central Barracks was one of the sites committed for military uses as required under the Defence Land Agreement in 1994. There was no strong justification for changing the zoning of the site to "O".

Sufficient area had been reserved for open space development, including the 11 ha waterfront promenade. The Central and Western District was estimated to have a district open space surplus of about 14 ha.

149. Mr. Anthony Neoh made the following main points:

- (a) as Hong Kong was now part of China, the international treaty signed by the Chinese and British governments in 1994 was no longer applicable. According to Article 13 of the Garrison Law, any land used by the Hong Kong Garrison, when considered by the Central Government to be no longer needed for defence purposes, should be returned to the Hong Kong Government for disposal. If the Government considered that the military site was needed for public use, it could raise the matter with the Central Government; and
- (b) the Board could show its long-term planning intention for the site through zoning amendment to the OZP. The zoning itself would not affect the existing use of the military site, but facilitate the Government to pursue with the Central Government the release of the site for other uses.

[Dr. James C.W. Lau left the meeting at this point.]

150. Mr. Ian Brownlee made the following main points:

- (a) the Central waterfront should have a mix of uses, with different GFA components. Small and more ‘human scale’ developments were identified as one of the common planning parameters at the workshop. The proposed amendments did not intend to take away the GFA, but only redistribute it;
- (b) the proposed amendments to the Central District (Extension) OZP were to split the “CDA” zone into three “C” zones so that instead of having one massive building, there would be three buildings with smaller

footprints and open space between buildings;

- (c) the applicant's proposed maximum building heights for the "G/IC(2)" and "OU(2)" zones of 5 storeys and 5m respectively would create a stepped height profile, and was considered appropriate. The 28-storey building proposed by the Government was out of place in the Central waterfront; and
- (d) one of the common concerns raised at the workshop was the need for significant public open spaces at the Central waterfront. The public open space should be specifically reserved in the OZP, not as a residual part of the "CDA" sites.

151. Mr. Paul Zimmerman made the following main points:

- (a) a common theme that came up in all forums, submissions and design competition was that to have a long-term sustainable waterfront, the design options should not be constrained by the two OZPs;
- (b) the Central Barracks was a 'dead' zone with no vibrancy, while the Tamar site would also be a 'dead' zone after office hours. Reduction in the width of Road P2 and introduction of an environmentally friendly transport system would help remove the 'obstacles' and bring vibrancy to the area; and
- (c) it was within the power of the Board to decide on the land uses on the OZPs, and the Board should exercise its power under the TPO.

152. In response to the Chairman's queries on whether the objectives of the proposed amendments could be achieved through better urban design of the waterfront area, instead of amendments to the OZPs, Mr. Ian Brownlee said that while requirements in planning/design briefs for development sites might help bring about better urban design, it was only by amending the OZPs that could give legal effect to achieving the community aspirations and objectives of the proposed amendments. Mr. Anthony Neoh supplemented that in the old days, lease conditions might be used as a means to impose

site specific control on development. It was now more appropriate for the Board to exercise its statutory power and impose control on planning matters through the statutory planning regime.

153. Mr. Lau Ka Keung, Deputy Commissioner of TD, said that Road P2 had been authorised under the Roads (Works, Use and Compensation) Ordinance. According to the authorised layout, there would be wide footpaths (about 5m) on both sides of the road and a central divider to provide adequate room for trees and other greening measures. Mr. Paul Zimmerman cast doubt on such proposals. Drawing from past experience in the Tsim Sha Tsui area, he said that central dividers were subsequently removed to maximise the road space. The proposed reduction in the width of Road P2 would make more land area available for open space and pedestrian activities, and it should be shown on the OZP to make sure that subsequently changes could not be made.

154. A Member asked if the public views gathered from the Stage 2 Public Engagement of the UDS supported making changes to the OZPs, whether the OZPs would be revised to reflect public views. Ms. Phyllis Li said that public views would be reflected to the Board for consideration. The Chairman supplemented that in the present town planning regime, amendments to the OZPs could always be made by the Board if Members considered it necessary.

[Miss Annie Tam returned to join the meeting at this point.]

155. Messrs. Paul Zimmerman and Ian Brownlee made the following main points:

- (a) the design options for Stage 2 Public Engagement were developed on the basis of the four design options from Stage 1. As the Study Brief was not prepared in consultation with the public, the design options would not be able to meet public aspirations;
- (b) the Study Brief was not made available to the public. If the Government had limited the study scope to within the constraints of the current OZPs, then the UDS could not be regarded as a genuine study on the design options for the New Central Harbourfront;

- (c) as Stage 1 of the UDS was limited in scope, using it as the basis for proceeding to Stage 2 deserved reconsideration; and
- (d) the Board should review the Study Brief before proceeding to Stage 2 and the design options should not be constrained by the current OZPs.

156. Ms. Phyllis Li clarified that the four design options put forward in Stage 1 Public Engagement were relating to the possible locations for reassembling the Queen's Pier. The scope and methodology of the UDS had been presented to the Board, HEC and LegCo Panel and were in the public domain. The work of Stage 2 was based on the public feedback obtained from Stage 1. Stage 2 would focus on the refined overall urban design framework, alternative design concepts for the key sites and design options at different locations for reconstructing the old Star Ferry Clock Tower and reassembling Queen's Pier. Public views obtained at Stage 2 would be incorporated in drawing up the study recommendations.

157. A Member noted that in some zones, such as the "OU(1)", "OU(2)" and "CDA" zones, there was control on building height, but not on site coverage and queried if the existing control was adequate to ensure a quality waterfront. Ms. Phyllis Li said that in the "CDA" zone, for example, the planning/design brief would set out the detailed planning and design parameters, including building height and site coverage, to guide future development. Through the requirement for submission of Master Layout Plan (MLP) under the TPO, the Board could exercise control over the development mix, scale, design and layout of development, while allowing design flexibility for individual sites. Planning/design briefs would also be prepared for the two "OU" sites under the UDS for endorsement by the Board to guide the detailed planning and design of these sites. Mr. Paul Zimmerman said that there were numerous design options, as demonstrated in the 82 entries of the design competition. He reiterated that the design options for the Central waterfront should not be constrained by the current OZPs.

158. As the applicant's representatives had no further comment to make and Members had no question to raise, the Chairman informed them that the hearing procedures had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and the Government's representative

for attending the meeting. They all left the meeting at this point.

Deliberation

159. A Member noted that both DHK and PlanD were working towards the common objectives of improving the urban design of the Central Waterfront. The major difference between DHK and PlanD was the former insisted that all control should be stipulated in the OZP, while the latter considered that planning/design briefs or other non-statutory means would be sufficient for the purpose. The effort made by DHK was appreciated. The two parties should work together in identifying a mutually acceptable approach. This Member shared the applicant's view that the land occupied by the Central Barracks should be released for other uses.

[Mr. Edmund K.H. Leung left, and Prof. Bernard V.W.F. Lim arrived to join, the meeting at this point.]

160. Another Member considered that the applicant's proposals had some good elements. Noting that the Stage 2 Public Engagement of the UDS would commence in March 2008, the applicant's proposals, like the other views of the public, could be considered in the context of the UDS. Many of the applicant's proposals could be accommodated within the OZPs and dealt with in the context of the planning/design briefs. There could be different design possibilities, and there was no need to amend the OZPs, at this stage, as this would limit the design options.

161. The Chairman said that the UDS had taken and would take into account schemes and studies prepared by various stakeholders, including the winners of the International Planning and Design Competition. Whilst the OZPs could be amended if the proposed changes were justified, but as the Stage 2 Public Engagement of the UDS would soon commence, it would not be desirable to propose amendments to the OZPs at this stage as the Board might receive other views from the public engagement exercise.

162. A Member supported PlanD's views as set out in paragraphs 11.1(a) and (b) of the Paper. There were some good elements in the applicant's proposals and could be considered in the context of the UDS. The UDS was a comprehensive review of the urban design framework of the Central harbourfront and provided a platform for

engaging all interested parties to participate in the planning process. The OZPs should not be amended in a hasty manner.

163. Another Member shared the view that the applicant's proposals could be considered in the context of the UDS. Better communication would help resolve differences and misunderstanding. This Member considered that it was not for the Board to request the Government to liaise with the Central Government on matters related to military land uses.

164. A Member said that the applicant had not submitted any detailed assessment in support of the proposed zoning amendments, and could not provide information on the resultant change in GFA. The proposals did contain some good elements, but were only conceptual in nature. This Member did not support the proposed amendments to the OZPs.

165. The Chairman concluded that Members generally agreed that there was no justification to amend the OZPs at this juncture. The good elements of the applicant's proposals, including smaller building footprints, better visual permeability, increased vibrancy and better connectivity, should however be taken into account by PlanD in carrying out the UDS.

166. After further deliberation, the Board decided not to agree to the application and the reasons were:

- (a) the land use zonings and development parameters stipulated in the approved Central District Outline Zoning Plan (OZP) and approved Central District (Extension) OZP provided a broad development framework within which there could be different design possibilities. Many of the applicant's proposals and urban design objectives could be accommodated within the current OZPs;
- (b) the Board had initiated to refine the existing urban design framework for the new Central harbourfront and to prepare planning/design briefs for the key sites. The Urban Design Study for the New Central Harbourfront (UDS) was being undertaken by the Planning Department

(PlanD) with the incorporation of relevant assessments and public inputs through extensive public engagement. The adoption of the applicant's proposals at this juncture would pre-empt the study;

- (c) as explained in paragraphs 11.1(c) and (d) of the Paper, the applicant had not provided any strong justification for or detailed assessments in support of the proposed zoning amendments as well as development restrictions for the various zones; the proposed deletion of "Public Transport Interchange" from the Notes of the "Comprehensive Development Area (2)" zone; the proposed rezoning of the Central Barracks; the proposed T-shaped People's Liberation Army pier; and the proposed rezoning or deletion of various roads; and
- (d) the location and design concept of reassembling Queen's Pier as well as the design of the reduced reclamation at the "Marine Basin" were being examined in the UDS. It was not appropriate to rezone the sites at this stage.

167. The Board also agreed to request PlanD to take into account the good elements of the applicant's proposals, including smaller building footprints, better visual permeability, increased vibrancy and better connectivity, in the UDS.

[Ms. Carman K.M. Chan and Mr. Felix W. Fong left the meeting, while Dr. Greg C.Y. Wong and Mr. Raymond Y.M. Chan temporarily left the meeting, at this point.]

Agenda Item 9

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K20/99

Proposed Hotel (Amendments to an Approved Scheme) in "Residential (Group A)1" zone, G/F (Part) and UG/F (Part), Kowloon Inland Lot 11158, Hoi Fai Road,

West Kowloon Reclamation

(TPB Paper No. 7993)

[The meeting was conducted in Cantonese]

168. The Chairman said that the application was submitted by Active Success Development Ltd. which was a subsidiary company of Sino Land Co. Ltd. (Sino). Dr. Greg C.Y. Wong, Mr. Raymond Y.M. Chan and Mr. Felix W. Fong, having current business dealings with Sino, had declared an interest on this item.

169. Members noted that Mr. Felix W. Fong had left the meeting, and Dr. Greg C.Y. Wong and Mr. Raymond Y.M. Chan had temporarily left the meeting.

Presentation and Question Session

170. Ms. Heidi Chan, District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK) of the Planning Department (PlanD), and the following applicant's representatives were invited to the meeting at this point:

Ms. Keren Seddon)	
Ms. Cindy Tsang	)	Applicant's representatives
Mr. Yuen Siu-fai)	

171. The Chairman extended a welcome and explained briefly the procedures of the review hearing. The Chairman then invited Ms. Heidi Chan to brief Members on the background to the application.

172. Ms. Heidi Chan covered the following main points as detailed in the Paper:

- (a) background - the applicant sought planning permission for amendments to an approved scheme for proposed hotel development on G/F and UG/F of an existing composite residential and commercial development at KIL 11158, Hoi Fai Road, West Kowloon Reclamation (i.e. One SilverSea). The site was zoned "Residential (Group A)1" on the South West Kowloon Outline Zoning Plan;
- (b) the Metro Planning Committee decided to approve the application with conditions on 24.8.2007. The applicant sought a review of approval condition (a) which stated that 'no increase in non-domestic gross floor

area (GFA) of the proposed development due to the granting of back-of-house (BOH) GFA in relation to the hotel development would be allowed’;

- (c) further justifications for the review application submitted by the applicant were summarised in paragraph 3 of the Paper;
- (d) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. Concerned departments had no objection to or no adverse comment on the review application;
- (e) public comments – 3 public comments were received on the review application, which were summarised in paragraph 6 of the Paper. One commenter objected to the review application without giving any elaboration, another had no comment, while the third, the Island Harbourview Residential Owners’ Sub-committee, raised objection for reasons that the proposed hotel development would aggravate the existing traffic congestion, worsen air ventilation problems, and cause potential social problem if the hotel was turned into service apartment and offered for sale in future; and
- (f) PlanD’s view – approval condition (a) was intended to ensure that there would be no increase in the building bulk of the existing development as a result of the proposed hotel development, as there were local concerns on the building bulk. As the applicant had clarified that the GFA arising from the exemption of the BOH (i.e. about 204.1m²) would be accommodated within the existing bulk of the development, the concern on building bulk could thus be addressed through internal design. PlanD however did not support the deletion of approval condition (a), but proposed that it could be revised to stipulate that any increase in the non-domestic GFA of the existing development due to the granting of GFA exemption/concession by the Building Authority in relation to the proposed hotel development should not result in any increase in the external bulk of the existing development.

173. The Chairman then invited the applicant's representatives to indicate whether the revised approval condition (a) proposed by PlanD was acceptable to the applicant. Ms. Cindy Tsang responded in the affirmative.

174. The Chairman suggested and the applicant's representatives agreed that no presentation by the applicant's representatives was required.

175. Members had no questions on the review application.

176. As the applicant's representatives had no further comment to make and Members had no question to raise, the Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

177. Members agreed that the revised approved condition (a) could ensure that the proposed hotel development would not result in any increase in the external bulk of the existing development.

178. After further deliberation, the Board decided to amend approval condition (a). The permission should be valid until 24.8.2011, after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission renewed. The permission was subject to the following conditions, with condition (a) revised:

- (a) any increase in the non-domestic gross floor area of the existing development due to the granting of gross floor area exemption/concession by the Building Authority in relation to the proposed hotel development should not result in any increase in the external bulk of the existing development;
- (b) the provision of fire service installations to the satisfaction of the

Director of the Fire Services or of the Town Planning Board; and

- (c) the submission of sewerage impact assessment and the implementation of the mitigation measures identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

179. The Board also agreed to advise the applicant of the following:

- (a) the approval of the application did not imply that necessary approvals would be given by any Government department. The applicant should approach the relevant Government departments direct for any necessary approvals; and
- (b) to consult the Chief Officer/Licensing Authority, Home Affairs Department on the licensing requirements for the proposed hotel development.

[Dr. Greg C.Y. Wong, Mr. Raymond Y.M. Chan and Mr. B.W. Chan returned to join the meeting, while Dr. Daniel B.M. To and Ms. Anna S.Y. Kwong left the meeting at this point.]

180. The broadcasting system had broken down and while waiting for it to restart the, the meeting decided to proceed with Item 11 first, which was an application submitted prior to the commencement of the Town Planning (Amendment) Ordinance 2004 and should be processed under the pre-amended Ordinance in a closed meeting.

Agenda Item 11

[Closed Meeting]

Review of Application No. A/SK-TMT/8

Proposed Rebuilding of a 2-Storey House in “Green Belt” and “Residential (Group C)1” zones, 1 Fung Sau Road, Lot 246 and Extension in DD 252, Tso Wo Hang, Sai Kung (TPB Paper No. 7990)

[The meeting was conducted in English.]

Presentation and Question Session

181. Mr. Michael Chan, District Planning Officer/Sai Kung and Islands (DPO/SKIs) of the Planning Department (PlanD), and the following applicant's representatives were invited to the meeting at this point:

Mr. Chris Lambert)	
Mr. Charles Mok	)	Applicant's representatives
Mr. Rock Tsang)	
Mr. Kenneth Ching)	

182. The Chairman extended a welcome and explained briefly the procedures of the review hearing. The Chairman then invited Mr. Michael Chan to brief Members on the background to the application.

183. With the aid of some plans and aerial photos, Mr. Michael Chan covered the following main points as detailed in the Paper:

- (a) background – the applicant sought planning permission for rebuilding a 2-storey house in an area partly zoned “Green Belt” (“GB”) (50%) and partly zoned “Residential (Group C)1” (“R(C)1”) (50%) on the Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan (OZP);
- (b) as shown in the building plans approved in 1962 and the aerial photos taken in 1980, 1995, 1999 and 2000, the building was significantly extended in 1999;
- (c) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the application on 23.3.2007 were set out in paragraph 1.2 of the Paper;
- (d) justifications in support of the review application submitted by the applicant was summarised in paragraph 3 of the Paper;
- (e) departmental comments – the departmental comments were

summarised in paragraph 5 of the Paper. The Lands Department (LandsD) advised that the maximum gross floor area (GFA) for the site was 210.8m². Apparently the owner had illegally expanded the building to a total GFA of 405m² without Government's prior approval. The Buildings Department (BD) advised that a set of building plans was approved on 2.2.1962 for the development of a 2-storey house with a total GFA of about 186m². Unauthorised building works were found on the G/F and roof, and no retrospective approval and consent would be given for such structures. The District Officer/Sai Kung advised that no comment or objection had been received on the application; and

- (f) PlanD's view – having considered the applicant's submission and the advice of the Department of Justice (D of J), PlanD did not support the application for reasons stated in paragraph 6 of the Paper. The applicant's submission on 'existing use' was of not much relevance as the real issue was what constituted an 'existing building' in determining the existing building bulk, and whether unauthorized structure could be taken into account in determining the existing bulk. The term 'existing building' was defined in the covering Notes of the OZP and it was not the Board's intention to 'preserve or continue to permit' a building as an existing building for planning purposes where the whole or any part of which was unlawfully constructed. Based on the above interpretation, the application was processed as an application for relaxation of the plot ratio (PR) restriction from 0.5 (i.e. the maximum PR for the "R(C)1" zone under the current OZP) to about 1.09. The proposed increase in PR amounted to an increase of 118%, which would not be regarded as minor.

184. Mr. Michael Chan said that a video had been taken to illustrate the existing conditions of the application site and its surrounding areas. The video was shown at the meeting.

185. The Chairman then invited the applicant's representatives to elaborate on the application.

186. Mr. Chris Lambert made the following main points:

- (a) the applicant's response to the three reasons for rejection was set out in his letter of 16.11.2007, which would be further elaborated in turn;
- (b) the subject building with a GFA of 405m² was in place and in use as a single-family residence on the date of the first gazetting of the statutory plan for this area (i.e. the Tai Mong Tsai and Tsam Chuk Wan Development Permission Area (DPA) Plan) in September 2000. It remained in such use in the past decade;
- (c) as shown in the aerial photos by DPO/SKIs, the building of its size was in use since 1997, and it was not in dispute that the applicant used the house currently existing on site for residential purpose and that the use was existing immediately before the first publication of the draft DPA Plan;
- (d) it was not or could not have been the intention of the Board when adopting the definition in the current OZP to change the planning classification and status of developments from 'existing developments' or 'existing use' on the day before the gazetting of that plan to not being 'existing developments' or 'existing use' non-permitted developments from the day of gazetting so as to prevent them from remaining on site or being redeveloped to the same scale or intensity;
- (e) the planning intention should be to preserve or continue to permit the factual existing use or factually existing developments which were lawful in planning terms at the time of first gazetting of the DPA Plan. There should be a distinction between right of use under the lease and recognition of the use for planning purposes. The latter should not be removed retrospectively;
- (f) as shown in the video prepared by DPO/SKIs, the applicant's premises blended harmoniously with the surrounding natural setting, especially

when compared with other developments in close vicinity. There had been no significant change in the development intensity since 1997, and it was not the intention of the applicant to increase the development intensity of the application site;

- (g) there was no evidence before the Board to support the allegation that there are similar applications of a similar nature for similar sites within this “R(C)” zone, bearing in mind that in this case, the adjoining land which was zoned “GB” was solely owned by the applicant. There was also no evidence to support that there were similar applications within this “R(C)” zone for which a decision on this particular site would set a precedent;
- (h) the Smart Gain case clearly showed that the undesirable precedent ground was not to be used in the absence of particular identified land with similar site and ground characteristics, which would turn on the facts of each individual case;
- (i) the proposed development intensity was the same as that of the building bulk which was in existence since 1997. Given the unique circumstances, approval of the subject application would not set an undesirable precedent;
- (j) the Board should disregard whether the use was in compliance with lease conditions as the court had made clear in the Capital Rich case that it was not a relevant consideration for the Board. It was a matter of law of legal precedence. The lease conditions were a matter for the LandsD, not for the Board, and the applicant would discuss with LandsD on lease modification matters, noting from the Fine Tower case that it was ‘the prevailing government policy to modify old lease conditions in order to allow redevelopment of lots complying with the applicable town planning requirements’; and
- (k) if the application was approved by the Board, approval conditions and advisory clauses in paragraphs 6.2 and 6.3 of the Paper would be

acceptable to the applicant. Should the Board decide to reject the application, the Board should provide reasons for disagreeing with the applicant's submission and clarify why the existing house could not satisfy the meaning of 'existing building' as defined in the covering Notes of the OZP.

187. Mr. Rock Tsang made the following main points:

- (a) PlanD's comment in paragraph 6.1(e) of the Paper that the proposed PR was 1.09, which amounted to an increase of 118% to the permitted PR for the "R(C)1" zone, was incorrect. With a site area of 1,108m² and GFA of 405m², the PR for the site was only 0.365. As half of the application site was zoned "GB" and the other half zoned "R(C)1", the PR would be increased to 0.73 if only the site area of the "R(C)1" zone was used for PR calculation. Comparing with the maximum PR of 0.5 for the "R(C)1", the proposed PR of 0.73 only amounted to an increase of 45%;
- (b) the building was in existence before the first publication of the DPA Plan. According to paragraph 3 in the covering Notes of the OZP which replaced the DPA Plan, no action was required to make the use of any land or building which was in existence immediately before the first publication of the draft DPA Plan conform to the Plan, provided such use or any other development had continued since it came to existence;
- (c) the applicant was prepared to restrict the site to a single-residence, through the approval condition or lease modification, notwithstanding that there was no such restriction in the OZP, nor in the lease conditions. This would help prevent the site from being redeveloped into multiple units, which might bring about adverse traffic and environmental impacts;
- (d) there were no adverse departmental comments on the application and the Chief Town Planner/Urban Design and Landscape also considered

that the existing attractive landscape character would unlikely be affected by the proposed redevelopment; and

- (e) as no retrospective approval and consent would be given to the unauthorised building works, the main purpose of obtaining planning approval was to enable the applicant to demolish the unauthorised structures and to rebuild the house so as to satisfy the requirements under the Buildings Ordinance. The applicant would also modify the lease in accordance with the planning approval. Upon redevelopment, the house would be identical to the existing building.

188. A Member sought clarification on the zoning of the application site and how the PR was calculated. With the aid of a layout plan, Mr. Michael Chan explained that the total area of the application site was 1,108m². Lot 246, which was a building lot, was about 371m², occupying about one-third of the application site, while the garden extension area was about 736m², taking up the remaining part of the site. Half of the application site was zoned “R(C)1” on the OZP, which included Lot 246 and part of the garden extension area. The PR of 1.09 was calculated on the basis of the site area of Lot 246, i.e. 371m².

189. The same Member asked if the applicant had any legal backing for the construction of the existing building bulk, which had a GFA of 405m². Mr. Rock Tsang responded that under the lease, the site area of Lot 246 was about 371m², but the “R(C)1” zone under the OZP had a site area of about 554m². The PR for the proposed development, based on the site area of the “R(C)1” on which the building was located, was 0.73, amounting to an increase in PR of 45% only. Mr. Michael Chan said that the PR of 1.09 was calculated on the basis of the site area of Lot 246, with the garden extension area excluded, giving due regard to both the planning intention and the lease entitlement.

190. Mr. Rock Tsang queried if the proposed development had a PR of 0.5 within the whole “R(C)1” zone, whether planning permission was required. Mr. Michael Chan responded that if the site was to be redeveloped, the applicant should comply with the lease conditions. When the LandsD circulated the proposal to PlanD for comment, PlanD would take into account the zoning restrictions, the lease entitlement and the

planning intention of excluding the garden extension area for PR calculation and advise LandsD of its views.

191. As the applicant's representatives had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

Deliberation

192. Miss Annie Tam, Director of Lands, asked whether 'existing building' was recognised under the OZP. Ms. Ophelia Wong, Director of Planning, explained that the meaning of 'existing building' in the covering Notes of the OZP and the rationale behind the amendment to the covering Notes to make it beyond doubt that 'existing building' should be physically existing and was in compliance with any relevant legislation and the conditions of the Government lease concerned. While it was the planning intention to respect the existing building right, existing building should not include illegal structures. This issue had been discussed by the Board on previous occasions and in the context of the amendments to the covering Notes. As regards garden extension, if lease modification was involved, PlanD would not support the inclusion of garden extension area which carried no development right for calculating the PR. The applicant argued that the area within the "R(C)1" zone should be included for PR calculation, whereas DPO/SKIs pointed out that the garden extension area in the "R(C)1" zone should be excluded.

193. Another Member said that if the existing building involved unauthorised structures, and LandsD and/or BD ordered their demolition, then the unauthorised structures would no longer be part of the 'existing building'. It then followed that in considering what an 'existing building' meant, unauthorised structures should not be included. Miss Annie Tam, Director of Lands, said that under the current policy, LandsD would normally allow the owner to rectify the situation by modifying the lease conditions unless there was objection from concerned departments. She added that if planning approval had been obtained, the Director of Lands had the discretion to proceed

with lease modification. If the development intensity was not permitted under the lease, it should likewise not be taken as a ground of rejection by the Board.

194. A Member considered that the GFA of 405m² for the existing building did not have any legal basis. Only the building lot should be used in calculating the GFA. Using the planning approval as a means to 'legalise' the existing unauthorised structures would set an undesirable precedent and should not be encouraged. Another Member said that the Building Authority should take action against the unauthorised structures and did not support the application.

195. After further deliberation, the Board decided to reject the application on review and the reasons were:

- (a) there was insufficient information in the submission to demonstrate that the existing house, with the claimed gross floor area of about 405m², was an 'existing building' as defined in the covering Notes of the draft Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan No. S/SK-TMT/3;
- (b) the proposed relaxation in development intensity was not minor. There was no justification to merit an increase in development intensity and to depart from the planning intention of "Residential (Group C)" ("R(C)") zone which was for low-rise and low-density residential developments; and
- (c) the approval of the application would set an undesirable precedent for other similar applications for substantial increase in development intensity within the "R(C)" zone in the area.

[Dr. K.K. Wong left the meeting at this point.]

Agenda Item 10

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-LYT/361

Temporary Open Storage of Water Pipes and Parts for a Period of 18 Months in
“Agriculture” zone, Lot 1791(Part) in DD 83, near Wing Ning Wai, Fanling
(TPB Paper No. 7989)

[The meeting was conducted in Cantonese.]

196. Mr. W.K. Hui, District Planning Officer/Sha Tin, Tai Po and North (DPO/STN) of the Planning Department (PlanD), and the following applicant’s representatives were invited to the meeting at this point:

Mr. Cheung Hung Cheung)	
Mr. Wong Kin Ho	)	Applicant’s Representatives
Mr. Simon Ng)	
Mr. Norman Shek)	

197. The Chairman extended a welcome and explained briefly the procedures of the review hearing. The Chairman then invited Mr. W.K. Hui to brief Members on the background to the application.

Presentation and Question Session

198. With the aid of some plans, Mr. W.K. Hui made the following main points as detailed in the Paper:

- (a) background - the applicant sought planning permission for temporary open storage of water pipes and parts for a period of 18 months in an area zoned “Agricultural” (“AGR”) on the Lung Yuek Tau and Kwan Tei South Outline Zoning Plan (OZP);
- (b) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the application on 10.8.2007 were set out in paragraph 1.2 of the Paper;

- (c) the justifications submitted by the applicant in support of the review application were summarised in paragraph 3 of the Paper;
- (d) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper. The Transport Department (TD) advised that though the applicant confirmed that only light goods vehicles (LGV) would be used, the village road was substandard (only about 3.5m wide), too narrow and unsafe to accommodate two-way traffic. The applicant should consider improving the access by providing at least some passing bays along the road. The Environmental Protection Department (EPD) did not support the application as there were sensitive receivers in the vicinity of the application site and environmental nuisances were expected;
- (e) public comment - during the publication period of the review application, one public comment was received from the Fanling District Rural Committee (FLDRC), stating no comment on the review application. The District Officer/North also advised that the Chairman of FLDRC had no comment, while a Residents Representative (RR) and two Indigenous Inhabitants Representatives (IIR) of Lung Yuek Tau Village supported the application. Another IIR objected to the application for the reason that the proposed use would cause water logging problem, affecting environmental hygiene; and
- (f) PlanD's view – PlanD did not support the application for reasons stated in paragraph 6.1 of the Paper. According to Board's Guidelines No.13D, the application site fell within Category 3 areas. Favourable consideration could not be given to the application as no previous planning approval had been granted for the application site, and there were adverse departmental comments and local concerns on the application. There was insufficient information to demonstrate that the use would not generate adverse environmental impact on the surrounding areas.

199. The Chairman then invited the applicant's representatives to elaborate on the application.

200. Mr. Simon Ng made the following main points:

- (a) after liaising with TD, the applicant had committed that only LGV, at 2 to 3 vehicle trips a day, would be used;
- (b) the access road would be paved to avoid dust generation so as to minimize any possible adverse environmental impact;
- (c) a 2.5m high boundary fence would be erected to insulate noise, if any, within the storage site, and trees could be planted to minimise the visual impact; and
- (d) the water pipes stored on site would be used in the Government's water supply project. As the project was near completion, sympathetic consideration was sought for the proposed open storage use for the remaining period of the project.

201. Members had no questions on the review application.

202. As the applicant's representatives had no further comment to make and Members had no question to raise, the Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

Deliberation

203. Members noted that the application did not comply with the Board's Guidelines No. 13D.

204. After further deliberation, the Board decided to reject the application on review and the reason was that the development was not in line with Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13D) in that there was no previous approval given for the application site. There were adverse departmental comments and local concerns on the application. There was insufficient information in the submission to demonstrate that the use under application would not have adverse environmental impact on the surrounding areas.

[Dr. Greg C.Y. Wong, Prof. Bernard V.W.F. Lim and Miss Annie Tam left the meeting at this point.]

Agenda Item 12

[Open Meeting]

Section 16 Application No. A/H5/365

Proposed Commercial and Residential Development with Government, Institution and Community Facilities and Public Open Space in “Comprehensive Development Area” zone, Two Sites of Urban Renewal Authority’s Development Scheme at Lee Tung Street and McGregor Street, Wan Chai

(TPB Paper No. 7988)

[The meeting was conducted in Cantonese]

205. The Chairman reported that as the application involved the Urban Renewal Authority (URA)’s Development Scheme in Wan Chai, the following Members had declared interests on this item:

Miss Ophelia Y.S. Wong as the Acting Director of Planning	)	Being a non-executive director of the URA
Miss Annie Tam as the Director of Lands)	
Mr. Walter K.L. Chan)	
Ms. Margaret Hsia as the Assistant Director (2) of		Being a co-opt member of the Planning, Development and

the Home Affairs Department	Conservation Committee of the URA
Mr. Michael K.C. Lai	Being a member of the URA Wan Chai District Advisory Committee
Dr. Greg C.Y. Wong	) Having current business dealings with the URA
Prof. Bernard V.W.F. Lim)

206. The meeting noted that Miss Annie Tam, Dr. Greg C.Y. Wong, Mr. Michael K.C. Lai, Prof. Bernard V.W.F. Lim and Mr. Walter K.L. Chan had already left the meeting, and Ms. Margaret Hsia had sent apologies for being unable to attend the meeting.

207. Members also noted that Miss Ophelia Y.S. Wong, being the Secretary of the Board, was acting as the Director of Planning during the absence of Mrs. Ava Ng and agreed that Miss Wong could stay at the meeting in the capacity of Secretary of the Board.

208. The Chairman informed Members that as both the Chairperson and Vice-chairman of the Metro Planning Committee had to declare an interest on this item, this application was submitted to the Board for consideration.

209. Ms. Christine Tse, District Planning Officer/Hong Kong, and Ms. Donna Tam, Senior Town Planner/Hong Kong, of the Planning Department (PlanD) were invited to the meeting at this point.

210. The Chairman extended a welcome and invited Ms. Christine Tse to brief Members on the background to the application.

211. With the aid of a powerpoint presentation, Ms. Christine Tse covered the following main points as detailed in the Paper:

- (a) background – the draft Lee Tung Street/Mcgregor Street Development Scheme Plan (DSP) was approved by the Chief Executive in Council on 22.6.1999. The Planning Brief (PB) for the preparation of a

Master Layout Plan (MLP) for the development scheme was first endorsed by the Board on 19.9.2003 and the revised PB on 23.6.2006. The MLP for a comprehensive commercial and residential development with Government, institution and community (GIC) facilities and public open space submitted by the URA was approved with conditions by the Board on 22.5.2007;

- (b) the current application was submitted by a group of local residents, seeking planning permission for amendments to the approved MLP. The application sites, comprising sites A and B, were zoned “Comprehensive Development Area” (“CDA”) on the DSP. Demolition work for the buildings within the sites was in progress;

- (c) The major changes in the proposed scheme were summarised in paragraphs 1.4 to 1.6 of the Paper, which included the following:
 - Lee Tung Street excluded from site area calculation, preserved in-situ and converted to a pedestrian street;
 - 35 existing tenement buildings preserved in-situ;
 - 4-storey podium for commercial uses along the Lee Tung Street in Site A and the connecting footbridges deleted;
 - height of tenement buildings reduced from 6 to 4 storeys for commercial use on G/F and 1/F, and residential use on 2/F and 3/F, and building heights for the three towers in site A reduced;
 - basement car parking deleted and no parking space provided;
 - total provision of public open space reduced by 550m² and layout changed;
 - a floor for commercial/community uses serving as a buffer between the Residential Care Home for the Elderly (RCHE)/Day Care Unit (DCU) and the Refuse Collection Point (RCP) in Site B deleted;
 - underground connection with future MTR linkage not provided;
 - location of public toilet not indicated; and
 - 27m green minibus/15m taxi stand and turn around facility not provided;

- (d) the applicants considered that previous technical assessments undertaken by the URA should still be applicable and hence no further assessments were provided. Only a tree survey report was submitted, but with no proposal on tree preservation/transplanting;
- (e) the justifications submitted by the applicant were summarized in paragraph 2 of the Paper;
- (f) departmental comment – the departmental comments were summarized in paragraph 9 of the Paper. In particular, the Transport Department objected to the application as no traffic impact assessment (TIA) had been provided to demonstrate that the proposals were sustainable in traffic terms. The Buildings Department considered that a structural impact assessment was necessary to demonstrate the feasibility and implications of retaining the tenement buildings;
- (g) public comments - 450 public comments were received, with 446 supporting, 2 objecting and 2 providing comments on the application, which were summarised in paragraph 10 of the Paper. The major grounds in support of the application were:
 - exclusion of Lee Tung Street from site area calculation would help avoid over-development and achieve more sustainable development of the area;
 - preservation of the existing tenement buildings could help retain the social network;
 - deletion of basement car parks could relieve traffic congestion, and reduce pollution and financial burden;
 - recreation of the streetscape was not real preservation, and the steps at end of Amoy Street should be preserved;
 - the present scheme sought to rectify the problems of the approved URA scheme and should not be subject to any challenge regarding technical feasibility; and
 - the community should be engaged in the redevelopment process;

- (h) the major grounds of objection to the application were:
- Lee Tung Street did not have any special characteristics which deserved preservation; and
 - no need to provide GIC facilities and public open space within the development as there were sufficient facilities in the vicinity;
- (i) the main comments on the application, submitted by the URA, were:
- the overall layout, transport and open space arrangements were substantially different from the approved URA scheme. Technical assessments should be provided to support the application;
 - non-provision of car parks and lay-bys were not in line with the PB. TIA should be conducted;
 - open space provision has been reduced;
 - technical assessments should be provided to prove the feasibility of retaining the tenement buildings;
 - without detailed architectural plans, it was uncertain whether the applicants' proposal could achieve an overall environmental improvement of the area;
 - in the approved URA scheme, the option of small shops at both ground and upper floors had been adopted to preserve the local character, and an area of about 1,000m² had been reserved for social enterprises; and
- (j) PlanD's view – PlanD did not support the application for reasons set out in paragraph 11.1 of the Paper. There were major differences between the approved URA scheme and the current application, but no technical assessments had been submitted by the applicant to support the proposed scheme. For the proposed retention of 35 tenement buildings along Lee Tung Street, the applicant had not demonstrated how the design of the new buildings would relate to the tenement buildings, and how the scheme would achieve environmental

improvement through comprehensive redevelopment. No TIA was submitted to demonstrate that the proposed scheme was sustainable in traffic terms and no structural assessment to demonstrate feasibility and implications of retaining the tenement buildings. There was a reduction in open space provision by 550m², which was considered undesirable given the existing shortfall of public open space provision in the Wan Chai district. The deletion of the commercial/community floor separating the RCHE/DCU from the RCP was considered not desirable. As the URA was the sole owner of the private lots within the application site, the implementability of the proposed development was doubtful. In considering the previous appeal (Application No. A/H5/349) submitted by the local residents, the Town Planning Appeal Board indicated that an applicant for planning permission had to show that there was at least some possibility for him to carry out the development.

212. As Members had no question to raise, the Chairman thanked PlanD's representatives for attending the meeting. They left the meeting at this point,

Deliberation

213. Members noted that an appeal from professionals, academics and cultural practitioners on the Lee Tung Street Project submitted by the applicant was tabled at the meeting.

214. A Member was of the view that there was insufficient information in the submission to demonstrate the feasibility of the project.

215. After further deliberation, the Board decided to reject the application and the reasons were:

- (a) there was insufficient information in the submission to demonstrate that the proposed development could achieve the planning intention of the subject site for comprehensive redevelopment to improve the environment of the area;

- (b) no technical assessments as required under the Notes of the “Comprehensive Development Area” zone had been submitted to support the application, to demonstrate that the proposed development was sustainable from traffic point of view, and to demonstrate the feasibility and implications of the retention of the tenement buildings along Lee Tung Street; and
- (c) the implementability of the proposed development scheme was doubtful.

Agenda Item 13

216. This item was reported under confidential cover.

Agenda Item 14

Any Other Business

[The meeting was conducted in Cantonese.]

217. There being no other business, the meeting was closed at 8:00 p.m..