

**Minutes of 917th Meeting of the
Town Planning Board held on 8.8.2008**

Present

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

Chairman

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Stanley Y.F. Wong

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Mr. Tony C.N. Kan

Dr. Daniel B.M. To

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Ms. Anna S.Y. Kwong

Dr. James C.W. Lau

Professor Paul K.S. Lam

Mr. K.Y. Leung

Mr. Maurice W.M. Lee

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Deputy Director of Environmental Protection
Dr. Michael Chiu

Director of Lands
Miss Annie Tam

Director of Planning
Mrs. Ava Ng

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

Secretary

Absent with Apologies

Mr. David W.M. Chan

Professor David Dudgeon

Mr. Edmund K.H. Leung

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Mr. Alfred Donald Yap

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Starry W.K. Lee

Professor Edwin H.K. Chan

Mr. Rock C.N. Chen

Dr. Ellen Y.Y. Lau

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

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

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Ms. Christine K.C. Tse (a.m.)
Mr. C.T. Ling (p.m.)

Town Planner/Town Planning Board
Mr. Tony Y.C. Wu (a.m.)

Senior Town Planner/Town Planning Board
Miss Fiona S.Y. Lung (p.m.)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 916th Meeting held on 25.7.2008

[The meeting was conducted in Cantonese.]

1. The minutes of the 916th meeting held on 25.7.2008 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

Proposed Amendments to the Draft Ho Man Tin Outline Zoning Plan No. S/K7/19 Arising from Consideration of Representations and Comments (TPB Paper No. 8155)

[The meeting was conducted in Cantonese.]

2. The Secretary said that on 11.7.2008, the Board considered the representations and comments in respect of the draft Ho Man Tin Outline Zoning Plan (OZP) No. S/K7/19, and decided to partially uphold Representations No. 9 (regarding the Diocesan Boys' School site) and No. 13 and 15 (regarding the King George V School site) by proposing amendments to the OZP under section 6B(8) of the Town Planning Ordinance (the Ordinance). In accordance with the Board's decision, the proposed amendments to the OZP and its Notes and Explanatory Statement (ES) were set out at Annexes I, II and III respectively of the Paper.

3. After deliberation, the Board agreed that the proposed amendments as shown at Annexes I and II of the Paper were suitable for publication for further representation in accordance with the provisions of the Ordinance and the revised ES at Annex III of the Paper was suitable for publication together with the OZP.

[Ms. Sylvia S.F. Yau arrived to join the meeting at this point.]

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments in respect of the
Draft Wong Nai Chung Outline Zoning Plan No. S/H7/14
(TPB Paper Nos. 8145, 8146, 8147 and 8148)

[The meeting was conducted in Cantonese and English.]

4. The following members had declared interests in this item:

- | | | |
|-----------------------|---|--|
| Professor N.K. Leung |) | |
| Mr. Stanley Y.F. Wong |) | |
| Ms. Sylvia S.F. Yau |) | Being Members of the Hong Kong Jockey Club |
| Mr. Walter K.L. Chan |) | (HKJC) which made Representation No. R37; |
| Mr. Rock C.N. Chen |) | |
| Mr. Felix W. Fong |) | |
| Mr. B.W. Chan |] | Being Voting Members of the HKJC; |
| Mr. Alfred Donald Yap |] | |
| Mr. Y.K. Cheng | - | Owning a property at Stubbs Road which was near to the Area. |

5. Members agreed that the interests of Professor N.K. Leung, Ms. Sylvia S.F. Yau and Messrs. Stanley Y.F. Wong, Walter K.L. Chan, Rock C.N. Chen and Felix W. Fong, being ordinary Members of the HKJC, were not direct or substantial, and they could be allowed to stay. Members noted that Professor N.K. Leung and Messrs. Rock C.N. Chen, Alfred Donald Yap, Felix W. Fong and Y.K. Cheng had tendered apologies for not attending the meeting, and Messrs. B.W. Chan and Walter K.L. Chan had not yet arrived.

6. The Secretary also declared an interest for owning a property at Broadwood

Road which was within the Area. She informed Members that Commenter No. C359 wrote to the Board on 7.8.2008 suggesting that she should be excused from consideration of any of the building height limits under the OZP for having an interest in the matter. The relevant letter from the commenter was tabled at the meeting. The Chairman said that the role of the Secretary at the meeting was mainly to provide information and advise on procedural matters. As she was not a Member of the Board and did not take part in the decision-making, she should be allowed to stay at the meeting. Members agreed.

Group 1 – Representations No. R1 to 37 and 50 and Comments No. C1, 378 to 380 and 383 to 385

Presentation and Question Session

7. The Chairman said that Representers No. R1, 2, 5 to 7, 9, 11 to 14, 16 to 27, 31, 35 and 36 and Commenters No. 378 to 380 and 383 to 385 had either indicated not to attend the hearing or made no reply. As sufficient notice had been given to the representers and commenters, Members agreed to proceed with the hearing in the absence of the said representers and commenters.

8. The following representatives of Planning Department (PlanD), representers and commenter were invited to the meeting at this point:

PlanD

Ms. Brenda Au - District Planning Officer/Hong Kong, PlanD

Mr. Tom Yip - Senior Town Planner/Hong Kong, PlanD

Representatives of Representer No. R3

Mr. Simon Leung

Ms. Leung Fung Hing

Representer No. R4

Mr. Ng Kam Chun, Stephen

Representative of Representer No. R8

Ms. Pansy Lam

Representer No. R10

Mr. Wong Ying Kin

Representer No. R15

Mr. Jackson T.C. Lee (also representing Representers No. R8 and 10)

Representatives of Representer No. R28

Mr. Ian Brownlee (also representing Representer No. R37 and Commenter No. C1)

Mr. Edmond Cheung

Ms. Charlie Lo

Representatives of Representer No. R29

Ms. Theresa Yeung (also representing Representer No. R34)

Mr. Alan Kwong

Mr. Lee Wai Lam

Mr. Christopher E.T. Kho

Mr. Ricky To

Ms. Leung Ming Yan

Mr. George Wong

Representative of Representer No. R30

Mr. Edmund Lau

Representatives of Representers No. R32 and 33

Mr. Kenneth To

Mr. Ryan Ho

Mr. Patrick Woo

Ms. Kitty Wong

Mr. Thomas Cheung

Mr. Benson Hui

Ms. Pauline Lam

Representatives of Representer No. R34

Mr. Peter Lo

Ms. Nicole Chan

Ms. Theresa Yeung (also representing Representer No. R29)

Mr. Alvin Lee

Mr. Wing Mang

Mr. Kenneth Ho

Mr. Lawrence Wong

Mr. Eric Lee

Representatives of Representer No. R37

Mr. Ian Brownlee (also representing Representer No. R28 and Commenter No. C1)

Ms. Nicole Tang

Mr. John Latter

Ms. Candice Woo

Representatives of Representer No. R50

Rev. Dr. Hoi Ming Hui

Miss Helen Lung

Ms. Anita Ng

Representative of Commenter No. C1

Mr. Ian Brownlee (also representing Representatives No. R28 and 37)

9. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited Ms. Brenda Au to brief Members on the background to the representations and comments.

10. Ms. Brenda Au said that two replacement pages of Paper No. 8145 were tabled

at the meeting to rectify some typographic errors in the table on page 2 and paragraph 2.4.2(d) on page 10 of the Paper. With the aid of a Powerpoint presentation, Ms. Brenda Au made the following points as detailed in the Paper:

- (a) the background and the public consultation exercise in respect of the amendments to the OZP exhibited on 18.1.2008, as set out in paragraphs 1 and 3.3 of the Paper;
- (b) subjects of representations:
 - Representations No. R1 to 3 were in support of the imposition of building height (BH) restrictions in the Area in general. Representer No. R3 requested for more stringent BH restrictions;
 - Representations R4 to 26 were against the imposition of BH restrictions in general or for the wider areas covered by different Amendment Items without referring to specific sites. Representation R4 was against the imposition of BH restrictions in the Area in general without adopting different restrictions for the sites at different levels; and
 - Representations No. R27 to 37 and 50 were against the BH restrictions for specific “Residential (Group A)” (“R(A)”), “Residential (Group B)” (“R(B)”) and “Residential (Group C)1” (“R(C)1”) sites in the valley floor of Happy Valley or along Wong Nai Chung Road.
- (c) comments on the representations:
 - Comment No. C1 was in support of Representation No. R4;
 - Comments No. C378 and 379 were against Representation No.

R50;

- Comment No. C380 was in support of Representation No. R50;
- Comments No. C383 to 385 were against Representations No. R1 to 4;

[Mr. Nelson W.Y. Chan and Dr. Winnie S.M. Tang arrived to join the meeting at this point.]

- (d) the grounds of representations and comments as detailed in paragraphs 2.3 and 2.5 of the Paper;
- (e) Representers' proposals – Representers No. R1, 2, 5-15, 17, 20-24 and 31 had not proposed any amendment to the OZP. The other representers made the following proposals:
 - R3: to impose more stringent BH restrictions for the Area;
 - R4: to impose stepped height restrictions for the sites at different levels;
 - R16 and R18: to delete the BH restrictions in the Area;
 - R19: to allow a BH restriction of 50 storeys or 180m;
 - R25 and 26: to apply a BH restriction of 130mPD for the "R(A)" and "R(B)" sites and to impose a BH restriction of 35 storeys to prohibit exceptionally tall buildings;
 - R27 and 28: to apply a BH restriction of 135mPD for the "R(A)"

and “R(B)” sites and to impose a BH restriction of 35 storeys to prohibit exceptionally tall buildings;

- R29: to relax the BH restriction for the “R(A)” site at 1-15 Lun Hing Street from 100mPD to 120mPD;
- R30: to relax the BH restriction for the “R(B)” site at 1-10 Kwai Fong Street and the “R(A)” zone east of Sing Woo Road from 100mPD to 130mPD;
- R32: to relax the BH restriction for the “R(B)” site at 1-10 Kwai Fong Street from 100mPD to 130mPD or delete the BH restriction;
- R33: to relax the BH restriction for the “R(B)” site at 1A Wang Tak Street and 4 Po Shin Street from 100mPD to 125mPD or delete the BH restriction;
- R34: to relax the BH restriction for the “R(B)” site at 29-31 Yuk Sau Street and 21-23 Village Road from 100mPD to 130mPD;
- R35 & R36: to delete the BH restriction of 100mPD for the “R(B)” site at 1 Broadwood Road and 16 Ventris Road;
- R37: to relax the BH restriction for the eastern part of the “R(C)1” site at Shan Kwong Road from 115 mPD to 130mPD (same as the western part of the site) or delete the BH restriction; and
- R50: to delete the BH restriction of 100mPD for the “R(B)” site at 11 Village Road.

(f) planning considerations and assessments on the representations as

detailed in paragraph 4.1 to 4.3 of the Paper;

- (g) responses to the representations and representers' proposals as detailed in paragraphs 4.4 and 4.5 of the Paper, including:

Supportive Representations (R1 to 3)

- the support on the imposition of BH restrictions for the Area was noted. Regarding the proposal of Representer No. R3 to impose more stringent BH restrictions for the Area, it should be noted that the existing BH restrictions had been formulated after taking into account various factors, including, inter alia, a balance between public aspirations for a better living environment and private development rights. The imposition of more stringent BH restrictions would have adverse impact on the development potential of the affected sites and was thus inappropriate;

Adverse Representations (R4 to 37 and 50)

Need for BH Control and the Urban Design Considerations

- the BH restrictions were formulated based on an overall BH concept comprising a stepped BH profile with four BH bands, which had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall BH concept, piecemeal uplifting or relaxation of BH restrictions for individual sites on the OZP was not supported;
- if the BH restrictions for the valley floor area were relaxed, the existing vista to Wong Nai Chung Gap would be blocked and the distinctive character of the Area would be adversely affected;
- to avoid further development of tall buildings like the Hong Kong Sanatorium and Hospital (HKSH) Phase III and some developments on Stubbs Road which were incompatible with the

surrounding developments, the imposition of BH restrictions was considered necessary;

Flexibility for Building Design

- no restrictions on site coverage (SC) or design aspects had been imposed on the OZP. BH restrictions alone would not impose undue constraint on the design flexibility of future redevelopments;
- the BH restrictions did not preclude the incorporation of green features and a reasonable floor-to-floor height for development and redevelopment;
- there was provision for application for minor relaxation of the BH restrictions under the OZP to cater for site-specific circumstances. Each application would be considered by the Board on the basis of individual merits;

Development Rights

- the BH restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation and a balance between the public aspiration for a better living environment and private development rights. The BH restrictions should not have adverse impact on the development rights;

Redevelopment Opportunity

- since the imposition of BH restrictions would not adversely affect the development potential of individual sites, the redevelopment process in the Area, which was subject to a number of factors, should not be hindered by the amendments to the OZP;

Land Policy and Housing Supply

- as the amendments to the OZP did not involve the general imposition of plot ratio (PR) or gross floor area (GFA) restrictions, there would not be any impact on the overall supply of residential flats and property price;

Public Consultation

- under the Town Planning Ordinance (the Ordinance), any person might submit representations to the Board. The two-month statutory exhibition period was adequate for consultation with the public, while maintaining the efficiency of the process;

Site-specific Proposals

Representation No. R29

- the BH restriction of 100mPD was to ensure that development/redevelopment on the site would be compatible in scale and character with the immediate neighbourhood as well as the adjacent buildings on the valley floor. Although the site was not located right in a view corridor or breezeway, the Representer's proposal to relax the restriction to 120mPD would have adverse visual impact on the immediate neighbourhood;
- the Building (Planning) Regulations (B(P)R) did not stipulate the maximum BH for a development. Excessively tall and out-of-context buildings could be developed at the site if there was no BH control under the OZP;

Representations No. R30 and 32 to 34

- the BH restriction of 100mPD for the sites was adopted to respect

the stepped BH profile in the Area and to preserve the public view to the mountain backdrop and ridgeline descending towards Wong Nai Chung Gap. It also ensured that development/redevelopment at the sites would be compatible in scale and character with the local streets and the surrounding environment;

- the BH restrictions proposed by the Representers (125mPD for R33 and 130mPD for R30, 32 and 34) would have adverse visual impact on the neighbourhood and the public views to Wong Nai Chung Gap;

Representations No. R35 and 36

- the BH restriction of 100mPD for the site was adopted to create a stepped BH profile in relation to the “R(B)6” zone to the east of the site along Ventris Road (which was subject to a maximum BH of 115mPD) when viewed from the Race Course;

Representation No. R37

- the BH restrictions of 115mPD and 130mPD for the eastern and western parts of the site were to create a stepped height profile within the site and to tally with the similar BH restrictions for the “R(B)6” and “R(B)8” zones to its immediate north. The stipulated heights were sufficient to accommodate the maximum plot ratio (PR) of 5 as permitted for the site under the OZP; and

Representation No. R50

- the BH restriction of 100mPD was to ensure that development/redevelopment at the site would be compatible in scale and character with the immediate neighbourhood. The BH restrictions for the “R(B)” and “R(C)1” sites along Broadwood Road should not be taken as a reference in considering the BH

restriction for the site as the former sites were located on raised platforms and occupied by medium- to high-rise developments and the latter one was at the valley floor area. The BH restrictions for the sites at Broadwood Road were mainly to reflect the BHs of the existing developments, some of which had already breached the mountain ridgeline near Wong Nai Chung Gap.

- (h) PlanD's views – PlanD noted the support of Representers No. R1 to 3 to the imposition of building height restrictions in the Area and did not support Representer No. R3's proposal to impose more stringent BH restrictions for the Area for reasons as detailed in paragraph 6.1 of the Paper. The remaining representations should not be upheld, for reasons as detailed in paragraph 6.2 of the Paper.

11. The Chairman then invited the representers' representatives to elaborate on the representations.

12. Mr. Simon Leung elaborated on Representation No. R3 and made the following points:

- (a) he supported the imposition of BH restrictions for the Happy Valley area because the proliferation of excessively high buildings would affect the living environment of the area; and
- (b) the Highcliff and the Summit at Stubbs Road and the new building of HKSH had already created significant visual impact to the Happy Valley area. Such developments were incompatible with the residential character of the area and should be avoided. Further expansion of HKSH should be undertaken elsewhere since there was no shortage of medical facilities in Happy Valley.

13. Mr. Ng Kam Chun, Stephen elaborated on Representation No. R4 and made the following points:

- (a) it was not appropriate to impose a uniform BH restriction for the sites at different levels, such as the sites between King Kwong Street and Kwai Fong Street, since it would result in buildings of monotonous BH profile which did not tally with the natural topography of Happy Valley. A stepped height profile with BH ascending from the valley floor towards the south would be more desirable; and
- (b) under the uniform BH restriction, it would be difficult for the sites located at relatively higher levels to achieve the maximum permissible PR. Developers might have to build basements or maximize the building footprint, which would either be environmentally unfriendly or affect air ventilation. The BH restrictions should be suitably relaxed to follow the natural topography of Happy Valley.

14. Mr. Jackson T.C. Lee elaborated on Representations No. R8, 10 and 15 and made the following points:

- (a) Representations No. R6 to 15 were all made by the owners of the properties in Shan Kwong Mansion at 7C-7F Shan Kwong Road in respect of the BH restriction for the subject site;
- (b) the site was sandwiched between Village Road and Tsui Man Street which were at different levels. The existing building was completed before 1950s. With a BH restriction of 100mPD, the site could only be redeveloped to about 24 storeys. The development potential of the site would be greatly reduced by the BH restriction under the OZP;
- (c) public consultation on the amendments to the OZP was inadequate. Most of the affected property owners did not know the amendments until the consultation forum which was held in March 2008. Only a few Owners' Corporations in Happy Valley managed to submit representations and comments within the limited time allowed for consultation; and
- (d) it was unfair that the BH of the site was restricted to 100mPD while the

HKJC's site at the upper end of Shan Kwong Road was allowed with BH restrictions of 115mPD and 130mPD.

15. With the aid of a Powerpoint presentation, Mr. Ian Brownlee elaborated on Representation 28 and made the following points:

- (a) the existing building at the representation site had been built for more than 60 years and the on-going maintenance of the building had incurred significant expenses. There had been calls from some flat owners for selling the building for redevelopment. The site was under an unrestricted lease and prior to the imposition of BH restriction on the OZP, redevelopment at the site could achieve a PR and BH of about 9 and 30 storeys respectively. The BH restriction of 80mPD imposed on the site had significantly reduced its redevelopment potential;
- (b) the objective of the BH restriction to protect public views of Wong Nai Chung Gap from Happy Valley was unrealistic. The public views intended to be protected had been obstructed by existing buildings at many locations in Happy Valley. The view to Wong Nai Chung Gap as shown at Plan H-6 of the Paper was taken at the Hong Kong Racing Museum which was not a public area;
- (c) the character of Happy Valley was not defined by the heights of buildings but a mix of developments with variations in height and style. In general, buildings completed before and after 1980s were around 25 storeys and 30 to 35 storeys in height respectively. Such pattern should be respected if BH restrictions were imposed;
- (d) the objective of BH control should aim at preventing 'out-of-context' developments which were more than 40 storeys in height by imposing a BH restriction of 135mPD. A BH restriction of 130mPD was compatible with the new buildings in the area and would be accepted by the representer; and

- (e) redevelopment of old buildings to an appropriate scale should be encouraged. The BH restriction of 80mPD for the site was unreasonable and would adversely affect the development rights of the property owners.

[Mr. Maurice W.M. Lee arrived to join the meeting and Dr. Daniel B.M. To left the meeting temporarily at this point.]

16. With the aid of a Powerpoint presentation, Ms. Theresa Yeung elaborated on Representation 29 and made the following points:

- (a) the representation site was located at a level of about 24.8mPD. Compared with the “R(A)” sites at Wong Nai Chung Road near the Race Course, which were at a level of about 8.5mPD, the net BH that could be achieved at the representation site would be about 16.3m less. The blanket BH restriction without taking into account the topography of the site was unfair to the representer;

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

- (b) according to an indicative scheme prepared by the representer, a BH of about 117.85mPD would be necessary to accommodate a residential building with one storey of clubhouse and three storeys of shops as permitted at the site under the B(P)R, with floor-to-floor heights of 3.15m and 3.8m for domestic and non-domestic floors respectively. The development right of the representer was jeopardized by the 100mPD BH restriction under the OZP;

[Ms. Anna S.Y. Kwong left the meeting temporarily at this point.]

- (c) the application for minor relaxation of the BH restriction under the OZP had to be justified for developments with design merits/planning gains, such as the provision of sky gardens and building setbacks. Minor relaxation might not be granted for developments of a basic design to

accommodate the permissible PR;

- (d) the BH restriction had violated the spirit of Article 105 of the Basic Law, undermined the long established policy in Hong Kong to ensure development certainty and contravened the planning intention for imposing BH restrictions in the Area;
- (e) according to the visual impact assessment undertaken by the representer, relaxing the BH restriction for the representation site to 120mPD would not have adverse impact in the area. A building of 120mPD at the site would be blocked by other developments when viewed from the Happy Valley Sports Ground. Looking from Bowen Road, the building would match well with the adjacent developments; and
- (f) compared with the blanket BH restriction in the OZP, the representer's proposal would achieve a more interesting stepped height profile which could better respect the local topography and improve air ventilation. It was also in line with the urban design principle of helping wind deflection and avoiding air stagnation by a graduation of building heights.

[Dr. Daniel B.M. To and Ms. Anna S.Y. Kwong returned to the meeting at this point.]

17. Mr. Edmund Lau elaborated on Representation No. R30. He said that the rationale for imposing BH restrictions in the Area as presented by PlanD in the Paper and at the meeting was not convincing for the following reasons:

- (a) the imposition of BH restrictions had violated the principle of development certainty and affected private property rights, and thus had an adverse impact on property investment. Seeking relaxation to the BH restrictions through planning applications would be time consuming;
- (b) he did not see the need to impose BH restrictions. A tall building might allow more space between buildings. In a built-up area, a new

development would inevitably cause a certain degree of obstruction to the view of other developments. It was subjective and non-professional to consider that high-rise buildings would result in adverse visual impact. Trees could also block views but trees were allowed. Visual impact could be mitigated by the use of special design. In Mainland China, better urban design without height restrictions was introduced by the Chinese Academy of Sciences. PlanD should have consulted all relevant Government departments before imposing the restrictions. PlanD's officials were clearly incompetent;

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

- (c) the imposition of BH restriction did not necessarily help improve air ventilation in the Area;
- (d) the photomontages in the Paper which showed the visual impact of high-rise developments were not realistic because not all the sites would be redeveloped at the same time as expected. There would be a variation in design; and
- (e) the two-month period for public consultation of the amendments to the OZP was not sufficient for the concerned parties to make representations. There should be prior consultation with land owners before amendments to the OZP were made.

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

18. With the aid of a Powerpoint presentation, Mr. Kenneth To elaborated on Representation 32 and made the following points:

- (a) the representation site was located at a level from about 26.5mPD to 29mPD and was almost at the highest point of the 100mPD height band area on the OZP. According to an indicative development scheme prepared by the representer, a height of about 129mPD was necessary

for a development to achieve a PR of 10 as permitted under B(P)R at the site with the provision of the required ancillary facilities such as car parking and loading/unloading spaces. The proposed development under the indicative scheme comprised 25 storeys (about 100m) and the floor-to-floor height of the domestic floors was 3.15m. Such a development was in line with the modern design standard and should not be taken as an excessively tall building that had to be avoided;

- (b) the proposed development as shown in the indicative scheme would not constitute any visual impact when viewed from the Race Course as it would be blocked by buildings at the lower part of the 100mPD height band;
- (c) a set of building plans had been approved for redevelopment on part of the site (i.e. 7-10 Kwai Fong Street). The height of the approved scheme, of 25-storey with a floor-to-floor height of 2.77m and no provision of car parking and loading/unloading facilities, was about 107mPD. This was still greater than the BH limit of 100mPD as permitted under the OZP. Relaxing the BH restriction would encourage amalgamation of lots within the site to achieve a more desirable scheme;
- (d) under the BH restriction of 100mPD, the absolute height of building on the site could only be about 71m to 73.5m. The floor-to-floor height of the development had to be reduced and no sky garden could be provided. Clubhouse and car park had to be accommodated in basements, which would incur higher energy consumption and construction cost. Such design was not a sustainable design. The incentive for redevelopment had been greatly discouraged by the BH restriction;
- (e) a more flexible approach should be adopted to allow different BH restrictions for sites of different size, which was similar to the two-tier control adopted for the “R(A)2” zone on some of the OZPs in Kowloon, e.g. the Ma Tau Kok OZP; and

[Mr. K.Y. Leung returned to the meeting at this point.]

- (f) according to his experience, the Board adopted a very stringent approach in the consideration of applications for minor relaxation of BH restrictions. Normally, no more than 10% relaxation would be granted. It would be difficult to obtain approval for minor relaxation of the BH restriction to achieve the above indicative scheme.

[Mr. Timothy K.M. Ma left the meeting temporarily at this point.]

19. With the aid of a Powerpoint presentation, Mr. Kenneth To elaborated on Representation No. R33 and made the following points:

- (a) the representation site was zoned “R(B)” and had been developed as a hotel of a PR of 14.1 and BH at 92mPD. The representer intended to redevelop the site for residential use. Compared with the existing hotel, a residential development at the site would have a smaller SC and hence would help improve air ventilation in the area;
- (b) according to an indicative development scheme prepared by the representer, a BH of about 125.49mPD was necessary to accommodate a residential building at the site with a PR of 10 as permitted under B(P)R. The scheme comprised 29 storeys over a 3-storey podium with an absolute height of about 108.65m and the floor-to-floor height of the domestic floors at 3.15m. Such a development was in line with the modern design standard. It was also compatible with the surrounding developments and would not block the views to the ridgeline of Mount Nicholson when viewed from the Race Course. However, the scheme was not implementable under the BH restriction of 100mPD;
- (c) the BH restriction of 100mPD for the site did not pay due regard to the existing topography of the area. Since the site was located at a level of about 20mPD, only about 80m would be allowed for a new building. This could not meet the need of the representer for redevelopment of the

site;

- (d) a set of building plans had been approved in May 2008 for a residential development at the site with a PR of 9.991 and a BH of 99.85mPD. To meet the BH restriction of 100mPD, a floor-to-floor height of only 3m was adopted and the car parking and clubhouse facilities were accommodated at basements. Such design was undesirable in terms of air ventilation, natural lighting and energy efficiency. The BH restriction of 100mPD had defeated the incentive for redevelopment; and

[Mr. Timothy K.M. Ma returned to the meeting at this point.]

- (e) as explained in [paragraph 18\(f\)](#) above, it was unlikely that a minor relaxation of the BH restriction from 100mPD to 125mPD (as required for the indicative residential scheme) would be approved by the Board.

20. Mr. Thomas Cheung supplemented the following points on Representation No. R33:

- (a) the representer had submitted building plans for residential development in October 2007 before the stipulation of the BH restriction for the site on the OZP. The plans were rejected by the Building Authority (BA) having regard to PlanD's adverse comment on the height of the building. Revised building plans were submitted in December 2007 but were rejected for non-compliance with the OZP exhibited on 18.1.2008;
- (b) the building plans approved in May 2008 had included a turntable and a car lift in the development since there was insufficient floor space to accommodate a vehicle driveway. Although waiting spaces for vehicles had been allowed within the development, vehicles might queue up on the public road at times, hence creating adverse traffic impact on the surrounding area;

- (c) under the approved scheme, no sky garden could be provided and the clubhouse would be accommodated at the basements with no natural ventilation and lighting. Furthermore, the use of basements was environmentally unfriendly and non-sustainable; and
- (d) the construction of basements in the approved scheme would also cause significant nuisances to the local residents.

21. With the aid of a Powerpoint presentation, Ms. Theresa Yeung elaborated on Representation No. R34 and made the following point:

- (a) the representation site was located at a level of about 17mPD. Under the BH restriction of 100mPD, the net BH for development at the site would only be about 83m;
- (b) the site was currently vacant. Submission of building plans for a residential development was withheld from submission to the BA due to the imposition of BH restriction on 18.1.2008;
- (c) according to the building plans under preparation, a residential development with a BH of 121.7mPD with domestic floor-to-floor heights ranging from 3.2m to 3.5m was proposed. To meet the car parking requirement under lease, three and a half storeys of the building would be used for car park. Given the elongated shape and narrow frontage (about 16.205m) of the site, only 12 parking spaces could be accommodated on one storey after deducting the central service core of the building. Therefore, the number of car parking floors could not be reduced;
- (d) it was not feasible to provide car parks at basements. Taking into account the need to set back for pipe pile walls and structural walls and the area reserved for building service core, the width of car ramps to the basements could only be about 4.7m, which was substandard;

- (e) provision of car lifts was also not feasible. Due to the small size of the site, only one car lift could be provided and no waiting space for vehicles would be available. Vehicles waiting to enter the building would have to queue up and tail back onto the uni-directional Yuk Sau Street, causing adverse traffic impact especially during the peak hours;
- (f) the proposed floor heights of 3.2m to 3.5m were in line with the modern living standard and would ensure better natural light and ventilation. They were also in line with the consensus expressed by the Buildings Department, Lands Department and PlanD in a forum held on 23.6.2008 relating to the BH issues;
- (g) the BH restriction of 100mPD had jeopardized the development rights of the representer, violated the spirit of Article 105 of the Basic Law, undermined the long established policy in Hong Kong to ensure development certainty and contravened the planning intention for imposing BH restrictions in the Area;
- (h) the application for minor relaxation of the BH restriction under the OZP had to be justified for developments with design merits/planning gains. It was doubtful if a minor relaxation of 21m could be approved for a standard design; and
- (i) the representer was prepared to accept a relaxation of the BH restriction for his site from 100mPD to 122mPD to allow his redevelopment plan to proceed. According to the visual impact assessment undertaken by the representer, relaxing the BH restriction to 122mPD would not create adverse visual impact in the area. The proposed building at the site would be blocked by Fortuna Court when viewed from the Happy Valley Sports Ground. Looking from Bowen Road and Tai Tam Country Park, the building would match well with the adjacent developments.

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

22. With the aid of a Powerpoint representation and a set of architectural drawings tabled at the meeting, Mr. Ian Brownlee elaborated on Representation No. R37 and made the following points:

- (a) the presenter had also submitted representations on other sites in the OZP which would be heard by the Board in the afternoon session. At that session, the presenter's solicitors would make submissions on some legal issues, including whether the public consultation procedures for amendments to the OZP under the Ordinance had been properly carried out; whether the Board's approach of assigning BH restrictions in the OZP complied with the Ordinance; and whether it was proper to divide a site under single ownership and zoning into sub-areas. These legal issues would not be repeated in the presentation for Representation No. R37;

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

- (b) the representation site was located at the upper end of Shan Kwong Road on a platform, which was about 30m higher than the adjacent "R(B)6" site to the immediate north. In spite of the significant difference in site levels, the same BH restriction of 115mPD was imposed on the "R(B)6" site and the eastern part of the representation site. As such, the representation site was much more restrictive in terms of redevelopment potential;
- (c) for the representation site, a better building design would be possible if a uniform BH restriction of 130mPD instead of the existing two-tier restrictions of 115mPD and 130mPD was applied. As shown in Scheme A of the architectural plans tabled at the meeting, the existing restrictions would result in a development with three tower blocks of 19 to 22 storeys aligned in a linear wall-like form within the western part of the site which was under a less stringent BH restriction of 130mPD. If a uniform restriction of 130mPD was applied to the whole site, a better layout of the blocks would be possible by either realigning the blocks in a less wall-like form (Scheme B) or locating the blocks at different parts of the site

(Scheme C);

- (d) the representation site was under PR and SC restrictions on the OZP. It had a larger site area as compared with the adjacent “R(B)6” and “R(B)8” sites and hence could accommodate a better design. It was not necessary to follow the same BH restrictions for the “R(B)6” and “R(B)8” sites, especially when the restrictions would restrict good design and had no specific public benefit; and
- (e) normally, no more than 10% relaxation would be granted on application for minor relaxation of BH restriction. It was more appropriate to set out a reasonable BH restriction at the plan-making stage rather than resorting to the planning application system for minor relaxation upon development/redevelopment of the site.

23. Members noted that representatives of Representer No. R50 and Commenter No. C1 also attended the meeting but would not make oral presentation to the Board.

24. Members had the following questions:

General

- (a) in assessing the implications of the BH restrictions on the development potential of private lots, whether PlanD had taken into consideration site classification under B(P)R in assessing the development potential of a site and the possibility of site amalgamation to achieve the maximum permissible PR;
- (b) whether the natural topography of Happy Valley had been taken into consideration in formulating the BH restrictions for the Area, noting that a uniform BH restriction of 100mPD was imposed on the area between King Kwong Street and Kwai Fong Street, which was on a sloping ground;

- (c) whether technical feasibility of development was a relevant factor in the consideration of an application for minor relaxation of the BH restrictions;
- (d) whether the visual impact assessments conducted by some representers to demonstrate that relaxing the BH restrictions for their sites would have no significant visual impacts were correct;
- (e) the steps that PlanD had taken to consult the public on the amendments to the OZP;

Representation No. R28

- (f) whether the BH restriction of 80mPD for the “R(A)” zone covering the site was determined with an intention to protect the ridgeline of Wong Nai Chung Gap;

Representation No. R33

- (g) whether there were building plan approvals for the two indicative schemes presented at the hearing; and

Representation No. R37

- (h) whether PlanD had any comment on the indicative schemes tabled by the representer at the meeting.

25. In response to Members’ questions, Ms. Brenda Au made the following points:

General

- (a) based on the maximum permissible PR and SC under B(P)R for a domestic building, i.e. PR 8 and SC of 33.33% for a Class A site and PR 10 and SC of 40% for a Class C site, the BH of a development at a Class A and Class C

site would be about 24 and 25 storeys respectively. The difference in BH for sites of different classification was not significant. However, for amalgamated sites, developers might intend to build taller buildings so as to allow more space between buildings;

- (b) the BH restrictions imposed in the Area were to preserve the special character of Happy Valley and the natural topography of the area had been taken into consideration in the formulation of the BH restrictions. While noting that those located at higher levels near Kwai Fong Street would be subject to relatively greater control, the BH restriction was determined in a holistic approach having regard to the BH restrictions of the adjacent sites, in particular the Special Control Area (SCA). Development to the east and south of the “R(B)” site at Kwai Fong Street were restricted to maximum six storeys in addition to one storey of carports and maximum 14 storeys including carports respectively. The BH restriction of 100mPD for the Kwai Fong Street site would be more compatible with the surrounding area. It would also ensure that the views from Tai Tam Country Park to the Race Course would not be blocked;
- (c) piecemeal relaxation of the BH restrictions for individual sites at plan-making stage was considered inappropriate as it would jeopardize the overall BH concept for the Area. To address the issue, the provision for application for minor relaxation of the BH restrictions would provide the flexibility for individual cases. The relevant criteria for the consideration of minor relaxation application had been set out in paragraph 7.5 of the ES of the OZP, which clearly included site amalgamation and site constraints;
- (d) depending on the location of viewpoints, relaxing the BH restriction for some sites might not have a significant visual impact. However, any proposals to relax the BH restrictions for individual sites should be carefully considered taking into account the implications on the surrounding areas and the overall BH concept;

[Mr. Walter K.L. Chan arrived to join the meeting at this point.]

- (e) public consultation was undertaken in accordance with the provisions of the Ordinance in that the amendments to the OZP were exhibited for two months for public representation and the representations received were published for three weeks for public comment. The public had not been consulted before the exhibition of the amendments since pre-mature release of the information might prompt developers/owners rushing in to submit building plans, which would defeat the purpose of incorporating the control. During the exhibition of the amendments, representatives of PlanD had attended the meeting of the Development, Planning and Transport Committee of the Wan Chai District Council on 14.2.2008 and a local consultation forum on 4.3.2008 to brief the District Councillors and local residents on the amendments;

[Dr. Winnie S.M. Tang left the meeting temporarily at this point.]

Representation No. R28

- (f) it was the planning intention to maintain a stepped height profile with BH increasing from the lower part of the valley floor towards the uphill area with an objective to preserve the existing vista from the Race Course and Sports Ground at Happy Valley to the distant hill backdrop. A BH restriction of 85mPD had previously been proposed by PlanD for the “R(A)” sites at the lower valley floor, covering the representation site, as the lowest band. On 14.1.2008, the Metro Planning Committee considered the proposed amendments to the OZP submitted by PlanD and decided to adopt a more stringent BH restriction of 80mPD for the “R(A)” sites in order to better preserve the local character of the area;

Representation No. R37

- (g) PlanD had not seen the indicative schemes tabled by the representer before;
- (h) the stepped BH restrictions of 115mPD and 130mPD for the sites were

imposed mainly to tally with the BH restrictions for the adjacent “R(B)6” and “R(B)8” sites so as to create a coherent stepped height profile along Shan Kwong Road. The BHs stipulated for the site were sufficient to accommodate a maximum PR of 5 as permitted under the OZP and there was no need to relax the restrictions to accommodate the representor’s proposals; and

- (i) the site was located adjacent to the clubhouse of the Hong Kong Jockey Club which was zoned “Other Specified Uses” (“OU”) annotated “Stables, Private Sports Recreation Club and Public Open Space” zone with a BH restriction of 7 storeys. The height of the existing development within this “OU” zone was around 87mPD. The representor’s proposal for a uniform BH restriction of 130mPD at the site should be considered taking into account the compatibility with the adjacent “OU” zone which was also a subject of representation to be considered.

26. In response to paragraphs 24(g) and (i) above, Mr. Ian Brownlee made the following points

Representation No. 28

- (a) it was the first time that BH restrictions were imposed for the protection of public views to the ridgeline of a gap. In any event, the views to the ridgeline from most locations in Happy Valley had already been blocked by the existing developments. It was not justified to impose an overly restrictive control to protect the view which did not exist;

Representation No. R37

- (b) as shown in a photomontage in his Powerpoint presentation made earlier, imposing a uniform BH restriction of 130mPD for the whole site would allow a better design of the development and maintain a stepped height relationship with the adjacent “R(B)6” and “R(B)8” sites; and

- (c) the site was under single ownership and imposing a two-tier restriction at the site would limit the development from achieving good building design. The plan-making process should focus on the general planning control instead of the details of individual development.

27. In response to Ms. Brenda Au's comments in paragraph 25(a) and (b) above, Mr. Kenneth To made the following points:

- (a) with a BH restriction of 100mPD, most of the sites located at high levels were unable to accommodate a 25-storey building taking into account the requirement for additional floors for ancillary facilities such as car parking spaces; and
- (b) the rationale of imposing a stringent BH restriction for sites near SCA was not convincing. SCA was established many years ago for specific reasons and the practice of imposing stringent BH restrictions on such area should not be extended to other sites. The SCA near Kwai Fong Street was located at a higher level and the actual BH of a 14-storey development thereon should be over 80mPD. Relaxing the BH restriction for the "R(A)" site at Kwai Fong Street to 120mPD would not result in developments incompatible with the SCA.

28. In response to Ms. Brenda Au's comment in paragraph 25(b) above, Ms. Theresa Yeung said that the area to the south of the Race Course was a sloping ground and imposing specific BH restrictions to individual sites as proposed by the representers would be more in line with the natural topography of the area.

29. Mr. Edmund Lau, the representative of Representer No. R30, said that there had already been sufficient control on building height under the Buildings Ordinance. Furthermore, PlanD was wrong in saying that the BH restrictions would not affect private development rights. He said Government officials should admit their mistakes or people would take to the streets.

30. Mr. Ng Kam Chun, Stephen, Representer No. R4, said that imposing a uniform

restriction to a sloping area had failed to respect the natural topography and was not fair to the owners of the lots located at higher levels. It was also contradictory to the Government's policy of improving the environmental quality and living conditions of the people. The BH restrictions should be suitably relaxed.

31. Mr. Christopher E.T. Kho said that Representer No. R29 had submitted a set of building plans to the BA in November 2007 before the imposition of the BH restrictions. The plans were rejected in January 2008 due to non-compliance with the OZP. The imposition of BH restriction had affected the development right of many landowners in the area.

32. In response to [paragraph 24\(g\)](#) above, Mr. Thomas Cheung, representative of Representer No. R33, said that approval had been obtained for the building plans in respect of the scheme with basements in May 2008. No building plans approval had been given for the other scheme.

33. As the representatives of representers and commenter had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing procedures for the representations and comments had been completed. The Board would deliberate and decide on the representations in their absence and inform the representers and commenters of the Board's decision in due course. The Chairman thanked the representatives of PlanD, the representers and Commenter No. C1 for attending the meeting. They all left the meeting at this point.

Deliberation Session

34. Some Members were concerned about the constraints imposed by the BH restriction of 100mPD for the sites located at high levels in achieving the maximum PR permitted under the B(P)R. Furthermore, imposing a uniform BH restriction for the area stretching from King Kwong Street at about 11mPD to Kwai Fong Street at about 29mPD would result in a monotonous height profile and did not have sufficient regard to the natural topography of the area. The existence of SCA near Kwai Fong Street was not an appropriate ground for unduly restricting the BH on Kwai Fong Street. Consideration should be given to suitably adjusting the BH restriction for the sites at higher levels so that

more flexibility for development was allowed and a stepped BH pattern could be created for the area to follow the profile of the natural topography.

[Mr. Timothy K.W. Ma left the meeting at this point.]

35. A Member said that there was a genuine need to impose BH restrictions in Happy Valley to prevent out-of-context developments and to meet the public aspiration for a better townscape. However, the development right of private lot owners should also be respected. The constraints posed by BH restrictions on certain sites could be addressed by taking technical feasibility of a development as a consideration in the application for minor relaxation of the BH restrictions, instead of amending the BH restrictions. Some other Members also considered that the existing approach of allowing flexibility for development/redevelopment on individual sites with design merits and planning gains by way of minor relaxation of BH restriction should be maintained.

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

36. A Member said that there had already been ample open spaces and green areas in Happy Valley. The visual amenity in the area would not be significantly affected even if the BH restrictions under the OZP were relaxed.

[Dr. Daniel B.M. To left the meeting temporarily at this point.]

37. In summarizing the discussion, the Chairman noted that a majority of Members supported a slight relaxation of the BH restriction for the sites located at higher levels, taking account of the sloping characteristics of the area, while retaining the restriction for those at lower levels. He suggested taking Village Road and Cheong Ming Street, which was about half way up from King Kwong Street to Kwai Fong Street, as a dividing line. The BH restriction for the sites to the south of Village Road and Cheong Ming Street and to the east of Shan Kwong Road should be amended to 115mPD while that for the sites to the north should be retained at 100mPD. Besides, the BH restrictions for the “R(A)” sites bounded by King Kwong Street, Shan Kwong Road, Wong Nai Chung Road and Blue Pool Road should be relaxed from 80mPD to 85mPD so that a stepped BH pattern in three bands, each at a difference of 15m would be created.

38. The Chairman said that the existing practice of allowing flexibility for development through minor relaxation of the BH restrictions should continue. Sympathetic consideration should be given to the cases with site constraints for achieving a feasible development.

39. Members also had a discussion on Representation No. R37 and generally considered that the representer's proposal to replace the existing two-tier BH restrictions of 115mPD and 130mPD for the site with a uniform restriction of 130mPD was reasonable, taking into account the site constraints imposed by the tall rock platform at the site and the flexibility of achieving a better building design. A Member had reservation on relaxing the BH restrictions for the site as it had a bearing on the adjoining clubhouse, the representation of which was yet to be considered. This Member, however, respected the majority view of the Board.

40. A Member suggested that photomontages should be prepared to illustrate the visual effects of the proposed amendments to the BH restrictions. The Chairman said that PlanD should submit the proposed amendments to the Board for endorsement, together with the photomontages, before the proposed amendments were exhibited under the Ordinance for further representation.

41. Referring to the presentation made by Mr. Edmund Lau on Representation No. R30, Mrs. Ava Ng said that the criticisms made by Mr. Lau on PlanD's staff were biased and without basis. Several Members said that such criticisms should not be accepted. Mrs. Ng also said that the Chinese Academy of Sciences as quoted by Mr. Lau was a research institution and was not involved in the administration of the planning system of the Mainland China which was the purview of the Ministry of Housing and Urban-Rural Development. Furthermore, the planning system in the Mainland China involved very comprehensive and even more stringent requirements in respect of building height, intensity and spacing between buildings, which were different from those in Hong Kong. The Chairman and Members agreed it was indeed regrettable that the representer used such abusive language.

Representations No. R1 to 3

42. After deliberation, the Board noted the support of the representers on the stipulation of building height restrictions in the Area in general. The Board also decided not to support the proposal of Representer No. R3 to impose more stringent BH restrictions for the Area for the following reason:

the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the local character, urban design considerations, air ventilation as well as a balance between public aspirations for a better living environment and private development rights. The imposition of more stringent building height restrictions would have adverse impact on the development potential of the affected sites, and was considered not appropriate.

Representation No. R4

43. After deliberation, the Board decided to partially uphold the representation by:

- (a) amending the building height restriction for the “Residential (Group A)”, “Residential (Group B)” (“R(B)”) and “R(B)10” sites to the south of Village Road/Cheong Ming Street and to the east of Shan Kwong Road from 100mPD to 115mPD; and
- (b) amending the building height restriction for the “R(A)” sites bounded by Wong Nai Chung Road, Shan Kwong Road, King Kwong Street/Tsoi Tak Street and Blue Pool Road from 80mPD to 85mPD.

44. The Board decided not to uphold the remaining part of the representation for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an

overall building height concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, further relaxation of building height restrictions for individual sites on the Outline Zoning Plan was not supported;

- (b) the building height restrictions would not preclude the incorporation of green features and a reasonable floor-to-floor height for development and redevelopment; and
- (c) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better living environment and private development rights.

Representation No. R5

45. After deliberation, the Board decided to partially uphold the representation by:

- (a) amending the building height restriction for the “Residential (Group A)”, “Residential (Group B)” (“R(B)”) and “R(B)10” sites to the south of Village Road/Cheong Ming Street and to the east of Shan Kwong Road from 100mPD to 115mPD;
- (b) amending the building height restriction for the “R(A)” sites bounded by Wong Nai Chung Road, Shan Kwong Road, King Kwong Street/Tsoi Tak Street and Blue Pool Road from 80mPD to 85mPD; and
- (c) relaxing the building height restriction for the eastern part of the “Residential (Group C)1” site at Shan Kwong Road from 115mPD to 130mPD.

46. The Board decided not to uphold the remaining part of the representation for

the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall building height concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, further relaxation of building height restrictions for individual sites on the Outline Zoning Plan was not supported;
- (b) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better living environment and private development rights; and
- (c) since the imposition of building height restrictions for the Wong Nai Chung Area would not adversely affect the development potential of individual sites, the redevelopment process in the Area should not be hindered by the amendments to the OZP.

Representations No. R6 to 15

47. After deliberation, the Board decided to partially uphold the representations by:

- (a) amending the building height restriction for the “Residential (Group A)”, “Residential (Group B)” (“R(B)”) and “R(B)10” sites to the south of Village Road/Cheong Ming Street and to the east of Shan Kwong Road from 100mPD to 115mPD;
- (b) amending the building height restriction for the “R(A)” sites bounded by Wong Nai Chung Road, Shan Kwong Road, King Kwong Street/Tsoi Tak Street and Blue Pool Road from 80mPD to 85mPD; and

- (c) relaxing the building height restriction for the eastern part of the “Residential (Group C)1” site at Shan Kwong Road from 115mPD to 130mPD.

48. The Board decided not to uphold the remaining part of the representations for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall BH concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, further relaxation of building height restrictions for individual sites on the Outline Zoning Plan was not supported;
- (b) to avoid further development of tall buildings like Hong Kong Sanatorium and Hospital Phase III and some developments on Stubbs Road which were incompatible with the surrounding developments, the imposition of building height restrictions for the Area was considered necessary;
- (c) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better living environment and private development rights;
- (d) since the imposition of building height restrictions for the Wong Nai Chung Area would not adversely affect the development potential of individual sites, the redevelopment process in the Area should not be hindered by the amendments to the OZP; and
- (e) under the Town Planning Ordinance, all new OZPs and amendments to an

OZP had to be exhibited for public inspection for a period of two months. The statutory two-month exhibition period was considered adequate for consultation with the public, while maintaining the efficiency of the process.

Representations No. R16 to 19

49. After deliberation, the Board decided to partially uphold the representations by:

- (a) amending the building height restriction for the “Residential (Group A)”, “Residential (Group B)” (“R(B)”) and “R(B)10” sites to the south of Village Road/Cheong Ming Street and to the east of Shan Kwong Road from 100mPD to 115mPD;
- (b) amending the building height restriction for the “R(A)” sites bounded by Wong Nai Chung Road, Shan Kwong Road, King Kwong Street/Tsoi Tak Street and Blue Pool Road from 80mPD to 85mPD; and
- (c) relaxing the building height restriction for the eastern part of the “Residential (Group C)1” site at Shan Kwong Road from 115mPD to 130mPD.

50. The Board decided not to uphold the remaining part of the representations for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall BH concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, further relaxation of building height restrictions for individual sites on the Outline Zoning Plan was not supported; and

- (b) as the amendments to the OZP did not involve the general imposition of plot ratio/gross floor area restrictions, there would not be any impact on the overall supply of residential flats and property price. The building height restrictions were imposed in the public interest.

Representations No. R20 to 28

51. After deliberation, the Board decided to partially uphold the representations by:

- (a) amending the building height restriction for the “Residential (Group A)”, “Residential (Group B)” (“R(B)”) and “R(B)10” sites to the south of Village Road/Cheong Ming Street and to the east of Shan Kwong Road from 100mPD to 115mPD;
- (b) amending the building height restriction for the “R(A)” sites bounded by Wong Nai Chung Road, Shan Kwong Road, King Kwong Street/Tsoi Tak Street and Blue Pool Road from 80mPD to 85mPD; and
- (a) relaxing the building height restriction for the eastern part of the “Residential (Group C)1” site at Shan Kwong Road from 115mPD to 130mPD.

52. The Board decided not to uphold the remaining part of the representations for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall BH concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, further relaxation of building height restrictions for

individual sites on the Outline Zoning Plan was not supported;

- (b) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better living environment and private development rights; and
- (c) since the imposition of building height restrictions for the Wong Nai Chung Area would not adversely affect the development potential of individual sites, the redevelopment process in the Area should not be hindered by the amendments to the OZP.

Representation No. R29

53. After deliberation, the Board decided to partially uphold the representation by amending the building height restriction for the “Residential (Group A)”, “Residential (Group B)” (“R(B)”) and “R(B)10” sites to the south of Village Road/Cheong Ming Street and to the east of Shan Kwong Road from 100mPD to 115mPD.

54. The Board decided not to uphold the remaining part of the representation for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall BH concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, further relaxation of building height restrictions for individual sites on the Outline Zoning Plan was not supported;
- (b) there was provision for application for minor relaxation of the building height restrictions under the OZP. Each application would be considered

by the Board based on its individual merits and a set of criteria for consideration of such applications had been set out in the Explanatory Statement of the OZP; and

- (c) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better living environment and private development rights.

Representation No. R30

55. After deliberation, the Board decided to partially uphold the representation by:

- (a) amending the building height restriction for the “Residential (Group A)”, “Residential (Group B)” (“R(B)”) and “R(B)10” sites to the south of Village Road/Cheong Ming Street and to the east of Shan Kwong Road from 100mPD to 115mPD; and
- (b) amending the building height restriction for the “R(A)” sites bounded by Wong Nai Chung Road, Shan Kwong Road, King Kwong Street/Tsoi Tak Street and Blue Pool Road from 80mPD to 85mPD.

56. The Board decided not to uphold the remaining part of the representation for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall building height concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, further relaxation of building height restrictions for individual sites on the Outline Zoning Plan was not supported;

- (b) the building height restrictions would not preclude the incorporation of green features and a reasonable floor-to-floor height for development and redevelopment; and
- (c) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better living environment and private development rights.

Representation No. R31

57. After deliberation, the Board decided to partially uphold the representation by amending the building height restriction for the “Residential (Group A)”, “Residential (Group B)” (“R(B)”) and “R(B)10” sites to the south of Village Road/Cheong Ming Street and to the east of Shan Kwong Road from 100mPD to 115mPD.

58. The Board decided not to uphold the remaining part of the representation for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall building height concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, further relaxation of building height restrictions for individual sites on the Outline Zoning Plan was not supported;
- (b) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better

living environment and private development rights; and

- (c) since the imposition of building height restrictions for the Wong Nai Chung Area would not adversely affect the development potential of individual sites, the redevelopment process in the Area should not be hindered by the amendments to the OZP.

Representation No. R32

59. After deliberation, the Board decided to partially uphold the representation by amending the building height restriction for the “Residential (Group A)”, “Residential (Group B)” (“R(B)”) and “R(B)10” sites to the south of Village Road/Cheong Ming Street and to the east of Shan Kwong Road from 100mPD to 115mPD.

60. The Board decided not to uphold the remaining part of the representation for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall BH concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, further relaxation of building height restrictions for individual sites on the Outline Zoning Plan was not supported;
- (b) the building height restrictions would not preclude the incorporation of green features and a reasonable floor-to-floor height for development and redevelopment; and
- (c) there was provision for application for minor relaxation of the building height restrictions under the OZP. Each application would be considered by the Board based on its individual merits and a set of criteria for consideration of such applications had been set out in the Explanatory

Statement of the OZP.

Representation No. R33

61. After deliberation, the Board decided not to uphold the representation for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall building height concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, relaxation of building height restrictions for the Representation Site was not supported;
- (b) there was provision for application for minor relaxation of the building height restrictions under the OZP. Each application would be considered by the Board based on its individual merits and a set of criteria for consideration of such applications has been set out in the Explanatory Statement of the OZP; and
- (c) since the imposition of building height restrictions for the Wong Nai Chung Area would not adversely affect the development potential of individual sites, the redevelopment process in the Area should not be hindered by the amendments to the OZP.

Representation No. R34

62. After deliberation, the Board decided not to uphold the representation for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and

ridgeline near Wong Nai Chung Gap. They were formulated based on an overall building height concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, relaxation of building height restrictions for the Representation Site was not supported;

- (b) there was provision for application for minor relaxation of the building height restrictions under the OZP. Each application would be considered by the Board based on its individual merits and a set of criteria for consideration of such applications has been set out in the Explanatory Statement of the OZP;
- (c) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better living environment and private development rights; and
- (d) since the imposition of building height restrictions for the Wong Nai Chung Area would not adversely affect the development potential of individual sites, the redevelopment process in the Area should not be hindered by the amendments to the OZP.

Representations No. R35 and 36

63. After deliberation, the Board decided not to uphold the representations for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and ridgeline near Wong Nai Chung Gap. They were formulated based on an overall building height concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the

sloping topography of the Area. To maintain the integrity of the overall building height concept, relaxation of building height restrictions for the Representation Sites was not supported;

- (b) the amendments to the OZP mainly involved the imposition of building height restrictions and no additional restrictions on site coverage or design aspects had been imposed. The building height restrictions alone would not impose undue constraint on the design flexibility of future redevelopments;
- (c) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better living environment and private development rights; and
- (d) since the imposition of building height restrictions for the Wong Nai Chung Area would not adversely affect the development potential of individual sites, the redevelopment process in the Area should not be hindered by the amendments to the OZP.

Representation No. R37

64. After deliberation, the Board decided to uphold the representation by relaxing the building height restriction for the eastern part of the “Residential (Group C)1” site at Shan Kwong Road from 115mPD to 130mPD.

Representation No. R50

65. After deliberation, the Board decided not to uphold the representation for the following reasons:

- (a) the building height controls were meant to preserve the distinctive character of the Area and the existing vista to the mountain backdrop and

ridgeline near Wong Nai Chung Gap. They were formulated based on an overall building height concept and, with the amendments to the BH restrictions proposed by the Board, had sensitively responded to the sloping topography of the Area. To maintain the integrity of the overall building height concept, relaxation of building height restrictions for the Representation Site was not supported;

- (b) the building height restrictions would not preclude the incorporation of green features and a reasonable floor-to-floor height for development and redevelopment;
- (c) the building height restrictions for the Area had been formulated after taking into account various factors, including the existing height profile, the distinctive local character, urban design considerations, air ventilation as well as striking a balance between the public aspiration for a better living environment and private development rights; and
- (d) since the imposition of building height restrictions for the Wong Nai Chung Area would not adversely affect the development potential of individual sites, the redevelopment process in the Area should not be hindered by the amendments to the OZP.

[Mr. B.W. Chan arrived to join the meeting and Mr. Maurice W.M. Lee left the meeting at this point.]

Group 2 – Representations No. R38 to 41 and Comment No. C381

Presentation and Question Session

66. The Chairman said that Commenter No. C381 had not replied to the Secretariat's invitation for attending the hearing. As sufficient notice had been given, Members agreed to proceed with the hearing in the absence of the said commenter.

67. The following representatives of Planning Department (PlanD) and representers were invited to the meeting at this point:

PlanD

Ms. Brenda Au - District Planning Officer/Hong Kong, PlanD

Mr. Tom Yip - Senior Town Planner/Hong Kong, PlanD

Representatives of Representers No. R38 and 39

Ms. Keren Seddon

Ms. Cindy Tsang

Mr. Alex Lui

Mr. Perry Wu

Mr. Gary Lui

Ms. Floria Tsang

Mr. Raymond Zhou

Representative of Representer No. R40

Ms. Helen Lung

Representative of Representer No. R41

Mr. Ng Sui Kan

68. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited Ms. Brenda Au to brief Members on the background to the representations and Comment No. C381.

69. With the aid of a Powerpoint presentation, Ms. Brenda Au made the following points as detailed in Paper No. 8146:

- (a) the subjects of representations as set out in paragraph 2.1 of the Paper;
- (b) Comment No. C381 – the commenter supported Representation No. R39 and the rezoning of the representation site at 101 Leighton Road from “Government, Institution or Community” (“G/IC”) to “Commercial (1)”

("C(1)") but opposed the stipulation of a building height (BH) restriction of 100mPD and a minimum gross floor area (GFA) requirement for Government, institutional or community (GIC) facilities for the "C(1)" zone;

- (c) the grounds of representations and comments as detailed in paragraphs 2.3 and 2.5 of the Paper;
- (d) Representers' proposals as detailed in paragraph 2.4 of the Paper;
- (e) planning considerations and assessments on the representations as detailed in paragraph 4.1 to 4.3 of the Paper;
- (f) responses to the representations and representers' proposals as detailed in paragraph 4.4 and 4.5 of the Paper, including:

Rezoning the "Commercial/Residential" ("C/R") Site to "Commercial" ("C")

- the "Study on Review of Metroplan and the Related Kowloon Density Study Review" (the Metroplan Review) completed in March 2003 revealed that the "C/R" zoning would create uncertainty in planning for infrastructure and community facilities as commercial and residential uses had different infrastructural and land use requirements. The study recommended that "C/R" sites should be rezoned to "C", "Residential" and other appropriate zoning for more effective infrastructural planning and better land use management;
- Leighton Road was very close to the commercial node at Causeway Bay and had been developed mainly for commercial and office buildings. A "C" zoning for the site at Leighton Road was appropriate and would enhance the further development of the commercial node;

- flexibility for future development for residential uses was maintained by way of planning application;

Rezoning “G/IC” Site to “C(1)”

- the rezoning of the site at 101 Leighton Road from “G/IC” to “C(1)” with the stipulation of a minimum GFA of 715m² for GIC facilities was to reflect the existing commercial and religious institution uses at the site, which were developed in accordance with the planning application (No. A/H7/83) approved by the Board in 1992;

BH Restriction of 100mPD for the “C” and “C(1)” Zones

- the BH restriction of 100mPD for the “C” and “C(1)” sites at Leighton Road reflected the predominant BHs of the existing developments on the sites. It was in line with the overall BH concept for the Wong Nai Chung area and compatible with developments in the adjacent “R(A)” zone along Leighton Road;
- the commercial buildings to the east, west and north of the Leighton Road site had a BH mainly between 80mPD and 111mPD. The Lee Gardens, Manulife Plaza with a BH of 210mPD should not be taken as the reference for the appropriate BH restriction for the “C” sites at Leighton Road since the building was developed on a larger site and was significantly taller than the surrounding developments;
- the residential developments along Broadwood Road were developed on raised platforms. The BH restrictions for them were mainly to reflect the BHs of the existing developments. It was inappropriate to take the BHs of these developments as a reference for the “C” sites;

- building design was determined by the interplay of factors such as plot ratio (PR), site coverage (SC) and BH, design and disposition of buildings and geometry of the site. BH restriction alone would not impose undue constraint on the design flexibility of development;
- to cater for site-specific circumstances, there was provision for application for minor relaxation of the BH restrictions under the OZP. Each application would be considered by the Board on its individual merits. There was no predetermined figure for the percentage of relaxation that could be allowed, which would be determined by making reference to the impacts of the relaxation on the surrounding area;

Development Rights

- the BH restrictions had taken into account various factors, including the existing topography, land use zoning, BH profile, local character, urban design considerations, development potential, air ventilation and the balance between the public aspiration for a better living environment and private development rights;
- the redevelopment of a site was subject to a number of factors, including developer's initiative, market condition, land ownership, the age, physical conditions and development intensity of the existing buildings. The redevelopment process in the Area would not be hindered by the amendments to the OZP; and

Public Consultation

- to avoid premature release of information which might prompt developers to accelerate the submission of building plans for the

affected sites before the statutory control was in place, consultation with the public was held after exhibition of the amendments to the OZP. The publication of the OZP itself was a statutory public consultation process. During the exhibition of the amendments, representatives of PlanD had attended the meeting of the Development, Planning and Transport Committee of the Wan Chai District Council on 14.2.2008 and a local consultation forum on 4.3.2008 to brief the District Councillors and local residents on the amendments.

- (h) PlanD's views – PlanD considered that the representations should not be upheld for reasons as detailed in paragraph 6.1 of the Paper.

70. The Chairman then invited the representers' representatives to elaborate on the representations.

71. With the aid of a Powerpoint presentation and a physical model, Ms. Cindy Tsang elaborated on Representation No. R39 and made the following points:

- (a) the representation site was located to the north of Leighton Road amongst the "C/R" sites in Causeway Bay, which had a very different planning context compared with the Wong Nai Chung area. The previous "C/R" zoning of the site was compatible with the character of the commercial node of Causeway Bay (the Causeway Bay Node). It also reflected the existing mixed use character of the site, which comprised office, service apartment and commercial/residential developments. Rezoning the site to "C" would result in development incompatible with the surrounding uses;
- (b) the "C" zoning of the site was also incompatible with the character of Wong Nai Chung which comprised predominantly residential developments;
- (c) as the site was located amongst the Causeway Bay Node, the rationale for imposing BH restrictions for the Wong Nai Chung area to preserve the

views to the ridgelines near Wong Nai Chung Gap was irrelevant. Furthermore, the BH restriction of 100mPD for the site did not help achieve a stepped height profile from the Race Course nor preserve the views to the ridgelines or any green mountain backdrop;

- (d) the site was sandwiched between Leighton Hill at 170.6mPD and Lee Gardens, Manulife Plaza at 210mPD. It was screened from the main area of Wong Nai Chung by Leighton Hill and did not contribute to the townscape of Wong Nai Chung. The BH restriction for the site should be revisited in the context of Causeway Bay;
- (e) there was no rationale for allowing a lower BH for the site than that of many other residential sites in Wong Nai Chung;
- (f) the site was not located along any major wind corridor which had to be protected by imposing BH restriction. Having said that, development under a “C/R” zoning was more likely to provide setback at street level which would improve air ventilation;
- (g) the “C” zoning and the BH restriction of 100mPD for the site would lower the quality of life in Causeway Bay due to the development of pure commercial buildings with maximized PR and SC. As shown in an indicative scheme assuming a worst case scenario with all lots within the site amalgamated for redevelopment, monotonous, wall-like structures with massive podium would result under the “C” zoning which would lead to poor visual permeability and adverse impacts on public views, natural lighting and air ventilation in the area. On the other hand, the previous “C/R” zoning with no BH restriction would encourage composite commercial/residential buildings with a smaller SC and allow more flexibility for architectural innovation, which would help protect public views and improve the streetscape, as shown in another indicative scheme of a worst case scenario under “C/R” zoning;
- (h) it was premature to rezone the site to “C” and impose the BH restriction

before any proper visual impact and air ventilation assessments for the Causeway Bay Node were undertaken. The rezoning and imposition of BH restriction for the site would set a bad planning precedent; and

Representer's proposals

- (i) the representer proposed to revert the zoning of the site to "C/R" and remove the BH restriction of 100mPD for the site until detailed air ventilation and visual impact assessments in the context of the Causeway Bay Node were undertaken.

72. With the aid of a Powerpoint presentation, Ms. Keren Seddon elaborated on Representation No. R38 and made the following points:

- (a) the representer had all along been actively undertaking landscape and environmental enhancements in Causeway Bay to complement its commercial activities;
- (b) the representation site was not owned by the representer. It was located to the north of Leighton Road and formed an intrinsic part of the Causeway Bay Node which bore a different character as Wong Nai Chung. As stated in paragraph 5.1 of the Explanatory Statement of the OZP, the planning scheme area of Wong Nai Chung was bounded by Leighton Road in the north;
- (c) the Causeway Bay Node was one of the most vibrant areas in Hong Kong with a mix of commercial and residential uses. There were a variety of urban forms with sufficient spaces between buildings and the area was attractive to tourists and local residents. The "C" zoning and the BH restriction of 100mPD for the site failed to take into account the context of the site in terms of its location and compatibility with the zoning, land use pattern and character of the Causeway Bay Node, and would lower the quality of life in the area by reducing the opportunities for improvements to the public realm. Without undertaking proper studies

on the area, any zoning amendment to the site was premature and would set an undesirable planning precedent;

- (d) the site also formed an important part of the area covered by the Pedestrian Plan for Causeway Bay prepared by PlanD, which included proposals of junction improvements, pedestrianization, public piazza, public transport interchange and subway at or near to the site. For the revitalization of Causeway Bay, it was imperative that any zoning amendment to the site would not affect the implementation of these proposals;
- (e) there were six major planning and urban design considerations relevant to the site, namely, the visual and land use compatibility, air ventilation, amenity greening, open space provision, accessibility and vibrancy and safety. The first two considerations had been covered in the presentation of Representation No. R39. The remaining considerations were elaborated as follows:

Amenity greening

- a development permitted under the “C/R” zoning (“C/R” development) was more likely to allow setback with amenity planting and space for the pedestrians, leading to an enhanced streetscape, provision of more green features, achievement of a more pedestrian-friendly environment and reduction in heat built-up in the area. There would be no such gain in a pure commercial development permitted under the “C” zoning;

Open space provision

- a “C/R” development would provide more opportunity for open space provision by providing breaks in the podium, which was in line with the urban design guidelines of reducing the ground coverage of podium to allow more open space at-grade and for street activities. It

was unlikely that a pure commercial building would provide such breaks in its podium;

Accessibility

- a “C/R” development would facilitate the creation of pedestrian desire lines to improve pedestrian circulation in the area. No such gain would be provided in a pure commercial development with massive podium and maximized SC;

Vibrancy and Safety

- the mix of uses in Causeway Bay prevented the district from becoming dull and lifeless after office hours. Tourists and local residents could have entertainments in the district all through the night in a safe environment. The mix of uses also ensured a better job-housing balance, generated a stronger foundation of support for business and provided convenience and affordability for the public. It was imperative to maintain such characters of Causeway Bay;
- (f) PlanD claimed that the “C/R” zoning would create uncertainty in planning for infrastructure and community facilities and it was the recommendation in the Metroplan Review to replace the “C/R” zone with other appropriate zonings. On this point, the Board should make a balanced decision by taking a more holistic view covering all relevant planning and urban design considerations instead of focusing only on the need for control over infrastructures. Furthermore, the Metroplan Review had also recommended a new “Other Specified Uses (Mixed Uses)” (“OU(Mixed Use)”) zone to convey the clear planning intention of encouraging mixed use development whilst eliminating most of the problems of “C/R” zoning, through physical segregation of domestic and non-domestic uses within a building. This new zone would provide maximum flexibility for the development of domestic or other uses or a combination of various types of compatible uses to create vitality,

encourage diversity of uses and allow greater flexibility in land uses to meet changing market needs, and was likely to be applicable mainly on the fringes around Causeway Bay, currently containing a mix of office and residential buildings. It seemed that no consideration had been given by the Board to this “OU(Mixed Use)” zone before rezoning the site to “C”;

- (g) the representer proposed to revert the zoning of the site to “C/R” until proper studies were undertaken in the context of the Causeway Bay Node and a holistic set of planning objectives were determined. The proposal reflected the site’s physical location in the Causeway Bay Node and kept the opportunities for improvements to the public realm in Causeway Bay. It would also avoid an undesirable planning precedent and ensure the quality of life for the public.

73. Ms. Helen Lung elaborated on Representation No. R40 and made the following points:

- (a) the “C” site at Leighton Road had a much closer relation with Causeway Bay than Wong Nai Chung. The area around the zone was highly vibrant with interesting streetscape;
- (b) the public consultation for the amendments to the OZP was insufficient as many local residents and property owners in the area were not aware of the amendments. The public forum mentioned in paragraph 3.3.2 of the Paper was organized by a Wan Chai District Councillor. About 50 residents and property owners attended the forum and strong objections were raised to the imposition of BH restrictions in the Area;
- (c) as shown in Plan H-7 of the Paper, the “C” site at Leighton Road was located at the fringe of the OZP. It was arbitrary to include the site into the consideration of stepped height profile for Wong Nai Chung. It was also unconvincing to impose a BH restriction of 100mPD for the site, when some of the residential sites in Wong Nai Chung were allowed a

greater BH;

- (d) there were adequate controls on development on the site under the OZP, B(P)R and lease before the amendments to the OZP. Imposing a BH restriction of 100mPD was not in line with the planning intention for the “C” zone which was for commercial developments functioning as territorial business/financial centres and regional or district commercial/shopping centres;
- (e) some of the existing buildings at the site had been built for a long time and were needy for redevelopment. The BH restriction had defeated the incentives for redevelopment;
- (f) under the BH restriction, developers might have to build basements to accommodate the permitted floor space. This approach was unsatisfactory due to the lack of natural lighting and ventilation and the higher construction and maintenance cost of basements; and
- (g) amongst the 50 representations on the OZP, only four indicated support to the imposition of BH restrictions. The Board should give due regard to the majority views.

74. Members noted that the representatives of Representer No. R41 also attended the meeting but would not make oral presentation to the Board.

75. Members had the following questions on Representations No. R38 and 39:

- (a) whether the representers owned any land within the “C” site at Leighton Road; and
- (b) noting that the indicative schemes presented by the representers envisaged future developments with separate residential and commercial blocks, whether the representers had considered zoning part of the “C” site at Leighton Road for residential use and other part as “C” zone,

instead of maintaining the whole site as “C/R”, to facilitate a mix of commercial and residential uses at the site.

76. In response to Members’ questions, Ms. Keren Seddon made the following points:

- (a) Representers No. R38 and 39 did not own any land within the “C” site at Leighton Road. The representations were made for the benefit of the public;
- (b) the indicative schemes presented at the hearing were only to illustrate the grounds of representation and to compare the worst case scenarios when the site was under the “C” and “C/R” zoning respectively. As shown in the presentation, a development under “C/R” zoning would be more desirable than that under “C” zoning in all aspects; and
- (c) other than the “C” and Residential zones, the Metroplan Review had also recommended a new “OU(Mixed Use)” zone to replace the “C/R” zone at suitable locations including the fringes of Causeway Bay. Without undertaking more studies, such as air ventilation, visual impact and urban design assessments, it was premature to confirm the appropriate zoning for the site. Nevertheless, the “C/R” zoning would definitely be better than “C” zoning for the site, as demonstrated in the two worst case scenarios in the presentation.

77. As the representers’ 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 representations and Comment No. C381 had been completed. The Board would deliberate and decide on the representations in their absence and inform the representers and Commenter No. C381 of the Board’s decision in due course. The Chairman thanked the Government team and the representatives of representers for attending the meeting. They all left the meeting at this point.

Deliberation Session

78. A Member said that the areas proposed to be zoned “C” at Leighton Road was located near the commercial node of Causeway Bay and the future development on the site was likely to be purely commercial. Under the previous “C/R” zoning, the sites could all be redeveloped as commercial buildings with similar SC and PR as under the current “C” zoning. Besides, it was unlikely that the vibrancy of the commercial node of Causeway Bay would be lost even if the site was developed purely for commercial use. Members agreed. Another Member pointed out that the worst case scenarios presented by the representers might not necessarily happen and even if it did, it could also happen under the “C/R” zoning. Another Member considered that the “C” zone was appropriate for the site.

79. A Member said that the management problems which were common in composite buildings with a mix of commercial and residential uses on the same floor could be largely avoided by separating the commercial and residential uses into different buildings.

80. Regarding the representers’ objection to the BH restriction of 100mPD for the site, Members generally agreed that there was no strong justification to amend the restriction.

81. A Member asked why the site was included in the Wong Nai Chung OZP and not the Causeway Bay OZP. The Secretary said that the site was included in the Wong Nai Chung OZP and zoned “C/R” since the first publication of the OZP in 1969. Since then, there had been changes in the character of the areas around the site. The “C” zoning of the site had duly reflected the current circumstances.

82. A Member asked for the background of the “OU(Mixed Use)” zone as quoted by Representers No. R38 and 39. The Secretary said that the zoning was a concept suggested in the Metroplan Review to encourage mixed use development while eliminating most of the problems of the “C/R” zoning, including the co-existence of non-compatible commercial and residential uses in the same building or even on the same floors without segregation and the uncertainty in infrastructural planning. While providing maximum flexibility in land uses to meet the changing market needs, the “OU(Mixed Use)” zoning

envisaged suitable segregation of commercial and residential uses, either horizontally or vertically. The Board had been briefed on the concept in 2003 and had applied it recently in the Kai Tak OZP. The Secretariat was preparing a set of guidelines to elaborate on the concept, which would be submitted to the Board for consideration in due course.

Representations No. R38 and 39

83. After deliberation, the Board decided not to uphold the representations for the following reasons:

- (a) the building height (BH) restriction of 100mPD for the “Commercial” (“C”) and “C(1)” sites at Leighton Road was to reflect the predominant BHs of the existing developments and to be compatible with developments in the adjacent areas along Leighton Road and Queen’s Road East under the same height band. To maintain the integrity of the overall BH concept for the Wong Nai Chung Area, the deletion of the BH restriction for the representation sites was considered not appropriate;
- (b) the BH restriction for the “C” and “C(1)” sites would not impose undue constraint on the design flexibility of future developments/redevelopments of the site, nor preclude the incorporation of setback, open space and green features in developments/redevelopments. To cater for site specific circumstances, there was provision for application for minor relaxation of the BH restriction and each application would be considered by the Board based on individual merits;
- (c) the BH restrictions for the Area had taken into account various factors including the existing topography, existing land use zoning, BH profile, local character, urban design consideration, development potential and air ventilation. It had struck a balance between meeting the public aspirations for a better living environment and private development rights; and

- (d) the “Commercial/Residential” (“C/R”) zoning was an obsolete zoning as the unclear planning intention of the zone had created problems on infrastructure planning and land use management. The proposal to retain the “C/R” zoning for the site at Leighton Road was considered not appropriate. As the representation site was close to the commercial area of Causeway Bay and predominantly occupied by commercial developments, the “C” zoning was considered appropriate.

Representation No. R40

84. After deliberation, the Board decided not to uphold the representation for the following reasons:

- (a) the building height (BH) restriction of 100mPD for the “Commercial” (“C”) and “C(1)” sites at Leighton Road, Stubbs Road and Queen’s Road East was to reflect the predominant BHs of the existing developments and to be compatible with developments in the adjacent areas along Leighton Road and Queen’s Road East under the same height band. To maintain the integrity of the overall BH concept for the Wong Nai Chung Area, the deletion of the BH restriction for the representation sites was considered not appropriate;
- (b) the BH restriction for the “C” and “C(1)” sites would not impose undue constraint on the design flexibility of future developments/redevelopments of the site, nor preclude the incorporation of setback, open space and green features in developments/redevelopments. To cater for site specific circumstances, there was provision for application for minor relaxation of the BH restriction and each application would be considered by the Board based on individual merits; and
- (c) the BH restrictions for the Area had taken into account various factors including the existing topography, existing land use zoning, BH profile, local character, urban design consideration, development potential and

air ventilation. It had struck a balance between meeting the public aspirations for a better living environment and private development rights.

Representation No. R41

85. After deliberation, the Board decided not to uphold the representation for the following reasons:

- (a) the “Commercial/Residential” (“C/R”) zoning was an obsolete zoning as the unclear planning intention of the zone had created problems on infrastructure planning and land use management. The Representer’s proposal to retain the “C/R” zoning for the site at Leighton Road was considered not appropriate. As the representation site was close to the commercial area of Causeway Bay and predominantly occupied by commercial developments, the “C” zoning was considered appropriate; and
- (b) the existing residential buildings at the representation site would not be affected by the rezoning. Flexibility for future redevelopment to residential uses was maintained through the planning permission system.

86. The meeting adjourned for a lunch break at 2:00 p.m.

87. The meeting was resumed at 2:50 p.m..
88. The following Members and the Secretary were present in the afternoon session:

Mr. Raymond Young
Dr. Greg C.Y. Wong
Mr. Nelson W.Y. Chan
Mr. Tony C.N. Kan
Mr. Stanley Y.F. Wong
Ms. Sylvia S.F. Yau
Mr. B.W. Chan
Mr. Walter K.L. Chan
Ms. Anna S.Y. Kwong
Dr. James C.W. Lau
Mr. K.Y. Leung
Mr. Timothy Ma
Dr. Michael Chiu
Miss Annie Tam
Mrs. Ava Ng

Agenda Item 3

[Open Meeting]

Consideration of Representations and Comments in Respect of the
Draft Wong Nai Chung Outline Zoning Plan No. S/H7/14
(TPB Papers No. 8147 and 8148)

Group 3 : R42-47 and C2-241, 243-259, 261-282

(TPB Paper No. 8147)

89. The Chairperson said that six representations in respect of three “Other Specified Uses” (“OU”) sites and two “Government, Institution or Community” (“G/IC”)

sites and 279 comments in relation to representation No. R47 would be considered under Group 3.

90. The Secretary reported that the following Members had declared interests in this item:

Mr. Y.K Cheng		Owned a property in Victoria Height, Stubbs Road
Mr. Donald Yap]	Being a Voting Member of Hong Kong
Mr. B.W. Chan]	Jockey Club (HKJC), a representer in Group 3
Mr. Felix Fong)	
Prof. N.K. Leung)	
Mr. Stanley Wong)	Being a Member of HKJC
Ms. Sylvia Yau)	
Mr. Walter Chan)	
Mr. Rock Chen)	
Mr. Raymond Chan)	

91. Members agreed that the interests of Prof. N.K. Leung, Mr. Stanley Wong, Ms. Sylvia Yau, Mr. Walter Chan, Mr. Rock Chen and Mr. Raymond Chan, being ordinary Members of the HKJC, in the subject representations were not direct or substantial, and they could be allowed to stay at the meeting. Members noted that Mr. Felix Fong, Mr. Y.K. Cheng, Mr. Donald Yap, Prof. N.K. Leung, Mr. Rock Chen and Mr. Raymond Chan had sent their apologies for being unable to attend the meeting, Mr. Walter Chan had not yet returned to join the meeting, and Mr. B.W. Chan had temporarily left the meeting at this point.

92. Members noted in the morning session of this meeting that the Secretary had declared an interest on this item for owning a property at Broadwood Road which was within the Wong Nai Chung area (the Area) and informed Members that commenter No. C359 wrote to the Board on 7.8.2008 suggesting that she should be excused from consideration of any of the building height (BH) limits under the Outline Zoning Plan (OZP) for having an interest in the matter. Members had agreed that the role of the Secretary at the meeting was mainly to provide information and advise on procedural

matters. As she was not a Member of the Board and did not take part in the decision-making, she could be allowed to stay at the meeting.

93. Members also noted that a replacement page 21 of the Paper was tabled at the meeting.

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

Ms. Brenda Au	District Planning Officer/Hong Kong, Planning Department (DPO/HK, PlanD)
Mr. Tom Yip	Senior Town Planner/Hong Kong, PlanD

95. The following representers' representatives were invited to the meeting at this point:

Representations No. R42, R43, R44 and R46

HKJC

Mr. Ian Brownlee)	
Mr. Menachem Hasofer)	
Mr. Philip Chen)	
Ms. Nicole Tang)	
Mr. John Latter)	representer's representatives
Ms. Candice Woo)	
Mr. Macro Cheng)	
Mr. Douglas So)	
Ms. Carmen Lik)	

Representation No. R45

Hong Kong Football Club (HKFC)

Mr. Dean Lewis	representer's representative
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Representation No. R47

C126	Hui Wing Wah)	
C141	Lai Chung Kong)	
C166	Chan Ho Ming)	commenter's representative
C194	Too Tak Hing, Windsor)	
C198	Tse Yim Foon)	
C210	Wong Ching Long, Jerome)	commenter
C272	Siu Ka Cheung)	
C282	Miss Helen Lung)	

97. The Chairman extended a welcome. Members noted that sufficient notice had been given to the other commenters in Group 3, and they had indicated not to attend the meeting or made no response. Members also noted that commenter No. C49 had withdrawn her comment on 1.8.2008. The Board agreed to proceed with the meeting in the absence of the remaining commenters. The Chairman then explained the procedures of the hearing.

98. The Chairman then invited Ms. Brenda Au, DPO/HK, to brief Members on the background of the representations and comments.

99. With the aid of a Powerpoint presentation and a physical model displayed at the meeting, Ms. Brenda Au made the following main points as detailed in the Paper:

- (a) background to the proposed amendments was set out in paragraph 1 of the Paper. Six representations (No. R42 to 47) in respect of three "OU" zones and two "G/IC" zones, and 278 comments (No. C2-48, C49-C241, C243-C259 and C261-C282) in relation to representation No. R47 would be considered collectively in Group 3. Comment No. C49 had been withdrawn prior to the hearing;
- (b) the main grounds of the representations and the representers' proposals were summarised in paragraphs 2.1, 2.3 and 2.4 of the Paper. Details of the representations would be elaborated by the representers' representatives at this meeting;

- (c) the main grounds of the comments were summarized in paragraphs 2.2 and 2.5 of the Paper. All comments supported representation No. R47's proposal to delete the BH restrictions of 4 storeys for the "G/IC" zone covering MLCC;
- (d) PlanD's responses to the representations were set out in paragraph 4.4 of the Paper, which were summarized as follows:

Remarks (3) in the Notes for the "OU" zones (R42, R43 and R45)

- the race course, sports fields and open space within the three "OU" zones provided breathing space for the Area. In order to preserve the openness and existing character, it was originally proposed that planning permission for new development or redevelopment was required under Remarks (3) of the Notes, while addition, alteration and/or modification to an existing building would not be affected;
- as the intention was to control new development on the open area, PlanD proposed to revise Remark (3) to exempt the existing built-over areas within the three "OU" zones from planning permission requirement. In-situ redevelopment of low-rise ancillary structures in the open area up to their existing BH could also be exempted. As new developments and redevelopments within the open areas of these zones were subject to planning permission stipulated in Remark (3), PlanD also proposed to delete the BH restrictions for the open areas within the "OU" annotated "Stables, Private Sports/Recreation Club and Public Open Space" ("OU(SPCO)") and "OU" annotated "Sports and Recreation Club" ("OU(SRC)") zones;

BH Restrictions (R42, R43, R45, R46 and R47)

- the concerned leases did not contain control on BH. The lease and statutory OZP were in fact two separate control mechanisms (for R42, R43 and R45 only);

- the “OU” zones were intended to provide spatial and visual relief to the built-up area. To achieve such intention, the BH restrictions of the “OU” sites were to contain the existing development to their present scale (for R42, R43 and R45 only);
- building design was determined by the interplay of a host of factors, such as plot ratio, site coverage, BH, design and disposition of buildings and geometry of the site. BH restrictions alone would not impose undue constraints on building design (for R42 and R43 only);
- there was provision in the Notes of the OZP for application for minor relaxation of BH restrictions. There was no predetermined figure for the percentage of relaxation that could be allowed. Each application would be determined by making reference to the impacts of the relaxation on the surrounding area (for R42, R43 and R46 only);
- prior public consultation was not held to avoid premature release of information. The publication of the OZP itself is a statutory public consultation process. Besides, during the exhibition period, the amendments to the OZP were presented to the Development, Planning and Transport Committee (DPTC) of the Wan Chai District Council (WCDC) on 14.2.2008 and the local residents at a local forum held on 4.3.2008 (for R42, R43 and R47 only);

Specific Control within the Race Course (R42)

- to maintain the open character of the race course, the boundaries of BH restrictions for the race course mainly followed that of the existing buildings. Using the lot boundaries as the basis for imposing BH restriction was considered inappropriate as this might be taken as an indication that buildings of such heights would be allowed at the open areas within the lot boundaries;

- for some existing one-storey buildings in the two infield areas, it was proposed not to impose BH restrictions for such buildings as planning permission would be required for new developments and redevelopments in the infield areas except for redevelopment of existing buildings to their existing BH. The proposed amendment would allow better control;

Sports Fields of HKFC (R44)

- to more accurately reflect the BH of the existing building, PlanD proposed to reduce the BH restrictions for the southern portion of the HKFC site from 5 storeys to 1 and 2 storeys, and to delete the BH restriction for the open areas of the HKFC sport fields; and

MLCC (R47)

- to reflect the BH of the existing development, PlanD proposed to amend the BH restriction for the site from 4 storeys to 5 storeys.
- (e) relevant Government departments had been consulted, as listed in paragraph 5 of the Paper, and their comments had been incorporated into the Paper; and
- (f) PlanD proposed to uphold representation No. R44 and partially uphold representations No. R42, R43, R45 and R47, and not to uphold representation No. 46 and the remaining part of representations No. R42, R43, R45 and R47 for reasons stated in paragraph 6.2 of the Paper. PlanD's proposed amendments to the OZP and its Notes were set out in paragraph 6.1 of the Paper.

Representations No. R42, R43, R44 and R46

100. With the aid of a powerpoint presentation, Mr. Menachem Hasofer, representative of HKJC, made the following main points:

- (a) the proposed BH restrictions on the OZP gave rise to the following

legal issues that the Board should address before making a decision on the representations:

- the BH restrictions amounted to control of BH by ‘spot zoning’. The control was in effect a moratorium on extension of community facilities. Height limit was applicable to a specific building and there were different height limits within the same site. Redevelopment was limited to the existing footprint of the site;
 - the blanket requirement for planning permission was a fundamental change to the Column 1 and Column 2 framework. It introduced a development permission control system to all uses but the criteria for assessment of an application were uncertain;
 - the amendments to the OZP were implemented without any prior consultation. It amounted to unprecedented and fundamental changes to the system as there was a duty to consult before gazetting the draft OZP. Such changes to the system were outside the current legislative scheme;
- (b) section 3(1) of the Town Planning Ordinance (TPO) stipulated that ‘with a view to the promotion of the health, safety, convenience and general welfare of the community, the Board shall undertake the systematic preparation of draft plan for the lay-out of such areas of Hong Kong as the Chief Executive may direct, as well as for the types of building suitable for erection therein...’, and section 4 listed the matters which might be shown or provided for in lay-out plans, which did not include building features;

Control of BH by ‘Spot Zoning’

- (c) the TPO required the Board to adopt a ‘broad-brush’ approach. The provision for ‘for the lay-out’ of an area did not include prescription of building features, while the provision for ‘types of building suitable for erection within an area’ was limited to a general description of building

features. ‘Spot zoning’ was a rigid, site-specific control, which did not provide for ‘types of building suitable for erection within an area’. The lines drawn in the plan intended to reflect height and width of existing buildings and there were two height limits adjacent to each other on an undeveloped area. Legislative change was required to authorise such new and unprecedented planning restrictions;

Moratorium on Expansion of Community Facilities

- (d) the BH control imposed restrictions on rebuilding to previous building height, such as the Racing Museum Building, and on changing footprint of building within a site, such as the Grandstands, HKJC Headquarters office building and Happy Valley Clubhouse and Stables. It also imposed restrictions on providing community facilities on an under-utilised site at 58-60 Blue Pool Road. No effort had been made to find solutions which preserved public benefits of HKJC facilities while respecting urban design considerations;

Blanket Requirement for Planning Permission

- (e) the established framework enshrined in the Board’s Master Schedule of Notes was that Column 1 uses were uses always permitted, i.e., uses which were always consistent with planning intention or commonly found in the zone for historical reasons, while Column 2 uses were uses that might be permitted with or without conditions on application to the Board, i.e. proposed uses to be assessed in line with planning implications and planning intention. It was a fundamental departure from established practice in that under the ‘Remarks’ Column, planning permission was required for Column 1 uses. Criteria for assessing application for Column 1 use were uncertain, as the proposed use was always consistent with planning intention or historical use;

Unprecedented and Fundamental Changes to the System

- (f) section 3(2) of the TPO provided that ‘In the course of preparation of the plans referred to in subsection (1), the Board shall make such inquiries and arrangements (including, if it thinks fit, the taking of any

census of the occupations of any buildings or of the users of any thoroughfares or spaces) as it may consider necessary for the preparation of such drafts'. The Board's decision to defer public consultation to the section 6 process was contrary to the duty to consult 'in the course of preparation'. The concern about premature release of information which might prompt developers/landowners to accelerate submission of building plans for development/redevelopment on the affected sites and thereby nullifying the effectiveness of imposing the BH restrictions was not justified; and

- (g) the Board should consider seeking independent legal advice. Setting against the above legal issues, the representer reserved his right to challenge the decision of the Board in court and the representer's participation in the hearing should not prejudice his legal position.

Representation No. R42

101. With the aid of a powerpoint presentation, Mr. Philip Chen, representative of HKJC, made the following main points:

- (a) the race course was the showcase of horse racing in Hong Kong. There were two race courses in Hong Kong, one in Happy Valley and the other in Shatin. The HKJC had long recognised the need to continuously upgrade race course facilities to meet the changing needs of the public and the members of the HKJC amidst increasing competition from other leisure and entertainment industries;
- (b) the race course facilities improvement projects (1999-2004) was the first series of race course facilities improvements which established the basic standards of arrival entrances, large-scale state-of-the-art information displays, and new outlets with air-conditioned comfort;
- (c) the race course facilities improvement projects (2004-2009) was the next phase which involved major transformation of the Grandstand

buildings for different customer groups with interior refurbishments. There was an on-going need to modernise, upgrade and continue to redevelop various existing facilities, such as the restaurants for owners, members, and the public;

- (d) in the HKJC 2006/07 Annual Report, it was stated in the race course facilities master plan (2007-2008) that ‘the first phase of race course redevelopment is nearing completion and the second will incorporate master-planning the new infrastructure. The Club needs to embark on a long-term planning on how to enhance the different facilities and how best to integrate or rationalise these improvements into a business plan for different customer groups’; and
- (e) expression of interest from international master planning consultants and selection of master planner took place in April 2007 and May 2007 respectively. Strategic assessment of club business was carried out from June to December 2007, while preparation of the race course facilities master planning was from June 2007 to October 2008.

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

- (a) the lease covered the whole race course site, and the lot was subject to the Master Layout Plan (MLP) clause under the lease where all buildings, roads or structures were subject to the approval of the Director of Lands. The lease had already provided adequate control and the OZP restrictions were not necessary;
- (b) HKJC’s proposed amendments to the OZP, which were marked in red in Drawing H-1 of the Paper, which included:
 - extension of the area covered by the 81mPD and 18 storeys restriction for the HKJC Headquarters Building to cover the whole of the building site, not just the existing building line;

- extension of the 13-storey BH restriction for the Grandstands to include the Racing Museum (which was 4-storey at present) and the area between Wong Nai Chung Road and the race track to allow greater design flexibility and provide the opportunity for new and expanded facilities;
 - inclusion of a 2-storey height limit for the existing buildings in the two infield areas to indicate that the area was a building location and permit redevelopment; and
- (c) in conclusion, the race course site was controlled by the use on the OZP and the restrictions under the lease. The changes by HKJC proposed above were related to the extents covered by the BH limits and were reasonable. The site was subject to a major on-going master planning process. BH controls should define areas for flexible future developments rather than just limiting developments to the existing building lines. The new Remark (3) was not acceptable as it related to matter of principle and was not necessary. BH controls that restricted good design and involved mirco-management of a site were unnecessary and inappropriate.

Representation No. R43

103. Referring to the information tabled at the meeting, Mr. Ian Brownlee, representative of HKJC, made the following main points:

- (a) before the imposition of BH restrictions on the OZP, a plan was in place to expand the Happy Valley Clubhouse as the stables building at the site would become largely redundant with the construction of new quarantine stables being carried out in Shatin;
- (b) the site was controlled by the limited use on the OZP and in the lease. The lease had also stipulated that the site must include an area of public

open space of not less than 5,000m² to be maintained by the HKJC and made available to the public;

- (c) the site sloped significantly from the top of Shan Kwong Road downward and was a rather difficult site to design new development in view of its site constraints. The current proposed clubhouse extension would integrate the new extension with the existing clubhouse and operate as a single development. The proposed extension would have the same BH as the existing building, with 88.05mPD at the main roof. Relaxation of BH restriction on the OZP from 7 storeys to 88.05mPD was thus proposed by HKJC to allow flexibility in design, taking account of site topography; and
- (d) it was undesirable to have unnecessary controls that would restrict good design, particularly if they were arbitrary and had no specific public benefit. Remark (3) as amended by PlanD was not acceptable in principle and in relation to the proposed amendment plan, and should be deleted. Instead, HKJC proposed to stipulate under the Notes for the “OU(SPCO)” zone the requirement for provision of a public open space of not less than 5,000m².

Representation No. R44

104. Mr. Ian Brownlee, representative of HKJC, said that the amendments proposed by PlanD to meet representation No. 44 was acceptable to the representer.

Representation No. R45

105. Mr. Dean Lewis, representative of HKFC, made the following main points:

- (a) the BH for “OU(SRC)” zone covering the HKFC site was not acceptable. He shared the comments made by Mr. Menachem Hasofer on ‘spot zoning’;

- (b) the BH restriction of 5 storeys for the sport fields of HKFC encircled by the track of the race course was too excessive and would block the view to the race course, which breached the agreement between HKJC and HKFC. Although PlanD had proposed to reduce the BH restriction for the sports field of HKFC from 5 storeys to 1 and 2 storeys and had delineated the 1 and 2-storey buildings on Plan H-21 of the Paper, the location of these buildings was inaccurate. HKJC's proposal of adopting a unified BH restriction of 2 storeys for the existing building in the sport fields of HKFC was supported;
- (c) some ancillary facilities in the sports field had not been identified. While no BH restriction was imposed, planning permission would be required for any new development/redevelopment of these small buildings under the new Remark (3). The different regime of BH control within the same zone was not justified; and
- (d) the existing lease had included sufficient clauses to control future development, including the submission of MLP for approval by the Director of Lands. No BH restriction on OZP was required.

Representation No. R46

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

- (a) the "G/IC" site, owned by the HKJC, was now occupied by HKJC staff quarters in a building of 8 storeys at 58 Blue Pool Road, and used as the office accommodation for Hong Kong Committee United Nations Children's Fund (UNICEF) and the Hong Kong Ballet in a building of 6 storeys at 60 Blue Pool Road;
- (b) the lease was very restrictive, which stipulated that no buildings should be erected on the lots except blocks of flats for providing housing and such educational facilities as might be approved by the Director of

Education;

- (c) by limiting the “G/IC” to the existing heights, the opportunity for applying to the Board under section 16 of the TPO for approval of residential development of a reasonable size for staff quarters had been removed. Minor relaxation of BH restriction could not be applicable for a relaxation from 8 storeys to 25 storeys. The BH restriction should be revised at the plan-making stage;
- (d) the BH restriction was inconsistent with that for the adjacent sites owned by HKJC, which was 100mPD. The surrounding buildings were all taller than the BH restrictions for the site. The Board should adopt a fair and equitable approach of a single height limit of 130mPD to all areas in the residential zones on the OZP and the height limit of any “G/IC” sites located within the same area as the residential zones should be permitted to have the same height; and
- (e) the Board should not deviate from the long adopted planning policy where zones were general and broad brush in nature and should avoid adopting the ‘spot zoning’ approach with inconsistent height limits between adjoining sites.

Representation No. 47

107. With the aid of a powerpoint presentation, Rev. Dr. Hui Hoi Ming, representative of MLCC, made the following main points:

Background of the Church and Uniqueness of the Site

- (a) the site had been used as a church since 1953. It was purchased by donations from church members. The church was redeveloped in 1983 to the existing 5-storey building. Over the past 25 years, the service of the church had expanded to such an extent that the floor space was insufficient for the services provided;

- (b) the MCLL was a non-profit making organisation with the mission of preaching the gospel, providing pastoral care for church members, and engaging in social, educational and community services;
- (c) as the church membership increased over the years, the church had expanded its full time preaching staff and administrators from one pastor and one administrator in 1983 to two pastors, two preachers and three administrative staff to support the church services. As a result of the expansion, the provision of two living quarters in the existing church building was not sufficient and more staff quarters were needed;
- (d) the long-term plan of the church was to provide spiritual care for patients in Hong Kong Sanatorium and Hospital (HKSH), organise activities and spiritual services for staff of HKSH, provide children, youth and women services for the local population, provide staff quarters for ministers and preachers, offer counselling service for the community, and conduct marriage ceremonies, funeral services and memorial services;
- (e) the site was privately owned, with a small site area of 331m² and was a sub-section of Inland Lot No. 2341. The remaining part of the lot was used for residential development. It was triangular in shape and was subject to site constraints. Unlike other institutional and social facilities, there were no planning standards and guidelines for a church development. The BHs for the residential developments in the immediate vicinity of the church were more lenient;

Reasons of Objection to Current BH

- (f) the church had been developed and planned in line with the planning intention, serving the needs of the local population and the general public in Hong Kong. The current BH restriction should make provision for its planned and future uses, and the existing BH should not be used as a benchmark of BH restriction for the “G/IC” zone. Planning objectives for church premises should be considered

differently from commercial and residential developments;

- (g) the redevelopment of church sites in other parts of Hong Kong such as the Church of Christ in China Mongkok Church at 56 Bute Street, the Wing Kwong Pentecost Holiness Church at 22 Heng Lam Street, the Hong Kong Baptist Church at 50 Caine Road and the Yan Fook Church at 789 Cheung Sha Wan Road, all demonstrated a better utilization of land resources for provision of multiple institutional and community services in addition to church use;
- (h) the BH restriction on the OZP infringed private development rights. The development and redevelopment rights of private property should be fully respected. The privately owned “G/IC” zones should be distinguished from Government owned “G/IC” zones;
- (i) the BH restrictions seriously affected the long-term plans to meet changing and growing community needs. The 4-storey BH restriction unnecessarily limited the amount of GFA that could be used for future expansion and restricted the church’s future development plans for providing community services in Happy Valley;
- (j) the existing BH of the church should be 5 storeys, instead of 4 storeys as stipulated on the OZP;
- (k) unlike other zonings in the same OZP, there was no consistency in the BH of the “G/IC” zones in the Area. The church was surrounded by buildings with BH restrictions of 100mPD in its immediate vicinity, and the BH restriction was different within the same lot (i.e. Inland Lot No. 2341). Upon full development of the surrounding buildings, the church would be subject to adverse impact on sunlight, air ventilation, wind penetration, etc; and
- (l) as the church was neither a waterfront site, nor adjacent to major open space, there was no reason to impose such stringent BH restriction for

the site. The site itself was too small to provide spatial and visual relief in the surrounding context.

108. With the aid of a powerpoint presentation, Miss Helen Lung, representative of MLCC, made the following response to comments made by PlanD and other Government departments:

- (a) there was no public consultation prior to the gazette of the OZP. The Wan Chai District Council (WCDC) was only consulted during the plan exhibition period. As summarised in paragraph 3.3 of the Paper, some WCDC members considered that the property rights of owners should be respected and the owners' incorporation of the affected buildings should be informed of the OZP amendments. The landowners had not been approached by PlanD on how the BH restriction would affect their sites. At the local consultation organised by the District Officer, the local residents strongly opposed the BH restrictions, but such views were not reported in the Paper for consideration by the Board;
- (b) the planning intention for the "G/IC" zone and rationale of the BH restrictions were set out in paragraph 4.2 of the Paper. Unlike the "Open Space" and "Green Belt" zones, providing spatial and visual relief had never been the original planning intention of the "G/IC" zone. There was a whole range of Column 1 and Column 2 uses under the Notes of the "G/IC" zone, which might involve buildings of 1 to 2 storeys to high-rise buildings;

[Ms. Anna Kwong left the meeting at this point.]

- (c) PlanD had not addressed issue of infringement of private property rights and there was no forward looking planning approach for the "G/IC" zones; and
- (d) the church site was small in size and in odd shape. Relaxing its BH restrictions to 100mPD for the church site would be in compliance with

the rationale of the BH restriction, have no adverse impact on the neighbourhood and allow the church to grow along with the needs of the community and with architectural design flexibility. There were no adverse comments from Government departments on the church's proposal.

109. In conclusion, Rev. Dr. Hui Hoi Ming made the following main points:

- (a) the church needed more space to serve church members and the local community;
- (b) the church was a non-profit making organization. The site was a privately owned "G/IC" site and the private property right and its future redevelopment potential should be fully respected; and
- (c) the Board was requested to relax the BH restriction for the church to 100mPD.

110. The Chairman then invited the commenters or their representatives to elaborate on their comments.

Comment No. C179

111. As Dr. Taw Jin Liam had left for work at 3:00 p.m., his speech was delivered by Mr. Siu Ka Cheung. With the aid of a powerpoint presentation, Mr. Cheung made the following main points on behalf of Dr. Taw:

- (a) the comments were in support of representation No. R47;
- (b) the community services provided by the church took a holistic approach covering the body, mind and soul. The church and the Government held good complementary relationship in that the church provided place for Christian worship, complemented Government's social and educational services, and supported spiritual and psychological needs of

the community. While the Board was planning on good physical environment for healthy living, the church complemented with the provision of appropriate spiritual and psychological services and care for the needy community;

- (c) the church needed space for worship, community services and social services. The church was a non-profit making non-government organization, and a religious centre for the local community and the wider context. It was also a religious centre for the Min Nan community; and
- (d) the BH restriction for MLCC should be deleted.

Comment No. C163

112. With the aid of a Powerpoint presentation, Mr. Shih Hay Lai made the following main points:

- (a) the church was providing a variety of services. As the site was small, increase in BH was needed to increase the floor space so as to cater for their need. There were examples of recently redeveloped churches in Hong Kong which had BH increased. The Hong Kong Baptist Church at 50 Caine Road, Hong Kong was redeveloped from 2 storeys to 17 storeys in 1988, providing car park, church hall, choir room, offices, parent and children's room, classrooms, quarters, library and shop;
- (b) the Mongkok Church, the Church of Christ in China at 56 Bute Street, Kowloon was redeveloped from 4 storeys to 15 storeys in 2002 providing car park, church hall, choir room, offices, parent and children's room, classrooms, quarters, library, shops and kindergarten;
- (c) the Yan Fook Church at 789 Cheung Sha Wan Road, Kowloon was a 21-storey building developed in 2003, providing car park, church halls, choir rooms, offices, parent and children's room, youth halls,

classrooms, quarters, library, shop and playground;

- (d) the BH restriction for MLCC should be the same as the adjoining developments, which were 100mPD. Over the years, the buildings in the vicinity had been redeveloped into high-rise buildings. There was no reason to restrict the BH of MLCC to 4 storeys; and
- (e) the private property right of the church should be respected.

Comment No. C20

113. With the aid of a Powerpoint presentation, Ms. Anita Ng made the following main points:

- (a) the church needed space for expanding services to meet community needs and expectation. The services were provided without acquiring additional public funds and resources;
- (b) the site was triangular in shape, with a small site area of 331m² and was surrounded by high-rise buildings;
- (c) the existing Government lease and Building (Planning) Regulations had already included sufficient clauses to control future development on the site;
- (d) urban design and visual impacts were subjective in nature. Planning and BH restrictions should relate to reasonable long-term uses of the site, rather than simply reflecting the existing development parameters. BH restrictions should not be solely imposed by PlanD. A comprehensive review of the development control framework involving PlanD, Lands Department and Buildings Department was required;
- (e) as shown in the Paper submitted to the Metro Planning Committee (MPC) on 14.1.2008, both the District Lands Officer and Members had

expressed concern on the negative impact and fairness on development potential of the concerned sites. The District Officer commented that the proposed restrictions would likely be opposed by parties of the affected buildings, but PlanD had not positively addressed these concerns; and

- (f) the BH restriction of the church should be relaxed to 100mPD in consideration that the church needed space to serve the community. The proposed BH was consistent with the adjacent sites and would not create out-of-context developments.

Comment No. C281

114. Mr. Ng Shui Lai made the following main points:

- (a) while supporting the Board's BH control for the Wong Nai Chung area, the BH restriction for the church should be relaxed to 100mPD;
- (b) the church occupied a small site and was located at road junction. As the surrounding buildings were subject to a BH restriction of 100mPD, relaxing the BH restriction of the church to that of the surrounding buildings should not have any adverse impact;
- (c) there was no justification to restrict the BH of the church to 4 storeys. Religious buildings in other overseas countries were usually landmark buildings. The stringent BH restriction for the church ignored this tradition and 'lowered' the image of the church;
- (d) there were limited GIC facilities in the Area and the BH restriction would hinder the future expansion of the church to meeting the community needs;
- (e) the site was privately owned and the development rights of private property should be respected. The church should be allowed to better

utilize its land resources for serving the community. The BH control was not necessary and not justified; and

- (f) the proposed BH restrictions of 100mPD for the church was a fair and reasonable proposal, bringing benefit to the community without creating any adverse impact.

115. After the presentation, the Chairman then invited questions from Members.

Race Course

116. A Member noted that HKJC proposed to extend the 13-storey limit of the Grandstands to cover the Racing Museum Building and the entire area between Wong Nai Chung Road and the race track, and to extend the 81mPD and 18 storeys restriction for the HKJC Headquarters Building to cover the whole of the building site, as shown in Drawing H-1 of the Paper. This Member asked why it was necessary to have such an extension and what the estimated increase in site area, height and bulk would arise from the proposed changes. Mr. Ian Brownlee said that any redevelopment of the existing Grandstands would require decanting of facilities into a new building which could have been built on the Racing Museum Building site and it was thus necessary to extend the 13-storey BH restriction to cover this building. The imposition of BH restriction based on the existing Grandstands had severely restricted any flexibility in the design and layout of new development within the area. The expanded boundaries amounted to about 50% increase in width. The site area, height and bulk of the future Grandstands would depend on the design of the future development. Mr. Philip Chen added that the proposed increase in site area for the Grandstands was mainly to allow provision of back of house facilities, e.g. kitchen, at the back of the Grandstands. The inclusion of a 2-storey height limit on the two infield areas of the "OU" annotated "Race Course" ("OU(RC)") zone was to indicate that such areas were building locations and to permit redevelopment.

MLCC

117. A Member asked DPO/HK whether there was any distinction between

privately owned and Government owned “G/IC” sites in considering the appropriate BH restrictions for these “G/IC” sites. Ms. Brenda Au said that there was no differential treatment for all “G/IC” sites in assessing the appropriate BH restriction. In formulating the BH restrictions for the “G/IC” sites, due regard had been given to the existing BHs and the height restrictions on the lease, among other things. The existing “G/IC” sites, apart from providing GIC facilities to the community, also served as important breathing space to provide visual relief to the built-up area. The MLCC site was subject to a BH restriction of 56ft (or 17.07m) under the lease, which was broadly equivalent to the existing BH of the church up to the main roof. As explained in the footnote (2) of the Paper, the existing roof top structure of the church was in breach of the height restriction under the lease.

118. Another Member asked whether the MLCC site was acquired through private treaty grant or in the free market. Ms. Anita Ng replied that the church was located on the remaining portion of subsection 1 of section A of Inland Lot No. 2341, and was purchased with members’ donation. The lease contained a design, disposition and height (DD&H) clause. If there was no BH restriction under the OZP, the lease could be modified to make way for future redevelopment of the site. A previous offer for joint development of the site had been rejected by the church and the site would remain for use as a church and to provide services to the community.

119. The Chairman noted that there was a minor relaxation clause for the “G/IC” zone and asked whether there was any limit on the percentage of increase in BH that could be allowed under such a clause. Ms. Brenda Au said that there was no pre-determined figure for the percentage of relaxation that could be allowed. It would be determined by making reference to the impacts the relaxation had on the surrounding area. Having said that, major departure from the BH restriction could be submitted under section 12A of the TPO. Relaxing the BH restriction to that of the adjacent residential development, i.e. 100mPD, without reference to any concrete proposal for assessment would set an undesirable precedent, which could result in proliferation of high-rise GIC developments, leading to cumulative loss of visual relief and breathing space for the Area. Mr. Ng Shui Lai said that being a non-profit making organization, the church did not have the resource to submit planning application. The Board should make a decision at this meeting to relax the BH restriction on the OZP for the MLCC site.

120. Mrs. Ava Ng, Director of Planning, noted that in the representation submitted by representer No. 46, the representer proposed to relax the BH restriction for the “G/IC” zone covering 58-60 Blue Pool Road from 6 and 8 storeys to 130mPD. She sought clarification from the applicant’s representatives whether they were now revising their proposal, requesting a BH restriction of 88.05mPD instead of 130mPD, as presented to the Board at this meeting. Mr. Ian Brownlee replied in the affirmative.

121. As the representatives of representers and commenters had finished their presentation and Members had no further question to raise, the Chairman informed the representatives of representers and commenters that the hearing procedures had been completed, and the Board would further deliberate on the representations and comments in their absence and inform them of the Board’s decision in due course. The Chairman thanked the representatives of representers, commenters and PlanD for attending the meeting. They all left the meeting at this point.

[Mr. Walter Chan returned to join the meeting at this point.]

Deliberation Session

Spot Zoning

122. A Member noted that while HKJC was challenging the Board’s power to impose BH restrictions on the OZP through the so-called ‘spot zoning’ approach, the BH on individual buildings proposed by HKJC also involved imposing different BH restrictions in the same area. Mrs. Ava Ng, Director of Planning, said that the power of the Board to impose development restrictions, on the strength of determining ‘types of building’ in the layout area, had previously been challenged in court and it was established in the C.C. Tse case that the Board could impose development restrictions under the TPO. Given that the setting, circumstances and size of sites and zones varied and that there might be different planning intentions/objectives to achieve, it was not uncommon to have different restrictions within the same site and the same zone. In response to a Member’s question, the Secretary said that imposition of different BH restrictions for different sub-areas within a zone was not unprecedented as claimed by

HKJC's representatives. Many OZPs had similar restrictions, such as Discovery Bay and the Shaw's Brother film studio site. Mrs. Ava Ng added that the "CDA" zones also had different BH restrictions.

Blanket Requirement for Planning Permission

123. The Secretary said that requiring planning permission for Column 1 uses was nothing new and had been incorporated into other OZPs. Legal advice had previously been obtained to confirm that it was proper for the Board to impose such a requirement. Members generally considered that there was a need to retain Remark (3) such that planning permission was required for new development and redevelopment in the open areas where no BH restriction was stipulated on the OZP in the "OU(RC)" and "OU(SRC)" zones.

No Prior Consultation

124. Members noted that as provided for under section 3(2) of the TPO, the TPB had made inquiries through planning studies and assessment before proposing BH restrictions and other amendments to the OZP. Members generally agreed that to avoid premature release of information, which might nullify the effectiveness of imposing BH restrictions for the Area, it was appropriate to consult the public after exhibition of the amendments to the OZP. The publication of the OZP itself and the section 6 representation procedures provided a statutory channel/avenue for the Board to consult the public and to solicit public opinion on the OZP. The amendments were exhibited for public inspection for 2 months under the TPO and any persons affected by the amendments might submit representations to the Board for consideration. During the exhibition period, the amendments to the OZP were also presented to the DPTC of the WCDC on 14.2.2008 and the local residents at a local forum held on 4.3.2008. Such an approach was adopted in the preparation of other OZPs which imposed development restrictions and was not unprecedented.

MLCC site (R47)

125. A Member asked whether privately owned "G/IC" sites should be

distinguished from Government owned “G/IC” sites in determining BH restrictions, and whether some relaxation in BH restriction, not necessarily up to 100mPD as requested, could be allowed to facilitate future redevelopment of the church. In case the BH restriction was to be retained, this Member asked whether the church could be allowed to apply for any relaxation, instead of only minor relaxation, in BH. Two Members considered that the MLCC site was purchased for church development, as reflected in the lease. The site was subject to a BH restriction of 56ft (or 17.07m) under the lease, which was broadly equivalent to the existing BH of the church. The proposed BH restriction had not deprived the development right of the church under the lease. Relaxing the limit in the absence of the details of any redevelopment scheme would be undesirable. Should there be any specific scheme for redevelopment which involved major increase in BH, a section 12A application could be submitted for the Board’s consideration.

126. Mrs. Ava Ng, Director of Planning, said that many other “G/IC” sites were also purchased from the free market. There was no planning justification to distinguish privately owned and Government owned “G/IC” sites in determining BH restriction. If such a distinction were to be made irrespective of use and site character, the wider implications on this and other OZPs should be carefully considered, in particular privately owned properties could change hands over time.

127. The Chairman said that the section 12A route would provide a venue for the MLCC if in future there was a concrete proposal for a new church building. The proposal would be assessed on its own merit. Members generally agreed that a BH restriction of 5 storeys for the MLCC site was appropriate at this stage, but advised that proper assistance and guidance be provided to MLCC in respect of the planning permission process should it wish to embark on a redevelopment scheme.

Race Course (R42)

128. To allow for design flexibility, Members generally considered it acceptable to allow the proposed expansion of the 13-storey height limit of the Grandstands to include the area between the race track and Wong Nai Chung Road, and the inclusion of 2-storey height limit for the existing buildings in the two infield areas, as marked red in Drawing

H-1 of the Paper. Members did not support, however, the inclusion of the Racing Museum Building, the site of which was sizable, into the 13-storey height limit in consideration that the GFA would be substantially increased and the resulting traffic and visual impacts could be significant. Without a specific scheme, there was insufficient information for consideration by the Board on the appropriate BH for the site. For the same reasons, Members also considered that there was no justification for the proposed extension of the 81mPD and 18 storeys restrictions for the HKJC Headquarters Building to cover the whole of the building site.

Happy Valley Clubhouse (R43)

129. Members considered the proposed BH restriction of 88mPD, which was roughly the same as the BH of the existing Clubhouse and the requirement for provision of a public open space of not less than 5,000m² at grade were acceptable in consideration of the site constraints and the proposed scheme for the Clubhouse extension. Members also considered that Remark (3) could be deleted from the Notes for the “OU(SPCO)” zone. Members also noted that in consideration of the BH restriction for the “Residential (Group C) 1” (“R(C)1”) site at Shan Kong Road opposite to the Clubhouse, i.e. representation No. 37 under Group 1 in the morning session of this meeting, the Board had already agreed to relax the BH restriction for the eastern part of the “R(C)1” site from 115mPD to 130mPD, taking into account the site constraints and the need for flexibility to achieve a better building design.

HKFC Sports Fields (R44 and R45)

130. Members noted that the proposed reduction of BH restriction for the existing buildings in the HKFC Sports Fields from 5 storeys to 2 storeys was acceptable to both the HKJC and HKFC.

58 and 60 Blue Pool Road (R46)

131. Members generally considered that without a specific scheme, there was insufficient information for consideration by the Board on the appropriate BH for the site. Relaxing the BH restriction for a “G/IC” site which did not have a concrete proposal for

redevelopment would set an undesirable precedent for other “G/IC” sites. If there was a concrete proposal for redevelopment in future, it could be submitted to the Board for consideration. The BH restriction for the site should not be relaxed at this stage.

132. After deliberation, the Board agreed that representations No. R43 and R44 should be upheld, and representations No. R42, R45 and R47 should be partially upheld. The Board also agreed that the proposed amendments to the OZP and its Notes should be resubmitted to the Board for consideration prior to publication of the proposed amendments under section 6C(2) of the TPO.

Representation No. R42

133. After further deliberation, the Board decided to partially uphold Representation No. R42 by extending the 13-storey building height (BH) restriction for the Grandstands to cover the area (excluding the Race Museum Building) between Wong Nai Chung Road and the race track, and by including a 2-storey BH restriction for the existing buildings in the two infield areas, as marked red in Drawing H-1 of the Paper, and by amending Remark (3) in the Notes of the “Other Specified Uses” (“OU”) annotated “Race Course” zone as shown in Annex V of the Paper.

134. The Board also decided not to uphold the remaining part of Representation No. 42 for the following reasons:

- (a) the Race Course, sports fields and public open space within the “OU” annotated “Race Course”, “OU” annotated “Stables, Private Sports/Recreation Club and Public Open Space” and “OU” annotated “Sports and Recreation Club” zones in the Wong Nai Chung area formed major green and breathing spaces to the built-up area, contributing to the special character of the Happy Valley area. In order to preserve the openness and existing character of these “OU” zones, the building height (BH) restrictions for the “OU” zones were to reflect and contain the existing BHs so as to provide spatial and visual relief to the urban environment. Deletion or further relaxation of the BH restrictions for the “OU” sites could result in proliferation of

high-rise developments, and was not in line with the intended planning control for the zones. It might also set an undesirable precedent, which would cumulatively jeopardize the visual relief function of the “OU” zones in the Wong Nai Chung area;

- (b) the lease and statutory Outline Zoning Plan (OZP) were in fact two separate control mechanisms. Although there was control on the users under the leases of the sites, they did not contain any BH restriction. Given the special character of the area and the function of the “OU” sites and to ensure effective planning control in the public interest, the stipulation of BH restrictions under the OZP was necessary to avoid excessive developments; and
- (c) to cater for site-specific circumstances, there was provision for application for minor relaxation of the BH restrictions under the OZP. Should there be any functional or operational needs for developments to exceed the stipulated BH restrictions, planning permission from the Town Planning Board (the Board) might be sought. Each application would be considered by the Board on its individual merits and a set of criteria for consideration of such applications had been set out in the Explanatory Statement of the OZP, which was also relevant to this zone. There was no predetermined figure for the percentage of relaxation that could be allowed. It would be determined by making reference to the impacts the relaxation had on the surrounding area.

Representation No. R43

135. After further deliberation, the Board decided to uphold Representation No. R43 by amending the building height restriction from 7 storeys to 88mPD, adding a requirement for provision of an at-grade public open space of not less than 5,000m², and deleting Remark (3) in the Notes for the “Other Specified Uses” annotated “Stables, Private Sports/Recreation Club and Public Open Space” zone.

Representation No. R44

136. After further deliberation, the Board decided to uphold Representation No. R44 by amending the building height (BH) restrictions for the existing buildings at the sports fields of the Hong Kong Football Club from 5 storeys to 2 storeys and deleting the BH restrictions for the remaining parts of the sports fields site.

Representation No. R45

137. After further deliberation, the Board decided to partially uphold Representation No. R45 by amending the building height (BH) restrictions for the existing buildings at the sports fields of the Hong Kong Football Club from 5 storeys to 2 storeys, deleting the BH restrictions for the remaining parts of the sports fields site, and amending Remark (3) in the Notes of the “Other Specified Uses” (“OU”) annotated “Sports and Recreation Club” zone as shown in Annex V of the Paper.

138. The Board also decided not to uphold the remaining part of Representation No. 45 for the following reasons:

- (a) the Race Course, sports fields and public open space within the “OU” annotated “Race Course”, “OU” annotated “Stables, Private Sports/Recreation Club and Public Open Space” and “OU” annotated “Sports and Recreation Club” zones in the Wong Nai Chung area formed major green and breathing spaces to the built-up area, contributing to the special character of the Happy Valley area. In order to preserve the openness and existing character of these “OU” zones, the BH restrictions for the “OU” zones were to reflect and contain the existing BHs so as to provide spatial and visual relief to the urban environment. Deletion or further relaxation of the BH restrictions for the “OU” sites could result in proliferation of high-rise developments, and was not in line with the intended planning control for the zones. It might also set an undesirable precedent, which would cumulatively jeopardize the visual relief function of the “OU” zones in the Wong Nai Chung area;
- (b) the lease and statutory Outline Zoning Plan (OZP) were in fact two separate control mechanisms. Although there was control on the users

under the leases of the sites, they did not contain any BH restriction. Given the special character of the area and the function of the “OU” sites and to ensure effective planning control in the public interest, the stipulation of BH restrictions under the Outline Zoning Plan (OZP) was necessary to avoid excessive developments;

- (c) to cater for site-specific circumstances, there was provision for application for minor relaxation of the BH restrictions under the OZP. Should there be any functional or operational needs for developments to exceed the stipulated BH restrictions, planning permission from the Town Planning Board (the Board) might be sought. Each application would be considered by the Board on its individual merits and a set of criteria for consideration of such applications had been set out in the Explanatory Statement of the OZP, which was also relevant to this zone. There was no predetermined figure for the percentage of relaxation that could be allowed. It would be determined by making reference to the impacts the relaxation had on the surrounding area.

Representation No. R46

139. The Board also decided not to uphold Representation No. 46 for the following reasons:

- (a) apart from providing Government, Institution or Community (GIC) facilities, the “G/IC” sites in the built-up urban area also served as visual relief and breathing space. Deletion of or piecemeal amendments to the building height (BH) restrictions for the “G/IC” sites might set an undesirable precedent, which could result in proliferation of high-rise GIC developments, leading to cumulative loss of visual relief and breathing space for the Wong Nai Chung Area; and
- (b) to cater for site-specific circumstances, there was provision for application for minor relaxation of the BH restrictions under the Outline Zoning Plan (OZP). Should there be any functional or operational needs for developments to exceed the stipulated BH

restrictions, planning permission from the Town Planning Board (the Board) might be sought under section 16 of the Town Planning Ordinance (the Ordinance). Each application would be considered by the Board on its individual merits and a set of criteria for consideration of such applications had been set out in the Explanatory Statement of the OZP, which was also relevant to this zone. There was no predetermined figure for the percentage of relaxation that could be allowed. It would be determined by making reference to the impacts the relaxation had on the surrounding area. Application under section 12A of the Ordinance could also be made for amendment of plan if it was considered appropriate.

Representation No. R47

140. After further deliberation, the Board decided to partially uphold Representation No. R47 by amending the building height (BH) restriction for the “Government, Institution or Community” (“G/IC”) zone covering Man Lam Christian Church from 4 storeys to 5 storeys.

141. The Board also decided not to uphold the remaining part of Representation No. 47 for the following reasons:

- (a) apart from providing GIC facilities, the “G/IC” sites in the built-up urban area also served as visual relief and breathing space. Deletion or further relaxation of the BH restrictions for the “G/IC” sites might set an undesirable precedent, which could result in proliferation of high-rise GIC developments, leading to cumulative loss of visual relief and breathing space for the Wong Nai Chung Area; and
- (b) to cater for site-specific circumstances, there was provision for application for minor relaxation of the BH restrictions under the Outline Zoning Plan (OZP). Should there be any functional or operational needs for developments to exceed the stipulated BH restrictions, planning permission from the Town Planning Board (the Board) might be sought under section 16 of the Town Planning

Ordinance (the Ordinance). Each application would be considered by the Board on its individual merits and a set of criteria for consideration of such applications had been set out in the Explanatory Statement of the OZP, which was also relevant to this zone. There was no predetermined figure for the percentage of relaxation that could be allowed. It would be determined by making reference to the impacts the relaxation had on the surrounding area. Application under section 12A of the Ordinance could also be made for amendment of plan if it was considered appropriate.

[Mr. B.W. Chan returned to join the meeting at this point.]

Group 4 : R48-49, C283-377 and 382

(TPB Papers No. 8148)

142. The Chairperson said that two representations in respect of the “Government, Institution or Community” (“G/IC”) zone covering the Hong Kong Sanatorium and Hospital (HKSH) site, and 96 valid comments in relation to representation No. R48 would be considered under Group 4.

143. The Secretary reported that the following Members had declared interests in this item:

Mr. Y.K Cheng	Owned a property in Victoria Height, Stubbs Road
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Ms. Anna Kwong	Having current business dealing with family members of the owner of HKSH, a representer in Group 4
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144. Members noted that Mr. Y.K. Cheng had sent his apologies for being unable to attend the meeting, while Ms. Anna Kwong had already left the meeting.

145. Members noted in the morning session of this meeting that the Secretary had

declared an interest on this item for owning a property at Broadwood Road which was within the Wong Nai Chung area (the Area) and informed Members that commenter No. C359 wrote to the Board on 7.8.2008 suggesting that she should be excused from consideration of any of the building height (BH) limits under the Outline Zoning Plan (OZP) for having an interest in the matter. Members had agreed that the role of the Secretary at the meeting was mainly to provide information and advise on procedural matters. As she was not a Member of the Board and did not take part in the decision-making, she could be allowed to stay at the meeting.

146. The Secretary said that a petition against the appeal by HKSH on height limit was received on 7.8.2008, which was tabled at the meeting. Members also noted that two replacement pages (Plans H-4 and H13) of the Paper were tabled at the meeting.

147. The following Government representatives were invited to the meeting at this point:

Ms. Brenda Au District Planning Officer/Hong Kong, Planning
Department (DPO/HK, PlanD)

Mr. Tom Yip Senior Town Planner/Hong Kong, PlanD

148. The following presenter's representatives were invited to the meeting at this point:

Representation No. R48

HKSH

Mr. Ian Brownlee)

Miss Helen Lung)

Mr. Wyman Li) presenter's representatives

Dr. Kwong Kwok Hay)

Ms. Anna Lee)

Mr. Menachem Hasofer)

149. The following commenters and their representatives were invited to the meeting at this point:

C283	Amy Fung)	
C296	Ms. Leung Wai Yin, Phyllis)	commenter
C354	Ms. Anna Lee)	
C366	Ms. Tam Pui Man , Wendy]	commenter's representative
C375	Mr. Bernard Chang]	

150. The Chairman extended a welcome. Members noted that sufficient notice had been given to the other representer and commenters in Group 4, and they had indicated not to attend the meeting or made no response. Members also noted that as representations No. R6 to R15 under Group 1 had raised concerns on the HKSH site, they had been invited to attend the hearing of Group 4. The repersenters in Group 1 either indicated that they would not attend the meeting, or made no response. The Board agreed to proceed with the meeting in the absence of the remaining representers and commenters. The Chairman then explained the procedures of the hearing.

151. The Secretary said that two letters dated 1.8.2008 and one dated 7.8.2008 from JSM, representing HKSH, and the reply of the Board's Secretariat dated 7.8.2008 were tabled at the meeting. JSM requested a deferral of the hearing of the representation.

152. Member agreed to consider the request for deferral first.

153. Mr. Tony Wu, representative of the Board's Secretariat, was invited to join the meeting at this point.

Presentation and Question Session

154. The Secretary said that JSM claimed that HKSH's Project Management Office (PMO) sent to the Board 60 comments via two DHL deliveries on 15 and 18.4.2008, and one personal delivery on 18.4.2008. No comments were forwarded by PMO to the Board by Post. Only 10 comments were accepted and the remaining 50 were rejected by the Board. JSM said that the 50 comments had been wrongly rejected as being lodged out-of-time and requested a deferral of the hearing of the representation so as to allow the 50 comments to be exhibited and for the commenters to be invited to participate in the hearing of the representation, in compliance with sections 6A(4) and

6B(2)(b) of the Town Planning Ordinance (TPO). The Secretariat had checked its record and confirmed that a number of comments on HKSH's representation were received by the Secretariat on 15 and 18.4.2008 delivered by DHL, and some were received by post on 22.4.2008. The representative of the Secretariat would later provide further information for consideration by Members.

155. The Chairman invited the representer's representative to elaborate on his case.

156. Mr. Menachem Hasofer, representative of HKSH, made the following main points:

- (a) HKSH believed that an administrative error had been made by the Board's Secretariat in mistakenly attributing the 50 comments, which were not marked with an asterisk in Annex 1 of JSM's letter of 7.8.2008 tabled at the meeting, to the four envelopes stamped 21.4.2008;
- (b) the representer did not owe a duty to prove, neither on balance of probability nor beyond reasonable doubt, that the Board's Secretariat had made an administrative error at this meeting. A press cutting attached to the letter of 7.8.2008 did suggest that such administrative error was not an isolated incident;
- (c) HKSH had cross-checked its record and confirmed that 60 comments were sent to HKSH's PMO. The PMO then forwarded all the 60 comments to the Board by way of two DHL deliveries on 15 and 18.4.2008 and one personal delivery on 18.4.2008, as evidenced by the receipt attached to the two letters dated 1.8.2008. No comments were forwarded by PMO to the Board by post, though other offices of HKSH might have sent their comments by post. It was until HKSH made contact with the commenters then realised that some comments were treated as invalid for being filed out-of-time;

- (d) representatives of HKSH were prepared, if necessary, to make declaration under the Oaths and Declaration Ordinance to confirm that the above facts were true. HKSH did not intend to produce other evidential proof of its case. However, for the benefit of doubt and for the sake of the Board's commitment to fairness, accountability and transparency, HKSH requested the Board to defer the consideration of the representation so that all the commenters could be invited to participate in the hearing of the representation; and

- (e) if the Board decided to proceed with the hearing, HKSH would not preclude the possibility of challenging the decision of the Board in court for failure to comply with sections 6A(4) and 6B(2)(b) of the TPO.

[Mr. Timothy Ma returned to join the meeting at this point.]

157. The Chairman then invited Mr. Tony Wu of the Secretariat to explain the matter to Members.

158. Mr. Tony Wu said that the Secretariat received the 50 comments (i.e. those without an asterisk at Annex I of JSM's letter dated 7.8.2008) by post on 22.4.2008. The 50 comments were amongst the four batches of comments the Secretariat received by post on the same date. The postal date of the four envelopes containing these 50 comments were all stamped as 21.4.2008, which was after the expiry of the statutory period (i.e. 18.4.2008) for making comment. These comments were thus treated as not having been made. Mr. Wu then put the four envelopes on the visualizer, showing the postal chop and the receipt date of 21 and 22.4.2008 respectively.

159. A Member noted that the representer claimed that 60 comments were sent, but the Secretariat said that only 10 comments were received before the statutory deadline. While the representer could prove that the DHL had made two deliveries on 15 and 18.4.2008, it could not be ascertained whether all the 60 comments were included in the two DHL deliveries, and whether these comments were sent either by DHL, or by post, or by both means. Mr. Tony Wu advised that according to the record of the Secretariat, the

10 comments marked with an asterisk were received before the expiry of the statutory period, while the 50 comments without an asterisk were received by post, which were received out-of-time.

160. Mr. Menachem Hasofer said that there was no dispute that there were two DHL deliveries on 15 and 18.4.2008, containing comments on representation No. 48. While some comments were sent by post, they were not sent by PMO. The issue at dispute was what the two DHL deliveries contained, and whether the comments had been mixed up during their processing by the Secretariat. There appeared to be conflicting records of the two organisations. As the circumstances of this case constituted doubt, the Board should allow the representer the benefit of doubt and allow deferral of the consideration of the representation. The Chairman said that an administrative error could also have been made by PMO of the representer.

161. The Chairman said that the Board would deliberate on the deferral request in the absence of the representatives of the representer, commenters and PlanD. They all left the meeting at this point.

Deliberation Session

162. A Member considered that the Board was not a court of law and did not have to strictly follow the legal procedures and could deal with the request for deferral from an administrative perspective. If the deferral could contribute to greater transparency of the Board, this Member had no objection to deferring the consideration of the representation to a later date. Having said that, this Member was of the view that the date of receipt by the Secretariat should be taken as the date of submission as the Secretariat had received many other mails and there must be a system of record. There was no proof of administrative error on the part of the Secretariat. Such deferral practice might have the effect of setting a precedent.

[Mr. K.Y. Leung and Dr. James Lau left the meeting at this point.]

163. In response to the Chairman's enquiry on the deadline for submitting comment, the Secretary said that according to section 6A(3)(a) of the TPO, the comment

submitted out-of-time should be treated as not having been made. HKSH not only requested the Board to defer consideration of representation, but also to comply with sections 6A(4) and 6B(2)(b) of the TPO to publish the 50 comments for public inspection and to invite the commenters to attend the hearing of the representation.

164. A Member noted that there were other comments received on the same date (i.e. 22.4.2008) in the four envelopes sent by post, other than the 50 comments raised by JSM. The Secretary said that 69 comments were contained in the four envelopes. The Secretariat would not have put a chop on just the 50 comments out of the other comments received on that date.

165. Another Member was of the view that the Board was functioning as a quasi-administrative and quasi-judicial body. The cardinal principle was not to refuse the comments, with the commenters left unheard. If the hearing was deferred, the aggrieved party would have no excuse to challenge the decision of the Board in court. Another Member held contrary views. If the 50 commenters were allowed the benefit of doubt to attend the hearing, the Board might also be subject to challenge by the opposing parties that the out-of-time comments, which should be treated as not having been made, were heard by the Board and the Board did not have the power to consider them.

166. Mr. Michael Chiu, Deputy Director of Environmental Protection, said that the practice of taking the date of receipt as the date of submission was also adopted by other Government departments. If the Board deviated from its established practice, it would set an undesirable precedent, and might affect the efficient running of the Secretariat. The Secretary said that the Town Planning Board Guidelines No. 29A clearly stated that the date of submission was taken as (a) date of receipt for a submission sent by hand, (b) the date of postal chop for a submission sent by post; or (c) the receipt date of transmission for a submission sent by fax/email.

167. After deliberation, Members decided to proceed with hearing of the representations and comments in Group 4, and not to accede to the request for deferral made by representer No. 48.

168. The representatives of the representer, commenters and PlanD were invited to

return to the meeting at this point.

169. The Chairman informed the representatives of representer No. 48 that the Board decided to proceed with the hearing of representations and comments in Group 4 at this meeting. The Chairman then invited Ms. Brenda Au, DPO/HK, to brief Members on the background of the representations and comments.

Presentation and Question Session

170. With the aid of a Powerpoint presentation and a physical model displayed at the meeting, Ms. Brenda Au made the following main points as detailed in the Paper:

- (a) background to the proposed amendments was set out in paragraph 1 of the Paper. There were two representations (No. R48 and R49) of opposite views in respect of the “G/IC” zones covering HKSH, and 96 comments (No. C283-C377 and C382) in Group 4. Ten representations (No. R6-R15) in Group 1 also considered the imposition of BH restrictions for the Area unfair, given some existing tall buildings such as HKSH Phase III;
- (b) the main grounds of the representations and the representers’ proposals were summarised in paragraphs 2.1, 2.3 and 2.4 of the Paper. Representation No. R48 opposed the BH restrictions for the HKSH site for being too stringent, details of which would be elaborated by the representer’s representatives at this meeting. Representation No. R49 considered the restrictions too lenient, mainly on the ground that the concept of stepped BH was spoiled by the newly completed 37-storey Phase III building of HKSH, which was incompatible with the surrounding developments, such as the 5-storey buildings at Fung Fai Terrace and 15-storey buildings at Yik Yam Street and King Kwong Street. The BH restrictions for the site only reflected the heights of the existing developments. A more stringent BH restriction should be imposed for the site to prevent high-rise redevelopment on the remaining part of the site. Happy Valley was a densely developed area with narrow streets and low traffic capacity. The Board should

control the density of the area. Representer No. 49 proposed to impose a BH restriction of 7 storeys for the Li Shu Fan Block and Central Block;

- (c) the main grounds of the comments were summarized in paragraphs 2.2 and 2.5 of the Paper. Nine comments opposed representation No. R48 mainly on the grounds that the tall and massive Phase III building of HKSH was incompatible with the surrounding developments. It had created a wall effect blocking the views, air ventilation and sunlight of residents at Fung Fai Terrace and Stubbs Road, and hikers at the Bowen Road. Commenter No. C287 considered that the BH restrictions for the site should be reduced to 8 storeys and 40mPD. On the other hand, 87 supported representation No. R48 mainly on the grounds that the proposed deletion of the 12-storey BH restriction would allow provision of quality medical and health care services for the community. Given the existing site constraint, the 12-storey BH restriction should be relaxed. The visual impact of Phase IV redevelopment was insignificant, if compared with the tall residential buildings at Stubbs Road, i.e. Highcliff and Summit;
- (d) PlanD's responses to the two representations were set out in paragraph 4.4 of the Paper, which were summarized as follows:

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

Representation No. R48

Contribution to Hospital Services

- the Secretary for Food and Health (SFH) welcomed the proposal for private hospital development subject to compliance with the relevant regulatory and statutory requirements, while the Director of Health had no objection to the proposed Phase IV redevelopment;

- PlanD considered that the provision of private hospital facilities should be considered and assessed in the overall territorial context. Demand for additional private hospital facilities could be met by various means, including provision of land at more suitable locations. While the need for private health care facilities was acknowledged, it was also vital to safeguard a pleasant living environment and the local character of the Area. A balance had to be properly struck;

Goal of TPO and Planning Intention

- the objective of the BH control was to safeguard a pleasant living environment for the community. The imposition of BH restrictions in the Area was in the public interest and there was no conflict with the goal of the TPO;
- while hospital use was in line with the planning intention, the proposed Phase IV redevelopment was excessively tall and was incongruous and incompatible with the surrounding developments;

Long-term Redevelopment Plan

- building plans for Phase IV redevelopment had not been approved and would not be taken into account in the formulation of BH restrictions;

Urban Design Consideration

- HKSH was at a prominent location directly facing the Happy Valley Race Course. Phase III development with a BH of 37 storeys and 148mPD was the tallest building in the vicinity, and was incompatible with the medium-rise character of the adjoining residential neighbourhood. Phase III was excessively tall, and should not be taken as a yardstick;
- Phase IV development would exceed the levels of both Bowen Road (at about 122 to 124mPD) and Stubbs Road (at about 80 to

100mPD) and aggravate the blockage of views from Bowen Road Walking Trail to the Race Course. It would also aggravate the adverse visual impacts on the surrounding areas, and block public view from the Race Course towards Wong Nai Chung Gap;

- BH restrictions for other “G/IC” sites were mainly below 13 storeys;
- although there was no plot ratio (PR) restriction for the “G/IC” site, PR should be determined by relevant factors such as urban design considerations, infrastructural capacity and in the context of the surrounding area;

Traffic Improvement

- Transport Department (TD) had no in-principle objection to the traffic impact assessment (TIA) submitted by the representer;

Development Right

- according to the lease, a large part of the site was not subject to any development restrictions. Only a small part (i.e. IL 3284) was subject to a BH restriction of 13 storeys including basement. The BH restriction of 12 storeys (excluding basements) under the OZP could allow scope for future redevelopment. There was provision for application for minor relaxation of the BH restriction;

No Prior Consultation

- prior public consultation was not held to avoid premature release of information. The publication of the OZP itself was a statutory public consultation process. Besides, during the exhibition period, the amendments to the OZP were presented to the Development, Planning and Transport Committee (DPTC) of the Wan Chai District Council (WCDC) on 14.2.2008 and the local residents at a local forum held on 4.3.2008;

Representation No. R49

- BH restrictions for Phase III building reflected its existing height and would prevent further increase of BH;
 - BH restriction of 12 storeys for the remaining part of the site would allow some scope for future redevelopment. It would not have adverse visual impact and was considered compatible with surrounding developments;
- (e) relevant Government departments had been consulted, as listed in paragraph 5 of the Paper, and their comments had been incorporated into the Paper; and
- (f) PlanD proposed not to uphold representations No. R48 and R49 for reasons stated in paragraph 6.1 of the Paper.

Representation No. R48

171. Mr. Ian Brownlee, representative of HKSH, said that a physical model had been prepared and displayed at the meeting. He also said that PlanD was all along aware of the HKSH Phase IV redevelopment proposal. However, in the paper on proposed amendments to the Wong Nai Chung OZP submitted to the Metro Planning Committee (MPC) for consideration on 14.1.2008, neither the redevelopment proposal nor the consequence on the provision of essential hospital services were presented to the MPC.

172. With the aid of a powerpoint presentation, Mr. Menachem Hasofer, representative of HKSH, made the following main points:

- (a) the proposed BH restrictions on the OZP gave rise to the following legal issues that the Board should address before making a decision on the representation:

- the BH restrictions amounted to control of BH by ‘spot zoning’ in that height limit was applicable to a specific building and there were different height limits within the same zone and within the same site, i.e. limiting the height of one building to 37 storeys, and the rest to 12 storeys ;
 - the imposition of height limits on “G/IC” zones would result in restriction of community facilities and a moratorium by reference to the existing BH. The Board had a duty to balance different public needs and aspirations, particularly when public health was being affected;
 - the amendments to the OZP were implemented without any prior consultation. It amounted to unprecedented and fundamental changes to the system. There was a duty to consult before gazetting the draft OZP. The changes to the system were outside the current legislative scheme;
- (b) section 3(1) of the TPO stipulated that ‘with a view to the promotion of the health, safety, convenience and general welfare of the community, the Board shall undertake the systematic preparation of draft plan for the lay-out of such areas of Hong Kong as the Chief Executive may direct, as well as for the types of building suitable for erection therein...’, and section 4 listed the matters which might be shown or provided for in lay-out plans, which did not include building features;

Control of BH by Widespread ‘Spot Zoning’

- (c) the TPO required the Board to adopt a ‘broad-brush’ approach. The provision for ‘for the lay-out’ of an area did not include prescription of building features, while the provision for ‘types of building suitable for erection within an area’ was limited to general description of building features. ‘Spot zoning’ was a rigid, site-specific control, which did not provide for ‘types of building suitable for erection within an area’. PlanD was well aware of the Phase IV redevelopment and the BH

restriction was targeted at a specific building, limiting the development of the building. Legislative change was required to authorise such new and unprecedented planning restrictions;

Imposition of Height Limits on “G/IC” zone

- (d) the Board had a duty to consider the health, safety, convenience and general welfare of the community. The need to strike a balance required full and proper consideration of different community needs. Imposing a moratorium on the “G/IC” zone by restricting the BH of future development to that of the existing building was inappropriate;
- (e) it was a bare and empty assertion in the TPB Paper that the community’s health care needs would be met elsewhere as no information on this aspect had been provided. There was also no proper justification or evidence to support that ‘pleasant living environment’ should override health care needs;
- (f) the TPO should allow that community benefit might require a few individuals to make some sacrifices for the benefit of the wider community;

Unprecedented and Fundamental Changes to the System

- (g) section 3(2) of the TPO provided that ‘In the course of preparation of the plans referred to in subsection (1), the Board shall make such inquiries and arrangements (including, if it thinks fit, the taking of any census of the occupations of any buildings or of the users of any thoroughfares or spaces) as it may consider necessary for the preparation of such drafts’. The Board’s decision to defer public consultation to the section 6 process was contrary to the duty to consult ‘in the course of preparation’. Once published, the proposed amendments to the OZP would take effect. The concern about premature release of information which might prompt developers/landowners to accelerate submission of building plans for development/redevelopment and thereby nullifying the effectiveness of

imposing the BH restrictions was not justified. The redevelopment plan of HKSH had been in place for over 20 years. Building plans had already been submitted to the Buildings Department (BD); and

- (h) the Board should consider seeking independent legal advice. Setting against the above legal issues, the representer reserved his right to challenge the decision of the Board in court and the representer's participation in the hearing should not prejudice his legal position.

173. With the aid of a Powerpoint presentation, Mr. Wyman Li, representative of HKSH, made the following main points:

- (a) HKSH was founded in 1922 as a tuberculosis (TB) sanatorium. It had been running a School of Nursing since 1927. HKSH had maintained a close relationship with the teaching of medicine, providing attachment for medical students and surgical residents from the University of Hong Kong (HKU). HKSH had reinvested 99% of its profit in the past 5 years, and was Hong Kong's leading hospital for health care, research and education;
- (b) the Li Shu Fan Medical Foundation (the Foundation) was created in 1963. Dr. Li Shu Fan patented the Foundation, modelling on the world famous Mayo Clinic of Minnesota. The Foundation currently held 92% ownership of the HKSH and was progressing to acquire 100% ownership. The foundation was a 'not for profit' private foundation and offered scholarship and awards to the universities. The two prime objectives of the Foundation were to provide medical education and medical research. To achieve these objectives, the HKSH provided the source of funding and no financial support was obtained from the Government;
- (c) HKSH had been pioneering most of the new technologies in Hong Kong. The requirements for cutting edge medical technology covered five aspects, namely willing to explore new technologies, financial

capability to undertake risky investment, opportunity, technical know-how and space;

- (d) new technologies might take years and millions of investment before they came to maturity, e.g. Positron Emission Tomography took over 5 years, while cancer genetics and Da Vinci Robotic Surgery took over 10 years. The medical technologies, some were only available at HKSH, benefited health of the Hong Kong population and made substantial improvement in diagnostic or treatment. It also helped to establish Hong Kong as a medical hub to develop 'medical tourism';
- (e) HKSH was chosen by suppliers such as Siemens and GE mainly due to its willingness to take risk of new technology, had the technological know how, and was a window to look into the Mainland China and other South East Asian countries;
- (f) by the end of September this year, HKSH would be the only place in the world to have all the three most advanced CT scanners in the world, namely Siemens Dual Source (2006), Toshiba Aquillon One (May 2008) and GE HD (September 2008);
- (g) the advantage of the Toshiba Aquillon One (May 2008) was that it could scan all heart conditions and there was a 100% successful rate for all 150 patients scanned. Comparing the 64 detector row CT with the 320 detector row CT Aquillon One, the latter covered 16cm 320 slice detector in one gantry rotation that allowed blood flow diagnosis and organ perfusion analysis to be performed accurately;
- (h) the GE HD to be installed in September 2008 was the third one in the world. It offered high definition and greater resolution. It provided dual energy in that it could distinguish between hard plaque and soft plaque, which caused heart attack, and able to see inside a stent. It could also differentiate between kidney and urinary stone and helped diagnose whether it was treatable by lithotripter or not. The GE

CT750 HD had the highest spatial resolution among other CT machines that allowed visualization of the detail inside stent. It had a low radiation dose to patient (up to 50% less for the whole body and 83% less for cardiac) when compared to conventional CT scanners;

- (i) whole body MRI was a proven technique developed in HKSH to detect abnormalities in asymptomatic apparently healthy adults. The rate of cancer detection was comparable to results from two other groups, with 1.5% for HKSH versus 1.8% for Taipei and 1.2% for Japan. Early detection of cancer would ensure a high survival rate;
- (j) in Positron Emission Tomography, less than 3% of the medical centers worldwide could synthesize non FDG radio-pharmaceuticals. There was only one such equipment in Hong Kong;
- (k) in cancer genetics, HKSH was testing for hereditary and high risk cancer syndromes covering breast and ovarian cancer, and colorectal cancer in association with the Stanford University. There was also the molecular marker of cancer covering lung, breast and blood cancer;
- (l) the clinical laboratory of HKSH allowed rapid detection of bird flu virus H5N1 and conducted blood test for TB, using FDA approved blood test and checking latent and active TB. It was the only private hospital in Hong Kong that could carry out such tasks;
- (m) tomotherapy was the first image guided radiotherapy treatment in Hong Kong. Unlike conventional linear accelerator, it could treat patients with multiple tumours. By using tomotherapy, radiation dose to normal tissues could be significantly reduced;
- (n) in terms of future development, one CT Scan, two MRI and one PET/CT would be the additional new equipment to be installed in HKSH in 2008;

- (o) in proton therapy, protons permitted the control of very precise shape of the dose distribution inside the patient's body. Dose delivered by a proton beam was well localized in space, and very precise in depth, due to the presence of the characteristic Bragg peak, as shown in the diagram. The clinical significance of proton therapy was that it decreased dose to normal tissues by 50% to 70% and decreased the side-effects and complications. It had the ability to treat tumours close to critical organs like the spinal cord. With use of X-rays, 20% of cancers came back because treatment dose was too low to be effective. Proton therapy increased the safe dose delivered to tumours and increased the cure rates. It also had the ability to treat tumours after recurrences;
- (p) as seen from the photos, the design of the gantry, gantry room and cyclotron for proton therapy required large space for their installation. Proton therapy hold the future of radiotherapy and the current cost estimate was about HK\$400 million for the machine and HK\$500 million for the structure. The possibility of having a smaller size equipment was being investigated and was at the design stage;
- (q) HKSH was currently having over 100% occupancy and had to turn away patients. With fixed space, growth in one service would be at the expense of the others, as shown in the space pie chart showing the share of space among diagnostic and therapeutic, clinical, in-patient and back of house services;
- (r) a medical centre providing capable doctors and staffs and advanced medical technologies would help develop 'medical tourism' in Hong Kong; and
- (s) the future of medical health in Hong Kong rested in the hand of the Board. In assessing the HKSH's representation, the Board should consider whether it was 'a view to die for'.

174. With the aid of a Powerpoint presentation, Dr. Kwong Kwok Hay, representative of HKSH, made the following main points:

- (a) the BH restriction on the redevelopment of HKSH would severely and adversely affect the health of the citizens of Hong Kong. The key concerns were the increase in demand for health care facilities could not be met; the health care reform launched by the Government could not be responded to; the hospital environment could not be improved; the mission of the Foundation could not be fulfilled; and Hong Kong's appeal to be a medical centre of excellence could not be met;
- (b) the demand for medical services was increasing, with a year to year growth rate of 12%, both for the in-patient and out-patient, 51% for specialist clinic, and 13% for number of doctors applied for admission of the HKSH;

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

- (c) if HKSH redevelopment plan was cancelled due to the height limits, the consequences were 14% of emergency cases would be turned away due to shortage of hospital beds; patients of non-emergency cases would need to be put on a waiting list for 7 to 10 days; new doctors seeking the use of private hospital services could not be admitted and number of advanced medical equipment needed to be cut down;
- (d) in the recently launched health care reform consultation paper 'Your Health, Your Life', public private partnership (PPP) was a major item. At present, the ratio of public and private hospital beds was approximately 9 : 1 (i.e. 27,000 : 3,000). If 10% of in-patient from public hospitals was to be shifted to private sector, this would result in 100% increase of private hospital service demand;
- (e) to prepare for infectious diseases such as SARS and Avian Flu, minimising cross-infection and medical error were two major

objectives or challenges of building up a modern hospital. It was a worldwide trend for modern hospital to build more single-bed rooms and expand space between beds. More space was needed;

- (f) the mission of the Foundation, a 'not for profit' organisation, was to promote medical education and research. HKSH strived to train up medical professionals for Hong Kong (including nurses, medical students, surgical residents and ophthalmologists) and supported medical research for the benefits of the community (including cancer genetics centre and infection control centre); and

- (g) HKSH was recognised locally as a medical centre of excellence in Reader's Digest's Trusted Brand 2008 and Next Magazine's Top Services Award 2007. It was working in collaboration with internationally renowned universities, e.g. partnership with Yale University and Stanford University, which would help strengthen Hong Kong's status as an international medical centre of excellence and help it to be well positioned to develop 'medical tourism'. Hong Kong would lose out to its competitors if it failed to take timely action to strengthen its position in 'medical tourism'. HKSH with its brand name was in the best position in the development of 'medical tourism', which would benefit the whole community.

175. With the aid of a Powerpoint presentation, Ms. Anna Lee, representative of HKSH, made the following main points:

- (a) the overall master plan for the redevelopment and expansion of the facilities within the hospital site was conceived 20 years ago. The redevelopment plan had been proceeding in 4 phases. Phase I was the construction of a 19-storey building (including 2 levels of car park) which was completed in 1993. Phase II was the construction of a 13-storey building (including 1 level of car park) to the south of the Phase I building, which was completed in 2001. Phase III was the construction of an additional 19 storeys on top of the Phase I building,

together with the refurbishment of the lower floors of the Phase I building. The facilities presently housed in the old Central Block and old Li Shu Fan Block would be moved into the new floors once Phase III was completed. These two old buildings were then scheduled for demolition to make way for the planned Phase IV building, which involved the construction of a new 37-storey building, providing a total of 1000 beds, 20 operating theatres and clinics, etc.;

- (b) the buildings in the various phases were developed in an integrated manner and the lift core was the heart of the building. If Phase IV could not go ahead, efficiency and functionality of the integrated development would be sacrificed. In terms of lift distribution, Phase I had 6 elevators. Upon completion of Phase III, the total number of elevators increased to 10, which was inadequate to serve 438 beds for Phases I and III. Upon completion of Phase IV, a total of 33 elevators would be provided which would be adequate to serve 750 to 1000 beds;
- (c) at present, the combined ingress and egress point was located at the junction of Village Road and Shan Kwong Road and traffic movement to and from the hospital contributed to congestion at busy times. With the Phase IV redevelopment, there was an opportunity to provide a new ingress and egress point directly from Wong Nai Chung Road on the north-western boundary of the site. With this new provision, no traffic to and from HKSH would have to go through Happy Valley, and traffic would also not have to go through Village Road and the other back streets to get access to HKSH, resulting in significant improvement in traffic condition for the whole area;
- (d) in the proposed traffic improvement scheme, floor spaces on G/F, LG1 and LG2 within the development would be used to resolve external traffic problem; and
- (e) a set of general building plan (GBP) for phase IV development was first submitted on 29.9.2007. The GBP was rejected on 30.11.2007 mainly

on technical grounds, including no TIA had been submitted. In providing comments on the GBP to the BD, PlanD advised that the development did not contravene the OZP. On 18.1.2008, before HKSH had completed revisions to the GBP, the OZP was amended and a BH restriction of 12 storeys was imposed on the Phase IV site. On 4.2.2008, the second set of GBP was submitted, including a TIA, to address the technical issues raised in the first submission. On 5.3.2008, the BD rejected the second GBP for contravention with the BH restriction on the newly gazetted OZP, comments related to the TIA, and other technical issues. On 16.5.2008, the third GBP was submitted. While the TIA was approved in principle, the BD rejected the third GBP, again for contravention with the OZP. The fourth set of GBP was submitted on 21.7.2008 and the result was awaited.

176. With the aid of a Powerpoint presentation, Mr. Ian Brownlee, representative of HKSH, made the following main points:

Contribution to Hospital Services

- (a) referring to paragraph 4.4.1 of the Paper, the SFH advised that ‘it is the Government’s policy to enhance the capacity of the private sector to develop hospital services in order to help address the imbalance between the public and the private sectors. The proposal for private hospital development is welcomed subject to compliance with the relevant regulatory and statutory requirements. The proposed HKSH Phase IV redevelopment would benefit the community and the BH restrictions on the OZP would reduce the scope of supply of additional hospital beds and facilities. To address the overall imbalance between the public and private healthcare sectors in Hong Kong, the Government would continue to explore ways to improve the capacity and efficiency of the health care system in Hong Kong and to facilitate the collaboration between the two sectors when taking forward the health care reform’;
- (b) referring to paragraph 4.4.2 of the Paper, it was stated that ‘the Director

of Health has no objection to the proposed Phase IV redevelopment of HKSH from a health care perspective’;

- (c) PlanD’s response in paragraph 4.4.3 was that ‘Notwithstanding the above comments from the viewpoint of medical health care, the provision of private hospital beds and facilities should be considered and assessed in the overall territorial context. Any justified demand for additional private hospital facilities could be met by various means.... or extension to/expansion of existing hospitals.... While the need for private health care facilities is noted, it is also vital to safeguard a pleasant living environment for the community and the unique character of the Area. A balance has to be properly struck in this regard’;
- (d) the need for private health care facilities and the need to safeguard the unique character of the Area were not of equal importance. Health services were vital in the sense of saving lives;

Planning Intention for “G/IC” Zones

- (e) the planning intention for the “G/IC” zones was ‘intended primarily for the provision of GIC facilities serving the needs of the local residents and/or wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs and other institutional establishments’. The hospital use complied with the planning intention and HKSH was already a hospital of international and territorial significance. The support from the policy bureau for the expansion of hospital facilities on the site could not be ignored. HKSH was the largest private hospital in Hong Kong, with the amount of money already invested on the site;

Long Term Redevelopment Plan Ignored

- (f) in paragraph 7.3 of the Explanatory Statement, it was stated that ‘Specific BH restrictions for the “G/IC” and “OU” zones in terms of

mPD and/or number of storeys, which mainly reflect the existing and planned building heights of developments...’. PlanD was aware of the ‘planned building’ on the Phase IV site as it had raised no statutory objection to the GBP submission in November 2007, prior to presenting the proposed amendment to the OZP for consideration by the MPC in January 2008. There was however no recognition of the Phase IV redevelopment proposal and there was no mention of such a proposal in the Paper to the MPC, nor in the minutes of meeting. MPC members were not aware that the 12-storey limit would result in removal of 500 hospital beds, 4 floors of clinics and 20 operating theatres;

Urban Design Considerations

- (g) as illustrated in the photos showing the view from Bowen Road, the HKSH signified the end of the built-up area and massive open views existed to the west. The zoning intention for “G/IC” zone was distinctive from the adjacent residential areas, and could and should be treated differently. There was no strong justification to restrict the BH to 12 storeys when the existing building was taller and the height bands for the residential zones were up to 100mPD and 130mPD;

Public Consultation

- (h) PlanD had conducted no prior discussion with HKSH. In the public engagement process launched by HKSH, 125 comments were in support of HKSH’s proposal and almost 3,000 signed petition, indicating that people placed a high priority on availability of hospital care;

Traffic Improvement

- (i) the junction and ingress/egress arrangement was a major problem for the hospital and the community. A range of solution had been looked into but nothing was considered feasible by TD. The only scheme which would work depended on the demolition of the existing old buildings to provide new ingress/egress and enhanced internal facilities in the Phase IV development. To make the scheme possible, 150 beds

in 3 floors would have to be deleted in the new building. If the new building was restricted to 12 storeys, the scheme would not be built and the traffic improvement measures could not be implemented; and

Proposed Amendment

- (j) in conclusion, the 12-storey BH restriction was completely unreasonable and was a moratorium on the provision of urgently needed hospital beds and facilities. It was proposed that the current BH of 37 storeys and 148mPD restriction should apply to the whole site, not just to the existing dominant building.

177. The Chairman then invited the commenter or their representatives to elaborate on their comments.

Comment No. C283

178. Ms. Amy Fung made the following main points:

- (a) being a practising doctor and a resident in Happy Valley for about 10 years, the control on BH of the developments at the Happy Valley area and the 12-storey BH restriction for the old wings of HKSH was supported, and the proposed Phase IV redevelopment of HKSH was not acceptable;

Destroying District Character

- (b) the Phase III development had already destroyed the district character and adversely affected the living environment. The nearly completed Phase III was incompatible with the surrounding development. The local residents were not consulted on the Phase III development. They only learnt of the high-rise, curtain-wall development when it appeared in the locality. There was no channel for the public to raise their concern. If Phase IV development with a BH of 37 storeys was allowed, it would aggravate the detrimental impact on the entire Happy Valley area;

Violation of Urban Design Principles

- (c) located at the front row of the Happy Valley race course, the hospital site occupied a prominent location. Even if there was no BH restriction, any redevelopment of the site should respect and be compatible with the surrounding development profile. Following the stepped height profile, building heights should ascend from the race course up the hill. The Phase III of HKSH was out-of-context and had become the 'landmark' in Happy Valley, violating the urban design principles. If Phase IV was allowed, it would further intensify the wall-effect and completely destroy the medium to low density character and visual amenity of the area. Contrary to the images shown by HKSH's representatives at this meeting, the Phase III and Phase IV buildings would significantly obstruct views from the Stubbs Road and Bowen Road Walking Trail. The Board should be very cautious in assessing the proposal to avoid causing irreparable damage to the surrounding environment;

Adverse Traffic Impact

- (d) Wong Nai Chung Road was linked with Aberdeen Tunnel and was very congested. Village Road was also very congested. With the completion of Phase III development, traffic condition in the Area would be worsened off. The proposed Phase IV development, if allowed to go ahead, would bring in more users and traffic. As a result, the air quality of the area would be affected and the entire neighbourhood in Happy Valley would suffer;

Public Health

- (e) from a medical doctor's perspective, medical expenditure did not guarantee public health. Prevention was better than cure, as witnessed in prevention of smoking and promotion of breast-feeding;
- (f) the HKSH's proposal affected the overall image of Hong Kong. It was also questionable whether Hong Kong's overall medical issue

could be resolved by granting the expansion plan for a single private hospital;

- (g) HKSH claimed that the competitiveness of Hong Kong relied on its ability to improve its medical equipment, but the Board should consider whether the redevelopment proposal would defy other important things, such as the city planning of the Area. The key question at hand was how a balance should be struck;
- (h) as Phase III building was nearing completion, the adverse visual impact on the surrounding area had already been made and could not be changed. To avoid further affecting the character of the district, the 12-storey BH restriction for Phase IV development must be retained. HKSH claimed that only 'a few' individuals would be affected by the redevelopment proposal. The Board should carefully consider whether it was true to say that only 'a few' individuals would be affected by the Phase IV redevelopment, not to mention the relaxation of the BH restriction for this site might set an undesirable precedent, which would result in proliferation of high-rise GIC developments in the Area; and
- (i) the in-situ expansion of the hospital site was not supported. Other suitable location should be identified so as to bring about a win-win scenario for both the HKSH and the local community.

Comment No. C296

179. With the aid of a Powerpoint presentation, Ms. Leung Wai Yin, Phyllis made the following main points:

- (a) being an architect in New York and Hong Kong with hospital planning experience, a comparison study on the hospital design among 9 world class hospitals in the U.S.A. and HKHS in Hong Kong was made in order to address the concern on density. The main characters of the 9

hospitals in the U.S.A. were:

- the number of beds ranged from a minimum of 613 to a maximum of 1,171;
- the site areas ranged from a minimum of 18,000m² to a maximum of 345,000 m²;
- the gross floor areas ranged from a minimum of 114,000m² to a maximum of 260,000m² ;
- the density per bed ranged from a minimum of 218m² to a maximum of 383m² ;

(b) the capacity of each hospital was as follows:

- New York Presbyterian Hospital/Columbia University in New York had a site area of 18,000m² and gross floor area (GFA) of 225,000m². With a provision of 957 beds, the density per bed was 225m²;
- New York Presbyterian Hospital/Cornell University in New York had a site area of 29,500m² and GFA of 195,000m². With a provision of 814 beds, the density per bed was 240m²;
- New York University Medical Centre in New York had a site area of 42,000m² and GFA of 240,000m². With a provision of 879 beds, the density per bed was 273m²;
- Mount Sinai Medical Centre in New York had a site area of 30,000m² and GFA of 255,000m². With a provision of 1,171 beds, the density per bed was 218;
- Johns Hopkins Hospital in Baltimore MD had a site area of 86,000m² and GFA of 260,000m². With a provision of 1,015 beds, the density per bed was 256m²;

- Massachusetts General Hospital in Boston had a site area of 78,000m² and GFA of 235,000m². With a provision of 902 beds, the density per bed was 261m²;
 - Stanford University Medical Centre in Palo Alto CA had a site area of 345,000m² and GFA of 235,000m². With a provision of 613 beds, the density per bed was 383m²;
 - Cedars Sinai Medical Centre in Los Angeles had a site area of 150,000m² and GFA of 250,000m². With a provision of 1,120 beds, the density per bed was 223m²;
 - Ronald Regan UCLA Medical Centre in Los Angeles had a site area of 72,000m² and GFA of 170,000m². With a provision of 700 beds, the density per bed was 243m²;
 - HKHS in Hong Kong had a site area of 9,975m². With Phase IV redevelopment, GFA would be 114,137m². Assuming a provision of 1000 beds, the density per bed would be 114m²; and
- (c) the comparison study showed that with a small site area, even if HKSH could be developed up to its maximum GFA upon completion of Phase IV redevelopment, the HKSH still had the highest density per bed when compared with the 9 hospitals in the U.S.A.. The Board was invited to decide if the BH restriction was suitable for the redevelopment

Comment No. C354

180. In response to the Chairman's enquiry, Ms. Anna Lee said that she was not presenting in the capacity of the project manager of the redevelopment of HKSH, but in her individual capacity. She said that the HKSH had conducted an exhibition on its redevelopment proposal in the lobby of HKSH. Public views were sought on HKSH's representation for their redevelopment to be exempted from the height limit in order to optimise the provision of quality health care services planned for in the last 20 years and

more for the community. Some 3,000 signatures in support of HKSH's representation were collected in 3 months' time.

Comment No. C366

181. Ms. Tam Pui Man, Wendy, representative of the Hong Kong Private Hospital Association, made the following main points:

- (a) HKSH's proposal of removing the 12-storey BH restriction was supported;
- (b) in the health care reform, the Government had put forward the public private partnership approach to facilitate flow of patient from the public sector to the private sector with the aim to ensure sustainability of the health care system. The BH restriction would impose constraint on the scope of development of private hospitals and deprive the hospital's capacity to serve the community; and
- (c) there were only 12 private hospitals in Hong Kong all run by 'not for profit' organizations at their own sites. The policy bureau had indicated that the present land policy restricted the granting of land for private medical facilities. Further restraints on existing site for hospital development would jeopardise success and sustainability of the proposed health care reform.

Comment No. C375

182. Mr. Bernard Chang made the following main points:

- (a) being an architect practising in Hong Kong and New York, a survey was conducted on the size and scale of hospitals completed in the last 10 years in the Metropolitan area of other counties which were providing some 1,000 beds, a capacity similar to that provided by HKSH upon completion of its Phase IV redevelopment. The layout of

each hospital was shown in the aerial photos with the boundaries of HKSH overlaid on them:

- the University Hospital in Coventry, U.K., occupied in 2005 with 1250 bed. The site area and building footprint of HKSH were about one-quarter and one-eighth of this hospital respectively;
- University Hospital Birmingham in U.K., under construction, with 1000 beds. The site area of HKSH was about one-quarter, and the floor plate of HKSH was about one-and-a-half 'cylinder' of this hospital;
- Queen's Hospital Romsford in U.K., occupied in 2007 with 1000 beds. The site area of HKSH was just one-half of the podium and the building footprint of HKSH was about one-and-a-half 'cylinder' of this hospital;
- Norfolk and Norwich University Hospital in U.K., occupied in 2000 with 987 beds and 3 wings in courtyard design. The site area of HKSH was about the size of the central wing;
- UCLA Medical Centre Westwood in U.S.A., occupied in 2008 with 600 beds. HKSH had a much smaller site and this hospital was only providing 60% of the HKSH's proposed capacity;
- Changi General Hospital in Singapore, occupied in 1997 with 1,100 beds. The site area of HKSH was about one-third of this hospital, which was similar to the size of its courtyard;
- Tan Tock Seng General Hospital in Singapore, occupied in 1997 with 1,200 beds. The site area of HKSH was about one-third of this hospital and the building footprint of HKSH was about half of the square of this hospital; and

- (b) as shown in the aerial photos, HKSH had a much smaller site area. With a compact site, the only solution for HKSH was to expand vertically to meet the high demand for hospital services.

183. After the presentation, the Chairman then invited questions from Members.

184. Members had no question on the representations and comments.

185. As the representatives of the representer and commenters had finished their presentation and Members had no further question to raise, the Chairman informed the representatives of the representer and commenters that the hearing procedures had been completed, and the Board would further deliberate on the representations in their absence and inform them of the Board's decision in due course. The Chairman thanked the representatives of the representer, commenters and PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

186. The Chairman invited Members to consider the issues raised by the HKSH's representatives point by point.

No Prior Consultation

187. Members noted that as provided for under section 3(2) of the TPO, the TPB had made inquiries through planning studies and assessment before proposing BH restrictions and other amendments to the OZP. Members generally agreed that to avoid premature release of information, which might nullify the effectiveness of imposing BH restrictions for the Area, it was appropriate to consult the public after exhibition of the amendments to the OZP. The publication of the OZP itself and the section 6 representation procedures provided a statutory channel/avenue for the Board to consult the public and to solicit public opinion on the OZP. The amendments were exhibited for public inspection for 2 months under the TPO and any persons affected by the amendments might submit representations to the Board for consideration. During the exhibition period, the amendments to the OZP were also presented to the DPTC of the

WCDC on 14.2.2008 and the local residents at a local forum held on 4.3.2008. Such an approach was adopted in the preparation of other OZPs which imposed development restrictions and was not unprecedented.

Spot Zoning

188. Mrs. Ava Ng, Director of Planning, said that the power of the Board to impose development restrictions, on the strength of determining 'types of building' in the layout area, had previously been challenged in court and it was established in the C.C. Tse case that the Board could impose development restrictions under the TPO. Given that the setting, circumstances and size of sites and zones varied and that there might be different planning intentions/objectives to achieve, it was not uncommon to have different restrictions within the same site and the same zone. In response to a Member's question, the Secretary said that imposition of different BH restrictions for different sub-areas within a zone was not unprecedented as claimed by HKSH's representatives. Many OZPs had similar restrictions, such as Discovery Bay and the Shaw's Brother film studio site. Mrs. Ava Ng added that the "CDA" zones also had different BH restrictions.

189. A Member asked whether there was any definition on the term 'zone' and 'site' under the TPO, and whether there was any legal challenge in the past on imposing different BH restrictions on a site, noting that a site had a smaller area than a zone. Mrs. Ava Ng said that the two terms were not defined under the TPO, and there was no previous legal challenge on this subject. She stated that the boundary of a site could change over time through amalgamation or sub-division in the market and could only be defined on a case-by-case basis. It was not unreasonable to show different restrictions on the same site and zone to reflect the planning intention. The Secretary added that different BH restrictions on a site were not uncommon, particularly if the planning intention was to introduce stepped height restriction for the area from urban design perspective.

Demand for Health Care Services

190. A Member considered that the Phase IV redevelopment would provide additional facilities for health care services, and redevelopment on the existing hospital

site would bring about economy of scale. This Member, however, did not support relaxing the BH restriction at this stage and considered that a scheme could later be submitted by the representer for consideration by the Board. The Secretary said that under the Notes of the “G/IC” zone, application for minor relaxation of BH restrictions could be made under section 16 of the TPO. For the subject representation site, however, the proposed BH of 37 storeys could not be regarded as minor relaxation, if the BH for the site was restricted to 12 storeys.

191. Mrs. Ava Ng said that SFH was playing a co-ordinating role in addressing the overall demand for medical and health care facilities and site search for private hospital had been conducted. A number of possible sites were being considered by SFH. The Chairman said that the Government would ensure that adequate land was reserved for the provision of medical facilities. SFH’s support for more private medical services did not mean such services had to be provided on this site, which had town planning problems, so the Board was bound by SFH’s remarks. The Board had the duty to consider the representation from the town planning perspective. He also noted that SFH’s support of this representation was subject to the rider that HKSH’s proposal was in compliance with the relevant regulatory and statutory requirements. A Member agreed that HKSH’s representatives had misinterpreted the comment made by SFH, and this Member did not agree that the health of the community would be put at risk if the Board decided not to uphold representation No. 48. Members generally felt that in their lengthy presentation, the representer’s representatives only focussed on the interest of their own development plans, but had not considered the interest of the local community or adequately addressed the concerns raised in PlanD’s Paper.

192. A Member said that the Board should recognise the demand for provision of health care services and space for new technologies. However, the provision of health care facilities should be assessed at a territorial level and alternative sites should be identified to meet the demand. In balancing the demand for public health care need and the interest of preserving public views and safeguarding a pleasant environment, Mrs. Ava Ng shared the views made by commenter No. C283 that not only ‘a few’ individuals would be affected by the proposed Phase IV development, but the wider population patronising the popular Bowen Road Walking Trail.

BH Restriction

193. A Member said that as Phase III had already been developed into 37 storeys, the Board might consider whether there was any scope to increase the BH for Phase IV development. The Chairman said that the existing “G/IC” sites, apart from providing GIC facilities, also served as breathing space to provide visual relief in the built-up area. BH restrictions were mainly to reflect their existing BHs, or to accommodate any committed GIC development proposals. Though there was a redevelopment proposal for Phase IV, the proposed BH was considered too excessive and out-of-context with the surrounding environment. There was no alternative scheme submitted by the representer to the Board for consideration.

194. A Member said that the BH restriction of 37 storeys for Phase III development was not ‘planned’, rather, it was in recognition of the as-built situation that such the BH restriction was adopted by the Board. A few Members considered that if the Phase III development was required to be submitted to the Board for consideration, they would not support the proposal as it was totally out of place with the surrounding environment and had destroyed the unique medium to low rise character of Happy Valley. Agreeing to HKSH’s proposal would aggravate the situation. As such, they did not consider it appropriate to use the BH of Phase III development as the yardstick for determining the BH of the Phase IV development, and were concerned about the cumulative adverse impact for allowing Phase IV development to proceed.

Other Aspects

195. A Member said that much of the information presented to the Board by HKSH’s representatives was not directly relevant to the consideration of the proposed height restrictions. This Member considered that as Phase III development was near completion, no change could be made. Phase IV development, which would be of similar scale as Phase III, was not supported as it would further aggravate the adverse impact on the surrounding environment. Another Member shared this view and added that Phase III was not fully in use, and its impact on the surrounding environment was still uncertain at this stage. Phase IV should not be allowed to go ahead pending more detailed assessment of the impact from Phase III development. Other Members also

considered that the representation mainly focussed on the provision of medical facilities but not on the visual and planning impact of the proposed BH.

Representation No. R48

196. After further deliberation, the Board decided not to uphold Representation No. R48 for the following reasons:

- (a) while the proposed Phase IV redevelopment of Hong Kong Sanatorium and Hospital (HKSH) would provide additional private hospital beds and facilities, the provision of private hospital facilities should be considered and assessed in the overall territorial context, and the in-situ expansion of HKSH was not the only means to achieve the objective. There was a need to safeguard the pleasant living environment and unique character in the Wong Nai Chung Area;
- (b) while hospital use was in line with the planning intention of the “Government, Institution or Community” (“G/IC”) zone, the proposed building height (BH) of 148mPD had significantly exceeded the BHs of the surrounding developments and other “G/IC” zones in the Wong Nai Chung Area. There was insufficient information to demonstrate that the proposed BH would not have adverse visual impacts on the surrounding areas; and
- (c) the BH restriction of 12 storeys for the part of the site covering Li Shu Pui Block Phase II, Li Shu Fan Block and Central Block was considered appropriate and compatible with the surrounding developments.

Representation No. R49

197. After further deliberation, the Board decided not to uphold Representation No. R49 and the reason was that the building height restriction of 12 storeys for the part of the site covering Li Shu Pui Block Phase II, Li Shu Fan Block and Central Block was considered appropriate and compatible with the surrounding developments.

Agenda Item 4

[Open Meeting]

Review of Application No. A/NE-MUP/54

Temporary Warehouse for Storage of Ceramic Tiles for a Period of 3 Years in “Agriculture” zone, Lots 806, 808(Part), 809, 811, 812, 813(Part), 823BRP, 824BRP, 825, 826(Part) in DD 46 and Adjoining Government Land, Loi Tung, Sha Tau Kok
(TPB Paper No.8150)

Agenda Item 5

[Open Meeting]

Review of Application No. A/NE-MUP/55

Land Filling for Permitted Agricultural Use (Plant Nursery) in “Agriculture” zone, Lot 27 in DD 38 and Lots 807, 808(Part), 826(Part), 827, 828BRP in DD 46, Loi Tung, Sha Tau Kok
(TPB Paper No. 8151)

[The hearing was conducted in Cantonese.]

198. The Secretary said as the meeting was running late and behind schedule, the applicants’ representatives agreed to defer the consideration of the two review applications to the next meeting of the Board.

Agenda Item 6

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-TKL/307

Temporary Open Storage of Building Materials and Machinery with Ancillary Caretakers’ Office and Quarters for a Period of 3 Years in “Agriculture” zone, Lot 1091(Part) in DD 82, Ping Che Road, Ta Kwu Ling
(TPB Paper No. 8152)

[The meeting was conducted in Cantonese]

Presentation and Question Session

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

Mr. Chan Ka Wing	Applicant
Mr. Chan Ho Fung) Applicant's Representatives
Ms. Chan Lai Sim)

200. 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.

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

- (a) background - the applicant sought planning permission for the proposed temporary open storage of building materials and machinery with ancillary caretakers' office and quarter for a period of 3 years in an area zoned "Agriculture" on the Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP);
- (b) the application was rejected by the Rural and New Town Planning Committee for reason set out in paragraph 1.2 of the Paper;
- (c) the applicant had not submitted any written representation in support of the review;
- (d) departmental comments – the Environmental Protection Department (EPD) did not support the application as there were sensitive uses in the vicinity. The loading/unloading of building materials and movement of

building machinery within the application site might impose adverse impacts, though there was no pollution complaint in the past 3 years. The Transport Department (TD) advised that the proposed vehicular access was via an existing village access road which was narrow and sub-standard, and was not under TD's jurisdiction. It was undesirable for use by medium/heavy vehicles. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L) objected to the application on the ground that the proposed development was not compatible with the surrounding landscape character, which was green and tranquil with many existing trees/orchards;

- (e) public comments – no public comments and no local objections were received on the review application; and
- (f) PlanD's view – PlanD did not support the review application on the ground that the application did not comply with the Town Planning Board Guidelines No. 13D (TPB PG-No. 13D) in that no previous planning approval had been granted and there were adverse departmental comments. Insufficient information had been submitted to demonstrate that the proposed use would not generate adverse environmental, traffic and landscape impacts.

202. The Chairman then invited the applicant and his representatives to elaborate on the application.

203. Mr. Chan Ka Wing, Mr. Chan Ho Fung and Ms. Chan Lai Sim made the following main points:

- (a) the application was mainly for temporary open storage of building materials and machinery owned by the applicant. No heavy machines and no heavy vehicles would be used, and the number of vehicular trips would be limited. The nearby residents would not be affected;
- (b) the applicant had recently failed to secure any tender. His equipment

were left idle for the time being and he needed to store his equipment temporarily on the application site;

(c) no objection was raised by the villagers and village representatives of the nearby villages; and

(d) no adverse environmental impact was envisaged.

204. After the presentation, the Chairman invited questions from Members.

205. A Member asked whether there were any similar applications approved by the Board. Mr. W.K. Hui replied that some applications were approved by the Board on review, as shown in Plan R-1A of the Paper.

206. Another Member asked whether the applicant had tried to find another sites for storing his equipment. Mr. Chan Ka Wing said that the application site was owned by the applicant. Renting another site for storage purpose would have cost implication and add to the financial burden. Ms. Chan Ho Fung said that the equipment was for use at their jobs and would be removed after they had secured jobs. This Member then sought advice from DPO/STN on whether enforcement action could be taken if the application site was later used for uses not covered by planning permission. Mr. W.K. Hui said that site inspection would be conducted and planning permission could be invoked if the site was used for other purposes.

207. As the applicant and his 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, his representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

208. A Member was sympathetic to the application and considered that

enforcement action could be undertaken if the site was later used for uses not covered by planning permission. Another Member said that a short approval period of one year should be granted to allow PlanD to monitor the operation on site.

209. A Member was however of the view that there were adverse comments from Government departments and there was no strong justification for the Board to approve the application.

210. Miss Annie Tam, Director of Lands, said that the Lands Department had no objection to the application. She also noted that the District Officer/North had raised no adverse comment. Mr. Michael Lai, Deputy Director of Environmental Protection, had reservation on the application as there was no information on the kind of machines that would be stored, the type of vehicles that would be used, and the number of vehicular trips that would be generated. He would have no objection to the application if the use of medium/heavy vehicles was restricted.

211. A Member noted that the application site fell within the Category 3 areas under the TPB PG-No. 13D and there were adverse comments from Government departments such as EPD and TD. If approval was to be granted on sympathetic ground, the approval period should be shortened to 1 year, and approval condition restricting the use of heavy vehicles should be imposed.

212. After further deliberation, the Board decided to approve the application on review on a temporary basis for a period of 1 year until 8.8.2009 on the terms of the application as submitted and subject to the following conditions:

- (a) no night time operation between 7:00 p.m. and 7:00 a.m. was allowed on the application site during the approval period;
- (b) no operation on Sundays and public holidays was allowed on the application site during the planning approval period;
- (c) no medium/heavy goods vehicles including container vehicles were allowed for transporting goods to/from the application site during the

planning approval period;

- (d) the stacking height of the materials stored within five metres of the periphery of the site should not exceed the height of the boundary fence during the planning approval period;
- (e) the submission of proposals for car parking, loading/unloading and vehicle manoeuvring spaces within 3 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 8.11.2008;
- (f) in relation to (e) above, the provision of car parking, loading/unloading and vehicle manoeuvring spaces within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 8.2.2009;
- (g) the submission of drainage proposals within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.11.2008;
- (h) in relation to (g) above, the implementation of drainage proposals within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.2.2009;
- (i) the submission of landscaping proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 8.11.2008;
- (j) in relation to (i) above, the implementation of landscaping proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 8.2.2009;
- (k) the submission of proposals on fire-fighting access, water supplies for fire fighting and fire service installations within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services

or of the Town Planning Board by 8.11.2008;

- (l) in relation to (k) above, the provision of fire-fighting access, water supplies for fire fighting and fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.2.2009;
- (m) if the above planning conditions (a), (b), (c) or (d) were not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (n) if any of the above planning conditions (e), (f), (g), (h), (i), (j), (k) or (l) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (o) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

213. The Board also agreed to advise the applicant:

- (a) a shorter approval period of one year and shorter compliance periods were granted in order to monitor the operation on site and the fulfilment of relevant approval conditions;
- (b) prior planning permission should have been obtained before commencing the applied use at the application site;
- (c) to note Chief Building Surveyor/New Territories West, Buildings Department's comments that all building works were subject to compliance with the Buildings Ordinance (BO). Authorised Person must be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorised structures on site under the BO. Enforcement action

might be taken to effect the removal of all unauthorised works in the future;

- (d) to note Chief Engineer/Development(2), Water Supplies Department (WSD)'s comments on the following:
 - (i) for provision of water supply to the development, the applicant might need to extend his inside services to the nearest suitable Government water mains for connection and should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
 - (ii) the application site was located within the WSD flood pumping gathering grounds associated with River Indus and River Ganges pumping stations; and
- (e) to follow the environmental mitigation measures as set out in the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection in order to minimize any possible environmental nuisances.

Agenda Item 7

[Open Meeting]

Submission of the Draft Shek Kip Mei Outline Zoning Plan No. S/K4/22A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8153)

[The meeting was conducted in Cantonese]

214. The Secretary briefly introduced the Paper.

215. After deliberation, the Board:

- (a) agreed that the draft Shek Kip Mei Outline Zoning Plan (OZP) No. S/K4/22A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Shek Kip Mei OZP No. S/K4/22A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 8

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Further Representations to the Draft North Point Outline Zoning Plan No. S/H8/20
(TPB Paper No. 8149)

[The meeting was conducted in Cantonese]

216. The Secretary reported that Dr. Greg Wong, Ms. Anna Kwong, Mr. K.Y. Leung, Mr. B.W. Chan and Dr. James Lau had declared interests on this item as each of them owned a property in North Point. Members noted that Dr. James Lau, Ms. Anna Kwong and Mr. K.Y. Leung had already left the meeting. As the item is procedural in nature, Dr. Greg Wong and Mr. B.W. Chan were allowed to stay at the meeting

217. The Secretary briefly introduced the Paper. The Board considered 116 representations and 2 comments on 25.4.2008 and 16.5.2008 and decided to partially uphold representations No. R2 to R6 and R10 to R25. Representation No. 71 was subsequently withdrawn. The proposed amendments were exhibited for public

inspection under section 6C(2) of the Town Planning Ordinance and a total of 22 further representations were received. As all the representations were considered by the full Board and the further representations were similar in nature, it was considered more appropriate for the full Board to hear the further representations collectively and in one group.

218. The Board decided to consider the further representations by the Board itself and to organize the hearing of the 22 further representations in one group.

Agenda Item 9

219. This item was reported under confidential cover.

Agenda Item 10

Any Other Business

[The meeting was conducted in Cantonese.]

220. There being no other business, the meeting was closed at 8:30 p.m..