

**Minutes of 922<sup>nd</sup> Meeting of the  
Town Planning Board held on 31.10.2008**

**Present**

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

Chairman

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. Tony C.N. Kan

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Mr. K.Y. Leung

Mr. Maurice W.M. Lee

Mr. Timothy K.W. Ma

Principal Assistant Secretary (Transport)  
Transport and Housing Bureau  
Mr. Tony C.T. Lam

Director of Lands  
Miss Annie K.L. Tam

Deputy Director of Environmental Protection  
Mr Benny Y.K. Wong

Director of Planning  
Mrs. Ava S.Y. Ng

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

Secretary

**Absent with Apologies**

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Professor David Dudgeon

Mr. Edmund K.H. Leung

Professor N.K. Leung

Mr. Alfred Donald Yap

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Dr. Ellen Y.Y. Lau

Dr. Winnie S.M. Tang

Assistant Director (2), Home Affairs Department  
Mrs. Ann N.K. Ho

**In Attendance**

Assistant Director of Planning/Board  
Mr. S. Lau

Chief Town Planner/Town Planning Board  
Mr. W.S. Lau (a.m.)  
Ms. Christine K.C. Tse (p.m.)

Senior Town Planner/Town Planning Board  
Ms. Maggie M.Y. Chin (a.m.)  
Mr J.J. Austin (p.m.)

**Agenda Item 1**

[Open Meeting]

Confirmation of Minutes of the 921<sup>st</sup> Meeting held on 17.10.2008

[The meeting was conducted in Cantonese.]

1. The minutes of the 921<sup>st</sup> meeting held on 17.10.2008 were confirmed without amendment.

**Agenda Item 2**

[Open Meeting]

[Mr. Tony C.N. Kan, Mr. Nelson W.Y. Chan and Mr Walter K.L. Chan arrived to join the meeting at this point.]

Matters Arising

[The meeting was conducted in Cantonese.]

Draft Wong Nai Chung Outline Zoning Plan No. S/H7/14

Hearing Arrangement for Consideration of Further Representations

2. The Secretary reported that a request was received from two further representers in relation to the hearing arrangement for consideration of further representation (FR). She said that on 17.10.2008, the Town Planning Board (the Board) considered the hearing arrangement for the six FRs on the proposed amendments to the draft Wong Nai Chung OZP No. S/H7/14. All six FRs were related to the building height restrictions for the development sites to the south of the Happy Valley Race Course. Furthermore, F1 opposed to Amendment Items D to H, and the representation sites of F1, F5 and F6 substantially overlapped. In view of this, the Board decided that the FRs should be heard collectively in one group. The hearing of the further representations was scheduled for 14.11.2008.

3. On 27.10.2008 and 28.10.2008, further representers No. F3 and F4 wrote to the Board requesting for a separate hearing for F2 to F4, and F3 and F4 respectively, for the reason that these FRs were related to the same site (Man Lam Christian Church). Members noted that the relevant letters had been tabled at the meeting. After deliberation, Members agreed to accede to the requests of F3 and F4.

[Ms. Sylvia S.F. Yau and Dr. Daniel B.M. To arrived to join the meeting at this point.]

### **Agenda Item 3**

[Open Meeting ]

Draft South West Kowloon Outline Zoning Plan No. S/K20/21  
Further Consideration of Objections No. 1 to 4  
(TPB Paper No. 8220)

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[The meeting was conducted in Cantonese and English]

### **Declaration of Interest**

4. The Secretary said that Ms. Anna S.Y. Kwong had declared an interest on the item as she had discussion of the case with the objectors of Objection No. 1. Members noted that Ms. Kwong had not yet arrived to join the meeting. Mr. Tony C.N. Kan also declared an interest on this item as he owned a property at the Victoria Towers adjoining the West Kowloon Cultural District (WKCD). Members considered that the interest of Mr. Kan was direct and substantial and should not participate in the discussion of the item.

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

### **Presentation and Question Session**

5. The Chairman said that sufficient notice had been given to the four objectors to attend the hearing. Objections No. 2 and 4 had either indicated not to attend the hearing or made no reply. Members agreed to proceed with the hearing in the absence of

the said objectors.

6. The following representatives from the Planning Department (PlanD) and the representatives of objection Nos. 1 and 3 were invited to the meeting at this point:

Ms. Heidi Chan - District Planning Officer/Tsuen Wan & West Kowloon, PlanD

Mr. C.K. Soh - Senior Town Planner/ Yau Tsim Mong, PlanD

Mr. T.W. Ng - Senior Town Planner/Urban Design, PlanD

Objection No. 1

Mr. Ivan Ho ) Objector's Representatives

Mr. Freddie Hai )

Objection No. 3

Mr. Paul Zimmerman ) Objector's Representative

7. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited Ms. Heidi Chan to brief Members on the background of the objection hearing.

8. Ms. Heidi Chan stated that two letters to the objection Nos. 2 and 3 at Annex III of the Paper had been tabled at the meeting for Members' information. With the aid of a Powerpoint presentation, Ms. Heidi Chan made the following points as detailed in the Paper :

(a) the background of the proposed amendments to the OZP was set out in para. 1 of Enclosure I of the Paper;

(b) the objectors:

- objection No. 1 was made by 21 Architects and Architectural Graduate;
  - objection No. 2 was made by Professor Patrick Lau;
  - objection No. 3 was made by Mr. Paul Zimmerman of Designing Hong Kong Limited;
  - objection No. 4 was made by Mr. Lee Hoon.
- (c) the objections were mainly related to the imposition of building height restrictions (BHRs) for the WKCD development. Objection No. 3 also objected to the Notes for the “Other Specified Uses” (“OU”) annotated “Arts, Cultural, Entertainment, Commercial and Other Uses” for the WKCD;
- (d) the major grounds of objections were detailed in para. 2.3 of Enclosure I of the Paper. The main points were:
- 1) BHRs were arbitrary
    - i) the ‘urban design principles’ were insufficient to substantiate the BHRs;
    - ii) it was unable to make a fair judgment on the proposed BHRs in the absence of MLP;
    - iii) the counter argument that there were established channel and procedure to allow application for modification of BHRs was evasive and wrong in principle;
  - 2) BHR in Sub-area (C) should be 50mPD
    - i) the building height of Sub-area (C) was higher than the 50mPD maximum height limit proposed under the previous Canopy design of the Foster Scheme, the first prize winning

concept plan in the West Kowloon Reclamation Concept Plan Competition and it was misleading to make statements that the height restrictions were “more stringent”;

- ii) the higher building height was unfair to current owners/residents of West Kowloon;

3) BHRs would affect the work of WKCD Authority

- i) procedural necessities would delay the WKCD development;
- ii) the specific height limits would pre-empt the work of the WKCD Authority;

4) Revision to the Notes for the “OU” zone was inappropriate

- i) inclusion of “House” use under Column 2 was inappropriate;
- ii) disregarding uses specified in Remark (3) from plot ratio calculation might lead to excessive bulk;

- (e) PlanD’s assessments on the grounds of objections were detailed in para. 5.1 of Enclosure I of the Paper. The main points were:

1) BHRs were arbitrary

- i) taking account of the Vision and Goals for Victoria Harbour, Urban Design Guidelines of the HKPSG and the Harbour Planning Principles and Guidelines by the Harbourfront Enhancement Committee, the main objectives of the BHRs were to preserve public views from major vantage points towards the ridgelines in Kowloon, maintain a coherent building height profile across the WKCD and provide visual relief to nearby high-rise developments;

- ii) the public was consulted on the Urban Design Guidelines in 2001. The community had generally supported the unobstructed view of the ridgelines and the selection of vantage points;
  - iii) the proposed building height bands provided important guidance for the WKCD Authority to prepare the Development Plan (DP). Provision in the OZP for minor relaxation of the BHRs had provided the required flexibility;
- 2) BHR in Sub-area (C) should be 50mPD
- i) it was not appropriate to single out the BHR for an individual sub-area for comparison with a past concept without making reference to the overall building height profile and urban design principles;
- 3) BHRs would affect the work of WKCD Authority
- i) the OZP set out the broad land use framework and development parameters for the WKCD development;
  - ii) the BHRs provided clear guidelines for the preparation of the DP;
- 4) Revision to the Notes for the “OU” zone was inappropriate
- i) “House” use provided flexibility for possible low-density residential developments and was in line with the planning intention of the “OU” zone;
  - ii) Remark(3) was in line with similar provision for other land use zones with plot ratio controls in the OZP;
- (f) Objector’s proposals were detailed in para. 2.4 of Enclosure I of the Paper. The main points were:

1) Master Layout Plan and DP

- i) an independent urban design study for WKCD should be commissioned to establish a Master Layout Concept Plan and until this was done the current height restrictions should be withdrawn;
- ii) the DP prepared for the WKCD should be submitted to the Board for approval;

2) “Sliding scale” of building height control mechanism

- i) a “sliding scale” of BHRs should be preferred, stating the “allowable building heights” and the “extendable additional building heights subject to application and consideration on individual merits”;
- ii) all cultural facilities and G/IC buildings should be allowed to have a wider range of “extendable additional building heights” to provide more room for innovative ideas;

3) BHR for Sub-area (C)

- i) set the maximum building height at 50mPD;

4) Open space and green coverage

- i) minimum green coverage should be indicated in either the OZP or the future DP;
- ii) Remark (1) should specify that a minimum of 15 ha of the required public open space should be at ground level and a waterfront promenade of not less than 20m in width would be provided;

5) Plot ratio calculation

- i) exemption of underground facilities only to avoid bulky building;
  - ii) ancillary facilities listed in Remarks (3) should not be exempted from plot ratio calculation;
  - iii) Remark (1) should specify that a minimum of 36% of the total plot ratio should be for arts and cultural facilities;
- 6) Compliance with planning principles and guidelines
- i) the overall development strategy should be in line with the principles of sustainable development;
  - ii) Remark (2) of the Notes for the “OU” zone should be replaced by “All new development, or addition, or alteration and/of modification to or redevelopment of an existing building shall reflect the HKPSG and the Harbour Planning Principles and Guidelines” to allow greater flexibility;
- (g) PlanD’s assessment on the Objector’s proposals were detailed in para. 5.2 of Enclosure I of the Paper. The main points were:
- 1) Master Layout Plan and DP
    - i) in accordance with the WKCD Authority Ordinance, the WKCD Authority should follow the development parameters as stipulated in the approved OZP have regard to the views of public and ensure that any conditions or requirements imposed by Secretary for Home Affairs were satisfied, in preparing the DP for the Board’s consideration;
    - ii) the DP would cover all the facilities proposed for the WKCD. If the DP was approved under the TPO, the approved DP would be regarded as an approved plan for the purposes of

the TPO;

2) “Sliding scale” of building height control mechanism

- i) there were provisions under the TPO for minor relaxation of development parameters (including building heights);

3) BHR for Sub-area (C)

- i) keeping the maximum building height for Sub-area (C) at 70mPD was sufficient to maintain a 20% building-free zone below the ridgelines. There was no strong ground to lower the maximum building height further to 50mPD;

4) Open space and green coverage

- i) the appropriate green coverage depended on the overall design of WKCD development;
- ii) as indicated in the ES of the OZP, the 23 ha of public open space should be provided in various forms and at different levels on or above ground. Stating the minimum area of public open space at the ground level might impose unnecessary constraints for the future design of WKCD;

5) Plot ratio calculation

- i) with the height restrictions, many of the uses exempted from the calculation of maximum plot ratio would be placed underground to free up ground floor space. It was not necessary to exempt underground facilities specifically;
- ii) the bulk and massing of buildings in the WKCD would be examined in the preparation of the DP;
- iii) the proportion of the core arts and cultural facilities would be set out in the DP for consideration of the Board;

6) Compliance with planning principles and guidelines

- i) the BHRs had been drawn up taking account of the Urban Design Guidelines of the HKPSG and the Harbour Planning Principles and Guidelines;
- ii) the BHRs had been made known to the public in the public engagement exercise and were supported by the majority of the public;

(h) On 25.7.2008, the Board gave preliminary consideration to the objections and decided not to propose any amendment to the Plan to meet the objections. Objection No. 1 had submitted further written representation in support of the objection as follows:-

1) BHRs were arbitrary

- i) the BHRs would restrict flexibility in the design of the WKCD DP;
- ii) physical scaled model and accurate analytical diagrams should be used to substantiate the restricted height limits;
- iii) the proposed heights were irrelevant to ridgeline preservation as the existing high-rise development on top of the existing Kowloon Station already formed the backdrop of WKCD;

2) BHRs and the work of WKCD Authority

- i) the WKCD Authority was not yet formed and could not confirm whether the proposed BHRs allowed sufficient scope and flexibility to cater for WKCD development;

3) Technical constraints in the WKCD site

- i) the objector had good understanding of the technical

constraints inherent to WKCD, thus, the objection was scientific and based on thorough understanding of the difficulties;

(i) PlanD's assessments on the further representation were detailed in para. 5 of the Paper. The key points were:

1) BHRs were arbitrary

- i) the stepped building height restrictions and the boundaries of the three height bands were determined by the extents of the view fans from two vantage points at Sun Yat Sen Memorial Park and the Star Ferry Pier towards the Kowloon ridgeline;
- ii) block layouts and computer models had been formulated to assess the feasibility and possible visual impact of future development in WKCD;

2) BHRs and the work of WKCD Authority

- i) the BHRs would provide clear guidelines for the preparation of the DP. Flexibility would be allowed for minor adjustment of the BHRs;
- ii) the WKCD Authority in the preparation of the DP was expected to carry out the urban design and various assessments;

3) Technical constraints in the WKCD site

- i) the constraints mentioned in the objector's statement were known constraints and had been taken account of in past assessments. These constraints should not be insurmountable and would be further examined in the

preparation of DP;

(j) the proposals submitted by objection No. 1 were the same as those submitted in the original objection;

(k) PlanD's view:

PlanD did not support the objection Nos. 1 to 4 and recommended that the OZP should not be amended to meet the objections for the reasons stated in paras. 6.1 and 6.2 of the Paper.

9. The Chairman then invited the representatives of objection No. 1 and objection No. 3 to elaborate on their objections.

#### Objection No. 1 – 21 Architects and Architectural Graduate

10. Mr. Freddie Hai and Mr. Ivan Ho made the following key points with the aid of a Powerpoint presentation:

- (a) they supported the principle of setting height control for the WKCD and to protect the ridgelines;
- (b) they, however, objected to the specific height restrictions, i.e. 50mPD, 70mPD and 100mPD as these restrictions were arbitrary and not well-justified;
- (c) imposition of height restrictions would delay the programme of WKCD development;
- (d) the WKCD Authority was not represented at the hearing to provide their comments. It was not the TPB but the WKCD Authority to decide on the building height bands based on the selected design;
- (e) the imposition of the specific building heights would limit the flexibility for

design and layout of the WKCD development. It was anticipated that cultural facilities would be mainly built on the 50m zone so as to free the 70m and 100m zones for hotel and commercial development;

- (f) there were different options/scenarios of the building height profile and layout of respective uses in the WKCD, each with its pros and cons. There was insufficient information to make a fair judgement/decision at this juncture;
- (g) the Board already had sufficient control as the DP to be prepared for the WKCD had to be submitted to the Board for approval under the WKCD Authority Ordinance;
- (h) they doubted the appropriateness of using the Sun Yat Sen Memorial Park, recommended in the Urban Design Guidelines back in 1991, as a vantage point in delineating the building height bands in view of the remote location and inaccessibility of the park;
- (i) the visual perspective would be totally different if other vantage points were used. Photomontages with vantage points from the Four Seasons Hotel and the Star Ferry Pier were shown to illustrate the visual impacts;
- (j) PlanD provided no information to illustrate how the building height bands were determined;
- (k) the proposed blanket height bands would likely result in a monotonous height profile with uniform flat-top buildings which was undesirable from visual perspective;
- (l) preservation of ridgeline was no longer a reasonable justification to impose BHRs in view of the high-rise developments on the Kowloon Station at the back;

- (m) the proposed 100m height zone was directly above Western Harbour Tunnel and Airport Express Tunnel which would impose stringent engineering constraints for future development; and
- (n) although the “minor relaxation” clause allowed certain degree of flexibility, it was not a reason for a bad decision.

### Objection No. 3 – Designing Hong Kong Limited

11. Mr. Paul Zimmerman elaborated on four main issues, namely, the height profile, street level environment, building bulk, and character of the WKCD as follows:

#### Height Profile of WKCD

- (a) the principles of the building height control was supported and the Board should set out the broad building height principles but not the details;
- (b) the Chairman of the WKCD Authority said that there would be a design competition for the WKCD development. The best development option should be decided by the public;

#### Street Level Environment

- (c) by sharing the experience of the high-density development in New York, the emphasis should be on the provision of good street level environment;
- (d) to ensure the provision of ample public open space at ground level, it was necessary to specify the minimum amount of open space at ground level in the OZP;

#### Building Bulk

- (e) the provision in Remark (3) of the Notes to exempt ancillary uses from plot ratio calculation would lead to excessive bulk and a failure to control

building mass;

- (f) the Board should follow the approach proposed in the Urban Design Study for the New Central Waterfront to include the ancillary facilities such as bus terminal and public car park in the GFA calculation to avoid excessive bulk and building mass; and

Character of WKCD

- (g) arts and cultural facilities should be the main uses and focus of the WKCD. The Board should amend the OZP to set out the minimum proportion/amount of GFA for cultural facilities in accordance with the DP to be prepared by the WKCD Authority.

12. A Member commented that there had been adequate public discussion on the issue and the BHRs had general public support. The proposed amendment to the BHRs might re-activate objections from the affected stakeholders which might further delay the WKCD programme. Mr. Ivan Ho responded that it was difficult for the Board to draw up the BHRs which were acceptable to all parties, and the objections should be assessed against the overall public interest. In fact, the objection to the imposition of the specific building height at this juncture was to avoid further delay to the completion of the WKCD development at a later stage.

13. In response to the questions raised by a Member that the WKCD Authority Ordinance might need to be amended in order to empower the WKCD Authority to plan and decide building height limits for the WKCD as proposed by the objectors. Mr. Ivan Ho clarified that there was no dispute that the authority of town planning, including BHRs should be under the jurisdiction of the Board. Their concern was on whether it was appropriate for the Board to set out the specific height restrictions in the OZP at this juncture. Besides, the proposed height limits were delineated based on the vantage point recommended by the Urban Design Guidelines back in 1991. The site was subject to stringent technical constraints. Apart from the infrastructure tunnels as mentioned in his presentation, an additional tunnel in relation to the Regional Express Line would be built

under the 70m zone. It would have adverse cost and time implications on the WKCD development. To allow more flexibility for the future design of the WKCD, one suggestion was that the Board could set out a notional height restrictions clause instead of specific height limits in the OZP to guide the preparation of the DP.

14. In response to a Member's enquiry on the relaxation of building height, Ms. Heidi Chan stated that the provision in the OZP for minor relaxation of development parameters, including building height, would provide the required flexibility to meet possible circumstances. The Member said that in view of the unique nature of the WKCD that would be the showcase of Hong Kong, the Board might need to provide appropriate flexibility to facilitate the detailed design of cultural facilities. This Member enquired whether the minor relaxation clause could be revised to allow non-minor relaxation of building height restriction for the cultural facilities on the basis of exceptional planning merits. The Chairman considered that the issue could be further discussed by the Board at the deliberation session.

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

15. In response to the Chairman and Members' questions on the rationale for the proposed height bands, the possible monotonous height profile, the determination of the vantage points, the plot ratio calculation and guidelines on the provision of open space at ground level, Ms. Heidi Chan and Mr. T.W. Ng provided the following information:

- (a) great efforts had been made in deriving the appropriate development parameters for the WKCD. It was necessary to have a proper balance between planning control and flexibility for detailed design of the WKCD development;
- (b) HAB had undertaken public consultations on the WKCD project. There was strong public demand to preserve the ridgelines and no adverse public comments/objection had been received on the proposed building heights in the consultation;

- (c) in determining the building height for WKCD, apart from preserving the public views from major vantage points, there were other planning and design considerations, such as providing a promenade along the waterfront, and a visual relief to the nearby high-rise developments;
- (d) the maximum building heights stipulated in the OZP were the maximum height for buildings. It did not necessarily mean and it was highly unlikely that all the buildings would be built up to the maximum height resulting in a flat top in each height zone;
- (e) preserving unobstructed ridgelines from key vantage points and the seven vantage points around the harbour front had been recommended under the Urban Design Guideline Study and two rounds of public consultation were conducted in 2000 and 2001, not 1991. The community generally agreed and supported preserving unobstructed view of the ridgelines from the vantage points. The selection of vantage points were also agreed by the public. Key recommendations of the Urban Design Guideline Study were subsequently incorporated into the HKPSG in 2003. Apart from the Sun Yat Sen Memorial Park, another strategic vantage point viewing from the Star Ferry Pier No. 7 where the Central to Tsim Sha Tsui ferry services operated had also been included;
- (f) the WKCD development was subject to a maximum plot ratio of 1.81. In order to free up the valuable ground floor space, it was anticipated that many of the ancillary uses, such as car park would be placed underground. According to Remark (3) of the Notes, only car park, recreational uses and other ancillary uses in relation to the domestic building or domestic part of the building were exempted from PR calculation; and
- (g) it had been stipulated in the ES that the total amount of open space for public use in the WKCD should not be less than 23 ha including a

landscaped waterfront promenade of not less than 20m in width. In order to allow flexibility for integrated design of the WKCD, it was considered inappropriate to set out the minimum amount of 15 ha of public open space at ground level as proposed by Mr. Paul Zimmerman.

16. In response to Ms. Heidi Chan and Mr T.W. Ng's clarifications, Mr. Freddie Hai commented that in reality the developer would go for the maximum building height in view of the excellent seaview the site enjoyed. Mr. Hai continued to state that there would be a design competition for the WKCD development and the design brief would largely adopt the development parameters set out in the OZP. In preparing their proposed schemes, the architects or designers were obliged to comply with these development restrictions, including the building heights, or else their schemes might be disqualified. He considered that the suggestion of amending the "minor relaxation" clause to allow "relaxation of the building height on the basis of exceptional planning merits" could provide a positive message to the architects and designers.

17. A Member pointed out that the situation of New York and Hong Kong were different. In Hong Kong, footbridges (such as those in Wan Chai and Central) had not only provided efficient pedestrian linkages, but also provided a second-level gathering space for pedestrians. Mr. Paul Zimmerman clarified that the New York example was quoted to highlight the importance of street level environment only.

18. Regarding the purview of the Board and the WKCD Authority, the Chairman commented that the Board shouldered the overall planning responsibilities for the whole of Hong Kong. The WKCD Authority would only concern itself with the layout of the WKCD, but the Board would also care about the interface of the WKCD with a much wider area. As the objectors also agreed that certain development parameters had to be included in the design brief for architects, it would be appropriate for the Board to set such parameters now. If the Board did not do it now, a DP that did not comply with the parameters would have to be rejected by the Board later and a lot of nugatory work and time would be wasted.

19. Both Mr. Freddie Hai and Mr. Ivan Ho responded that they respected the current planning mechanism and it was the Board's authority to set out the development parameters for the WKCD. They acknowledged the need of height control in the OZP and supported the preservation of the ridgelines. However, they considered that there was insufficient information to make a decision on the specific building heights at this juncture. Mr. Ho supplemented that the suggested amendment of the "minor relaxation" clause was reasonable and sensible. In considering the vantage points, Mr. Ho commented that Central and Wan Chai instead of San Ying Pun should be considered as signature spots. He also disagreed with PlanD's view that the massing and building bulk of WKCD would be worked out by the WKCD Authority in preparing the DP as these were important parameters that should be clearly set out at the outset to guide the detailed development.

20. Mr. Ivan Ho did not agree to specify the minimum amount of open space at ground level as suggested by Mr. Paul Zimmerman. He stated that with good design and convenient public access, elevated open space would not be inferior to those provided at ground level. He considered that flexibility should be allowed for future design of open space at different levels on or above ground.

21. As the representatives of objection No. 1 and 3 had finished their presentations and Members had no further question to raise, the Chairman informed them that the hearing procedures had been completed, and the Board would deliberate on the objections in their absence and would inform the objectors of the Board's decision in due course. The Chairman thanked the representatives of the objectors and PlanD for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

22. Members expressed their views on the following aspects:

- (a) regarding the vantage points, as shown on Plans P-5, it was noted that the Star Ferry Pier mentioned by objection No. 1 had also been selected as vantage point in deriving the BHRs;

- (b) the engineering constraints as mentioned by the objectors were considered not insurmountable;
- (c) WKCD would be developed into an integrated arts, cultural, entertainment and cultural district with distinguished identity. Some Members shared the views that more flexibility should be provided in order not to constrain creativity in the design of cultural facilities of WKCD. A relaxation clause instead of a minor relaxation clause in the OZP might be more appropriate;
- (d) the Board would have control on the detailed design of the WKCD as the DP to be worked out by the WKCD Authority would be submitted to the Board for consideration in due course;
- (e) relaxation of BHRs for the cultural facilities should not be justified by design merits alone, but also planning merits, including skyline improvement;
- (f) in view of the uniqueness of the WKCD, the proposed relaxation would not set a precedent case for other request for relaxation of building height;
- (g) every site had its own development constraints. As demonstrated by the famous landmarks throughout the world, site constraints could be overcome by ingenious architectural design;
- (h) there was a dilemma between taller buildings with more space at ground level and lower buildings with less space at ground level. As there was not yet a definite decision on the design of the development at this juncture, flexibility on the requirement of open space at ground level should be allowed;
- (i) instead of leaving the development parameters to be decided after the preparation of the DP, the OZP should set out the broad land use framework

which were acceptable to the public to guide the future development;

- (j) a balance should be struck between planning control and need of flexibility for the design; and
- (k) adequate income from commercial and residential developments were required for the sustainability of the WKCD. There should be a good balance between reducing the development intensity and financial viability.

23. In summarizing the discussion, the Chairman said that the majority of Members supported a relaxation clause instead of a minor relaxation clause on the BHRs for the cultural facilities of the WKCD development. The application for relaxation on BHRs should be considered by the Board on the basis of planning and building design merits. However, such relaxation should not apply to the non-cultural facilities in the WKCD. In response to a Member's enquiry, the Secretary reported that the "arts and cultural facilities" were defined under the WKCD Authority Ordinance enacted in July 2008 and reference could also be made to the Core Arts and Cultural Facilities (CACF) recommended in the report of the Consultative Committee on the CACF of the WKCD. The proposed amendments, together with corresponding amendments to the Explanatory Statement, would be submitted to the Board for consideration. Subject to the agreement of the Board, the proposed amendments would be exhibited for public inspection under s.6(7) of the pre-amended Town Planning Ordinance.

### Objections No. 1, 2 and 3

24. After further deliberation, the Meeting decided to propose amendment to the Plan to partially meet the objections by amending the Notes of the OZP for the "Other Specified Uses" annotated "Arts, Cultural, Entertainment, Commercial and Other Uses" to allow relaxation of the building height restrictions for the arts and cultural facilities to be considered by the Board based on individual merits. In tandem with the proposed amendment to the Notes of the OZP, the Explanatory Statement should also be amended to explain clearly the planning intention for the relaxation.

Objection Nos. 1 and 2

25. After further deliberation, the Board decided not to propose amendment to the Plan to meet the remaining part of the objection Nos. 1 and 2 for the following reasons:

- (a) the building height restrictions as demarcated in sub-areas (A), (B) and (C) for the West Kowloon Cultural District (WKCD) were formulated on the ground of important urban design principles like preserving unobstructed views to the ridgelines from major vantage points. These principles and the selection of vantage points were incorporated in the Urban Design Guidelines, which had undergone wide public consultation and was supported by the public;
- (b) as required under the WKCD Authority Ordinance, the WKCD Authority would prepare the Development Plan (DP) according to the development parameters stipulated in the Outline Zoning Plan (OZP), consult the public and submit the DP to the Board for consideration. The current arrangement of DP preparation within the framework of OZP could provide maximum flexibility to the WKCD Authority in planning for WKCD and retain adequate planning control by the Board in accordance with the Town Planning Ordinance; and
- (c) the building height bands introduced had provided important guidance and allowed sufficient scope and flexibility for the WKCD Authority in drawing up land use options and designing for various buildings and facilities in WKCD. There were provisions under the Town Planning Ordinance to allow flexibility and to cater for changes arising from changing circumstances.

Objection No. 3

26. After further deliberation, the Board decided not to propose amendment to the Plan to meet the remaining part of objection No. 3 for the following reasons:

- (a) 'Flat' was a use already incorporated in Column 2 of the Notes. The addition of 'House' use under Column 2 of the Notes for the zone was to cater for the possible low-density residential development in the WKCD and allowed a greater degree of flexibility in the planning and design of the development. It was in line with the planning intention of WKCD;
- (b) the building height restrictions stipulated in Remark (2) were formulated on the ground of important urban design principles like preserving unobstructed views to the ridgelines from major vantage points. These principles and the selection of vantage points were incorporated in the Urban Design Guidelines, which had undergone wide public consultation and was supported by the public;
- (c) the provisions in Remark (3) were in line with similar provisions for other land use zones with plot ratio controls in the OZP (e.g. Commercial, Comprehensive Development Area and Residential (Group A)) to cater for ancillary uses that were essential to the development or transport facilities required to serve the general public. There was also a need to balance the development intensity and the financial sustainability of the WKCD project; and
- (d) the Explanatory Statement of the OZP had stipulated that the total amount of open space for public use in the WKCD should not be less than 23 ha including a landscape waterfront promenade of not less than 20m in width. To allow flexibility for the design of the WKCD, it was inappropriate to specify in Remark (1) requiring the provision of a minimum of 15 ha of the public open space at ground level.

Objection No. 4

27. After further deliberation, the Board decided not to propose amendment to the Plan to meet the objection No. 4 for the following reason:

the building height restrictions as demarcated in sub-areas (A), (B) and (C) for the WKCD were formulated on the ground of important urban design principles like preserving unobstructed views to the ridgelines from major vantage points and were considered appropriate. There was no strong reason to lower the maximum building height in Sub-area (C) from 70 to 50 mPD, which might impose unnecessary development constraints on the development of WKCD.

[Dr. Greg C.Y. Wong, Mr. B.W. Chan and Dr. Daniel B.M. To left the meeting at this point.]

28. The meeting was adjourned at 11:25 a.m. for a break of 5 minutes.

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

[Ms. Annie K.L. Tam and Professor Bernard V.W.F. Lim arrived to join the meeting at this point.]

**Agenda Item 4**

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments

in respect of the Draft Mid-levels West Outline Zoning Plan No.S/H11/14

(TPB Papers No. 8213, 8214 and 8215)

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[The meeting was conducted in Cantonese and English.]

Group 1 (209 representations & 177 comments)

Representations No. R1 – 188, 234, 236-240, 245-252, 256-262

Comments No. C1-17, 30-51, 231-300, 347-349, 403-467

Group 2 (51 representations & 297 comments)

Representations No. R189-233, 235, 241, 242, 243, 244 and 263

Comments No. C3, 7, 17-29, 33, 52-230, 301-346, 350-403, 463 and 466

Group 3 (3 representations)

Representations No. R253-255

**Hearing for Group 1 : R1-188, 234, 236-240, 245-252, 256-262 and C1-17, 30-51, 231-300, 347-349, 403-467 (TPB Paper No. 8213)**

29. The Chairman and the following Members had declared interests on this item :

Chairman	owning a property at Lytelton Road
Dr. Greg C.Y. Wong	his spouse owning shares of a property at Babington Path
Professor N.K. Leung	owning a property at Conduit Road
Dr. Ellen Y.Y. Lau	her spouse owning a property at Bonham Road
Mr. Rock C.N. Chen	owning a property at Old Peak Road
Mr. Felix W. Fong	owning a property at MacDonnell Road
Mr. Leslie H.C. Chen	owning a property at Park Road
Dr. James C.W. Lau	his spouse owning a property at Park Road
Mr Alfred Donald Yap	his spouse owning a property at Robinson Road
Mr. Raymond Y.M. Chan	his company, Swire Pacific Ltd., had submitted a representation, i.e. Representer R241

30. Members noted that Professor N.K. Leung, Dr. Ellen Y.Y. Lau, Mr. Rock C.N.

Chen, Mr. Felix W. Fong, Mr. Leslie H.C. Chen, Dr. James C.W. Lau, Mr. Alfred Donald Yap and Mr. Raymond Y.M. Chan tendered apologies for not being able to attend the meeting while Dr. Greg C.Y. Wong had left the meeting. The Secretary said that according to the Town Planning Board Procedure and Practice, if both the Chairman and Vice-chairman needed to declare an interest on the item, the Chairman could continue to chair the meeting out of necessity. Members agreed to the arrangement.

### Presentation and Question Session

31. Members noted that a petition against the relaxation of building height restrictions (BHRs) in Mid-levels West was launched by Ms. Cheng Lai King. The petition letter was tabled at the meeting for Members' reference.

32. The following representatives from the PlanD, the representers, commenters and their representatives were invited to the meeting at this point:

Ms. Brenda Au	District Planning Officer/Hong Kong (DPO/HK), PlanD
Ms. Phoebe Chan	Senior Town Planner/Hong Kong, PlanD

### **Representation No. R1**

The Estate Owners' Committee of Goldwin Heights

Mr. Ho King Kuen	Representer's representative
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### **Representation No. R5**

The Civic Party

Mr. Paul Zimmerman	Representer's representative
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### **Representation No. R7**

Central & Western Concern Group

Mr. John Batten	Representer's representative
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### **Representation No. R8**



Mr. Kenneth To	Representers' Representatives
Ms. Kitty Wong	
Mr. S.L. Ng	
Ms. Hanna Hsu	
Mr. Paul Wong	

**Representation No. R250**

Champion Enterprises Ltd.

Mr. Kim Chan	Representer's Representatives
Ms. Kerry Lee	
Ms. Ma Ching Chau, Helen	
Ms. Ma Ching Wa, Angela	

**Representation No. R259**

Kowatex Investment Limited

Mr. Denis Ma	Representer's Representative
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**Comment No. C47**

The Real Estate Developers Association of Hong Kong

Mr. Louis Loong	Commenter's Representatives
Mr. Ian Brownlee	
Mr. Chris Foot	

**Comment No. C48**

Union Church of Hong Kong

Mr. Ian Brownlee	Commenter's Representatives
Ms. Helen Lung	
Pastor Greg Anderson	
Mr. Geoff Lovegrove	
Mr. Patrick Wilson	
Mr. Aaron Tan	
Mr. Michael Ho	

**Comment No. C240**

Mr. Au Yiu Chung

Ms. Ching Evelyn	Commenter's Representative
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**Comment No. C248**

Mr. Cheng Chi Keung

Ms. Woo Fung Shan	Commenter's Representative
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**Comment No. C249**

Mr. Yeung Ming Kwong

Ms. Ma Lai Ying Commenter's Representative

**Comment No. C254**

Mr. Chan Wah Fai

Ms. Chow Wang Ping Commenter's Representative

**Comment No. C255**

Mr. Yu Tim Gun

Mr. Poo Yiu Kwong Commenter's Representative

**Comment No. 438**

Ms. Law Ngar Ning Commenter

**Comment No. C465**

興泰大廈業主立案法團

Ms. Lam Sau Fong Commenter's Representatives  
Mr. Poon Yiu Kwong

**Comment No. C460**

Mr. Chan Chit Kwai Commenter

33. Members noted that sufficient notice had been given to the remaining representers and commenters. Some did not respond to the notice and some could not be contacted. For those who had responded, they indicated that they would not attend or be represented at the hearing. Members agreed to proceed with the hearing in the absence of the remaining representers and commenters. Members also noted that two letters from C321 and C421 had been tabled at the meeting.

34. 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.

35. With the aid of a Powerpoint presentation, Ms. Brenda Au made the following main points as detailed in the Paper :

- (a) the background of the proposed amendments was set out in para. 1 of

the Paper;

- (b) the subject consideration for Group 1 covered 209 representations on BHRs in general and amendments on specific sites and 177 related comments;
- (c) the subject of the 209 representations & 177 comments could be divided into 4 categories:
  - 188 representations and 169 comments were generally in support of the BHRs in the Area;
  - 9 representations and 2 comments opposed the BHRs in general;
  - 11 representations and 6 comments opposed the BHRs in respect of individual sites:
  - 1 representation (R246) opposed the rezoning of 4 sites, which were basically to reflect the existing situation of the completed developments;
- (d) the main grounds of supportive representations were summarized in para. 2.3.1 of the Paper and highlighted below:
  - the road network in Mid-levels West was already saturated;
  - there was not enough open space and community facilities in the Mid-levels West area. High-rise high-density development would aggravate the traffic congestion problem and adversely affect the living condition;
  - the concentration of high-rise “wall” buildings would have adverse impacts on sunlight penetration, visual, noise, fire safety, air ventilation/air quality and public health;
  - it was unclear whether the BHRs were sufficient to control

development, to ensure a suitable and quality living environment, and whether a balance between development and public interest had been struck;

- there should be public engagement in the formulation of BHRs and there was little information for public consultation;
  - developers should not be allowed to maximize profits by constructing high-rise buildings without considering the public interests; and
  - the AVA Report clearly stated that the air corridor running from Sai Ying Pun and Sheung Wan should be protected. The relevant OZPs should be reviewed;
- (e) the proposals in supportive representations were detailed in para. 2.3.3 of the Paper. The proposals include:
- to further reduce the BHRs in general and for specific sites;
  - to reduce maximum plot ratio, incorporate plot ratio and site coverage restrictions;
  - to introduce set-backs, building separations/non-building areas; and
  - other proposals like mandatory provision of open space at ground level, retrospective imposition of BHRs to site covered by approved building plans, to incorporate noise control, to conduct urban design study;
- (f) the grounds and proposals of supportive comments were detailed in paras. 2.5.1 and 2.5.2 of the Paper and highlighted as follows:
- supported R1 to R188 for imposition of BHRs in general;
  - imposition of BHRs would help reduce the development intensity,

hence relieving traffic congestion, avoiding wall effect, improving air ventilation and sunlight penetration, preserving views of the Area and improving the living environment and reducing health hazard;

- proposals similar to those made by representers supporting BHRs in (e) above, more open space/tree planting and car parks should be provided;
- (g) the grounds of adverse representations were outlined in para. 2.3.4 of the Paper and highlighted as follows:
- the BHRs should also be imposed in the Western District and Soho area as buildings in those areas would block the views of the buildings in Mid-levels;
  - 27 different height bands seemed unwarranted and separation by 15m intervals and started at unnecessarily low level were unjustified. There was no visual information to justify the height restrictions under the “R(A)” and “R(B)” zones;
  - the BHRs had not taken into consideration of existing tall buildings or sites with approved building plans;
  - the BHRs had not made allowance for the redevelopment of buildings to modern day standard;
  - the BHRs for the “R(B)” and “R(C)6” zones had not allowed much room for domestic floors after incorporating car park and clubhouse which could not be accommodated in basements due to topographical constraint;
  - the rationale of BHRs was not stated clearly and height restrictions in terms of mPD was not easily understood by the general public;

- the Government quarters sites should not be sold for intensive residential development as they would contribute to traffic congestion;
  - the BHRs were generally lower than the height of existing buildings. Minor relaxation of building height should also be applicable to buildings that had already exceeded the BHRs;
- (h) the proposals in adverse representations and comments were in paras. 2.3.5 and 2.5.3 of the Paper and highlighted as follows:
- to delete the BHRs in general and for “R(B)” and “R(C)6” zones;
  - to impose BHRs only after public consultation;
  - to explain the rationale of 27 BH bands in the Explanatory Statement (ES);
  - to publish the visual impact assessment for the proposed BHRs for public comments;
  - to confirm in the Notes that the approved planning applications and approved building plans would not be affected by the BHRs;
  - to express BHRs in terms of number of storeys or in a manner easily understood by the general public and to allow 30-35 storeys for private residential developments;
  - to rezone Government quarters sites for open space development;
  - to improve traffic by road widening; and
  - to provide more green space and areas for community use and to plant more trees along streets;

- to permit buildings of 40–50 storeys in the Area, to reduce the number of height bands and to delete para. 7.6 of the ES;
  - to allow redevelopment up to the height of existing buildings within the “R(B)4” zone;
  - proposed to relax BHRs covering Union Church from 3 storeys to 24 storeys;
- (i) PlanD’s responses to grounds of representations and comments and representers’ and commenters’ proposals were detailed in paras. 4.4 to 4.5 of the Paper and the key points were:

*General*

- the supportive representations (R1 to R188) were noted;
- the concentration of tall buildings along the narrow streets in the Area would create canyon effect and adversely affect local air ventilation. There was also a need to protect the ridgelines;
- the BHRs had been formulated taking into account the existing height profile, the local character, urban design considerations, stepped building height concept, preservation of the ridgeline, development potential, air ventilation as well as a striking a balance between public aspirations for a better living environment and private development rights;
- 27 height bands were imposed in the OZP in view of the vast area of Mid-level West and the significant difference in site levels for sites within residential clusters with different characteristics. It was inappropriate to apply a smaller number of BH bands in the Area;

- the BHRs did not preclude the incorporation of green features and a reasonable floor-to-floor height for development and redevelopment within the “R(A)” and “R(B)” zones;
- the latest amendments to the OZP mainly involved the incorporation of BHRs and no plot ratio or GFA restrictions had been imposed. The development rights of individual sites would not be adversely affected;
- the building height of developments within the “R(C)6” zone should be kept as low as possible to maintain the open view from Hong Kong Park and to maintain the existing air corridor identified in the AVA;
- existing buildings that had already exceeded the BHR could generally be redeveloped up to its existing height, further relaxation of BHRs to allow even taller buildings was considered undesirable, except under exceptional circumstances;
- minor relaxation of BHRs through the planning permission system would be considered on individual merits;

*Request for more stringent BH and development control*

- more stringent control would pose constraints on future developments/redevelopments and adversely affect the development rights of landowners;
- adopting a 20% across the board reduction of plot ratio would have significant ramifications and had to be carefully considered. The imposition of BHRs did not preclude future plot ratio control, if justified;

*Designation of non-building areas and provision of open space/tree planting*

- consideration had been given to preserve the existing green/view corridors and maintain the existing height profile of the “G/IC” zone and the “O” and “GB” zones as breathing space and air paths for the Area. The ES of the OZP was proposed to be revised to encourage the provision of suitable design measures such as wider gaps between buildings;
- the requirement of open space and tree planting for individual developments should be considered on a case by case basis taking site constraints into consideration. The setting of global requirements on all developments was not appropriate;

*Other proposals on BHRs and building plan submissions*

- redevelopment at sites with development schemes approved by the Board or with approved building plans would not be affected by the BHRs as long as their approvals remain valid;
  - the suggested requirement on developers to acquire all land titles prior to building plan submissions, to incorporate BH control in the Buildings Ordinance, and to incorporate noise control were issues outside the purview of the Town Planning Ordinance;
- (j) site specific representations (R237-R240, R245, R247 & R248, R250 to R252, R249 and R246) and PlanD’s responses covered in paras. 2.3.6 to 2.3.12 and 4.4.11 to 4.4.16 were highlighted at the meeting;
- (k) PlanD’s responses to other issues raised by the representers and commenters were detailed in paras. 4.4.7 to 4.4.10 which include:
- i) redevelopment rights/opportunity/land economy
    - the BHRs would reduce supply of flats, restrict innovative design and create an unattractive living environment;

- Government should not interfere with the free market force in determining building height/designs;

PlanD's Responses

- the BHRs imposed were intended to avoid future developments with excessive height, and the development intensity of sites would not be affected;
- the "R(B)" zoning of the Government quarters sites was to reflect the residential nature of the existing and committed developments. The "R(B)" zoning of these sites was not a subject of amendment to the OZP. These sites were already subject to a maximum plot ratio of 5 under the current "R(B)" zoning;
- there would not be adverse impacts on the overall supply of residential flats, building design and the operation of free market forces;

ii) public consultation

- AVA and visual impact assessment should be publicized for public comments before imposition of BHRs;

PlanD's Responses

- to avoid premature release of information before exhibition of the amendments which might prompt developers/landowners to accelerate submission of building plans for development/redevelopment on the affected sites, consultation with the public was held after the exhibition of the amendments to the OZP;
- the relevant information were available at Planning Enquiry Counters or in PlanD's website;

- the amendments to the OZP had been presented to the Central and West District Council (C&WDC). Members of the C&WDC generally supported the incorporation of the BHRs into the OZP, the stepped building concept and the preservation of the 20% building-free zone below the ridegeline, etc. The proposed amendments were exhibited for two months for public comments and submission of representations and comments under the TPO which was also part of the public consultation process;

iii) other considerations

- the BHRs could not address the lack of open space and traffic congestion issues. To avoid bulky development, tall buildings should be permitted and to encourage the provision of building setback, breezeways and at grade open space;

PlanD's Responses

- allowing tall buildings to encourage building setback might result in excessively tall buildings which were out-of-context with the surrounding developments and would jeopardize the integrity of the overall stepped building height concept;
- for better air ventilation and to avoid bulky development, the ES of the OZP was proposed to be amended to encourage improvement measures such as building set back, non-building areas and more permeable design;

(l) Planning Department's Views

- as detailed in para. 6 of the Paper, PlanD considered that the Notes

of the OZP for the “R(C)8” zone should be amended to permit redevelopment of the site up to the domestic plot ratio of the existing building to partially meet R249 (3 May Road); and

- PlanD did not support R234, R236 to R240, R245 to R248, R250 to R252 and R256 to R262.

36. The Chairman then invited the representers, commenters and their representatives to elaborate on their representations and comments.

Representation No. R1 (The Estate Owners’ Committee of Goldwin Heights)

37. With the aid of some photographs, Mr. Ho King Kuen made the following main points:

- a) the road network in Mid-levels West, in particular Seymour Road, had already reached its full capacity and there was no room for any road widening;
- b) the opening of the Dr. Sun Yat Sen Museum had attracted a lot of tourists and further aggravated the traffic congestion problem;
- c) according to a press report, 25 building plans had already been approved by the Building Authority for high-rise and high-density development in the Area. This would add serious pressure on the road network and caused inconvenience to the residents;
- d) the BHRs were required, otherwise, Goldwin Heights would be surrounded by high-rise buildings. Concentration of high-rise buildings would adversely affect the sunlight penetration, air ventilation/air quality and result in heat island effect; and
- e) before any traffic and environmental impact assessment, the Administration should not approve any application for plot ratio relaxation.

He proposed to tighten the building heights of all sites in Mid-levels West to below 100m.

Representation No. R5 (The Civic Party)

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

- a) The Civic Party fully supported more stringent control on the development in Mid-levels West Area and appreciated that PlanD had made an effort in controlling future development in the Area;
- b) the problem at the Mid-levels West Area was on building density rather than building height;
- c) by making reference to the North Point OZP, it seemed that PlanD's answer to the representers' request for a more stringent control was the need to strike a balance between property right and environmental considerations. The Board and PlanD should prove that such a balance had been achieved and the proposed BHRs would lead to a liveable environment; and
- d) the imposition of the BHRs alone was insufficient and could not ensure a sustainable quality environment.

Representation No. R7 (Central & Western Concern Group)

39. Mr. John Batton made the following main points:

- a) the Mid-levels West Area was totally saturated. With large number of building plans approved in the area, the whole Seymour Road would be redeveloped for high-rise and high-density buildings;
- b) it was difficult to reconcile the dilemma between the property owners who

were waiting for redevelopment and those owners who were scared to have their views blocked by another high-rise building;

- c) he supported BHRs and requested retrospective imposition of BHRs on the sites with approved building plans;
- d) for those issues outside the purview of the Town Planning Ordinance as mentioned by Ms. Brenda Au in her presentation, there should be inter-departmental discussion to address the inconsistencies/issues; and
- e) there were concerns on the proposed URA redevelopment projects at the H18 and H19 sites, which were important air corridors for the Area. Although the sites were outside the Mid-levels West OZP boundary, a holistic approach on town planning should be adopted.

Representation No. R8 (Ms. Cheng Lai King)

40. Ms. Cheng Lai King made the following main points:

- a) she supported the imposition of BHRs and hundreds of supporting letters in respect of the BHRs were received from the local community;
- b) the BHRs came too late as the ridgelines had already been blocked by high-rise buildings. The ridgelines and the natural landscape should be protected;
- c) preservation of the 20% building free zone below the ridgelines was supported. The building heights and development density should be lowered as these would help address the transport and environmental problems; and
- d) the local community should be given more opportunities to be involved in

the planning of the Area.

Representation No. R9 (The Green Sense)

41. Ms. Ho Ka Bo made the following main points:
- a) The Green Sense supported the BHRs. Air corridors should be designated as non-building areas and incorporated in the OZP;
  - b) other appropriate controls such as stipulation of separation distance of not less than 15m between buildings, plot ratio restrictions, should also be incorporated in the OZP for better air penetration and ventilation; and
  - c) there were lots of redevelopment proposals in the Area. The high-rise buildings would create wall effect and adversely affect the living environment. These problems were not only confined to Mid-levels West, but also in Wan Chai and other areas of Hong Kong Island. PlanD and the Board should carry out their duties to regulate the developments.

[Ms. Anna S.Y. Kwong arrived to join the meeting and Mr. Stanley Y.F. Wong left the meeting at this point.]

Representation No. 245 (Kwong & Associates Limited)

42. With the aid of a Powerpoint presentation, Ms. Denise Kwong Wing-man made the following main points:
- a) they did not oppose the imposition of BHRs for the Area;
  - b) they only requested for amendment of the BHR for Nos. 12-30 Bonham Road from 160mPD to 180mPD to enable quality buildings to be built thereon;
  - c) the proposed BHR of 160mPD was not in line with the characteristics of

adjoining sites which were subject to higher height limits of 180mPD and 200mPD;

- d) the height restriction would result in low headroom and exclusion of amenities and green features, which were against the public aspirations for a better living environment;
- e) due to the bulk excavation limit imposed by the Geotechnical Engineering Office of Civil Engineering and Development Department, excavation was not allowed 7.5m below the pre-development natural topography for the site. As there would be structural foundation, no basement could be constructed;
- f) the height restriction of 160mPD together with the bulk excavation limit constraint would result in a building with very undesirable or uninhabitable headroom (2.63m to 2.315m) which would restrict natural ventilation and natural daylight penetration;
- g) as illustrated in their case study undertaken, 180mPD was the lowest possible height level to achieve quality living space and to satisfy the building and geotechnical requirements; and
- h) the proposed amendment of height restriction from 160mPD to 180mPD would not result in an excessively high building, obstruct the view to the ridgelines, adversely affect traffic, air quality or green/view corridor. It would be compatible in scale with the surrounding developments, accord with stepped height concept and provide quality living building for the residents.

[Ms. Annie K.L. Tam and Mr. Maurice W.M. Lee left the meeting at this point.]

Representation No. 247 (Mid-levels Portfolio (Branksome) Limited)

Representation No. 248 (Mid-levels Portfolio (Tavistock) Limited)

Representation No. 249 (Mid-levels Portfolio (Gladdon) Limited)

43. With the aid of a Powerpoint presentation, Mr. Kenneth To made the following main points for the three representations:

No 3 Tregunter Path (Branksome Grande)

- a) Branksome Grande and Branksome Crest were situated within the same lot which was subject to a BHR of 300mPD. Whilst Branksome Crest had already been redeveloped to reach a building height 357.1mPD, Branksome Grande was at 284mPD;
- b) the proposed BHR in the OZP would adversely affect the redevelopment potential of the building;
- c) redevelopment of the building would not affect the overall development density, i.e. PR 5 of the site;
- d) the proposed BHR of 300mPD would only allow a building of less than 100m high. This would substantially reduce the headroom, require a bigger footprint, reduce space between buildings, discourage air ventilation and natural lighting;
- e) an indicative redevelopment scheme had been prepared to demonstrate the benefits of relaxing the BHR. If the building was redeveloped to the height similar to the adjoining building (i.e. 357.1mPD), it would result in a smaller footprint and allow a 10m wide gap between buildings for better air ventilation. The taller buildings would not have adverse visual impacts from the vantage points at the Peak, the waterfront promenade at Cultural Centre as well as at the waterfront promenade of WKCD; and
- f) they requested to delete the BHR for the site or relax the BHR for the site to 357.1mPD.

No 10 Tregunter Path (Tavistock)

- a) Tavistock, Tavistock II and Aigburth were situated within the same lot which was subject to a BHR of 290mPD. Tavistock II and Aigburth had already been redeveloped to reach a building height of 312mPD and 337mPD respectively whilst Tavistock was at 253mPD;
- b) the proposed BHR in the OZP would adversely affect the redevelopment potential of the building;
- c) redevelopment of the building would not affect the development density of the site;
- d) the proposed BHR of 290mPD, which only allowed for 89m net building height, would substantially reduce the headroom, require a bigger site coverage, reduce space between buildings, discourage air ventilation and natural lighting;
- e) an indicative redevelopment scheme had been prepared to demonstrate the benefits of relaxing the BHR. If the building was redeveloped to the height similar to the adjoining building (i.e. 332mPD), it would enable a smaller footprint and increase the gap (up to 19m) between buildings for better air ventilation and would not have adverse visual impacts;
- f) they requested to delete the BHR for the site or relax the BHR for the site to 332mPD; and
- g) they supported the need to preserve the ridgelines. However, the basis of translating the 20% building free zone below ridgelines into a statutory requirement was doubtful.

[Mr. Walter K.L. Chan left the meeting at this point.]

3 May Road (Gladdon)

- a) the site was occupied by a row of 14 single-storey garages with a single-storey apartment above;
- b) the site was rezoned from “Open Space” to “R(C)8” with a building height of 2 storeys including carports;
- c) the proposed “R(B)8” zoning was tailor-made for the site and not conforming with the adjoining areas, which were mainly under “R(C)” or “R(B)” zones;
- d) an indicative redevelopment scheme had been prepared to illustrate the benefits and possible impacts for rezoning the site from “R(C)8” to “R(B)”;
- e) the amount of developable land in the Mid-levels West was scarce. Redevelopment of the representation site would present an opportunity for optimization of land resources;
- f) it was not desirable to have house development at the side of May Road as the residential use on the first floor was very close to vehicular traffic on May Road;
- g) the proposed rezoning of the site to “R(B)” zone would have no adverse visual and traffic impacts, and public safety would be improved;
- h) the existing plot ratio of the development including the carports was more than 1, not 0.57 as stated in the Paper; and
- i) they requested to rezone the site to “R(B)” to permit redevelopment of the site up to a plot ratio of 5 and to relax the BHR to 251.3mPD.

Representation No. R236 (Pro Plan Asia Limited)

Representation No. R237 (Joint Profit Development Limited)

Representation No. R238 (Express Hero Limited)

Representation No. R239 (Jointech Development Limited)

Representation No. R240 (Superich Consultants Limited)

44. Mr Phill Black stated that his objection to the amendments were on two general issues, namely public consultation and number of height bands. He made the following main points:

Public Consultation

- a) imposition of BHRs on the OZP, in particular for Mid-levels West Area, was a very contentious issue as it affected people in many ways. Public consultation should be conducted to solicit public views on the subject;
- b) it was noted that the reason for not conducting the public consultation before the gazettal was to avoid premature release of information before exhibition of the amendment 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 BHRs as stated in the Paper. However, consultation with the public should still be held in parallel with the gazettal of the amendments;
- c) the urgency for initiating planning control did not negate the need of consultation on this important planning issue;
- d) public consultation should be conducted in appropriate forums, in which views of different parties could be solicited in order to reach a consensus;
- e) public consultation exercises were undertaken in May and June 2004 on the proposed height restrictions for Kwun Tung South and Wong Chuk Hang. These provided good examples of how the Board could engage the public in determining this contentious BHR issue and should be followed;

- f) the rationale of the height control as stated in para. 4.2.3 of Paper was to strike the right balance between public aspirations for better living environment and private development right. This demanded the public to be involved and be given full and early access of all information on which the restrictions were based. This was missing in the current process;

Number of Height Bands

- g) the proposed 27 height bands were not only contentious, but also complicated. There was only a very general statement in the Paper that 27 height bands had been formulated as there was a significant difference in site levels at sites within different residential clusters with different characteristics. There was a lack of information such as photomontages for each residential cluster;
- h) more visual evidence in the form of drawings and computer simulations, photomontages specific to each residential cluster showing the existing buildings, committed buildings and potential redevelopment height of other sites in relation to the 3 prime considerations (i.e. 20% building free zone, preservation of harbour view and air corridor) should be provided.

Representation No. 250 (Champion Enterprises Ltd.)

45. With the aid of a Powerpoint presentation, Mr. Kim Chan made the following main points:

- a) the Board had wrongly excluded the representation site (78-80B MacDonnell Road, Welsby Court) from the height band of 165mPD;
- b) the areas along MacDonnell Road was broadly divided into four development clusters by the Peak Tramway and two pedestrian steps. The representation site should fall within the cluster at the eastern side;

- c) the current grouping of the representation site and the adjoining St. Joan Court had no reasonable or objective planning grounds;
- d) the representation site shared the same site characteristics and was compatible with the existing development of the adjoining sites. It should be grouped under the same height band of 165mPD;
- e) the proposed relaxation of building height from 145mPD to 165mPD would not have any unacceptable visual impacts nor impacts on the wind corridors. Upon redevelopment, the taller building would enable smaller site coverage, allowing more space between buildings (at least 3 m setback at the eastern and western sides);
- f) their proposed amendment was in line with the key guiding principles and building height concepts adopted in the formulation of the building height bands for the Area as stated in para. 3.4 of the Paper; and
- g) they requested to amend the BHR to 165mPD for both the representation site and St. Joan Court.

[Mr. Tony C.T. Lam left the meeting at this point.]

Comment No. 47 (in support of R236, R258 to R261)

(The Real Estate Developers Association of Hong Kong)

46. Mr. Louis Loong, Mr. Ian Brownlee and Mr. Chris Foot tabled a letter and supplementary information for Members' information. With the aid of a Powerpoint presentation, Mr. Loong made the following main points:

Lack of Consultation Prior to Gazetting the Draft Plan

- a) REDA did not object to the imposition of BHRs but the lack of prior public consultation was unwarranted and was highly prejudicial to the affected landowners;

- b) consideration of formal representations and comments under the Town Planning Ordinance was constrained by the strict statutory procedures and limited by the Board's resources and workload;
- c) once a draft OZP was gazetted, it tended to be regarded as the status quo and imposed an effective "burden of proof" upon the representers and commenters to persuade the Board to dislodge the status quo;
- d) public consultation exercise should be fully open, wide-ranging and encourage interactive dialogue. Previously PlanD had on a number of occasions conducted public consultation exercises before the inclusion of BHRs;
- e) the concern about a rush to submit general building plans prior to publication of the draft plan was unfounded;

#### Respecting Existing and Approved/Committed Building Heights

- f) the Board's approach to respect the height of existing buildings and building which were "committed" was inconsistent. Some proposed BHRs were lower than the existing or approved/committed buildings, while others were not;
- g) the proposed BHRs which were lower than the existing building heights, or which prohibited redevelopment to existing height were misleading and unreasonable;

#### Deprivation of the Private Property Rights of Flat Owners in Buildings Ripe for Redevelopment

- h) the Board was required to strike a balance between many factors important to the community, including private property rights and urban design considerations. However, the BHRs were very much focused on urban

design considerations;

- i) only a single option was put forward in the MPC and TPB Papers and any representations and comments that were inconsistent with this option was rejected. No evaluation was made of the extent to which the perceived public benefits of the urban design considerations were proportional to the deprivation of private property right;
- j) a particular concern for the Mid-levels West was the negative impact of the BHRs upon the owners of flats in old buildings that were due for redevelopment;
- k) no information was provided to demonstrate that existing private property could be redeveloped, in compliance with the BHRs, to the full extent of the allowable GFA for each site;
- l) a significant number of older buildings in Mid-levels West would cease to be feasible for redevelopment or site amalgamation. This severe impact on private property rights was out of proportion to the perceived benefits of urban design consideration;

#### Insufficient Technical Justification

- m) the proposed BHRs were arbitrary without any specific recommendation in the AVA report to support such BHRs;
- n) alternatives for improving air ventilation put forward by the AVA Report had been overlooked;
- o) no detailed visual impact assessment had been commissioned and the visual impact materials prepared were not sufficiently detailed; and

#### Lack of Specific Mandate from the Chief Executive in Council

- p) the specific mandate of CE in Council to impose BHRs might arguably be lacking.

47. Mr. Ian Brownlee continued to make the following main points:

- a) as set out in the report of the Urban Design Study, “.... it is important first to recognize that Hong Kong operates within a laissez-faire system, with a small government and an established policy of non-intervention.....”. The Government’s approach in urban design was non-intervention unless it was absolutely necessary in the public interest;
- b) in implementing urban design guidelines, public consultation should be carried out to prepare urban design plan for each district. However, no such plan had been prepared;
- c) OZP was intended to indicate the broad land use zonings and major transport networks, but not the details. The incorporation of the BHRs was a radical departure from the intention of OZP ;
- d) no specific information was given on the formulation of the height limits;
- e) the rationale of the BHRs was to prevent “exceptionally tall or out-of-context buildings” as set out in the Paper. There was, however, no definition of such terms that was generally accepted by the public and the industry;
- f) the proposed BHRs were not in line with the existing building height profile and development character, which was dominated by buildings of greater than 40 storeys. It was also not compatible with the height and scale of existing and proposed new buildings;
- g) there was significant difference between the BHRs and the height of the

existing and approved developments, which meant that the BHRs could never be achieved. The height limits should follow the existing height profile and the height of other new buildings in the Area;

- h) the basic theme of the AVA was to allow space around building, reduce podium heights, and encourage spaces among buildings and to encourage good design. If the building heights were controlled, developers might need to build with larger site coverage, and hence restricting air ventilation;
- i) the established height bands were inequitable and there were so many bands that they gave different rights to adjoining sites without justifications. An alternative proposal was suggested that the height limit be relaxed to allow buildings of 40 to 50 storeys and the bands be modified to 30m intervals (instead of 15m under the proposed BHRs); and
- j) the proposed reduction of plot ratio (by some representers) should not be imposed without any comprehensive and intensive study on the possible impacts.

48. Mr. Chris Foot then continued to make the following main points:

- a) the unreasonable low height limits would prevent design flexibility and good development. The proposed alternative approach would simplify the height bands, maintain the stepped height building profile and protect the 20% building free zone below the ridgelines; and
- b) by allowing higher buildings, the pedestrian realm could be enhanced through articulation of building frontage, creation of setback and use of podia for plantings.

Comment No. C48 (in support of R258, R259 and R260)

(Union Church of Hong Kong)

49. With the aid of a Powerpoint presentation, Pastor Greg Anderson, Mr. Ian Brownlee and Ms. Helen Lung made the following main points. Members also noted that the representatives of the commenter had brought a physical model to the meeting to demonstrate their proposed redevelopment scheme:

- a) the redevelopment of the Union Church would be adversely affected by the 3-storey BHR imposed;
- b) the Church was a non-profit making organisation with mission. The functions, services and role of the Church in the community was expanding;
- c) the Church had formed a redevelopment committee and there was a long term development plan;
- d) a planning approval for a 24-storey building for church and residential purposes was approved by the Board in June 1997;
- e) the planning approval had not been implemented due to the Asian financial crisis and subsequent economic uncertainty as well as the financial constraints and funding of the Church;
- f) redevelopment had been re-activated with general building plans submitted in October 2008;
- g) the BHR was contrary to the planning intention of “G/IC” zone and the 3-storey BHR did not allow flexibility for the redevelopment of the Church to a building between 3 to 24 storeys; and
- h) they requested to recognize the approved scheme in the OZP and remove

the BHR or relax the BHR to 24 storeys (133.75mPD) to reflect the planning approval.

Comment No. C438 (in support of R8)  
(Ms. Law Ngar Ning)

50. Ms. Law Ngar Ning made the following main points:

- a) on 21.9.2008, a citizen hearing (with over 100 citizens participated) was organised by the newly established Community Alliance for Urban Planning. Most of the participants raised strong concerns on over development in the urban area which had caused adverse environmental problems;
- b) there was a very clear message and request from the public to reduce the development intensity, including building height;
- c) some representers argued against the BHRs on the infringement of their property rights. However, to protect “property rights” did not mean to allow unlimited development and sacrifice the public interest;
- d) it was alarming that the developers had proposed at this hearing to allow 50-storey high developments across the board. The imposition of BHRs was fully supported by the residents of the Mid-levels West. More stringent development restrictions including reduction of plot ratio and wider building gaps of over 15m should be imposed for better air ventilation and natural lighting penetration; and
- e) some representers and commenters argued that public consultation was required. However, decisive and quick action for the imposition of BHRs in the urban area was necessary.

51. After the presentations made by the representers, commenters and their

representatives, the Chairman invited questions from Members on the points raised by the various parties.

52. In response to a question from the Chairman on how the public consultations for imposition of BHRs in Kwun Tong South and Wong Chuk Hang OZPs were conducted, Ms. Brenda Au said that in the case of Kowloon Bay and Kwun Tong South as well as Wong Chuk Hang, the concerned sites were mainly under “Other Specified Uses” annotated “Business” zoning on the relevant OZPs. As most of these sites were held under industrial lease, Government still retained control as any redevelopment proposal for commercial uses including hotel would require lease modification. This allowed a time gap for soliciting the views of the public and the stakeholders. In this connection, the Board had also issued interim control guidelines and put on hold the consideration of the relevant planning applications while PlanD conducted the public consultation. For the Mid-levels West OZP, the release of the information on the BHRs before the exhibition of the amendments might prompt an acceleration of submission of building plans for development and redevelopment on the affected sites, many of which were held under unrestricted lease. As it was impossible to have retrospective imposition of the BHRs on the approved building plans, the effectiveness of imposing the BHRs would be nullified. Therefore, a timely gazettal of the proposed amendments was necessary in order to meet the public aspirations for a better environment, as reflected by the large number of supportive representations received, and there were representers who considered that early imposition of BHRs on the Mid-levels West was necessary.

53. A Member asked about the extent of flexibility on BHRs provided under the minor relaxation clause. Ms. Brenda Au said that minor relaxation of the BHRs under the OZP could be considered by the Board on application to cater for site-specific circumstances. In considering the application for minor relaxation, the concern was on the effects and consequences of the relaxation rather than the exact numerical percentage of changes. There was no fixed percentage on what would constitute a minor relaxation.

54. In response to Ms. Brenda Au’s clarification on public consultation, Mr. Phill Black commented that public consultation should be conducted on this important planning

issue. The concern on acceleration of building plan submissions for redevelopment/development on the affected sites was noted. However, this should not preclude the need of a public consultation, which could be held after the exhibition of the BHRs.

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

#### Deliberation Session

56. A Member asked whether the newly imposed BHR would adversely affect the redevelopment of the Union Church of Hong Kong (C48). A few Members said that the proposed redevelopment would not be affected by the said BHR as the redevelopment scheme had already been approved by the Board. It was considered inappropriate to single out an individual site for separate control under the OZP.

57. Regarding the mandate from the CE in C on the proposed amendments, the Secretary informed Members that on 30.9.2003, the CE in C referred the approved Mid-levels West OZP No. S/H11/13 to the Board for amendment under s.12(1)(b)(ii) of the Ordinance. The reference back of OZP was notified in the Gazette on 10.10.2003. After the OZP was referred back to the Board for amendments by CE in C, amendments other than those included at the time of reference back to reflect the latest land use proposals would also be made. Such action was covered in the submission to CE in C. Moreover, the Chief Executive had announced in his Policy Address in 2007 that it was the Government policy to review the OZPs of various districts to address the public concerns on wall development and, where justified, review the relevant planning parameters to lower the development intensity.

58. A Member enquired about the merits of adopting a smaller number of height bands for the Area. Some Members commented that this would create more inequity as compared with the current 27 height bands as the latter provided more specific restrictions taking into consideration the vast area of Mid-level West and the significant difference in site levels for sites within different residential clusters with different local characteristics.

59. A Member enquired whether the Welsby Court and the adjoining St. Joan Court (R 250 to 252) (Plans H-8a to H-8d) had been grouped under a lower height band. Members noted that the sites were adjoining a wind corridor and since these two sites had a lower site formation platform, it was appropriate to have a lower BHR relative to those sites at a higher platform level in order to maintain a stepped building height profile.

60. After further deliberation, Members generally considered that the proposed BHRs, taken into account the existing height profile, the local character, urban design considerations, stepped building height concept, preservation of the ridgeline, development potential, air ventilation as well as striking a balance between public aspirations for a better living environment and private development rights, was appropriate. The representers, commenters and their representatives had not advanced any convincing argument to warrant variations to the height bands. Also, the OZP allowed flexibility to cater for individual site conditions through minor relaxation. A Member commented that although there were no convincing grounds put forward in REDA's letter tabled at the meeting, there was some issues of interest which could be discussed after completion of the hearing for the OZP.

### **Representation Nos. R1 to R188**

61. The Board noted the supportive representations of R1 to R188.

62. Members agreed to revise Explanatory Statement of the OZP to expressly encourage the provision of improvement measures for better air ventilation. The proposed amendments to the Explanatory Statement of the Plan were highlighted (in bold and italics) in Annex V of the Paper and set out below:

Amendments to the Explanatory Statement

To incorporate measures for better air ventilation in paragraph 7.5 of the Explanatory Statement of the OZP to read as :

***“7.5 To improve air ventilation condition, future developments are encouraged to adopt suitable design measures to minimize any possible adverse impacts. These include greater permeability of podium, wider gap between buildings, building set back, non-building area to create air/wind path for better ventilation and minimizing the blocking of air/wind flow through positioning of building towers and podiums to align with the prevailing wind directions, as appropriate.”***

**Representation No. R249**

63. After further deliberation, the Board decided to amend the Notes of the OZP for the “R(C)8” zone to permit redevelopment of the site up to the domestic plot ratio of the existing building to partially meet R249. The proposed s.6C(2) amendments to the Notes of the Plan were highlighted (in bold and italics) in Annex IV of the Paper and set out below:

Amendments to the Notes for the “R(C)8” zone

To amend Remark (1) in the Notes relating to the “R(C)8” zone to read as :

“R(C)8 Maximum plot ratio of 0.5 ***or domestic plot ratio of the existing building, whichever is the greater***, and a maximum building height of 2 storeys including carports”

64. The Board decided not to propose amendment to the OZP to meet the remaining part of the Representation No. R249 for the following reasons:

- (a) the imposition of building height restrictions (BHRs) was to avoid out-of-context developments to meet the public aspirations for a better living environment. The 27 height bands of the BHRs on the Mid-levels West Outline Zoning Plan (OZP) were formulated based on an overall building height concept and other relevant considerations

including local character, development potential, visual impact, protection of ridgeline, air ventilation and topography. Deletion of or piecemeal relaxation of the BHRs for individual sites was not supported as it would jeopardize the coherency of the stepped building height profile and could result in proliferation of high-rise developments, which was not in line with the intended planning control. To cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. 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;

- (b) the proposed rezoning of the representation site to “Residential (Group B)” would significantly increase the development intensity of the site from plot ratio 0.5 to plot ratio 5. The representer had not demonstrated that the proposed development intensity would not have any adverse impacts on the character and amenity as well as the traffic and infrastructure provisions of the area.

**Representations No. R234, R236, R256 to R262, R237 to R240, R245, R247 to R248, R250 to R252 and R246**

65. After further deliberation, the Board decided not to propose amendment to the OZP to meet the representation Nos. R234, R236 and R256 to R262 generally opposing the building height restrictions (BHRs), representation Nos. R237 to R240, R245 and R247 to R248, R250 to R252 opposing the BHRs on specific sites and representation No. R246 opposing the rezoning proposals at various sites. The reasons were:

- (a) the imposition of building height restrictions (BHRs) was to avoid out-of-context developments to meet the public aspirations for a better living environment. The 27 height bands of the BHRs on the Mid-levels West Outline Zoning Plan (OZP) were formulated based on

an overall building height concept and other relevant considerations including local character, development potential, visual impact, protection of ridgeline, air ventilation and topography. Deletion of or piecemeal relaxation of the BHRs for individual sites was not supported as it would jeopardize the coherency of the stepped building height profile and could result in proliferation of high-rise developments, which was not in line with the intended planning control. To cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. 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 (**R234, R236 to R240, R245 to R248, R250 to R252 and R256 to R262**);

- (b) development schemes proposals approved by the Town Planning Board or approved building proposals would not be affected by the BHRs as long as the approvals remained valid (**R237 to R240 and R245**);
- (c) the amendments to the OZP mainly involved the incorporation of BHRs and no plot ratio/GFA restrictions had been imposed. The BHRs were intended to avoid future developments with excessive height and the development potential permissible under the Building (Planning) Regulations of the sites would not be affected. There would not be adverse impacts on the development rights of the concerned sites and the overall supply of residential flats and property price (**R258, R260 and R261**);
- (d) any premature release of information before exhibition of the amendments to the OZP 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 building height restrictions. The AVA Study and relevant materials had been presented to the Town Planning Board for consideration and was available for public inspection at the Planning Enquiry Counters of the Planning Department or for viewing in the Planning Department's website (**R259 and R262**);

- (e) the proposed redevelopment of the representation site up to the existing height of the adjoining building would breach the 20% building free zone from the ridgeline and also had adverse visual impact on the surrounding areas, which was undesirable from urban design perspective (**R247 and R248**); and
- (f) the proposed rezoning of the representation sites to "Residential (Group B) 1", "Residential (Group B) 2", "Residential (Group B) 3" and an area shown as 'Road' under Amendment Items B, D3, E, F1 and F2 incorporated into the Plan were to reflect the existing residential use and the existing road alignment, which would not affect the use and development intensity of redevelopment at these sites in future. The rezoning would not result in any increase in traffic in the Area (**R246**).

66. The meeting was adjourned for lunch at 2:40 p.m.

67. The meeting was resumed at 3:20 p.m..

68. The following Members and the Secretary were present in the afternoon session:

Mr. Raymond Young

Mr. Tony C.N. Kan

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Ms. Anna S.Y. Kwong

Mr. K.Y. Leung

Mr. Timothy K.W. Ma

Ms. Annie Tam

Mr. Benny Wong

Mrs. Ava Ng

Agenda Item 4 (cont'd)

[Open Meeting (Presentation and Question Session Only)]

Consideration of Representations and Comments in Respect of the Draft Mid-levels West  
Outline Zoning Plan No. S/H11/14

**(TPB Paper No. 8214)**

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[The hearing was conducted in Cantonese and English.]

Presentation and Question Session

69. The Secretary reported that the following Members had declared interests on the item:

- |                   |                                                                                  |
|-------------------|----------------------------------------------------------------------------------|
| Dr. Greg Wong     | - Spouse owned a property at Babington Path                                      |
| Prof. N. K. Leung | - Owned a property at Conduit Road                                               |
| Dr. Ellen Lau     | - Owned a property at Caine Road; spouse owns a property at Bonham Road          |
| Mr. Walter Chan   | - Owned a property at Kennedy Road                                               |
| Mr. Rock Chen     | - Owned properties at Old Peak Road and Kennedy Road                             |
| Mr. Felix Fong    | - Owned a property at MacDonnell Road                                            |
| Mr. Leslie Chen   | - Owned a property at Park Road                                                  |
| Dr. James Lau     | - Spouse owned a property at Park Road                                           |
| Mr. Donald Yap    | - Spouse owned a property at Robinson Road                                       |
| Mr. Raymond Chan  | - Had current business dealings with Swire Pacific Ltd., holding company of R241 |

70. The Chairman also declared an interest as he owned a property at Lyttleton Road. However, the meeting agreed that the Chairman should continue to chair the meeting out of necessity as the Vice-Chairman had also an interest to declare. Members noted that Prof. N. K. Leung, Mr. Leslie Chen, Mr. Donald Yap, Mr. Felix Fong and Dr. James Lau had tendered apologies for not attending the meeting. Members noted that Dr. Greg Wong, Mr. Walter Chan and Mr. Raymond Chan had left the meeting while Dr. Ellen Lau and Mr. Rock Chen had not arrived to join the meeting.

71. Members noted that sufficient notice had been given to the representers and commenters to invite them to attend the meeting. While Representers No. R189, R197, R233, R241 to R244, R263 and Commenters No. C3, C17, C24, C328, C351, C376 and C403 would attend the meeting, other representers and commenters had either indicated not to attend the hearing or made no reply. The Board agreed to proceed with the hearing in the absence of the remaining parties.

## **Group 2**

### **Representation Nos. R189 to R233, R235, R241, R242, R243, R244, R263 and Commenters C3, C7, C17 to C29, C33, C52 to C230, C301 to C346, C350 to C403, C463, C466**

72. The following representatives from PlanD were invited to the meeting at this point:

Ms. Brenda Au	DPO/HK, PlanD
Ms. Phoebe Chan	STP/HK, PlanD

73. The following representatives of the representers and commenters were also invited to the meeting:

#### **R189**

Mr. Patrick M.V. Carter	- Representer
Mr. Wong Pui Tak	- Representers' representative

**R197**

Mr. Lam Wai Ching - Representer

**R233**

Ms. Lai Po Chun - Representer

Mr. Wong Shiu Wo ) Represeneter's representatives

Ms. Wong Che Wah )

**R241, R242, R243, R244**

Mr. Ian Brownlee )

Ms. Kira Brownlee )

Ms. Anna Wong ) Represeneter's representatives

Mr. Alan Brown )

Ms. Corina Yeung )

**R263**

Mr. Henry Mok - Representer's representative

**C3**

Ms. Lau Wai Sze - Commenter

**C17**

Mr. Yam Chi Fai - Commenter

**C24**

Ms. Elina Li - Commenter

**C328**

Ms. Wong Wai Lan - Commenter

**C403**

Ms. Chung Pui Lan - Commenters' representatives

**C351**

Mr. Huang Song - Commenter

**C376**

Mr. Keith Au Yeung Ka Chai - Commenter

74. 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.

75. With the aid of a Powerpoint presentation, Ms. Brenda Au made the following main points as detailed in the Paper:

- (a) the background to the amendments to the draft Mid-levels West OZP as detailed in paragraph 1 of the Paper. This Paper covered 51 representations and 297 comments (Group 2) which related to specific sites in the area around Seymour Road, Castle Road and Caine Road;
- (b) an overview of the representations and comments:
  - R189 to R233, R235 and R263 (47 representations) were concerned with Merry Terrace and they opposed the building height restriction of 200mPD for the site. On the other hand, 2 comments (C463 and C466) supported the imposition of building height restrictions and opposed the proposed redevelopment of Merry Terrace;
  - R241 opposed the building height restriction of 215mPD for the site at 2A-2E Seymour Road, 23-29 Castle Road and 4-6A Castle Steps while 295 comments supported the building height restriction for the site;
  - R242 and R243 opposed the building height restriction of 170mPD for the two sites at 92-102 Caine Road, 18-22 Castle Road and 51-53 Seymour Road, 140-142A Caine Road; and
  - R244 opposed the building height restriction of 185mPD for the site at 25-35 Seymour Road, 14-16 Castle Road;
- (c) for the representations relating to Merry Terrace (R189-R233, R235 and R263), the grounds of representations, the representers' proposals, the views of the commenters and PlanD's responses were summarized as follows:
  - (i) Grounds of Representation

- it was unfair to sacrifice the interests and development rights of the owners of Merry Terrace for the interests of other property owners;
- the building height restrictions would result in buildings with larger site coverage and building bulk;
- it was not in line with the planning intention of the “R(A)” zoning of the site as the development potential would not be maximized;
- there were no building height restrictions under the lease;
- building height restrictions would reduce flat production and cause a shortage of flat supply;
- there was no scientific evidence to show that taller buildings would affect air quality and the living environment;
- the building height restrictions would result in different layers of screen buildings of uniform height which was undesirable;
- the building height restrictions showed no respect to the opinions of the local residents who were adversely affected; and
- it was unfair to property developments that came afterwards as sites with approved building plans before the imposition of the building height restrictions could still proceed.

(ii) Representers’ Proposal

- delete the building height restrictions for Merry Terrace.

(iii) Views of Commenters (C463, C466)

- supported the building height restrictions and opposed the proposed redevelopment of Merry Terrace;
- Buildings Department should adhere to the building height restrictions and refuse to give consent to the commencement of building works for the redevelopment of the site into two 50-storey residential buildings; and
- the Board should dismiss the comments opposing the imposition of building height restrictions on the site.

(iv) PlanD's Response

- the reason for imposing the building height restrictions was to address public aspirations for a better living environment;
- the building height restrictions were necessary to prevent further proliferation of tall and out-of-context buildings which caused adverse visual and environmental impacts on the existing townscape;
- the building height restrictions were formulated after taking various factors into account including the existing height profile, local characteristics, urban design considerations, air ventilation, development potential, relationship with adjoining districts, as well as striking a balance between public aspirations for a better living environment and private development rights;
- according to the air ventilation assessment, the area was already “over-developed” with deep canyons formed. The taller the buildings, the deeper would be the canyons and the impact on the pedestrian wind environment would worsen; and
- piecemeal uplifting of building height for individual sites on the OZP would jeopardize the integrity of the overall building height concept.

[Prof. Bernard Lim arrived to join the meeting at this point.]

- (d) for the representation site at Seymour Road/Castle Steps (R241), the grounds of representations, the representers' proposals, the views of the commenters and PlanD's responses were summarized as follows:

(i) Grounds of Representation

- new buildings would be limited to 90-95 metres in height which was much lower than many existing and proposed developments with approved schemes of 40-50 storeys;
- the criteria for minor relaxation of building height restrictions for sites where the existing building height had already exceeded the height restrictions was too harsh and

unnecessary;

- there was no need to retain the “R(C)7” zoning for the site as the access problem of the site had already been resolved;
- there was no public consultation and a lack of information on the rationale behind the proposed building height restrictions and the visual impact analysis; and
- the air ventilation assessment had been a significant factor in determining the building height restrictions but the assessment was not available for the public to comment on.

(ii) Representers’ Proposal

- relax the building height restriction to 273.55mPD and rezone the “R(C)7” portion of the site to “R(A)”;
- delete paragraph 7.6 of the Explanatory Statement relating to the general presumption against minor relaxation for buildings that had already exceeded the building height restrictions; and
- adopt the same approach of the Tsim Sha Tsui OZP by incorporating the height of existing buildings and sites with approved building plans in the OZP.

(iii) Views of Commenters (C3, C7, C17-C29, C33, C52-C230, C301-C346, C350-C403)

- supported the imposition of building height restrictions and opposed the proposed redevelopment at the Seymour Road/Castle Steps site;
- the Mid-levels West Area was suffering from traffic congestion, dense living environment and poor air ventilation. More sky-high buildings would worsen the “wall effect” and health problems; and
- the local character should be maintained.

(iv) PlanD's Responses

- the building height restrictions were formulated after taking into account various factors and it had struck a balance between public aspirations for a better living environment and private development rights;
- the area was predominantly residential in nature which was significantly different in character from the high-rise commercial node covered by the Tsim Sha Tsui OZP. In order to retain the local character of the area, a different approach from that of Tsim Sha Tsui was adopted for the Mid-levels West OZP. The incorporation of the height of approved schemes for individual sites onto the OZP would jeopardize the integrity of the overall stepped building height concept;
- permitting building heights of 40-50 storeys would require an increase in the height bands within the “R(A)” zone by 30-40 metres which would jeopardize the integrity of the overall stepped building height concept. Such excessively tall buildings along the narrow Seymour Road and Castle Road would worsen the canyon effect, blocking the wind and sunlight from penetrating to the street level, and adversely affect the local environment;
- further relaxation of the building height restrictions for existing buildings which already exceeded the height limits were considered undesirable unless under exceptional circumstances;
- public consultation was only held after the exhibition of the OZPs in order to avoid the pre-mature release of information which could prompt building plan submissions and hence would nullify the effectiveness of the building height controls. The publication of the OZP itself was part of the statutory public consultation process as it allowed public representations to be heard. Moreover, the Central & Western District Council was consulted on the proposed amendments to the OZP during

- the plan exhibition period;
  - the findings of the air ventilation assessment were available for public viewing in PlanD’s website while the visual impacts of the proposed building height bands were available for public inspection at PlanD’s Public Enquiry Counters; and
  - the representation site was subject to a number of on-going appeal and judicial review cases. The rezoning of the “R(C)7” portion of the site was inappropriate as the development could be built up to the maximum permissible under the Building (Planning) Regulations should the scheme allowed by the Town Planning Appeal Board be set aside by the court.
- (e) for the representations relating to the Seymour Road/Castle Road/Caine Road sites (R242-R244), the grounds of representations, the representers’ proposals, and PlanD’s responses were summarized as follows:
- (i) Grounds of Representation
    - new buildings would be limited to 90-95 metres in height which was much lower than many existing and proposed developments with approved schemes of 40-50 storeys;
    - the criteria for minor relaxation of building height restrictions for sites where the existing building height had already exceeded the height restrictions was too harsh and unnecessary;
    - there was no public consultation and a lack of information on the rationale behind the proposed building height restrictions and the visual impact analysis;
    - the air ventilation assessment had been a significant factor in determining the building height restrictions but the assessment was not available for the public to comment on; and
    - there was no justification for imposing the 27 building height bands.
  - (ii) Representers’ Proposal
    - the building height restrictions for the three representation sites

R242 to R244 should be relaxed to 230mPD;

- replace the 27 height bands proposed with 7 height bands at 140mPD, 170mPD, 200mPD, 230mPD, 260mPD 290mPD and 320mPD respectively;
- allow building heights of 40-50 storeys or up to 160 metres above formation level; and
- delete paragraph 7.6 of the Explanatory Statement referring to minor relaxation of building height.

(iii) PlanD's Responses

- same as those for R241;
- piecemeal uplifting of the building height restrictions for individual sites would jeopardize the integrity of the overall building height concept;
- the 27 building height bands were formulated comprehensively based on a stepped height concept which had taken various factors into consideration to appropriately reflect the local character, general site situations (including the significant differences in site levels), air ventilation, and had struck a balance between public aspirations for a better living environment and private development rights. There were no justifications provided by the representers to support the proposed reduction of the building height bands;
- the 7 height bands proposed by the representers did not give due regard to the topography of the Area and would result in buildings on opposite sides of the main roads having the same height, despite different site levels. Moreover, the fewer height bands would adversely affect air ventilation in terms of the downwash effect to street level that could be achieved under the building height restrictions imposed on the OZP; and
- the blanket proposal of 160 metres above formation level within the Mid-levels West area would result in building heights breaching the 20% building free zone of the ridgeline and infringing upon the waterbody to be preserved when viewed from the Peak to the Harbour, which was undesirable

from the urban design perspective.

76. At the end of the presentation, Ms. Brenda Au showed a “fly-through” animation of the Mid-levels West area that demonstrated the overall impact to the area if the building height restrictions were relaxed as proposed by the representers. She also presented a slide showing the reduced “sky view” as seen from the street level along Seymour Road if building heights were relaxed to 160 metres above formation level as proposed by R242 and R244.

77. The Chairman then invited the representers and commenters and their respective representatives to elaborate on the representations.

Representation No. R189

78. Mr. Patrick M.V. Carter, a resident of Merry Terrace, made the following main points:

- (a) the argument that height restrictions would improve the environment was vague. While the existing older buildings were shabby and provide no greenery, new developments would often bring improvement to the environment as they would provide trees and other green features. The imposition of building height restrictions would deter the intention to redevelop;
- (b) he had doubt on how the “the integrity of the overall building height concept” was beneficial to the public as the height restrictions would devalue the land use of the site;
- (c) according to Plan Nos. H-5 to H-9b of the Paper, the redevelopment of Merry Terrace up to a 50-storey development would not intrude into the ridgeline of the Peak nor affect the views from the Peak;
- (d) the development of taller, slimmer buildings would improve air quality as the existing buildings produced a wall effect which adversely affected air flow;

- (e) Seymour Road and Castle Road were both one-way roads which were wide and were not congested except during rush hours. The presence of the Mid-levels Escalator and the excellent public transport system helped a lot in reducing traffic congestion. Uplifting the building height restrictions would allow developments to provide lay-bys and space for road widening to ease the traffic flow;
- (f) the building height restrictions would reduce high-rise developments and hence the ability of the Mid-levels West Area to absorb Hong Kong's ever increasing population. If the population were not housed in the Mid-levels, they would be displaced to the New Territories which would require new roads and services to be built and cause adverse environmental impact; and
- (g) the environmentalists and other property owners who supported the building height restrictions were serving their self-interest as they did not want to have new high-rise developments in front of their own properties.

Representation No. R233

79. Ms. Lai Po Chun made the following main points:

- (a) the building height restrictions were not fair to the owners whose properties were not subject to such restrictions under the lease;
- (b) the building height restrictions had sacrificed the interests of the owners of Merry Terrace (the representation site) for the interest of property owners behind the representation site; and
- (c) it was unfair that some sites in the surrounding area were allowed to be developed beyond the building height restrictions stipulated on the OZP.

Representation No. R241

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

- (a) the representation site was located in a high-rise neighbourhood and the planning intention of the area was for high-rise developments;
- (b) the proposed building height restriction should respect the existing building height profile and character of the area;
- (c) the building height restriction of 215mPD applied to the general area was unrealistic as it was much lower than the height of the existing buildings such as Robinson Place (268mPD) and Goldwin Heights (233mPD) and the redevelopment proposal for Merry Terrace (approved building plans up to 266mPD);
- (d) relaxing the building height restriction of the representation site (i.e., the site at 2A-2E Seymour Road/23-29 Castle Road/4-6A Castle Steps) to the building height of the scheme approved by the Board (i.e. 273.55mPD) would not affect the 20% building free zone of the ridgeline;
- (e) the Board should follow the approach adopted for the Tsim Sha Tsui OZP where the building height restrictions took into account the building height of developments with approved development schemes and approved building plans;
- (f) the “R(C)7” zoning of the representation site should be removed as the original access problem affecting the “R(C)7” portion of the site had been overcome by the amalgamation of the site. The Board should be consistent as it had rezoned a similar site (Amendment L on the OZP) where the access problem had also been overcome; and
- (g) the Board should exclude from its consideration of the representation any information presented in the “fly through” and the “Sky View” drawing included in PlanD’s powerpoint presentation as the representers had not seen such information before the hearing.

Representation No. R242, 243 and 244

81. With the aid of a powerpoint presentation, Mr. Ian Brownlee made the

following main points:

- (a) the three representation sites were existing old buildings surrounded by high-rise developments;
- (b) all three sites had approved building plans where, upon redevelopment, the site coverage of the buildings would only reach 20%, 22% and 33%. They would be taller, more slender buildings than the existing buildings and would allow better air ventilation;
- (c) the large number of height bands proposed in the area was not justified. The Board should consider the representers' proposal to reduce the number of height bands from 27 to 7;
- (d) the three representation sites should be included in a height band of 230mPD to provide more design flexibility and to better reflect the building height of the approved building plans; and
- (e) the criteria for minor relaxation of building height restrictions for buildings which had already exceeded the building height restrictions under exceptional circumstances was unfair as any proposal for minor relaxation should be considered on its own merits.

Representation No. R263

82. The Chairman noted that Mr. Henry Mok had left the meeting already but had tabled a letter that elaborated on his representation to the Board.

Commenter No. C17

83. Mr. Yam Chi Fai, Chairman of the Owners' Corporation of Robinson Place, made the following main points:

- (a) it was in the public interest to impose building height restrictions in the area. Without building height restrictions, traffic, air ventilation and the general living environment would be worsened;

- (b) the existing traffic network was insufficient to cater for the increase in development in the area. The roads were narrow and congested and any further development would aggravate the traffic problem and could delay the access of fire appliances. Traffic congestion would also result in air pollution and affect public health and would in turn affect our next generation; and
- (c) there was no evidence that taller buildings would allow better ventilation. Without building height restrictions, developers would continue to build taller buildings to maximise their profits, resulting in no breathing space in the area.

[Mr. Benny Wong left the meeting temporarily at this point.]

Commenter C3

84. Ms. Lau Wai Sze, a resident of Robinson Place, made the following main points:

- (a) traffic congestion in the area was very serious as Robinson Road and Caine Road were very congested. The air quality in the area was also poor; and
- (b) any relaxation of building height restrictions would only worsen these two existing problems and adversely affect the living quality of residents in the area.

Commenter C24

85. With the aid of some photographs, Ms. Elina Li, a resident of Goldwin Heights, made the following main points:

- (a) traffic congestion in Mid-levels West was already very serious. The problem was compounded by the parking of coaches near Sun Yat Sen Museum; and
- (b) the proposed development at the Seymour Road/Castle Steps site would

provide more than 100 car parking spaces. This would attract more vehicles to the area and worsen the traffic congestion problem. Government departments should carry out a traffic impact assessment (TIA) itself instead of relying on the submission of TIA from the developers;

[Mr. Benny Wong returned to join the meeting at this point.]

- (c) slope stability in this area was questionable. The site formation works carried out at the Seymour Road/Castle Steps site had resulted in cracks appearing on some parts of Goldwin Heights; and
- (d) as a result of the development of tall buildings in the area, residents were not able to see the blue sky. Government should reduce the plot ratio and building height of developments in the area.

Commenter C328

86. With the aid of a powerpoint presentation and a paper which was tabled at the meeting, Ms. Wong Wai Lan who represented a group of housewives and working women, made the following main points:

- (a) they opposed the practice of developers making use of high-rise developments as a tool for making profits;
- (b) the quality of air, especially when tall buildings blocked the natural wind, would deteriorate when there was a high-rise development in the area. According to some Japanese researchers, air pollution was directly correlated to the height of buildings in the area. The high-rise development would create a canyon effect especially when the roads were narrow, as in the Mid-levels West area;
- (c) the development of new high-rise buildings in the Mid-levels West area would result in significant increase in population and hence, the traffic in the area. This would worsen the traffic congestion and air pollution problems. Therefore, they objected strongly to permit additional

high-rise developments in the Mid-levels West area;

- (d) the Mid-levels West was generally a sloping area with steep downhill slopes which increased the risk to road users. High-rise developments would bring about a high density of population which would further increase the risks to road safety;
- (e) the increase in traffic as a result of high-rise developments would also adversely affect the access of fire appliances in case of emergencies as the roads in the area were narrow and only allowed one-way traffic;
- (f) the problems of water supply and leakage were not uncommon in high-rise developments as they were built in a rush; and
- (g) the argument that high-rise developments were needed to house the increasing population was flawed as the population was actually declining and there was no need to build more high-rise buildings.

Commenter C351

87. Mr. Huang Song made the following main points:

- (a) traffic congestion problem was serious in the Mid-levels West area and it was in the public interest not to permit further high-rise developments in the area;
- (b) the Government should improve people's quality of life and should reduce the building height and plot ratio of future developments; and
- (c) the renovation of existing old buildings instead of redevelopment could also achieve the benefits of environmental improvement.

Commenter C376

88. With the aid of a few photographs and a paper which was tabled at the meeting, Mr. Au Yeung Ka Chai made the following main points:

- (a) the poor air quality in the urban area was caused by high-rise buildings which created wall effect and affected air ventilation;
- (b) the road system in the Mid-levels West area could not cope with further developments as there was not enough space to allow for road widening; and
- (c) the traffic congestion problem was serious in the Mid-levels West area and it was in the public interest not to permit further high-rise developments in the area.

Commenter C403

89. Ms. Chung Pui Lan, a representative of the Owners' Corporation of Robinson Place, made the following main points:

- (a) the building height restrictions were a reasonable set of controls on existing developments. Similar to bus-only lanes which regulated the flow of traffic, building height restrictions provided a reasonable regulatory framework to balance between the right of property owners to develop and the aspirations of the public for a better living environment and their right to enjoy public space;
- (b) the existing building height of Robinson Place should be not taken as the standard when determining the building height restrictions for the surrounding area. We should look forward when planning for building height restrictions and take into account the latest public aspirations instead of clinging on to the building heights that had been approved in the past;
- (c) according to academics, town planning was about how to optimise the use of land and in the process, town planning would need to consider the divergent impact of the development on the environment and on the community. As such, it was the duty of town planners to strike a balance between development and environmental protection;

- (d) the Mid-levels West area was already over-developed. Since 1972, the Government had imposed a moratorium on land grants and lease modifications in the Mid-levels West area to prevent further developments in the area and to the traffic congestion problem. This showed that traffic congestion had been a long-standing problem affecting Mid-levels West;
- (e) on the proposed rezoning of the “R(C)7” portion of the site at Seymour Road/Castle Steps to “R(A)”, since the site was the subject of an Appeal case and two Judicial Review cases which were still on-going, it would be pre-mature for the Board to consider the proposed rezoning of the site at this moment in time; and
- (f) the proposed building height restrictions were a reasonable set of controls which did not adversely affect the development rights of property owners and developers.

90. As the presentations from the representers and commenters had been completed, the Chairman invited questions from Members.

91. A Member asked whether the Central and Western District Council was consulted on the building height restrictions for the area covering the representation sites. In response, Ms. Brenda Au explained that the Central & Western District Council was consulted on the proposed building height restrictions covering the Mid-levels West Planning Scheme Area. The District Council supported in general the imposition of building height restrictions for the Mid-levels West OZP.

[Prof. Bernard Lim left the meeting temporarily at this point.]

92. Ms. Lai Po Chun made an additional remark that the building height restrictions had affected the property right of owners as Merry Terrace was originally zoned “R(A)” with no building height restrictions. She considered that it was unfair to sacrifice their development right for the sake of improving the air quality of the urban area. She cast doubt on whether the imposition of building height restrictions in the Mid-levels West area could help resolve the air quality problem. Besides, she said that the traffic

congestion problem in the Mid-levels West area was already much alleviated by the Mid-levels Escalator.

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

#### Deliberation Session

94. Members noted that the views presented by the representers and commenters reflected the conflicting interests of the property owners of the representation sites, and the residents and property owners of the surrounding development sites. The divergent views raised by both parties regarding the impact of the building height restrictions showed that a balance had to be struck.

95. After further discussion, Members were generally of the view that after considering the views expressed by the representers and the commenters and the relevant factors, the building height restrictions for the Mid-levels West Area covering the representation sites were appropriate. There was no strong justification to relax the building height restrictions as proposed by some of the representers. To strengthen the effectiveness of the proposed building height restrictions, Members also agreed to amend the Explanatory Statement of the OZP as suggested in paragraph 6.1 of the Paper to expressly encourage the provision of improvement measures for better air ventilation in future developments.

#### Representation Nos. R189 to R233, R235 and R263

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

- (a) the building height restrictions on the Mid-levels West OZP were formulated based on an overall building height concept and other considerations including local character, relationship with the adjoining districts,

development potential, visual impact, protection of ridgeline and air ventilation. Deletion or piecemeal relaxation of the building height restrictions of individual sites would jeopardize the integrity of the overall building height concept and could result in proliferation of high-rise developments, which was not in line with the intended planning control. The building height restrictions were imposed in the public interest and had struck a proper balance between public aspirations for a better living environment and private development rights;

- (b) development proposals approved by the Board or approved general building plans would not be affected by the building height restrictions;
- (c) to cater for site-specific circumstances, there was provision for application for minor relaxation of building height restriction under the OZP. Further relaxation of the building height restrictions for existing buildings that had already exceeded the building height restrictions should not be encouraged unless under exceptional circumstances. 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; and
- (d) the amendments to the OZP mainly involved the incorporation of building height restrictions and no new plot ratio restrictions had been imposed on the “R(A)” and “R(C)7” zones. The building height restrictions were intended to avoid future developments with excessive height, the development potential as permissible under the B(P)R of the sites would not be affected.

Representation No. R241

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

- (a) the building height restrictions on the Mid-levels West OZP were formulated based on an overall building height concept and other considerations including local character, relationship with the adjoining districts, development potential, visual impact, protection of ridgeline and air

ventilation. Deletion or piecemeal relaxation of the building height restrictions of individual sites would jeopardize the integrity of the overall building height concept and could result in proliferation of high-rise developments, which was not in line with the intended planning control. The building height restrictions were imposed in the public interest and had struck a proper balance between public aspirations for a better living environment and private development rights;

- (b) development proposals approved by the Board or approved general building plans would not be affected by the building height restrictions;
- (c) to cater for site-specific circumstances, there was provision for application for minor relaxation of building height restriction under the OZP. Further relaxation of the building height restrictions for existing buildings that had already exceeded the building height restrictions should not be encouraged unless under exceptional circumstances. 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;
- (d) the amendments to the OZP mainly involved the incorporation of building height restrictions and no new plot ratio restrictions had been imposed on the “R(A)” and “R(C)7” zones. The building height restrictions were intended to avoid future developments with excessive height, the development potential as permissible under the B(P)R of the sites would not be affected;
- (e) the amendments to the Mid-levels West OZP involved the imposition of building height and development restrictions. It was inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt submission of development proposals before statutory planning control was in place and it would nullifying the effectiveness of the development control. There was a due process under the Town Planning Ordinance for representations to be submitted and considered by the Board; and

- (f) although general building plans for development of the site covering the “R(A)” and “R(C)7” zones, and for separate development for the “R(A)” and “R(C)7” zones had been approved, the “R(C)7” zone should be retained. It was because should the “R(C)7” zone be rezoned to “R(A)”, redevelopment and development up to the maximum development intensity permissible under the B(P)R could proceed without suitable planning control.

Representation No. R242 to R244

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

- (a) the building height restrictions on the Mid-levels West OZP were formulated based on an overall building height concept and other considerations including local character, relationship with the adjoining districts, development potential, visual impact, protection of ridgeline and air ventilation. Deletion or piecemeal relaxation of the building height restrictions of individual sites would jeopardize the integrity of the overall building height concept and could result in proliferation of high-rise developments, which was not in line with the intended planning control. The building height restrictions were imposed in the public interest and had struck a proper balance between public aspirations for a better living environment and private development rights;
- (b) development proposals approved by the Board or approved general building plans would not be affected by the building height restrictions;
- (c) to cater for site-specific circumstances, there was provision for application for minor relaxation of building height restriction under the OZP. Further relaxation of the building height restrictions for existing buildings that had already exceeded the building height restrictions should not be encouraged unless under exceptional circumstances. 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;

- (d) the amendments to the OZP mainly involved the incorporation of building height restrictions and no new plot ratio restrictions had been imposed on the “R(A)” and “R(C)7” zones. The building height restrictions were intended to avoid future developments with excessive height, the development potential as permissible under the B(P)R of the sites would not be affected;
- (e) the amendments to the Mid-levels West OZP involved the imposition of building height and development restrictions. It was inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt submission of development proposals before statutory planning control was in place and it would nullifying the effectiveness of the development control. There was a due process under the Town Planning Ordinance for representations to be submitted and considered by the Board;
- (f) the 27 building height bands were formulated comprehensively and had taken various factors into consideration to appropriately reflect the local character and general site situations. The presenter had not provided any justifications to support the proposed reduction of the number of building height bands and due regard had not been given to the topography of the Area; and
- (g) allowing building height up to 160m above formation level (or up to 50 storeys) for developments within the “R(A)” zone would result in building heights ranging from 232mPD to 260mPD. This would jeopardize the integrity of the overall stepped building height concept. Such excessively tall buildings along the narrow Seymour Road and Castle Road would create adverse canyon effect, blocking the wind and also sunlight from penetrating to the street level, adversely affecting the local environment. Moreover, the blanket proposal of 160m above formation level in the “R(A)” zone within the Area would result in building heights breaching the 20% building free zone of the ridgeline and infringing upon the waterbody to be preserved when viewed from the Peak to the Harbour, which was undesirable from the urban design perspective.

**Agenda Item 4** (cont'd)

[Open Meeting (Presentation and Question Session Only)]

Consideration of Representations and Comments in Respect of the Draft Mid-levels West  
Outline Zoning Plan No. S/H11/14

**(TPB Paper No. 8215)**

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[The hearing was conducted in Cantonese and English.]

Presentation and Question Session

99. The Secretary reported that the following Members had declared interests on the item:

- |                   |                                                                         |
|-------------------|-------------------------------------------------------------------------|
| Dr. Greg Wong     | - Spouse owned a property at Babington Path                             |
| Prof. N. K. Leung | - Owned a property at Conduit Road                                      |
| Dr. Ellen Lau     | - Owned a property at Caine Road; spouse owns a property at Bonham Road |
| Mr. Walter Chan   | - Owned a property at Kennedy Road                                      |
| Mr. Rock Chen     | - Owned properties at Old Peak Road and Kennedy Road                    |
| Mr. Felix Fong    | - Owned a property at MacDonnell Road                                   |
| Mr. Leslie Chen   | - Owned a property at Park Road                                         |
| Dr. James Lau     | - Spouse owned a property at Park Road                                  |
| Mr. Donald Yap    | - Spouse owned a property at Robinson Road                              |

100. The Chairman also declared an interest as he owned a property at Lyttleton

Road. However, the meeting agreed that the Chairman should continue to chair the meeting out of necessity as the Vice-Chairman had also an interest to declare. Members noted that Prof. N. K. Leung, Mr. Leslie Chen, Mr. Donald Yap, Mr. Felix Fong and Dr. James Lau had tendered apologies for not attending the meeting. Members noted that Dr. Greg Wong, and Mr. Walter Chan had left the meeting while Dr. Ellen Lau and Mr. Rock Chen had not arrived to join the meeting.

101. Members noted that sufficient notice had been given to the representers to invite them to attend the meeting. While Representers No. R253 and R254 would attend the meeting, the other representer had made no reply. The Board agreed to proceed with the hearing in the absence of the remaining party.

[Prof. Bernard Lim returned to join the meeting at this point.]

### **Group 3**

#### **Representation Nos. R253, R254 and R255**

102. The following representatives from PlanD were invited to the meeting at this point:

Ms. Brenda Au	DPO/HK, PlanD
Ms. Phoebe Chan	STP/HK, PlanD

103. The following representative of the representers were also invited to the meeting:

#### **R253 and R254**

Mr. John Stewart	- Representers' representative
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104. 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.

105. With the aid of a Powerpoint presentation, Ms. Brenda Au made the following

main points as detailed in the Paper:

- (a) the background to the amendments to the draft Mid-levels West OZP as detailed in paragraph 1 of the Paper. This Paper covered 3 representations (Group 3) which related to the building height restrictions for three “G/IC” sites on the OZP;
  
- (b) an overview of the representations:
  - R253 and R254 were submitted by the English Schools Foundation (ESF) and they opposed the building height restriction of 8 storeys respectively for Island School at Borrett Road and Glenealy School at Hornsey Road; and
  - R255 was submitted by the Hong Kong Electric Company Limited (HKE) and it opposed the building height restriction of 13 storeys and 8 storeys respectively for the HKE Head Office and substation at 44 Kennedy Road;
  
- (c) for the two representations relating to the sites of the ESF (R253 and R254), the grounds of representations, the representers’ proposals, and PlanD’s responses were summarized as follows:
  - (i) Grounds of Representation
    - height limits should not be imposed on “G/IC” sites as it would not optimize the use of scarce resources;
    - the building height restrictions would hamper the ESF’s current infrastructure planning and possible future expansion and upgrading to cater for anticipated increase in demand;
    - other modern international schools all exceeded 8 storeys in height in order to be cost-effective; and
    - for the Island School site which was built on a slope, the building height restriction would result in serious design limitations and any future development would require substantial site formation works.
  
  - (ii) Representers’ Proposal

- delete the building height restrictions for the two representation sites.

(iii) PlanD's Response

- “G/IC” sites were intended to provide necessary “G/IC” facilities as well as spatial and visual relief to the built up area. Taking the air ventilation assessment into account, redevelopment of “G/IC” sites for more intensive development was generally not supported;
- there was already a provision for minor relaxation of the building height restrictions through planning application to the Board and such cases would be considered on their individual merits;
- the building height restrictions of 8 storeys was in line with the general requirements for a school development;
- the building height restrictions allowed a maximum of 8 storeys on different building platforms and would not constrain the school development;
- the majority of international schools on Hong Kong Island were below 8 storeys, except for a few schools which reached 9 to 16 storeys due to specific site constraints; and
- for Glenealy School, the building height restriction of 8 storeys were in line with the lease conditions which specified that the development should not exceed 24metres above the mean formation level.

- (d) for the representation site of HKE (R255), the grounds of representations, the representers' proposals, and PlanD's responses were summarized as follows:

(i) Grounds of Representation

- given the limited number of “G/IC” sites in the Area, more intensive use of the representation site was considered justified;
- the building height control was rigid and posed a major

constraint on HKE's ability to respond to the public's changing need for electricity supply in a timely manner;

- the lease of the representation site had already imposed stringent control on the height and form of development of the site; and
- the representation site was not particularly critical from the visual and air ventilation perspective.

(ii) Representers' Proposal

- delete the building height restrictions for the representation site; and
- amend the Notes for the "G/IC" zone to permit development/redevelopment up to the existing building height and to allow for relaxation of the building height restrictions upon application to the Board.

(iii) PlanD's Responses

- "G/IC" sites were intended to provide necessary "G/IC" facilities as well as spatial and visual relief to the built up area. Taking the air ventilation assessment into account, redevelopment of "G/IC" sites for more intensive development was generally not supported;
- there was already a provision for minor relaxation of the building height restrictions through planning application to the Board and such cases would be considered on their individual merits; and
- as the representation site was located near a vegetated valley in an air path identified in the air ventilation assessment, the proposal to allow relaxation of the building height restriction which were not minor in nature was not supported.

106. The Chairman then invited the representers' representative to elaborate on the representations.

107. Mr. John Stewart of the ESF tabled a letter and made the following main points:

- (a) he was pleased to note that the maximum building height of 8 storeys imposed on the two school sites of ESF was in line with the standard requirement for school developments;
- (b) he welcomed paragraph 4.13 of the Paper which stated that the proposed building height of 8 storeys could generally meet the requirements of standard schools as well as that of international schools and it had already taken into consideration the need for the future expansion of Island School. As such, ESF no longer objected to the building height restrictions imposed on the two school sites; and
- (c) ESF noted that there was a stark contrast between the building height restrictions imposed on the King George V School site on the draft Ho Man Tin OZP No. S/K7/19 and the building height restriction imposed on the subject representation sites. He requested the Board to note the concern of ESF on the issue of apparent inconsistency when reviewing building height restrictions beyond the guidelines issued by the Education Bureau.

108. As the representers' representative had finished his presentation and Members had no questions to raise, the Chairman said that the hearing procedures had been completed and the Board would deliberate on the representations in their absence and would inform them of the Board's decision in due course. The Chairman thanked the representers' and the Government's representatives for attending the hearing. They all left the meeting at this point.

#### Deliberation Session

109. A Member noted that according to the Education Ordinance, the maximum height of a school should not exceed 24 metres. As such, the proposed building height restriction of 8 storeys as stipulated on the OZP was already more than enough for a school development.

110. Members also noted that the building height restriction imposed on the King George V School site was different as the Board considered that there was a need to preserve the existing setting of the immediate environs of the school building which was a historical building.

111. After further discussion, Members generally were of the view that after considering the views of representers and the relevant factors, the building height restrictions for the Mid-levels West Area covering the representation sites were appropriate. There was no strong justification to relax the building height restrictions as proposed by the representers.

Representation No. R253 and 254

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

- (a) apart from providing G/IC facilities, the “G/IC” sites in the Area form major visual relief and breathing spaces to the built-up area. It was recommended in the air ventilation assessment study that building height restrictions should be imposed on “G/IC” sites to contain their development scale. In order to preserve the openness and existing character of the “G/IC” sites, the building height restrictions for the “G/IC” sites were mainly to reflect and contain the existing building heights. Deletion of the building height restrictions or allowing relaxation of the building height restrictions beyond a minor extent for the subject representation sites could result in proliferation of high-rise developments, and was not in line with the intended planning control for the “G/IC” zone. It might also set an undesirable precedent, which would cumulatively jeopardize the spatial and visual relief function of the “G/IC” zone in the Mid-levels West area;
- (b) the 8-storeys height restrictions for the two school sites were in line with the standard requirement for school developments and was well above the height of existing school buildings which provided room for future expansion; and

- (c) to cater for site-specific circumstances, there was provision for application for minor relaxation of BH restriction under the OZP. Should there be any functional or operational needs for G/IC developments to exceed the stipulated building height restrictions, planning permission from the Board might be sought. Each application would be considered by the Board on its individual merits.

Representation No. R255

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

- (a) apart from providing G/IC facilities, the “G/IC” sites in the Area form major visual relief and breathing spaces to the built-up area. It was recommended in the air ventilation assessment study that building height restrictions should be imposed on “G/IC” sites to contain their development scale. In order to preserve the openness and existing character of the “G/IC” sites, the building height restrictions for the “G/IC” sites were mainly to reflect and contain the existing building heights. Deletion of the building height restrictions or allowing relaxation of the building height restrictions beyond a minor extent for the subject representation sites could result in proliferation of high-rise developments, and was not in line with the intended planning control for the “G/IC” zone. It might also set an undesirable precedent, which would cumulatively jeopardize the spatial and visual relief function of the “G/IC” zone in the Mid-levels West area; and
- (b) to cater for site-specific circumstances, there was provision for application for minor relaxation of BH restriction under the OZP. Should there be any functional or operational needs for G/IC developments to exceed the stipulated building height restrictions, planning permission from the Board might be sought. Each application would be considered by the Board on its individual merits.

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

114. As the hearing had been completed, a Member pointed out an issue of interest raised by REDA which he wanted the Board to discuss. The issue concerned the technical basis of the air ventilation assessment (AVA) upon which the building height restrictions were derived. He was of the view that although the AVA was an important technical tool which was used in the process of determining the building height restrictions, it was only one of the factors for consideration. The proposed building height restrictions covering the OZP were formulated based on a number of planning considerations including inter alia the urban design principles, the character of the area, its relationship with adjoining districts, and public aspirations for a better living environment.

115. The same Member pointed out that given the reactions from different sectors of the society on the imposition of building height restrictions on the OZP, it would be worthwhile to engage the professional institutes and other stakeholders earlier in the process to exchange views on the principles in formulating building height restrictions. The Chairman agreed and said that discussions with stakeholders had been conducted on planning and urban design studies such as the Hung Hom District Study and the Central Waterfront study.

116. Regarding REDA's query on the lack of special mandate from CE in C to the proposed amendments to the draft Mid-levels West OZP No. S/H11/14 as exhibited under section 5 of the Town Planning Ordinance on 20.3.2008, Mrs. Ava Ng pointed out that after the OZP was referred to the Board for amendments by CE in C, amendments other than those included at the time of reference back to reflect the latest land use proposals would also be made to the OZP. Such action had been covered in the submission to CE in C. Moreover, CE had announced in his Policy Address in 2007 that it was the Government policy to review the OZPs of various districts and, where justified, review the relevant planning parameters to lower the development density. The Secretary added that the Board would need to conclude all the procedures required under the Town Planning Ordinance for amending the OZP before the OZP was submitted to the CE in C for approval. For the Mid-levels West OZP, as the Plan had yet to complete the statutory plan-making procedures when the new policy to review relevant planning parameters of OZPs was announced in 2007, it was the duty of the Board to further amend the OZP and incorporate the building height restrictions before a submission would be made to CE in C, even though such an amendment was not proposed when the CE in C referred the OZP back to the Board

in 2003.

117. On the other issues raised by REDA regarding the lack of consultation prior to the gazetting of the OZP, the approach to respect existing and approved/committed building height, as well as the deprivation of private property rights of flat owners, they were already dealt with in the earlier presentation and discussion of the representations and comments.

**Agenda Item 5**

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/SK-PK/158

Proposed 2-storey House in “Residential (Group D)” zone, Lot 1030 in DD221, Kap  
Pin Long New Village, Sai Kung

(TPB Paper No. 8216)

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[The hearing was conducted in Cantonese.]

Presentation and Question Session

118. Mr. Alfred Lau, District Planning Officer/Sai Kung & Islands (DPO/SKIs) of the Planning Department (PlanD) and the following applicant’s representatives were invited to the meeting at this point.

Mr. Thomas Tsang

Mr. Yip Chak Yu

119. The Chairman extended a welcome and explained briefly the procedures of the review hearing. The Chairman then invited Mr. Alfred Lau to brief Members on the background of the application.

120. With the aid of a powerpoint presentation, Mr. Alfred Lau did so as detailed in the Paper and made the following main points:

(a) the applicant sought planning permission for the development of a

2-storey (6m) house with a proposed minor relaxation of plot ratio from 0.2 to 0.36 at the application site which was within an area zoned “Residential (Group D)” (“R(D)”) on the Pak Kong and Sha Kok Mei OZP;

- (b) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the application on 18.7.2008 were set out in paragraph 1.2 of the Paper;
- (c) no further written submission in support of the review was submitted by the applicant;
- (d) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper. The Chief Town Planner/Urban Design and Landscape, PlanD had reservations on the application from the landscape planning point of view as there was insufficient information to demonstrate that the existing vegetation would be preserved and that the development would not cause adverse impact on the existing landscape character;
- (e) public comments – there was 1 public comment from a Sai Kung District Council member who queried whether the proposed development would affect an existing footpath which was frequently used by the local residents; and
- (f) PlanD’s view – PlanD did not support the application for the reasons stated in paragraph 7.1 of the Paper. The development was not in line with the planning intention of “R(D)” zone which was for improvement and upgrading of existing temporary structures within rural areas through redevelopment into permanent buildings. The proposed relaxation of plot ratio from 0.2 to 0.36 was not considered to be minor in scale. There was no strong justifications to merit a departure from the planning intention and approval of the application would set an undesirable precedent for other similar applications within the “R(D)” zone.

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

121. The Chairman then invited the applicant's representatives to present. Mr. Thomas Tsang tabled a letter and made the following main points:

- (a) the applicant had a family member who was handicapped. The family wanted to live together and, as such, needed a bigger house to enable the handicapped member to live on the ground floor;
- (b) making reference to a plan he produced to show the distribution of village houses that were 700 sq ft in size in the area, he pointed out that there were about 150 village houses and that it was the norm for a private house in the rural areas to be developed up to a floor area of 700 sq ft (i.e. 65m<sup>2</sup>). The building proposal was reasonable and was an optimum use of scarce land resources;
- (c) there was a similar application (No. A/SK-PK/21) for a 2-storey house development which was approved by the Board; and
- (d) due to the small scale of the proposed development, the percentage increase in GFA appeared to be rather large. However, the actual increase in GFA was in fact very small.

122. A Member enquired about the ownership of the application site which involved an existing footpath. Mr. Thomas Tsang replied that the applicant was the land owner of the application site and the applicant was willing to re-provision the footpath on a piece of Government land adjoining the site.

123. The Chairman asked about the difference between the similar application approved by the Committee (No. A/SK-PK/21) and the current application. Mr. Alfred Lau explained that the application No. A/SK-PK/21 was for the redevelopment of an existing 1-storey domestic structure into a 2-storey village house and the proposal was considered in line with the planning intention of the "R(D)" zone which encouraged redevelopment of existing structures. The Secretary added that the application site of application No. A/SK-PK/21 involved a building lot while the current application site was

an old scheduled agricultural lot.

124. A Member asked if the new footpath to be reprovisioned would require the felling of trees. With the aid of Plan A-6, Mr. Alfred Lau explained that the realigned footpath would not involve tree felling. Mr. Thomas Tsang added that the footpath would run across a piece of flat land with no trees.

125. The Chairman asked if the proposed increase in plot ratio from 0.2 to 0.36 would be considered as minor and whether there were any guidelines on the extent of relaxation that could be allowed. Mr. Alfred Lau explained that there were no guidelines on what would constitute a minor relaxation and it would depend on the impact created by the proposed relaxation. However, according to the Notes and Explanatory Statement of the OZP, any application for minor relaxation should be considered based on the individual merits of the proposal.

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

#### Deliberation Session

127. A Member commented that the site was not a convenient location for a handicapped person. In response to another Member's question on whether compassion was a valid ground of consideration, the Secretary explained that it would be a planning consideration if disapproval of the application would cause hardship to the applicant. Members considered that the subject application would not be a case of hardship. A few Members said that the housing need of the applicant was not well justified.

128. In response to a Member's query on whether the proposed relaxation of plot ratio from 0.2 to 0.36 could be considered as minor, the Secretary explained that apart from the percentage increase, the associated impacts and the merits of the proposed relaxation would all have to be taken into consideration. For the subject application, the 80%

increase was not minor though the actual GFA increase was not significant. Moreover, approval of this application could set an undesirable precedent and the cumulative impact of approving similar applications would be significant.

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

- (a) the development was not in line with the planning intention of the “Residential (Group D)” zone which was for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. The proposed relaxation of plot ratio from 0.2 to 0.36 was not considered to be minor in scale. No strong justifications had been provided in the submission to merit a departure from the planning intention; and
- (b) the approval of the application would set an undesirable precedent for other similar applications within the “Residential (Group D)” zone. The cumulative effect of approving such applications would have adverse impact on the infrastructural provision in the area.

### **Agenda Item 6**

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/TP/406

Proposed House Development (New Territories Exempted House – Small House)

in “Green Belt” zone, Lot 311RP in DD 14, Tung Tsz Village, Tai Po

(TPB	Paper	No.	8217)
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[The meeting was conducted in Cantonese.]

### **Presentation and Question Session**

130. Mr. Hui Wai Keung, District Planning Officer/Sha Tin, Tai Po and North

(DPO/STN) of the Planning Department (PlanD) and the following applicant's representative were invited to the meeting at this point.

Mr. John Lo Chung Yiu

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

132. With the aid of some plans and photos, Mr. Hui Wai Keung did so as detailed in the Paper and made the following main points:

- (a) the applicant sought planning permission for a proposed house (New Territories Exempted House (NTEH) – Small House) at the application site which fell within an area zoned “Green Belt” (“GB”) on the Tai Po OZP;
- (b) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the application on 18.7.2008 were set out in paragraph 1.2 of the Paper;
- (c) justifications in support of the review application had been submitted by the applicant and were set out in paragraph 3 of the Paper;
- (d) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper. The Chief Town Planner/Urban Design and Landscape, PlanD objected to the application from the landscape planning point of view as the development was against the planning intention of the “GB” zone. The Director of Agriculture, Fisheries and Conservation also had reservation on the proposal from the nature conservation point of view;
- (e) public comments – during the statutory publication period of the review application, no public comment was received; and

- (f) PlanD's view – PlanD did not support the application for the reasons as stated in paragraph 7 of the Paper. The development was not in line with the planning intention of “GB” zone where there was a general presumption against development, and there was no strong justification for a departure from the planning intention. In addition, land was still available in the “V” zones and the applicant had not provided sufficient information to demonstrate that he could not acquire land within the “V” zone for Small House development. No previous planning permission was granted for Small House development on the western part of Tung Tsz Road.

[Prof. Bernard Lim left the meeting at this point.]

133. The Chairman then invited the applicant's representative to elaborate on the application and Mr. John Lo made the following main points:

- (a) the applicant had applied to the District Lands Office for a small house development on the site in 1996, which was before the site was zoned “GB” on the OZP in 2000;
- (b) most Government departments had no objection to the application;
- (c) it was unfair to the applicant that a large car park was permitted on a site to the north of the applicant site while his application was disapproved; and
- (d) there were three similar applications for Small House development within “GB” zones in Tong Kung Leng approved by the Committee. These were submitted to the DLO before the concerned sites were rezoned to “GB” on the OZP.

134. In response to the Chairman's enquiry, Mr. Hui Wai Keung clarified that the application site was zoned “GB” on the Tai Po OZP in the early 1980's and the zoning remained unchanged. As such, the applicant's claim that the submission of the small house application to the District Lands Office was made before the site was zoned “GB” was

incorrect.

135. Mr. Hui Wai Keung further explained that the three applications (Nos. A/NE-KTS/241, A/NE-KTS/242, and A/NE-KTS/243) mentioned by the applicant's representative were located in the village of Tong Kung Leng within the Kwu Tung South OZP. In considering the three applications, it was noted that there was a severe shortage of land within the "V" zone in Tong Kung Leng Village to satisfy the demand for Small House by indigenous villagers, whereas under the current application, the shortage of land in the "V" zone of Tung Tsz Village was minor. Regarding the car park located to the north of the application site, Mr. Hui Wai Keung indicated that no planning permission had been obtained for the car park use. However, as the site was within the Tai Po OZP, no enforcement could be carried out by the Planning Authority.

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

#### Deliberation Session

137. A Member said that giving approval to the application would set an undesirable precedent for similar applications. Members also noted that it was the intention of the Board to contain village house developments to the east of Tung Tsz Road and to keep the western side of Tung Tsz Road as green belt.

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

- (a) the proposed house (NTEH – Small House) was not in line with the planning intention of the "Green Belt" zone which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a

general presumption against development within this zone. There was insufficient information in the submission to justify a departure from the planning intention; and

- (b) the approval of the application would set an undesirable precedent for other similar applications within the “Green Belt” zone to the west of Tung Tsz Road. The cumulative effect of approving such applications would result in a general degradation of the natural environment.

### **Agenda Item 7**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments in respect of the Draft Tuen Mun Outline Zoning Plan No. S/TM/24

(TPB	Paper	No.	8218)
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[The meeting was conducted in Cantonese.]

139. The Secretary said that Mr. Tony Kan had declared interests in this item as his company owned properties in the Tuen Mun area. Members noted that Mr. Tony Kan had left the meeting.

140. The Secretary briefly introduced the paper. On 4.7.2008, the draft Tuen Mun Outline Zoning Plan (OZP) No. S/TM/24 was exhibited for public inspection under section 7 of the Town Planning Ordinance. A total of 2 representations and 4 comments were received. In view of the small number of representations, it would be more efficient for the full Board to hear the representations without resorting to the appointment of a Representation Hearing Committee. As the representations were related to the same amendment item, they should be considered collectively at the same meeting. The hearing could be accommodated in the Board’s meeting scheduled for 12.12.2008 and a separate hearing session would not be necessary.

141. After deliberation, the Board agreed that the representations and comments

should be considered in the manner as proposed in paragraphs 2.1 and 2.2 of the Paper.

**Agenda Item 8**

[Open Meeting]

Information Notes and Hearing Arrangement for Consideration of Representations and Comments in respect of the Draft Tseung Kwan O Outline Zoning Plan No. S/TKO/16

(TPB Paper No. 8219)

[The meeting was conducted in Cantonese.]

142. The Secretary reported that on 13.6.2008, the draft Tseung Kwan O Outline Zoning Plan No. S/TKO/16 was exhibited for public inspection under section 5 of the Town Planning Ordinance. A total of 866 representations and 57 comments were received. As the amendments had attracted wide public interest, it was considered more appropriate for the Board to hear the representations and comments itself without resorting to the appointment of a Representation Hearing Committee. The hearing could be accommodated in the Board's meeting scheduled for 28.11.2008 and conducted collectively under four groups, including:

- (a) Group 1 – 857 representations and 36 related comments mainly on the high density development in Tseung Kwan O and the proposed development of a public housing estate in Area 65;
- (b) Group 2 – 4 representations and 33 related comments mainly on the “Open Space (1)” zoning of a site in Area 45;
- (c) Group 3 – 5 representations and 2 related comments mainly on the deletion of the proposed Town Centre Link from the OZP; and
- (d) Group 4 – an individual representation mainly on the “Other Specified Uses” annotated “Toll Plaza, Ventilation Building and Associated Facilities” zoning.

143. After deliberation, the Board agreed that the representations and comments should be considered in the manner as proposed in paragraphs 2.1 and 2.2 of the Paper.

**Agenda Item 9**

[Open Meeting]

Submission of the Draft The Peak Area Outline Zoning Plan No. SH14/8A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance

(TPB	Paper	No.	8227)
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144. The Secretary briefly introduced the paper.

145. After deliberation, the Board:

- (a) noted that no further representation to the proposed amendments to the Plan was received. In accordance with section 6G of the Ordinance where no further representation was made, the Plan should be amended by the proposed amendments;
- (b) agreed that the draft The Peak Area Outline Zoning Plan (OZP) No. S/H14/8A together with its Notes at Annex II and Annex III of the Paper were suitable for submission under section 8 of the Ordinance to the Chief Executive in Council (CE in C) for approval;
- (c) endorsed the updated Explanatory Statement (ES) for the draft The Peak Area OZP No. S/H14/8A at Annex IV of the Paper as an expression of the planning intention and objectives of the Board for various land-use zones on the draft OZP and issued under the name of the Board; and
- (d) agreed that the updated ES for the draft The Peak Area OZP No. S/H14/8A was suitable for submission to CE in C together with the draft OZP.

**Agenda Item 12**

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

146.           There being no other business, the meeting was closed at 6:30 p.m.