

**Minutes of 926th Meeting of the  
Town Planning Board held on 12.12.2008**

**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. David W.M. Chan

Mr. Leslie H.C. Chen

Mr. Tony C.N. Kan

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Mr. Alfred Donald Yap

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Dr. James C.W. Lau

Mr. K.Y. Leung

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Mr. Tony Lam

Assistant Director (2), Home Affairs Department

Mr. Andrew Tsang

Deputy Director of Environmental Protection

Mr. Benny Wong

Director of Lands

Miss Annie Tam

Director of Planning

Mrs. Ava Ng

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

**Absent with Apologies**

Professor David Dudgeon

Mr. Edmund K.H. Leung

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Mr. Felix W. Fong

Professor Paul K.S. Lam

Ms. Starry W.K. Lee

Professor Edwin H.K. Chan

Mr. Rock C.N. Chen

Dr. Ellen Y.Y. Lau

Mr. Maurice W.M. Lee

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

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  
Miss Vivian M.F. Lai (a.m.)

Town Planner/Town Planning Board  
Ms. Doris S.Y. Ting (p.m.)

**Agenda Item 1**

[Open Meeting]

Confirmation of Minutes of the 924th Meeting held on 28.11.2008

[The meeting was conducted in Cantonese.]

1. The minutes of the 924th meeting held on 28.11.2008 were confirmed without amendments.

**Agenda Item 2**

[Closed Meeting]

Matters Arising (a) and (b)

2. The two items were reported under separate confidential cover.

[Open Meeting]

Matters Arising

- (c) Proposed Amendments to the draft South West Kowloon Outline Zoning Plan (OZP) No. S/K20/21  
(TPB Paper N. 8266)

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[The item was conducted in Cantonese.]

3. The following Members had declared interests in this item :

Ms. Anna S.Y. Kwong	Having discussed the case with the objectors of Objection No. 1
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Mr. Tony C.N. Kan	Owning a property at the Victoria Towers adjoining the West Kowloon Cultural District
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4. Members noted that Ms. Anna S.Y. Kwong and Mr. Tony C.N. Kan left the

meeting temporarily for the item.

5. The Secretary said that on 31.10.2008, the Board gave further consideration to the objections under section 6(6) of the Town Planning Ordinance and decided to propose amendment to the OZP to partially meet Objections No. 1 to 3 by amending the Notes of the OZP for the “Other Specified Uses” (“OU”) annotated “Arts, Cultural, Entertainment, Commercial and Other Uses” zone 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 amendments to the Notes of the OZP, the Explanatory Statement (ES) should also be amended to explain clearly the planning intention for the relaxation

6. The Secretary highlighted the following revisions to Notes and ES as detailed in the Paper:

(a) to add Remark (5) to the Notes for the “OU” zone as follows :

***(5) Notwithstanding paragraph (4) above, relaxation of the building height restrictions may be considered by the Town Planning Board on application under section 16 of the Town Planning Ordinance for any free-standing arts and cultural facilities on individual merits.***

(b) to explain clearly the planning intention, paragraph 8.9 of the ES was proposed to amend to read as :

8.9 Based on the individual merits of a development or redevelopment proposal, minor relaxation of the plot ratio and building height restrictions may be considered by the Board on application under section 16 of the Ordinance. ***In order to allow greater design flexibility for the arts and cultural facilities, relaxation of the building height restrictions may be considered by the Town Planning Board upon application under section 16 of the Town Planning Ordinance for the free-standing arts and cultural facilities such as museum,***

*exhibition centre and performance venue if these facilities possess outstanding planning or design merits.*

7. Members noted that the proposed amendments were in line with the decision of the Board. Special consideration for relaxation of the height restriction would only be given to free-standing arts and cultural facilities but not other developments such as a high-rise composite development incorporating premises for arts for cultural facilities.

8. After deliberation, Members agreed that

- (a) the proposed amendments to the Notes of the draft South West Kowloon OZP No. S/K20/21 at Annex A of the Paper was suitable for exhibition for public inspection under section 6(7) of the pre-amended Town Planning Ordinance; and
- (b) the revised Explanatory Statement at Annex B of the Paper was suitable for exhibition together with the Notes of the draft OZP and its Notes.

[Dr. James C.W. Lau, Messrs. K.Y. Leung and Tony C.N. Kan and Ms. Anna S.Y. Kwong returned to join the meeting whereas Mr. Raymond Young left the meeting temporarily at this point.]

### **Agenda Item 3**

[Open Meeting]

Planning and Engineering Study on Development of Lok Ma Chau Loop  
(TPB Paper No. 8276)

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[The meeting was conducted in Cantonese.]

9. The Vice-chairman chaired the meeting at this point.

### Presentation and Question Session

10. The following representatives of Government departments were invited to the meeting at this point :

Mr. Michael Chan	Chief Town Planner/Strategic Planning, Planning Department (PlanD)
Mr. Liu Chun San	Chief Engineer/Projects 2, Civil Engineering and Development Department (CEDD)

11. The Vice-Chairman extended a welcome and invited the representatives to brief Members on the Paper.

12. With the aid of a Powerpoint presentation, Mr. Michael Chan presented the following aspects as detailed in the Paper :

#### Background and Study Area

- (a) the Lok Ma Chau Loop (the Loop) had an area of about 84 hectares (ha). It was created upon completion of stage 1 of the training of the Shenzhen River in mid 1997, and fell within the administrative boundary of the HKSAR after realignment of the river course;

[Mr. Raymond Young returned to chair the meeting and Miss Ophelia Wong left the meeting temporarily at this point.]

- (b) in the Chief Executive's 2007 Policy Address, the Loop was identified as one of the ten major infrastructure projects to sustain economic growth. HKSARG would work with Shenzhen authorities to tap the land resources of the Loop to meet future development needs and consolidate the strategic position of Hong Kong (HK) and Shenzhen in the Pan-Pearl River Delta region;

- (c) the first meeting of the 'HK-Shenzhen Joint Task Force on Boundary District Development' (Joint Task Force) on 10.3.2008 agreed that a joint study on planning, environmental, and engineering feasibility for the development of the Loop (the Study) would be conducted on mutual benefit basis;
- (d) before the commencement of the Study, a public engagement exercise undertaken simultaneously in HK and Shenzhen was carried out in June and July 2008. The result indicated that use of the Loop for higher education, the research and development of new high technology, and cultural and creative industries received wide public support on both sides. The Joint Task Force agreed on 18.9.2008 to assess the proposals in greater depth through further consultation with stakeholders;
- (e) both sides signed a Cooperation Agreement to kick off the preparatory work for the Study at the 4th HK-Shenzhen Co-operation Meeting on 13.11.2008, and initially considered that higher education might be developed as the leading land use in the Loop with high-tech research and development facilities and creative industries incorporated;
- (f) the Study Area comprised the Loop (Area A in Appendix 1 of the Paper, about 84 ha) and an adjoining area within HK (Area B, about 185 ha in area) for provision of transport connections and engineering infrastructure for the development of the Loop. The Shenzhen Municipal Government would commission a separate concurrent consultancy study covering an area (Area C) of about 167ha within Shenzhen to study the impact of the development of the Loop on their area;

#### Study Objective

- (g) the Study aimed to formulate a comprehensive plan for development and implementation of the Loop and its supporting infrastructure on the basis

of mutual benefit to both HK and Shenzhen;

### Study Framework

- (h) the Study was a two-stage consultancy study which would take about 30 months to complete : Stage 1 on planning aspects would be led by PlanD and Stage 2 on engineering aspects would be led by CEDD. The Study would commence in mid 2009 for completion in end 2011;
- (i) the Study would formulate development options for the Loop, confirm feasibility for the identified land use options and provide necessary transport and engineering infrastructure. The Study would prepare the Recommended Outline Development Plan (ODP) and the Recommended Layout Plan (LP), preliminary design of engineering works and implementation strategies;
- (j) under the Environmental Impact Assessment Ordinance (EIAO), the Study was a Schedule 3 Designated Project (DP), and individual projects like roads and sewage pumping stations for the Loop Development was a Schedule 2 DP. Environmental Permits would be required prior to construction. To facilitate an expedited study with an early public engagement process, the EIA study would be included as part of the Study; and
- (k) a comprehensive 2-stage public engagement programme would be adopted in the study process. Concerned parties including the Town Planning Board, Legislative Council, relevant District Councils and Rural Committees, local communities, environmental groups and other stakeholders would be consulted. The first stage public engagement aimed to collect public views on the conceptual land use option and the Preliminary ODPs, and the second stage public engagement was to engage the public on both sides to discuss the Recommended ODP, Preliminary LPs, and the draft Master Urban Design and Landscape Plans.

13. Members had the following comments / questions :

- (a) the proposed use of higher education, high technology and arts and cultural facilities would require adequate supporting facilities and simplified immigration control to make it a success. For example, there was great demand for international boarding schools by the mainland students, and inclusion of international boarding schools in the Loop, coupled with free access from both sides of the boundary, would achieve mutual benefits;
- (b) whether the Loop was owned by a private Shenzhen company or the Hong Kong Government ?
- (c) what were the considerations of designating Area B as the connection of the Loop with Kwu Tung North New Development Area (NDA), noting that the ecologically sensitive Hoo Hok Wai was situated to the north of Area B. An ecological corridor should be reserved to avoid segregating the continuous and contiguous wetland area from Hoo Hok Wai to its upper course area in Long Yuen;
- (d) whether the ecological conservation area for certain sections of the old Shenzhen river courses as recommended in the previous EIA reports for the river training was still recognised; and
- (e) where would the silt and mud be deposited in the Loop after completion of the river training.

14. Mr. Michael Chan made the following responses :

- (a) at this stage, higher education was the leading land use in the study of development options. In the future, the Loop itself would be excluded from the boundary of the Closed Area. To go further by allowing free access of the Mainlanders to the higher education facilities in the Loop required policy support from the Government on both sides; and

- (b) the EIA report for the Study would include the old river courses. The initial proposal was to preserve the old river courses.

15. Mr. Liu Chun San supplemented the following points :

- (a) the key consideration in the linkage selection was to minimize the impact on the ecologically sensitive Hoo Hok Wai and to provide a more direct link to the traffic network of the outer rim of the Kwu Tung North NDA. The alignment would be subject to detailed assessment. Member's concern on the ecological corridor was noted;
- (b) there was no information at hand on the detailed location and amount of the silt and the contaminated mud in the Loop. In the EIA Study, the current situation of the silt and contaminated mud and the impact on the Loop development would be examined , and feasible solution to resolve the issue would be proposed.

16. The Chairman supplemented that the Loop fell within the administrative boundary of the HKSAR. The official land status of the Loop was Government land and so far there was no record of private ownership with the Land Registry, although the Government was aware of a claim of private ownership by a Shenzhen entity. He added that the Hong Kong Government had taken the initiative to resume several pieces of private land along the river before handing them over to Shenzhen upon the river training.

17. Some Members considered the Study an opportunity to interact and cooperate with Mainland in land use planning, and the idea of organising joint forum was welcome. It was observed that people in Shenzhen and Hong Kong had different expectations to development vis-à-vis conservation. The Study should reconcile the expectations and demonstrate that they could co-exist. A gradation of development intensity might be an option to demonstrate how the high density built-up area in Shenzhen would be integrated with country-side character in Hong Kong. In this connection, a Member stressed that urban design, architect, and landscape professionals should be fully engaged in the early stage of the study process to help working out the interface.

[Miss Ophelia Y.S. Wong returned to join the meeting at this point.]

18. Mr. Michael Chan said that it was intended to carry out public engagement on both sides concurrently. An initial public engagement exercise revealed that some Shenzhen residents with their residence facing the Hong Kong side were concerned about development intensity of the Loop. Therefore, the interest of stakeholders on both sides had to be considered. The Study aimed to develop a sustainable, environmentally friendly, energy efficient and people oriented land use pattern. The Study team would consider the suggestions to engage consultants of architectural and related expertise at an early stage.

19. On the 30-month study programme, some Members asked whether the Study and implementation of the Loop development could be expedited. They supported starting the preparatory works without waiting for the funding approval by the Legislative Council (LegCo) for the Study.

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

20. Mr. Michael Chan replied that the Study was an integrated planning and engineering study in which a land use concept was formulated first, to be followed by detailed engineering design. There might be room to speed up the study process when the development agent for the identified land use option was confirmed. Mr. Liu Chun San added that, prior to funding approval, preparatory works had already been started. Invitation for expression of interest had already been issued to invite interested consultants to prepare for bidding for the Study, while awaiting for funding approval from the LegCo, which was a necessary step to commission consultants for the Study.

21. As Members had no further questions to raise, the Chairman thanked the Government representatives for attending the meeting. They left the meeting at this point.

22. The meeting was adjourned at 10:55 am for 5-minute short break.

[Professor Bernard V.W.F. Lim, Ms. Maggie M.K. Chan and Mr. Y.K. Cheng left 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 Tuen Mun

Outline Zoning Plan No. S/TM/24

(TPB Paper No. 8261)

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[The hearing was conducted in Cantonese and English.]

[Miss Annie Tam joined the meeting while Ms. Sylvia S.F. Yau returned to join the meeting at this point.]

Presentation and Question Session

23. The Secretary reported that the Mr. Tony C.N. Kan, owning some properties in Tuen Mun, had declared an interest on this item. Mr. Kan was allowed to stay in the meeting since his properties were not directly related to any representations to the proposed amendment.

24. Members noted that sufficient notice had been given to invite the representers and commenters to attend the hearing. Representer No. 1 and Commenter No. 1 and 2 had made no reply. The Board agreed to proceed with the hearing in their absence.

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

Mr. Wilson So

DPO/TMYL, PlanD

Ms. Miranda Yue

TP/TMYL, PlanD

26. The following representatives of the representer and commenters were also invited to the meeting:

Representer No. 2 (R2) (New Accord Ltd.)

Mr. Kenneth To

Ms. Pauline Lam

Commenter No. 3 (C3) (Incorporated Owners of Tsing Yung Terrace)

Ms. Mak Hoi Cheung

Mr. Yim Kin Ping

Commenter No. 4 (C4) (Residents of Tsing Yung Terrace)

Mr. Yim Kin Ping

Mr. Lau Wing Hang

Mr. Lee Tsz Hang, Chris

27. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited Mr. Wilson So to brief Members on the background to the representations.

28. With the aid of a Powerpoint presentation, Mr. Wilson So made the following points as detailed in the Paper:

- (a) the background of the proposed amendments as set out in paragraph 3 of the Paper;
- (b) the character of Tuen Mun Planning Area 20 (Area 20), and the general principles and the design concepts for Area 20 as set out in paragraphs 4.1.1 to 4.1.4 of the Paper;
- (c) the draft Tuen Mun OZP No. S/TM/24 incorporating the proposed amendments was gazetted on 4.7.2008. Two representations (R1 and R2), both related to Amendment Item A2 (rezoning of a site south of Tsing Yung Terrace from “Residential (Group B)” (“R(B)”) to “R(B)7” subject to a maximum plot ratio (PR) of 3.3 and building height (BH) of 17 storeys excluding basement(s)), were received. Four comments were also received relating to R2;

- (d) the background of the representation site as set out in paragraphs 4.1.5 and 4.1.6 of the Paper - it was a vacant site previously occupied by a 17-storey building over 1-storey basement with a PR of 3.27. The building plans for redevelopment was first approved in October 2006 and the latest approved building plans for a 24 storey high building (excluding basements) at a PR of 3.3 was approved in March 2008. Construction on the representation site was in progress;

[Mr. Nelson W.Y. Chan left the meeting temporarily at this point.]

- (e) the subjects of the representations and comments, and grounds of representations and representers' proposal, as detailed in paragraph 2 of the Paper, were highlighted below:
  - i. R1 supported Amendment Item A2. R1 had not put forward any proposed amendments to the OZP, but urged the Government to issue stop-work order to the building under construction and investigate whether there was possible information leakage to the developer so that building plan approval could be obtained prior to OZP amendment;
  - ii. R2 opposed Amendment Item A2 in particular the imposition of BH restriction of 17 storeys on the representation site mainly on the grounds of urban design and that the BH restriction did not take account of the approved building plans. R2 proposed to rezone the representation site from "R(B)7" to "R(B)6" with a maximum PR of 3.3 and BH of 30 storeys excluding basement(s);
  - iii. C1 supported R2 and considered that the representation site should not be downzoned and that private property right should be respected;
  - iv. C2 to C4 opposed R2 and R2's proposal to rezone the site to

“R(B)6”;

(f) PlanD’s views and response to the representations as detailed in paragraph 4.4 of the Paper were highlighted as follows:

- i. R1’s supportive representation was noted. Should there be major change to the building proposal, such as a change of use or an increase in development intensity as compared with the approved building plans, the amended building plans would be assessed in terms of the extant OZP. Regarding the request to issue stop-work order to the building under construction or to revoke the approved building plans, there was no such provision under the Town Planning Ordinance; and
- ii. PlanD did not support any amendment to the OZP to meet R2. The PR and BH restrictions for Area 20 were formulated after thorough examination of such factors as natural topography, local character, building conditions, lease entitlements, the administrative development controls, development potential as well as the general urban design concept for the area. The representation site was more akin to the “R(B)8” height band (i.e. 15 storeys) than the “R(B)6” height band. In addition, the BH restrictions for “R(B)7” had made particular reference to enhance the stepped height profile from the accessible vantage points such as Kadoorie Pier and to reflect the height of the previous building erected thereon. R2’s proposal to relax the BH restriction to 30 storeys for the representation site was considered inappropriate as it would result in a development which would disrupt the stepped height profile. Development proposals which had already obtained building plan approval would not be affected by OZP amendment as long as the building approval remained valid. Application for minor relaxation of the BH to achieve the same height of the approved building plan was not necessary.

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

29. The Chairman then invited the representer to elaborate on the representations.

R2 (New Accord Ltd.)

30. With the aid of Powerpoint presentation, Mr. Kenneth To made the following points:

- (a) background of the representation site : there was no BH restriction in the lease, and a set of building plans for a 24-storey building had been approved before the imposition of the BH restrictions in the OZP;
- (b) grounds of representation :
  - i. the representation site was singled out and zoned under a tailored-made “R(B)7”, despite the fact that it had the same PR and served by the same street (i.e. Tsing Yung Street) as that of other “R(B)6” sites;
  - ii. it was unreasonable to reflect the BH of the demolished building at the representation site, having regard to the existing 14- to 27-storey high buildings opposite the representation site on the other side of Tsing Yung Street which enjoyed a maximum BH restriction of 30 storeys under “R(B)6” zone. The zoning for the representation site should take account of the BH of the approved building plans;

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

- iii. even with a BH of 30 storeys, the representation site was still in harmony with the developments in the vicinity, and achieved a distinct gradation of height profile with descending BH to the beach. The 17-storey BH restriction implied a design constraint, and would lead to a ‘broken-tooth’ skyline; and

- (c) the representer proposed to change the zoning from “R(B)7” to “R(B)6” with a PR of 3.3 and maximum BH of 30 storeys excluding basement(s), or relax the BH restriction of “R(B)7” from 17 storeys to 24 storeys excluding basements.

31. The Chairman then invited the commenters to elaborate on their comments.

C3 (Incorporated Owners of Tsing Yung Terrace)

32. With the aid of Powerpoint presentation Ms. Mak Hoi Cheung made the following points:

- (a) C3 objected strongly to R2’s proposal to relax the BH restriction to 30 storeys mainly because a 30-storey residential tower was totally inappropriate for the location, and the proposal contravened the planning intent and the sound urban design principles in that :

- i. the representation site bore no resemblance to other five “R(B)6” lots as it was much smaller. It was carved out from a green belt on top of a steep embankment to facilitate a site swap with the CLP Power Hong Kong Limited in 1981. It shared similar characteristics as the “R(B)8” sites fronting Castle Peak Road;

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

- ii. under the Area 20 Layout Plan No. L/TM20/1G circulated in March 2002, the representation site was subject to, inter alia, a PR of 1.3 and a BH of 10 storeys. The approval of a 24 storey building violated the layout plan for this area;
- iii. the argument of a ‘broken-tooth’ skyline could not be substantiated because when translated in mPD terms, the proposed 30-storey building (at 144mPD or higher) would be taller than any other building in the immediate neighbourhood. Instead, the stepped

height concept was violated by R2's proposed massive and imposing building;

- (b) R2's right would not be compromised as the approved building plans could be proceeded and the permitted GFA could still be achieved under "R(B)7". The representation site had not been downzoned; and
- (c) C3 requested the Administration to revoke the approved building plans for the 24 storeys building with 2-storey basement building on the representation site.

C4 (Residents of Tsing Yung Terrace)

33. Mr. Yim Kin Ping made the following points :

- (a) About 296 owners/tenants of Tsing Yung Terrace supported the OZP amendment and were concerned about R2's proposal. Despite contravention to the layout plan for Area 20, the building plans for the representation site had been previously approved. If R2's proposal was acceded to, it gave an impression that there was favouritism for developers and owners/tenants of Tsing Yung Terrace would escalate their actions against the relaxation of height restriction; and
- (b) R2's proposal would bring adverse impacts on Tsing Yung Terrace in terms of air ventilation, traffic flow, noise impacts, sunlight penetration and road safety.

34. A Member enquired why the "R(B)7" BH control was in terms of number of storeys instead of mPD. Mr. Wilson So replied that Area 20 had a descending topography towards the beach in that even along Tsing Yung Street, the building lots were on different site levels. To deliver a clear stepped building profile concept and allow certain flexibility for design on sloping sites, number of storeys were used. This approach had been adopted in the Layout Plan since 2002.

35. Further to the views of C3 and C4 that the building plan approval of the representation site contravened the Layout Plan in respect of development intensities, the same Member also asked about the practice of building plan approval. Mr. Wilson So replied that DPO had advised the Building Authority (BA) to observe the Layout Plan in providing comments on the building plans. The Layout Plans were non-statutory plans, and there was no statutory control on PR and BH on the OZP for the site at that time. Under the established practice of the Buildings Ordinance, the BA could only take account of the statutory provisions in vetting building plans, and the building plans for the representation site were therefore approved despite its contravention with the Layout Plan.

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

#### Deliberation Session

##### *Representation No. R1*

37. Members noted the support of R1 on Amendment ItemA2.

##### *Representation No. R2*

38. Members considered that the building height restrictions for the Area 20 had taken into account all relevant considerations and the building height restriction of 17 storeys at the representation site was appropriate to achieve a stepped height profile.

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

- (a) in proposing development restrictions in terms of maximum plot ratio (PR) and maximum building height (BH), due regard had been

accorded to such factors as natural topography, local character, as-built condition, the lease entitlement, the administrative development controls, development potential as well as the general design concept for the area. The BH restrictions stipulated under “R(B)7” had taken the above into account, with particular reference to enhance the stepped height profile, as well as to reflect the height of the previous building erected thereon;

- (b) the proposed BH restrictions of 24 or 30 storeys for the representation site was considered inappropriate. It would result in massive and imposing development which would disrupt the skyline; and
- (c) development proposals which had already obtained building plan approval would not be affected by an amendment to the Outline Zoning Plan as long as the building approval remained valid. Application for minor relaxation of the building height to achieve the same height of the approved building plan was not necessary.

40. The meeting was adjourned for lunch break at 12:05 p.m.

[Messrs. David W.M. Chan, Leslie Chen and Tony C.N. Kan, Prof. N.K. Leung, Messrs. Alfred Donald Yap, Tony Lam and Andrew Tsang, and Miss Annie Tam left the meeting at this point.]

41. The meeting resumed at 1:45 p.m.
42. The following Members and the Secretary were present after the lunch break:
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| Mr. Raymond Young   | Chairman      |
| Dr. Greg C.Y. Wong  | Vice-Chairman |
| Mr. Nelson W.Y. Chan  |               |
| Dr. C. N. Ng  |               |
| Ms. Sylvia S.F. Yau   |               |
| Mr. Walter K.L. Chan  |               |
| Mr. Raymond Y.M. Chan   |               |
| Ms. Anna S.Y. Kwong   |               |
| Dr. James C.W. Lau  |               |
| Mr. K.Y. Leung  |               |
| Mr. Timothy K.W. Ma   |               |
| Deputy Director of Environmental Protection<br>Mr. Benny Wong |               |
| Director of Planning<br>Mrs. Ava Ng                           |               |

43. As the applicants' representative for agenda item 5 had not yet arrived, Members decided to proceed with the procedural matters in agenda items 7 to 13 first.

### **Agenda Item 7**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Tung Chung Town Centre Outline Zoning Plan No. S/I-TCTC/15 (TPB Paper No. 8273)

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[The meeting was conducted in Cantonese.]

44. The Secretary briefly introduced the Paper. The draft Tung Chung Town Centre Outline Zoning Plan No. S/I-TCTC/15 was exhibited for public inspection on 8.8.2008. One valid representation with no comment was received. As there was only one representation, it was suggested to consider it by the full Board. The hearing could be accommodated in the Board's regular meeting tentatively scheduled for 16.1.2009.

45. The Board decided to consider the representation by the Board itself.

### **Agenda Item 8**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Ma Wan Outline Zoning Plan No. S/I-MWI/13  
(TPB Paper No. 8274)

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[The meeting was conducted in Cantonese.]

46. As the proposed amendment was related to the transport services guidelines for the Ma Wan Island and Sun Hung Kai Properties Ltd. (SHK) was the developer of the major residential development in Ma Wan, Messrs. Alfred Donald Yap, Y.K. Cheng, Raymond Y.M. Chan, Felix. W. Fong, and Dr. Greg C.Y. Wong had declared interests in this item as they had current business dealings with SHK. Members noted that Messrs. Yap and Cheng had already left the meeting, while Mr. Fong had tendered apologies for being unable to attend the meeting. As the item was procedural in nature, the remaining Members were allowed to stay at the meeting.

47. The Secretary briefly introduced the Paper. The draft Ma Wan Outline Zoning Plan No. S/I-MWI/13 was exhibited for public inspection on 1.8.2008. A total of 15 representations and 20 comments were received. As the representations and comments were all related to the transport arrangement stated in paragraph 9.2 of the Explanatory Statement, whilst one of the representations and one of the comments were also on the amendment to the Plan, it was suggested to consider the representations and comments

collectively by the full Board. The hearing could be accommodated in the Board's regular meeting tentatively scheduled for 16.1.2009.

48. The Board decided to consider the representations and comments by the Board itself and to hear the representations and comments collectively.

### **Agenda Item 9**

[Open Meeting]

Submission of the Draft Ting Kok Outline Zoning Plan No. S/NE-TK/14A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8263)

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[The meeting was conducted in Cantonese.]

49. Professor David Dudgeon, being a member of the World Wide Fund Hong Kong, a representer to the amendments to the Outline Zoning Plan, had declared interest in this item. Members noted that Professor Dudgeon had already left the meeting.

50. The Secretary briefly introduced the Paper.

51. After deliberation, the Board:

- (a) agreed that the draft Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/14A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Ting Kok OZP No. S/NE-TK/14A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and

- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

### **Agenda Item 10**

[Open Meeting]

Submission of the Draft Peng Chau Outline Zoning Plan No. S/I-PC/9A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8264)

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[The meeting was conducted in Cantonese.]

- 52. The Secretary briefly introduced the Paper.
- 53. After deliberation, the Board:
  - (a) agreed that the draft Peng Chau Outline Zoning Plan (OZP) No. S/I-PC/9A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
  - (b) endorsed the updated Explanatory Statement (ES) for the draft Peng Chau OZP No. S/I-PC/9A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
  - (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

**Agenda Item 11**

[Open Meeting]

Submission of the Draft Wong Nai Chung Outline Zoning Plan No. S/H7/14A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8265)

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[The meeting was conducted in Cantonese.]

54. The following Members had declared interests in this item:

- |                       |   |  |
|-----------------------|---|--|
| Professor N. K. Leung | ) |  |
| Mr. Stanley Y.F. Wong | ) |  |
| Ms. Sylvia S.F. Yau   | ) | Being Members of the Hong Kong Jockey Club                 |
| Mr. Walter K.L. Chan  | ) | (HKJC) which made a representation                         |
| Mr. Rock C.N. Chen    | ) |  |
| Mr. Felix W. Fong     | ) |  |
| Mr. B.W. Chan         | ] | Being Voting Members of the HKJC                           |
| Mr. Alfred Donald Yap | ] |  |
| Mr. Y.K. Cheng        | ) | Owned a property at Stubbs Road which was near to the Area |

55. Members agreed that the interests of being ordinary members of the HKJC, were not direct or substantial, and the Members concerned could be allowed to stay. Members noted that Professor N.K. Leung, Messrs. B.W. Chan, Alfred Donald Yap and Y.K. Cheng had already left the meeting, and Messrs. Stanley Y.F. Wong and Felix W. Fong had tendered apologies for being unable to attend the meeting.

56. The Secretary briefly introduced the Paper. In view of the two Judicial Reviews (JR) lodged by the Newick Limited and the Hong Kong Sanatorium and Hospital on 7.3.2007 and 7.11.2008 respectively, the Board decided on 28.11.2008 to request the Chief Executive to extend the statutory time limit for submission of the draft Wong Nai Chung Outline Zoning Plan (OZP) to the Chief Executive in Council (CE in C) for a period

of six months from 18.12.2008 to 18.6.2009. However, the latest view was that the draft OZP could be submitted to the CE in C as there was no court order for a stay of the OZP submission. In this regard, the Board's agreement was sought to submit the draft OZP, together with the representations, comments and further representations to the CE in C for approval in accordance with section 8 of the Town Planning Ordinance.

57. After deliberation, the Board:

- (a) agreed that the draft Wong Nai Chung Outline Zoning Plan (OZP) No. S/H7/14A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Wong Nai Chung OZP No. S/H7/14A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

### **Agenda Items 12 and 13**

[Closed Meeting]

58. These two items were recorded under confidential cover.

**Agenda Item 5**

[Open Meeting (Presentation and Question Session only)]

Review of Applications No. A/YL-KTS/428 to 436

Proposed New Territories Exempted Houses (NTEHs) (Small Houses) in “Agriculture” zone, Lots 191S.Bss.4, 191S.Css.1, 191S.Bss.3, 191S.Bss.2, 192S.Ess.1, 191S.Css.2, 191S.Css.4, 191S.Bss.1, 192S.Hss.1, 191S.Css.6, 191S.Css.3 and 191S.Css.5 in D.D. 113, Cheung Po, Kam Tin, Yuen Long, New Territories

(TPB Paper No. 8262)

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[The meeting was conducted in Cantonese.]

**Presentation and Question Session**

59. The following representatives of the Government and the applicants’ representative were invited to the meeting:

- |               |  |
|---------------|--|
| Mr. Wilson So | - District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), Planning Department (PlanD) |
| Mr. Ben Yuen  | - Applicants’ representative   |

60. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited Mr. Wilson So to brief Members on the background to the applications.

61. Mr. Wilson So presented the applications and covered the following aspects as detailed in the Paper:

- (a) the applicants who were the indigenous villagers of Chuk Hang, Ma On Kong and Cheung Po sought planning permissions for the development of one New Territories Exempted House (NTEH) or Small House (SH) at each of the nine application sites which fell within areas zoned “Agriculture” (“AGR”) on the approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/11. The Rural and New Town Planning

Committee rejected the application on 15.8.2008 for the reasons that the proposed developments were not in line with the planning intention of the “AGR” zone and the Interim Criteria for assessing planning applications for NTEHs / SH development (Interim Criteria) in that there was no shortage of land within the “Village Type Development” zone of Cheung Po and Tai Wo to meet the demand forecast for SH development, and there was no information to demonstrate that the low voltage overhead lines in the vicinity of the proposed developments would not be affected (for Applications No. A/YL-KTS/431, 432, 435 and 436 only);

- (b) the written representation submitted by the applicant in support of the review applications was attached at Annex D and summarized in paragraph 3 of the Paper;
- (c) departmental comments – the relevant Government departments maintained their previous views on the review applications as detailed in paragraph 5.3 of the Paper. The Director of Electrical and Mechanical Services (DEMS) was further consulted and had no objection to the applications subject to diversion of the identified low voltage overhead line at the application sites. The District Lands Officer/Yuen Long had no objection to the applications and the Director of Agriculture, Fisheries and Conservation (DAFC) had no strong view against the applications;
- (d) a total of four public comments from the villagers of Cheung Po village (with a total of 51 signatures) and the Owners Committee of Tourmaline Villa were received during the statutory publication period of the review applications. Mr. Wilson So clarified a mistake in paragraph 6.1 of the Paper as none of the public comments was made by the village representatives of Cheung Po village. The public comments objected to the applications mainly due to the adverse impacts on fung shui, drainage, air ventilation, sunlight penetration, private open space,

property value, local roads, law and order and security aspect, as well as the dust and noise nuisance arising from the proposed developments; and

- (e) PlanD's view – PlanD did not support the application based on the assessment as detailed in paragraph 7 of the Paper. The proposed developments did not comply with the Interim Criteria in that there was no general shortage of land in meeting the demand of SH development in the subject “V” zone and there was insufficient information to demonstrate why suitable sites within the “V” zone could not be identified for the proposed developments. There were local objections to the applications. Since the first promulgation of the Interim Criteria, all previous applications and similar applications in this part of the “AGR” zone were rejected except Applications No. A/YL-KTS/280 and A/YL-KTS/325. The former application was partially approved for the reason that four of the 10 proposed NTEHs were either entirely within the “V” zone or complied with the Interim Criteria in that more than 50% of their footprints fell within the “V” zone, whilst the remaining six SHs were rejected as there was no shortage of land within the “V” zone to meet SH demand. The latter application was approved on sympathetic grounds as the site was the subject of a previous approval, and the proposed NTEH could be treated as an infill of the existing NTEH. It was regarded as a special case with a special planning history. There was no change to the planning circumstances to warrant a deviation from the Board's previous decision for the subject applications.

62. The Chairman then invited the applicants' representative to elaborate on the application.

63. Mr. Ben Yuen made the following main points:

- (a) the applicants were aware that the proposed developments were not in line with the planning intention of the “AGR” zone and hence they

submitted planning applications for the proposed NTEH/SH developments;

- (b) the policy of allowing indigenous villagers to build SH in the 'village environs' ('VE') (i.e. area falling within 300 ft distance surrounding a recognised village) had existed for a long time. All the application sites were located within the 'VE' and rejecting these applications had deviated from the established policy;
- (c) a large portion of the area within the "V" zone of Cheung Po and Tai Wo villages were slopes which were unsuitable for development. Moreover, as the southern part of the "V" zone was bisected by a river channel and of hilly terrain, and its western part was affected by the West Rail, the land available for SH development had been further reduced. It was unreasonable to request the applicants to build their SHs on land within the "V" zone which required extensive site formation and large-scale tree felling;
- (d) the application sites had been left vacant for many years and was now overgrown with grasses. There were a number of SH developments surrounding the applications sites, and hence the sites were no longer suitable for agricultural purposes. The application sites which were located on flat land well-served by an existing access road and infrastructure facilities such as electricity and water supply, were suitable for SH developments. The proposed developments, if approved, would bring improvement to the local environment through the provision of proper landscaping and drainage facilities;
- (e) it was very common to have local objections to SH applications in the New Territories. However, the grounds of local objection on 'fung shui' should not be a valid and material consideration. As the applicants undertook to provide drainage improvement facilities to the satisfaction of Drainage Services Department, no adverse drainage

impact to the surrounding area was anticipated. The objections raised by residents of Tourmaline Villa should not be taken in account as non indigenous villagers had no right to object the SH applications submitted by indigenous villagers according to a principle established by Heung Yee Kuk. The presence of barriers at the West Rail maintenance depot nearby had already blocked the air ventilation in the area. The building bulk of the proposed SH developments was small and they were detached from each other. This could hardly create any wall effect or adversely affect the air ventilation in the area; and

- (f) it was unfair to reject the applications based on an estimated SH demand. It was the right of the indigenous villagers to develop SH within the 'VE'. Moreover, as a number of SH developments in this area had previously been approved and developed, and the application sites under the applicants' ownership were suitable for SH developments, there was no ground to request the applicants to acquire other land within the "V" zone.

64. In response to the Chairman's enquiry on whether there was technical difficulty to develop SH within the "V" zone as claimed by the applicants' representative, Mr. Wilson So, by making reference to Plan A-3 of Annex A and Plan R-1 of the Paper, said that while there might be some sloping ground, a large portion of land near the village cluster within the "V" zone was previously used for agricultural purpose and had a relatively gentle topography and was considered suitable for SH developments. Moreover, the "V" zone with a total of 14.78 ha of land available would allow the development of 590 SHs, and hence there should be sufficient land to meet the estimated SH demand of 260 SHs for the two villages even after discounting some very steep slopes in the "V" zone as claimed by the applicants' representative.

65. Mr. Ben Yuen said that it was only an estimate made by PlanD that there should be sufficient land within the "V" zone to meet the SH demand. However, there was not a lot of the land available within the "V" zone which was suitable for development. It was unreasonable to bar the applicants from developing their own land which were within the

‘VE’ and with adequate supporting facilities but to ask them to acquire other sites which required extensive site formation and tree felling for SH development.

66. Referring to Plan R-1 of the Paper, Mr. Wilson So reiterated that an extensive area around the village cluster of Cheung Po Village did not have a very steep topography. While respecting the Small House policy of allowing SH development within the ‘VE’, the boundary of “V” zone was drawn up having regard to a number of factors which included the suitability of land for village type development. Yet, some flexibility was provided for SH developments in other zones through the planning application system, taking into account individual circumstances. For the current applications, as the areas to their immediate south were fallowed agricultural land with existing orchards to its further south, the land under application had good potential for rehabilitation for agricultural purposes.

67. In response to the Chairman’s enquiry on the likelihood for rehabilitation for agricultural use noting that DAFC had no strong views against the application, Mr. Wilson So explained that DAFC might have considered that there were already a number of SH developments in the vicinity of the application sites. He said that these SH applications were approved by the Board between 1993 and 1995 prior to the promulgation of the Interim Criteria in November 2000. The Interim Criteria was intended to provide a clear guidelines for the Board to assess the increasing number of SH applications outside “V” zone and facilitate the Board to adopt a consistent approach in considering these SH applications. In formulating the Interim Criteria, it was agreed that the shortage of land in meeting the estimated SH demand in the “V” zone of the village should receive sympathetic consideration. However, for the subject applications, there was no shortage of land within the “V” zone to meet the estimated SH demand.

68. Mr. Ben Yuen said that as there were precedent cases where large-scale residential developments such as Seasons Palace and Seasons Villa were developed on agricultural lots in the vicinity of the application sites, there was no reason why the applicants were not allowed to use their own land to meet their housing needs.

69. Mr. Wilson So explained that the two residential developments mentioned fell within land zoned “Residential (Group C)” on the relevant OZPs which was intended

primarily for low-rise, low-density residential developments. These developments were properly planned with the provision of necessary supporting facilities such as access road, water supply, and drainage systems, etc.. As the development of SH in the rural area had been relatively scattered, the Interim Criteria were formulated to ensure an orderly pattern of SH developments so as to improve the general environment.

70. Mr. Ben Yuen said that the proposed SH developments should be allowed on the application sites as proper landscaping, drainage facilities, vehicular access, EVA and adequate open space would be provided. All Government departments consulted had no objection to the applications, and the approval of the applications was in line with the expectation of the local villagers that SH developments within the 'VE' would normally be allowed.

71. As the applicants' representative had no further comment to make and Members had no further question, the Chairman informed him that the hearing procedures for the review application had been completed. The Board would further deliberate on the application in his and DPO/TMYL's absence and inform the applicants of the Board's decision in due course. The Chairman thanked the representatives from the Government and the applicants for attending the meeting. They left the meeting at this point.

#### Deliberation Session

72. One Member said that since the application sites were surrounded by a number of other SHs and concerned Government departments including DAFC and DEMS had no adverse comments on the applications, there were no strong grounds to reject the application.

73. Another Member said that considering solely the setting of the application sites and its surrounding area, the applications might merit sympathetic consideration. However, it was important to assess the precedent effect of approving the applications as the sites were located far away from the "V" zone and the approval would open the floodgate for other similar applications, and hence resulting in great development pressure in this part of the area.

74. The Secretary said that the application did not comply with the Interim Criteria and approving the applications would set a bad precedent. Referring to Plan R-1 of the Paper, she drew Members' attention to the boundary of the "V" zone for Cheung Po and Tai Wo villages which had excluded a large portion of land within the 'VE' of these two villages while included a large portion of land outside the 'VE' in the "V" zone. She asked Members to consider if PlanD should be requested to review the boundary of the "V" zone for these two villages in consultation with concerned parties.

75. The Chairman proposed two approaches for Members' consideration. The first one was a more prudent approach of not approving the applications on this occasion but at the same time requesting PlanD to carry out a review of the "V" zone. The second approach would be to approve the applications now and PlanD would then undertake a review on the "V" zone.

76. Most Members considered that the first approach should be adopted so as not to pre-empt the result of the "V" zone review. The Chairman clarified that if the application sites were included into the "V" zone after the review, SH development would be permitted as of right and there was no need for further application. One Member, however, said that the application could be approved at this meeting as there was adequate control on other SH developments in this area through the planning application system.

77. The Secretary said that it should not be construed that the boundary of the "V" zone had to be enlarged to tally with the 'VE' boundary upon completion of the review in view of the large area of the 'VE' involved.

78. Noting the majority views of Members, the Chairman concluded that a more prudent approach should be adopted. The subject applications should be rejected so as not to pre-empt the outcome of the "V" zone review. In view of DAFC's stance of no strong views against the application, the Chairman said that the rejection reason suggested under paragraph 8.1(a) of the Paper relating to the planning intention of the "AGR" zone would not be relevant. Members agreed to delete this reason for rejection.

79. After further deliberation, the Board decided to reject the review applications for the reason that the proposed developments did not comply with the interim criteria for assessing planning applications for New Territories Exempted Houses/Small Houses development in that there was no shortage of land within the “Village Type Development” zone of Cheung Po and Tai Wo to meet the demand forecast for Small House development. There was insufficient information in the submission to demonstrate why suitable sites within the areas zoned “V” could not be made available for the proposed development.

80. The Board also agreed to request PlanD to carry out a review of the “V” zone for the Cheung Po and Tai Wo villages in consultation with concerned parties. The Chairman also asked DPO/TMYL to explain the approach adopted by the Board to the applicants.

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

### **Agenda Item 6**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/TWW/89

Proposed House Development at Plot Ratio of 1.2 in “Residential (Group C)2” zone,

Lots 414RP and 415 in DD 399, Ting Kau, Tsuen Wan

(TPB Paper 8260)

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[The meeting was conducted in Cantonese.]

81. The following Members had declared interests in this item:

- Mr. David Chan - being the District Councillor for the subject area;
- Dr. Winnie Tang - owning a property near Wai Tsuen Road
- Professor Bernard Lim - had worked on a project with a representative of the applicant
- Dr. Daniel To - had worked on a project with a representative of the applicant

- Ms. Anna Kwong - acquainted with a representative of the applicant
- Mr. Leslie Chen - served with a representative of the applicant in the Hong Kong Institute of Landscaped Architects

82. Members noted that Mr. Chan, Dr. Tang, Professor Lim, Ms. Kwong and Mr. Chen had already left the meeting, while Dr. To had tendered apologies for being unable to attend the meeting.

83. Members noted that the applicant had tabled a coloured copy of each of the Landscape Master Plan (with or without Government Land Greening) as shown on Drawing FR-4 of the Paper.

#### Presentation and Question Session

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

- Mr. Kenneth To
- Mr. Daniel Kwan
- Mr. Wilson Wong
- Mr. Wilkie Lam
- Ms. Annie Wong
- Mr. Remus Woo
- Mr. Eric Chih
- Ms. Kitty Wong
- Mr. Aloysius Wong

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

86. With the aid of a Powerpoint presentation, Ms. Heidi Chan presented the

application and covered the following aspects as detailed in the Paper:

- (a) the applicant sought planning permission for a proposed house development at a plot ratio of 1.2 in an area zoned “Residential (Group C)2” (“R(C)2”) on the Tsuen Wan West OZP. The site was subject to five previously approved applications for residential development;
- (b) on 18.7.2007, the Metro Planning Committee decided to reject the application for the reason that the layout of the proposed development was considered unsatisfactory and the landscape areas were very narrow which would not be functional or practical for proper landscape planting;
- (c) on 13.6.2008, the Board decided to defer a decision on the review application pending the advice of concerned departments on the landscape proposal tabled by the applicant at the meeting. Members at that meeting had expressed concerns on various aspects including the feasibility of the landscape proposal (including the proposed granting of the Government Land for greening) and the 45% greening ratio; the distribution of private and common areas for the landscape area at-grade, podium and roof-top greening; and the control of the future maintenance of the landscape areas;
- (d) according to the further information submitted by the applicant, the proposed greening ratio had been adjusted to 39% due to the conversion of some previous lawn areas into grasscrete areas at the loading/unloading bay and some parts of the Emergency Vehicular Access (EVA). Two scenarios (i.e. one with and one without the greening on the Government Land) had been prepared. While the applicant was fully aware of the uncertainties of implementation and future management/maintenance responsibility of the proposed landscape greening in the adjoining government land, the landscaping quality of the site itself would not be adversely affected in either case. The future management and maintenance of the roof-top greening areas

within the site could be achieved through the Deed of Mutual Covenant (DMC);

- (e) departmental comments – the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD) considered the proposed greening ratio of 39% acceptable and the proposed landscape/greening measures feasible and viable. The District Lands Officer/Tsuen Wan & Kwai Tsing advised that if the applicant wanted to landscape the Government Land, he had to apply for the use of the land but there was no guarantee that the application would be approved;
- (f) one public comment from the owner of an adjoining lot was received during the statutory publication period of the application, commenting on the proposed drainage and sewerage arrangements and the possible mitigation measures to minimise the environmental impacts caused by the proposed roof-top car parks. No comment was received during the statutory publication period of the review application; and
- (g) PlanD's view – PlanD had no objection to the review application based on the assessment as detailed in paragraph 6 of the Paper. As there was no standard on greening ratio under the current Hong Kong Planning Standards and Guidelines, the crux of the matter was therefore on the acceptability and feasibility of the landscape proposal. On this, CTP/UD&L considered the current scheme including the greening ratio and the proposed landscape/greening measures acceptable and had no objection to the location of the private and common areas for the open space/landscape areas. Even without the landscaping works for the Government land as proposed by the applicant, the current landscaping proposal was considered acceptable and feasible. Hence, the proposed landscaping works for the Government land should be taken as a bonus of the scheme. However, the maintenance and management aspect of the landscaping works for the Government land would need to be sorted out as it was likely that such responsibility would be switched to the

future owners which was not a satisfactory arrangement. Should the Board wish to impose such a requirement on greening of the Government land as part of the planning approval, the concerned Government land should be returned to the Government upon completion of the landscaping works.

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

88. Mr. Kenneth To made the following main points:

- (a) since the Board deferred the consideration of the review application in June 2008, the applicant had been liaising closely with the concerned Government departments on the detailed design and implementation of the landscape proposal with a view to addressing Members' previous concerns. The greening ratio and revised landscape proposal currently submitted were already agreed by concerned parties; and
- (b) regarding the issue on management and maintenance responsibility for the landscaping works on the Government land, there was no objection to PlanD's proposed arrangement to hand back the site to the Government for management and maintenance upon completion of the landscaping works by the applicant.

89. A Member asked whether PlanD considered the applicant's proposal to landscape the Government land acceptable and whether relevant approval condition requiring the applicant to carry out such landscaping works should be imposed if the application was approved. Ms. Heidi Chan replied that if the Board wished to include the landscaping proposal for the adjoining Government land as part of the planning requirement, careful consideration should be given as it was undesirable to ask the future residents of the development to bear the management and maintenance responsibilities. On the other hand, she told Members that Government departments had indicated difficulties in taking up the management and maintenance of the landscaping works for the

Government land after it was handed back by the applicant.

90. In response to the Chairman's enquiry, Ms. Heidi Chan said that PlanD's recommendation of approving the review application was mainly on the ground that the landscape proposal for the site itself was acceptable and feasible. The applicant's proposal to landscape the Government land to the south of the application site was only taken as a bonus.

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

#### Deliberation Session

92. Members considered that the revised landscaping proposal currently submitted by the applicant was acceptable.

93. Members had a lengthy discussion on whether an approval condition should be imposed requiring the applicant to landscape the adjoining Government land. The Chairman said that he did not object to the proposal to landscape the adjoining Government land and to hand it back to Government departments for future maintenance. Some Members opined that the applicant should be requested to landscape the adjoining Government land in order to improve the general environment of the area and suggested the Government to consider either granting the land permanently or on a short term tenancy basis to facilitate the applicant to take up the future management and maintenance responsibility of the landscaping works but the Chairman commented that any proposal involving land grant or land exchange would delay the implementation of the proposed development. The same Member said that the concerned Government departments might be unwilling to take up the subsequent management and maintenance responsibilities of the landscaping works which was done by the applicant especially when it involved a

Government slope in the present case. Some Members said that the applicant should explore his own means to enhance the visual and landscape quality of the area surrounding his application site. In order to allow flexibility for Government departments to sort out the maintenance and management responsibilities for the landscaping works on Government land, Members agreed not to impose a condition, but instead an advisory clause should be added.

94. After discussion, Members agreed that the application could be approved on the basis of the acceptability of the landscaping proposal within the application site itself and there was no need to impose an approval condition requiring the provision of landscaping works for the adjoining Government land. However, the applicant should be advised to explore with relevant Government departments the possibility of landscaping the Government land to the south of the application site as far as practicable.

95. After further deliberation, the Board decided to approve the application on review, on the terms of the application as submitted to the Board. The permission should be valid until 12.12.2012, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions:

- (a) the implementation of noise mitigation measures as proposed in the application to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (b) the design, provision and future maintenance of the discharge pipe from the on-site sewerage treatment plant as an interim measure of the proposed development to the existing box culvert under Tsing Long Highway along Castle Peak Road to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) the design and provision of the connection from the proposed development to the public sewerage system when available to the satisfaction of the Director of Drainage Services or of the Town Planning

Board;

- (d) the submission and implementation of a revised Landscape Master Plan to the satisfaction of the Director of Planning or of the Town Planning Board;
- (e) the design and provision of loading/unloading arrangement to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (f) the design and provision of emergency vehicular access and fire-fighting facilities to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (g) the design, provision and future maintenance of a section of local access road R3 via Castle Peak Road to the satisfaction of the Director of Highways or of the Town Planning Board; and
- (h) the submission and implementation of site formation plan including the investigation of stability of all geotechnical features and surface channel with upstand to the satisfaction of the Director of Civil Engineering and Development or of the Town Planning Board.

96. Members also agreed to advise the applicant:

- (a) to apply for a discharge licence from the relevant Local Control Office of Environmental Protection Department before discharging effluent from the proposed on-site sewage treatment and disposal facilities;
- (b) to apply to the Director of Lands for lease modification if the proposed development was found in breach of the lease conditions;
- (c) to consult the Director of Buildings on the detailed design of the

residential buildings for compliance with the Buildings Ordinance and its subsidiary legislations; and

- (d) to liaise with the Director of Lands on matters relating to the proposed landscaping of the adjoining Government land to the south of the application site.

**Agenda Item 14**

Any Other Business

- 97. There being no other business, the meeting was closed at 2:45 p.m.