

**Minutes of 927th Meeting of the
Town Planning Board held on 2.1.2009**

Present

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

Chairman

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Professor David Dudgeon

Mr. Tony C.N. Kan

Professor N.K. Leung

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

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. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Professor Edwin H.W. Chan

Mr. Maurice W.M. Lee

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

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

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

Assistant Director (2), Home Affairs Department
Mr. Andrew Tsang

Director of Lands
Miss Annie Tam

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

Mr. Edmund K.H. Leung

Professor Bernard V.W.F. Lim

Mr. Y.K. Cheng

Mr. K.Y. Leung

Mr. Rock C.N. Chen

Dr. Ellen Y.Y. Lau

In Attendance

Assistant Director of Planning/Board

Mr. Lau Sing

Chief Town Planner/Town Planning Board

Ms. Christine K.C. Tse

Senior Town Planner/Town Planning Board

Ms. Amy M.Y. Wu

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 925th Meeting held on 3.12.2008 and the 926th Meeting held on 12.12.2008

[The meeting was conducted in Cantonese.]

1. The Secretary reported that a copy of the proposed amendments to paragraph 27 of the minutes of 925th Meeting held on 3.12.2008 had been tabled for Members' consideration. As Members had no comments on the proposed amendments, the minutes of the 925th Meeting held on 3.12.2008 were confirmed subject to the said amendments and the 926th Meeting held on 12.12.2008 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

[The meeting was conducted in Cantonese.]

(i) Order of Interim Stay of the Submission of the Draft Wong Nai Chung Outline Zoning Plan (OZP) to the Chief Executive in Council (CE in C) for Approval

2. The Secretary reported that the Board had agreed on 12.12.2008 that the draft Wong Nai Chung OZP was suitable for submission to the CE in C for approval. On 16.12.2008, the legal representative of the Hong Kong Sanatorium and Hospital (HKSH), who was the applicant of a judicial review (JR) against the decision of the Board on the representation to the draft Wong Nai Chung OZP, wrote to the Department of Justice proposing to file a consent of summons to the Court of First Instance's (CFI) requesting for an order of interim stay of the submission of the draft OZP pending the determination of its JR proceedings or until further order. The consent summons was filed to CFI on 17.12.2008 and was approved on the same day.

3. Members noted and agreed that owing to the Court order of interim stay, the draft Wong Nai Chung OZP would not be submitted to CE in C for approval pending the determination of the HKSH's JR or until further order.

(ii) New Town Planning Appeal Received

Town Planning Appeal No. 12 of 2008

Temporary Car Trading for a Period of 2 Years

in "Village Type Development" zone,

Lot 582RP(Part) in DD 111 and Adjoining Government Land,

Fan Kam Road, Pat Heung, Yuen Long

(Application No. A/YL-PH/563)

4. The Secretary reported that an appeal against the decision of the Board to reject on review an application No. A/YL-PH/563 for temporary car trading for a period of 2 years at a site zoned "Village Type Development" on the approved Pat Heung Outline Zoning Plan No. S/YL-PH/11 was received by the Town Planning Appeal Board (TPAB) on 16.12.2008. The application was rejected by the Board on 26.9.2008 for the reasons that :

- (a) the continuous occupation of the site for temporary open storage use was not in line with the planning intention of the "V" zone which was to reflect existing recognised and other villages and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. There was insufficient justification in the submission for continuous departure from such planning intention, even on a temporary basis;
- (b) the development was not in line with the TPB Guidelines for "Application for Open Storage and Port Back-up Uses" in that the site fell within Category 4 areas, the intention of which was to encourage the phasing out of such non-conforming uses as early as possible. Sufficient time had already been given to provide time to relocate the use to other location and there was no information in the submission to demonstrate why suitable sites within "Open Storage" zones could not be made available for the applied use; and

- (c) approval of the application would set an undesirable precedent for similar uses to proliferate into this part of the “V” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

5. The hearing date of the appeal was yet to be fixed. The Secretary would represent the Board on all matters relating to the proceedings of the TPAB in the usual manner.

[Ms. Sylvia S.F. Yau, Dr. James C.W. Lau and Ms. Anna S.Y. Kwong joined the meeting at this point.]

(iii) Appeal Statistics

6. The Secretary reported that as at 2.1.2009, 19 cases were yet to be heard by the TPAB. Details of the appeal statistics were as follows:

Allowed	: 23
Dismissed	: 109
Abandoned/Withdrawn/Invalid	: 129
Yet to be Heard	: 19
<u>Decision Outstanding</u>	<u>: 1</u>
Total	: 281

Agenda Item 3

[Open Meeting]

Draft Sham Chung Outline Zoning Plan No. S/NE-SC/B

Further Consideration of a New Plan

(TPB Paper No. 8277)

[The meeting was conducted in Cantonese.]

7. Dr. Greg C.Y. Wong, Mr. Alfred Donald Yap, Mr. Raymond Y.M. Chan, Mr. Y.K. Cheng and Mr. Felix W. Fong had declared interest for having current business dealings with Sun Hung Kai Properties Ltd. (SHK), who was the major developer in Sham Chung. Members noted that Mr. Y.K. Cheng had tendered apology for not able to attend the meeting and Mr. Raymond Y.M. Chan and Mr. Felix W. Fong had not yet arrived to join the meeting.

[Dr. Greg C.Y. Wong and Mr. Alfred Donald Yap left the meeting temporarily at this point.]

8. The following representative from Government was invited to the meeting at this point:

Mr. W.K. Hui - District Planning Officer/Sham Tin, Tai Po and North, Planning Department (PlanD)

9. The Chairman extended a welcome and invited Mr. W.K. Hui to brief Members on the Paper.

10. With the aid of some plans, Mr. W.K. Hui briefed Members on the background of the new Plan as detailed in the Paper and made the following main points:

- (a) the background was set out in paragraph 2 of the Paper. The draft Sham Chung Development Permission Area (DPA) Plan No. DPA/NE-SC/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance) on 3.2.2006. As the DPA Plan was only effective for 3 years, an OZP had to be prepared to replace the DPA Plan before its expiry. On 28.11.2008, the Board gave

preliminary consideration to the draft Sham Chung OZP No. S/NE-SC/B. As there had been no change in planning circumstances and no new proposal was accepted since the gazetting of the DPA plan, the Board agreed that the draft OZP, the land use zonings of which generally followed those of the DPA Plan, was suitable for submission to the Sai Kung North Rural Committee (SKNRC) and Tai Po District Council (TPDC) for consultation;

- (b) the details of the public consultation were set out in paragraph 3 of the Paper and summarised below:

Views of SKNRC

- some Members of SKNRC pointed out that adequate land should be reserved to meet the Small House demand of the indigenous villagers; and
- some Members requested to extend or shift the “Village Type Development” (“V”) zone north-eastwards to include land within “Agriculture” (“AGR”) zone as some of the areas in the “V” zone were low-lying and susceptible to flooding;

Views of Environment, Housing and Works Committee of TPDC

- majority of the members had no comment;
- one member supported the OZP;
- three members supported the views of SKNRC;
- one member urged for ecological restoration of the agricultural area that had been damaged. Area within “V” zone should be reserved for Small Houses only and extension of the “V” zone was not favoured. Any large-scale housing or holiday-resort type developments were not supported.

- (c) PlanD’s views in response to the public views were set out in paragraph 4 of the Paper and summed up below:

Land for Village Development

- there was currently no population living in the planning scheme area of the OZP. The area zoned “V” was about 2.64 hectares or equivalent to about 79 Small House sites. It should be adequate in meeting the Small House demand in the foreseeable future, noting that the latest estimated 10-year Small House demand was about 100 which was subject to verification by DLO/TP;
- extensive slope stabilisation works and clearance of natural vegetation might be required if new village houses were developed on the “Green Belt” (“GB”) zone where the existing derelict village houses were located. As such, the flat land area to the south of “GB” was zoned “V” to provide land for new village house development. Further extension of “V” zone north-eastwards was considered not necessary at this stage. However, the Small House supply and demand situation of Sham Chung Village would be kept under review taking account of the latest infrastructure provision and Small House demand forecast;

Ecological Restoration

- Sham Chung had been identified as one of the priority sites having potential for public-private partnership (PPP). It was discussed at the Board’s meeting during the preliminary consideration of the OZP that there was a need to allow some kind of development in the area so that the PPP scheme could be viable, thus enabling the ecologically sensitive parts of the site to be better preserved and the less ecologically sensitive parts to be developed;
- to conclude, as there was no in-principle objection from the locals on the draft OZP, it was recommended that the draft OZP was suitable for exhibition for public inspection under section 5 of the

Ordinance.

[Mr. Nelson W. Y Chan, Ms. Maggie M.K. Chan, Dr. Daniel B.M. To, Dr. Winnie S.M. Tang and Miss Annie Tam arrived to join the meeting at this point.]

11. The Chairman invited Members to give views and consider whether the draft OZP was suitable for exhibition taking into account the result of the public consultation and PlanD's responses. Members had the following questions:

- (a) whether the locals considered the amount of land zoned "V" adequate in view of the estimated Small House demand and whether there was any Small House application under processing;
- (b) noting that some of the areas were former wetland and swamp, whether any measures would be undertaken by the Government to tackle the potential flooding problem for development in the "V" zone; and
- (c) whether the proposed Notes of the OZP for the "AGR" zone reflected the need for ecological restoration of the area zoned "AGR" given that Sham Chung was identified as an area of ecological and conservation value.

12. In response to Members' questions (a) to (c) above, Mr. W.K. Hui made the following points:

- (a) the locals noted that the area of land under "V" zone was not adequate to meet the latest estimated ten-year Small House demand of 100, which was a two-fold increase from the last estimate of 50, but they did not raise strong objection during the consultation meeting. There was currently no one living in the area. Some of the members of SKNRC requested to extend or shift the "V" zone north-eastwards to avoid the flooding problem. There were currently about ten Small House applications under processing but they were not yet approved by DLO/TP;

[Professor Edwin H.W. Chan and Professor David Dudgeon arrived to join the meeting at this point.]

- (b) the future applicants for Small House development would need to satisfy the drainage requirement of the Drainage Services Department before they could obtain the Certificate of Exemption from Lands Department. There was currently no Small House development in the area, mainly due to the lack of road access to the area. Currently, there was only one pier in the area without proper ferry services; and
- (c) the current “AGR” zoning was to reflect the existing condition and lease entitlement of the area. Though the main planning intention was not for ecological restoration, it would not preclude any proposal to restore the ecological value of the area. There was recently a planning application submitted by the landowner proposing an eco-tourism development to encourage ecological enhancement for the area. If the planning application was considered acceptable by the Board, amendment to the “AGR” zoning would be necessary.

13. A Member pointed out that the original wetland area was turned into a turf which nullified the planning intention to preserve the ecological value of the area. The Member considered that the Notes of the “AGR” zone should be amended to clearly reflect that any future agriculture use should reflect the wetland characteristic of the area (e.g. rice field cultivation) and that selective development enhancing the general ecological value of the area should be encouraged. This Member considered that the current planning intention was not positive enough in encouraging developments for ecological enhancement and restoration and the Notes only referred to the adjacent ecologically sensitive areas instead of the subject area. Another Member echoed this view and stated that as the environment of the area had already been destroyed, there was a need to encourage restoration to its original state. This Member considered that the planning intention should include a more positive statement to encourage ecological restoration.

14. After some discussions, Members agreed to the following amendments (in

italic) to the planning intention as stated in the Notes of the “AGR” zone as follows:

“This zone is intended primarily to retain and safeguard good quality and agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes *and to encourage ecological restoration*. Selected developments *with an element of wetland restoration* not adversely affecting the general rural character and the adjacent ecologically sensitive areas may be permitted on application to the Town Planning Board.”

15. The Secretary said that paragraph 9.2.1 of the Explanatory Statement of the OZP would also need to be amended in the same manner.

16. After further deliberation, the Board noted the comments from and responses to the TPDC and SKNRC on the draft Sham Chung OZP No. S/NE-SC/B and agreed:

- (a) that the draft Sham Chung OZP No. S/NE-SC/B (to be renumbered as S/NE-SC/1 upon gazetting) and its Notes in Appendices I and II (subject to the amendments in paragraph 14 above) of the Paper were suitable for exhibition for public inspection under section 5 of the Ordinance; and
- (b) to adopt the ES in Appendix III (subject to the amendments in paragraph 15 above) as an expression of the planning intention and objectives of the Board for various land uses zonings on the draft Sham Chung OZP and was suitable for exhibition for public inspection together with the draft OZP and issued under the name of the Board.

[Dr. Greg C.Y. Wong and Mr. Alfred Donald Yap returned to the meeting while Mr. Raymond Y.M. Chan and Mr. Felix W. Fong arrived to join the meeting at this point.]

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-TK/258

Proposed House (New Territories Exempted House - Small House) in "Green Belt" zone,
Lots 392 S.A & 393 in D.D. 28, Lung Mei Village, Ting Kok Road, Tai Po

(TPB Paper No. 8278)

[The hearing was conducted in Cantonese.]

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-TK/263

Proposed House (New Territories Exempted House - Small House) in "Green Belt" zone, Lot
771 S.A in D.D. 28, Lung Mei Village, Ting Kok Road, Tai Po

(TPB Paper No. 8279)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

17. Applications No. A/NE-TK/258 and 263 were submitted by applicants with the same representatives for the same use at two adjoining sites in the same zone. Members agreed that the two applications could be considered together.

18. Members noted that the World Wide Fund Hong Kong (WWF) had submitted comments on the application. Professor David Dudgeon, being a member of the the Mai Po Management and Development Committee and Dr. James C.W. Lau and Professor Paul K.S. Lam, being ex-members of WWF had declared interest. As these Members were not involved in providing comments on the applications themselves, Members agreed that they could stay in the meeting and participate in the discussion.

19. The following representatives of the Government and the applicants were invited to the meeting at this point:

Mr. W. K Hui - District Planning Officer/Shan Tin, Tai Po and North
(DPO/STN), Planning Department (PlanD)

Mr. Chan Kwok Wa)

Mr. Hui I Yuen) Representatives of the Applicants

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

21. With the aid of plans, Mr. W.K. Hui presented the applications and covered the following main points as detailed in the Papers:

- (a) the Rural and New Town Planning Committee rejected the applications on 5.9.2008 for the reasons that the proposed developments were not in line with the planning intention of the “Green Belt” (“GB”) zoning. The applications did not comply with the Town Planning Board Guidelines for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ (TPB-PG No.10). There was insufficient information in the submissions to demonstrate that the proposed developments would not have any adverse landscape impacts on the surrounding areas;
- (b) the details of the applicants’ proposal as set out in paragraph 1 of Annex A of the Papers and the applicants’ written representations in support of the review applications as summarised in paragraph 3 of the Papers;
- (c) departmental comments – the departmental comments were summarised in paragraph 5 of the Papers. Assistant Commissioner for Transport/New Territories (AC for T/NT) had reservation on the applications as New Territories Exempted House (NTEH) development should be confined within “Village Type Development” (“V”) zone with existing and planned traffic and transport facilities. Director of

Agriculture, Fisheries and Conservation (DAFC) did not support the applications from nature conservation point of view. The sites were partly covered with natural vegetation and were located very close to densely wooded areas. The developments were not in line with the planning intention of the “GB” zone. Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had objection to the applications as they would involve clearance of natural vegetation and affect the existing natural landscape. Head of Geotechnical Engineering Office of Civil Engineering and Development Department (H(GEO), CEDD) objected to the applications as the sites were situated close to steep hillside and a natural terrain hazard study (NTHS) was required to assess the scale of the problem and to determine the required mitigation measures. The requirement for the NTHS and the provision of the mitigation measures could render the development economically not viable;

- (d) public comments - during the statutory publication period, one public comment on the review applications was received from the WWF objecting to the applications for the reasons that the proposed houses were not in line with the planning intention of the “GB” zone, there would be adverse impacts on the adjacent woodland and natural landscape and there was safety concern on the natural terrain hazard; and
- (e) PlanD’s view – PlanD did not support the applications based on the assessment in paragraph 7 of the Papers. The proposed developments were not in line with the planning intention of the “GB” zoning for the area 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 submissions to justify a departure from the planning intention. The applications were located close to a steep natural hillside covered by natural vegetation very close to densely wooded area. Possible mitigation measures for slope stabilization would likely involve

massive clearance of the natural vegetation that would cause adverse landscape impacts on the surrounding areas. The applications did not comply with the TPB-PG No. 10 in that they would involve clearance of natural vegetation, affect the existing natural landscape of the surrounding environment. There was insufficient information in the submissions to demonstrate that the proposed developments would not have any adverse landscape impacts on the surrounding areas.

22. The Chairman then invited the representatives of the applicants to elaborate on the applications.

23. With the aid of some plans, Mr. Chan Kwok Wa made the following points:

- (a) he represented the landowners for the applications. Further information was submitted to the Board which demonstrated that the proposed developments under the applications complied with the TPB-PG No.10;
- (b) according to the land survey base plan, there were already a number of Small Houses located to the east of the application sites. An existing track would serve the proposed developments and this addressed the concern on traffic impact of Transport Department. Besides, there would be no drainage and sewerage problems as the future development would be provided with septic tanks;
- (c) by referring to the lot index plan, a planning application for Small House development at a site located to the immediate south of the application sites within the same “GB” zone had previously been approved by the Board. The site characteristics of this approved application were similar to the subject applications;
- (d) regarding DAFC’s concern on the impact on the adjacent woodland, it should be noted that the application sites were currently only covered by grass and weeds. Further development would not affect the woodland behind; and

- (e) the issue on slope stability as raised by CEDD was a matter of cost and there was no feasibility problem.

24. Members had the following questions:

- (a) when was the planning application for Small House development at the site to the immediate south of the application sites approved;
- (b) the difference between the four similar applications (Nos. A/NE-TK/259, 260, 261 and 262) approved by the Board as stated in paragraph 7.3 of the Paper and the current two applications and whether they were far away from the hill slope;
- (c) whether the slope stabilisation works at the application sites would involve any tree felling and removal of vegetation;
- (d) the size of the footprint of the Small House developments and whether the affected area as a result of the construction would include area of the adjacent slopes much larger than the building footprint; and
- (e) whether the slope adjacent to the sites was private land or Government land and whether the applicants needed to seek prior approval for the slope stabilisation work.

25. In response to Members' questions (a) and (b) above, Mr. W.K. Hui made the following points with the aid of some plans and photos:

- (a) as shown in Plan R-1 of the Paper, the planning application (No. A/NE-TK/243) for Small House development at the site located to the immediate south of the application sites was approved by the Board on 14.12.2007;
- (b) the four similar applications were not located close to a steep slope and there was no need for slope stabilisation works as might be required

under the current two applications. Besides, these similar applications were located in close proximity to the existing Small House cluster whereas the current two application sites were located at a distance away from the existing Small Houses. CTP/UD&L objected to further encroachment onto the “GB” zone by Small House development.

26. In response to Members’ question (c) above, Mr. Chan Kwok Wa stated that the type of slope stabilisation works involved would be subject to further investigation such as drilling holes to examine the soil property and undertaking a topographic survey to determine the ground profile. Depending on the result of the investigation, possible slope stabilisation works might involve the construction of a retaining wall or installing soil nails on the slope surface. No tree felling would be needed for the installation of soil nails. On this point, Mr. W.K. Hui stated that the applicants had not submitted any information on the slope stabilisation works involved and CEDD was not able to provide comment on such aspect. There was no information in the submission to allow an assessment on the trees to be affected. A Member further asked why the applicants did not undertake investigation works to confirm the need and extent of slope stabilisation works involved particularly in view of CEDD’s concern on slope stability. Mr. Chan replied that this was mainly due to consideration of the cost involved in carrying out site investigation.

27. In response to Members’ questions (d) and (e) above, Mr. Chan Kwok Wa made the following points:

- (a) the footprint of a Small House was governed by the 700ft² requirement under the Small House Policy. The site area would normally be larger than the footprint of the Small House. The application sites were covered by grass and weeds and no tree within the application site or the adjacent slope would be affected; and
- (b) the adjacent slope were government land. If slope stabilisation works were needed to facilitate the developments, the applicants would apply to the Government for the use of the land for slope work and that would normally be approved by Lands Department.

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

Deliberation Session

29. Miss Annie Tam explained to Members that under the current practice, if the slope adjoining a development would directly affect that development, the owner would be regarded as a beneficiary and would be responsible for the maintenance of the slope.

30. A Member did not support the applications and considered that the approval of the applications would lead to encroachment of development onto the "GB" zone which would adversely affect the existing landscape character of the area. This Member agreed with CTP/UD&L's comment that the clearance of the slope for the Small House would form a scar on the green slope and affect the landscape quality of the whole area.

31. A Member noted that CEDD objected to the current two applications for the reason of slope instability. Slope stabilisation work would likely involve the cutting of the slope, removal of vegetation cover or even tree felling. This Member considered that the applicants should undertake geotechnical investigation study to demonstrate the slope stabilisation works involved and it was premature for the Board to approve the applications before the relevant information was provided by the applicants.

32. A Member commented that the "GB" zone served as a buffer between the Country Park and the "V" zone and it was undesirable for the development to encroach onto the "GB" zone. This Member did not support the applications and considered that the applicants should submit further information to demonstrate how the technical issues could be resolved. Another Member also agreed to retain the existing "GB" zone and considered that the need for construction of an access road for the Small House developments would further affect the "GB" zone.

33. Two Members did not support the applications as they were concerned about the transfer of the slope maintenance responsibility and the cost on the future owners of the Small Houses. The Chairman noted these two Members' concern but considered that the future slope maintenance responsibility should not be a matter of consideration under the current applications.

34. A Member opined that the rejection of the applications might deprive the right of the indigenous villagers and asked if other land could be considered for exchange for the applicants to build Small Houses if the applications were rejected. Miss Annie Tam stated that Lands Department had no objection to the applications from lands point of view as the applicants were indigenous villagers and more than 50% of the sites fell within the "village environ". However, she considered that the current applications should be assessed from the planning perspective. Mrs. Ava Ng also clarified that the rejection of the applications would not deprive the right of the applicants as the applicants could apply for Small Houses on other suitable sites. The Board would have to decide if the site under application was acceptable on land use terms. The Chairman said that land exchange was a matter of government policy and did not relate to the current applications.

35. After discussion, Members generally considered that the applications should be rejected as there was insufficient information in the submissions to demonstrate that the proposed developments, with the possible need for slope stabilisation works and the construction of an access road, would not involve clearance of natural vegetation and would not have adverse landscape impacts on the surrounding areas.

36. After further deliberation, the Board decided to reject the Application No. A/NE-TK/258 and Application No. A/NE-TK/263 on review and the reasons were:

- (a) the proposed developments were not in line with the planning intention of the "GB" zoning for the area which were 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 submissions to justify a departure

from this planning intention; and

- (b) the applications did not comply with the Town Planning Board Guidelines for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that it would involve clearance of natural vegetation, affect the existing natural landscape of the surrounding environment. There was insufficient information in the submission to demonstrate that the proposed development would not have any adverse landscape impacts on the surrounding areas.

[Ms. Starry W.K. Lee left the meeting at this point.]

Agenda Item 6

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TYST/406

Temporary Office for War Game Centre with Ancillary Storage Area for a Period of 3 Years in “Undetermined” zone, Lots 489 (Part), 490 S.A and 723 (Part) in D.D. 119, Shan Ha Tsuen, Yuen Long

(TPB Paper No. 8280)

[The hearing was conducted in Cantonese.]

Agenda Item 7

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TYST/407

Temporary Place of Recreation (War Game Playground) for a Period of 3 Years in "Green Belt" zone, Lots 7 to 10, 14, 31 to 34, 39, 40 (Part), 41 to 51, 54, 70, 77, 118 to 126, 417 RP and 515 (Part) in D.D. 119, Shan Ha Tsuen, Yuen Long

(TPB Paper No. 8281)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

37. Applications No. A/YL-TYST/406 and 407 were submitted by the same applicant for similar use and the sites were close to each other. Members agreed that the two applications could be considered together.

38. The following representatives of the Government and the applicant were invited to the meeting at this point:

Ms. Amy Cheung - District Planning Officer/Tuen Mun Yuen Long
(DPO/TMYL), Planning Department (PlanD)

Miss Paulina Kwan - Senior Town Planner/East, PlanD

Mr. Raymond Leung)

Mr. Kenneth Ng)

Ms. Li Yee Ting) Representatives of the Applicants

Mr. Lam Tim Kit)

Mr. Tang Man To)

Ms. Chi Wai Ha)

39. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited Ms. Amy Cheung to brief Members on the background to the applications.

40. With the aid of some plans and photos, Ms. Amy Cheung presented the applications and covered the following main points as detailed in the Papers:

Application No. A/YL-TYST/406

- (a) the Rural and New Town Planning Committee (RNTPC) rejected the application on 19.9.2008 for the reasons that there was insufficient information in the submission to demonstrate that the development would not generate adverse traffic impact on the surrounding areas. The approval of the application would attract unauthorised war game activities to the nearby woodland of the site, causing a general degradation of the rural environment of the area;

- (b) the details of the applicant's proposal as set out in paragraph 1 of Annex A of the Paper No. 8280. The applicant had not submitted further written representation in support of the review application;
- (c) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper No. 8280. Assistant Commissioner for Transport/New Territories (AC for T/NT) considered that the site was quite remote and there was a long distance from Kung Um Road to the site. Since there was no formal access road, the traffic generated by the site might adversely affect the locals. Besides, adequate parking spaces should be provided within the site. Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the application as the proposed use was to support the operation of a war game playground, he was concerned about the adverse impact of the war game activities on the surrounding woodland;
- (d) public comments - during the statutory publication period, no public comment was received;
- (e) PlanD's view – PlanD did not support the application based on the assessment in paragraph 6 of the Paper No. 8280. There was insufficient information in the submission to demonstrate that the development would not generate adverse traffic impact on the surrounding areas. There was also concern on the traffic safety in view of the long distance of the access leading to Kung Um Road. The approval of the application would attract unauthorised war game activities to the nearby woodland of the site, causing a general degradation of the rural environment of the area;

Application No. A/YL-TYST/407

- (f) the RNTPC rejected the application on 19.9.2008 for the reasons that the development was not in line with the planning intention of the “GB”

zone. There was insufficient information in the submission to demonstrate that the development would not generate adverse landscape impact on the surrounding areas. The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area. There was no information in the submission to demonstrate why suitable sites within the “Recreation” (“REC”) zones in the district could not be made available for the proposed use;

- (g) the details of the applicant’s proposal as set out in paragraph 1 of Annex A of the Paper No. 8281. The applicant had not submitted further written representation in support of the review application;
- (h) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper No. 8281. DAFC had reservation on the application as the site was currently a woodland and the installation of war game facilities as well as the war game activities might cause adverse impact on the soil and the ground vegetation of the site. The applicant had not provided adequate information to demonstrate that the proposed temporary use would not result in any adverse impact on the woodland. Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD also had reservation on the application from landscape planning point of view as no information was provided to demonstrate that the operation of the war game playground would have no significant impact on the woodland landscape character and there was no detail on tree protection measure to alleviate the impact on trees arising from the activities on site;
- (i) public comments - during the statutory publication period, no public comment was received;
- (j) PlanD’s view – PlanD did not support the application based on the assessment in paragraph 6 of the Paper No. 8281. The development

was not in line with the planning intention of the “GB” zone. There was insufficient information in the submission to demonstrate that the development would not generate adverse landscape impact on the surrounding areas. There was no similar application approved in the same “GB” zone. The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area. There was no information in the submission to demonstrate why suitable sites within the “REC” zones in the district could not be made available for the proposed use.

41. The Chairman then invited the representatives of the applicant to elaborate on the applications.

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

42. With the aid of a Powerpoint presentation, Mr. Raymond Leung made the following points:

- (a) the two applications were different in nature in terms of applied use, location, site area, zonings, surrounding uses and therefore separate planning applications were made to the Board. However, he respected the Board’s decision to consider the two applications collectively;
- (b) war game activities had become more popular in Hong Kong and China in recent years. Through war game activities, participants were trained to build up self-confidence, improve leadership and communication skill and relieve work pressure;
- (c) the sites were being exploited for various activities prior to the applicant’s occupation of the site. The applicant intended to regularise the applied uses through planning applications. The two sites could be accessed via an existing vehicular access leading to Kung Um Road and

the newly constructed Lam Tai West Road and Lam Tai East Road;

Application No. A/YL-TYST/406

- (d) in response to rejection reason (a) (i.e. there would be adverse traffic impact generated by proposed development), the development would only operate on weekends and public holidays from 10 a.m. to 6 p.m. or by appointments and the number of visitors per session was 20 to 25. Visitors would walk from the drop off point at the end of Lam Tai East and West Road for about 10 to 15m to the application site or enter the site by car. Only four car parking spaces would be required for the proposed office use which met the Hong Kong Planning Standards and Guidelines. There was no local complaint on the traffic issue. The locals would not be affected as the proposed office use was already surrounded by open storage uses;

- (e) as indicated in paragraph 4.2.2 of the Paper No. 8280, AC for T/NT did not object to the application but only stated that the traffic generated by the site might adversely affect the locals and there was no formal public road. The applicant did not agree as there was an existing local access road leading to the site which also served other open storage uses in the vicinity. It was unfair to ask the applicant to provide a formal access road and not to require the same from the operators of the open storage uses. AC for T/NT also did not respond to the applicant's further submission on the proposed new access from Lam Tai East and West Roads;

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

- (f) for rejection reason (b) (i.e. the approval would attract unauthorised war game activities to the nearby woodland, causing a general degradation of the rural environment of the area), it should be noted that DAFC had no objection to the office use which had been in existence for two years. He only assumed that the proposed office use was to support the war

game playground to the west; which he considered would have adverse impact on the surrounding woodland. CTP/UD&L also had no in-principle objection to the application for temporary office use;

- (g) to conclude, the site was located in an area zoned “Undetermined” (“U”) without a clear planning intention and was within Category 1 Area under the Town Planning Board Guidelines No.13E for Application for Open Storage and Port Back-up Uses. The proposed development was of temporary nature and there would not be any adverse impact on the surrounding development. Utilization of the site for the proposed use would meet the society’s need and aspiration and provide employment for local villagers and residents. There was no local complaint from nearby villagers;

Application No. A/YL-TYST/407

- (h) as stated in paragraph 95(c) of the RNTPC minutes in Annex B of the Paper No. 8281, the main focus for the rejection of the application was that both DAFC and CTP/UD&L, PlanD had reservation as the applied use might cause adverse impact on the woodland, soil and the ground vegetation of the application site but the applicant had not addressed such adverse impact. These aspects would be addressed separately by Mr. Kenneth Ng, the landscape architect for the application;
- (i) in response to rejection reason (a) (i.e. the development was not in line with the planning intention of the “GB” zone), the proposed development only involved temporary use with easily removed facilities like fences, stones, markings or screens but not erection of buildings and structures. It should be regarded as passive recreational use under the planning intention;
- (j) in response to rejection reason (b) (i.e. the development would generate adverse landscape impact on the surrounding), a landscape proposal had been prepared for the site whereby the woodland characteristics would

be preserved and maintained by the applicant. The site was on private land surrounded by trees and woodland and the war game activities would not generate any visual and environmental impacts to the surrounding area;

- (k) for rejection reason (c) (i.e. approval would set an undesirable precedent for similar applications within the “GB” zone and general degradation of the rural environment), it should be noted that planning permission should be based on individual merits. The noise impact would be insignificant as it would be limited to shooting sounds and human voices and there was no residential use in the immediate surrounding and no public comment was received. Director of Environmental Protection (DEP) had no environmental concern. The development was compatible with the surrounding land uses with open storage, warehouse and workshop uses to its east and south;
- (l) for rejection reason (d) (i.e. there was no information to demonstrate why suitable sites within the “REC” zones could not be made available for the proposed use), it should be noted that there was no “REC” zone on the subject OZP while the “REC” zones on the Tai Tong OZP were already occupied by Tai Tong Lychee Garden and a radio controlled model aircraft flying site. There was generally insufficient land for recreational uses in Shap Pat Heung. Apart from land use zonings, other factors such as land ownership and financial considerations which affected the operators’ choice of location should also be considered in the planning approval; and
- (m) to conclude, the application did not contravene the planning intention of the “GB” zone. The proposed development was compatible with the surrounding land uses and would utilise land resources for local recreation activities. There were sufficient measures to protect the woodland.

43. With the aid of a Powerpoint presentation, Mr. Kenneth Ng made the following points:

- (a) there was a total of 406 trees recorded at the site which mainly consisted of fruit trees, native woodland trees and shrubs. The size of the fruit trees was bigger than the woodland trees;
- (b) the existing landscape character within the site was a mixture of both fruit trees and woodland trees. Based on the site history, it was a cultivated field with plantation and with fruit trees defining the edges of the field. The agricultural activities were subsequently abandoned which triggered the invasion of natural succession by woodland species. The site was an abandoned agricultural field instead of a woodland;
- (c) as shown in the landscape master plan, the proposed recreational use would respect the existing landscape character of the site. Activity areas would be concentrated in the open field and the circulation route would follow mainly the existing trail with guiding nets to prevent intrusion into the existing trees and tree stands. No tree felling would be undertaken;
- (d) the following mitigation measures would be undertaken to prevent possible damages to the woodland:
 - regular maintenance on the guiding net and erection of tree protective fence or net to protect the trees from disturbance;
 - installation of protective matt to wrap around tree trunk to protect the tree bark from damage by bullets;
 - the ditches, which previously existed in the cultivated field for better drainage, could be remained or backfilled to ensure safety;
 - plastic bullets would be used and they were insoluble in water and hence would not cause contamination to the soil or ground water; and
 - plastic bullets could be collected by vacuum machine and reused.

Litter bins would be provided.

44. Members had the following questions:

Site Operation

- (a) the operating hours of the war game playground;
- (b) the number of visitors to the war game playground in the past two years. Whether the site area could be reduced for the war game activities given the small groups of participants (20-25 per session);
- (c) whether there was any provision of toilet facilities within the war game playground;
- (d) whether paint balls with dyes would be used as bullets during the war game activities;
- (e) noting the related two applications considered at the meeting, whether the disapproval of one application would affect the viability of the other;

Enforcement/prosecution action

- (f) the sites were subject to planning enforcement actions for unauthorised use for war game centre and Enforcement Notices (EN) were issued in April 2008. Why did the applicant only submit the planning applications in July 2008 and what was the current progress of PlanD's prosecution action;

Lands matter

- (g) clarification on the statement in paragraph 4.2.1 (b) of Paper No. 8280 that the existing occupation area was found to be different from that

under Application No.A/YL-TYST/406;

Landscape Impact

- (h) whether the site proposed for war game playground was previously an agricultural field or orchard and whether the excavation of ditches had damaged the landscape character of the site. What was the depth of the ditches and would there be flooding and drainage problem during rainy seasons;
- (i) was there any change to the vegetation cover shown on the aerial photo taken in February 2008 (Plan A-3 of Annex A of the Paper No. 8281) as it was noted from other site photos that the site was mainly covered by grass instead of trees;

Access and Parking

- (j) under Application No.A/YL-TYST/406, Transport Department (TD) commented that there was a long walking distance from Kung Um Road to the site and no formal access road was available. Why TD did not refer to the access from Lam Tai West and East Road as mentioned by the applicant;
- (k) would the proposed parking spaces for office use under Application No.A/YL-TYST/406 serve as parking spaces for coaches taking participants to the sites from Kung Um Road and whether there were adequate drop-off and laybys along Kung Um Road; and

“REC” zones

- (l) the distance of the “REC” zones in the Tai Tong OZP from the application site.

45. In response to Members’ questions (a) to (d) above, Mr. Tang Man To made

the following points:

Site Operation

- (a) groups visiting during the weekdays were usually by appointment from schools and associations and these numbered about two to three times per week. There was no night time operation for war game activities as there was no light at the site. The insurance company would not allow night time operation because of safety concern;
- (b) the number of visitors to the war game playground was around 400 to 600 per month, with an average of 100 participants on Sunday. There was a need to have a large site so that participants could be divided into small groups of about 20 to 25 under five different activity zones. This would enable the trainers to better monitor the activities of the participants;
- (c) mobile toilet facilities would be provided on site; and
- (d) only plastic bullets of less than 6mm would be used in the war game activities at the application site. Under the current regulation, it would be difficult, if not impossible, to obtain licence to use paint balls as these bullets would usually be larger of about 8mm and they were only allowed for use by disciplined services. The use of these bullets was also not covered by insurance.

46. In response to Members' question (e) above, Mr. Raymond Leung said that if only one of the applications was approved, the applicant would try to find another site for the rejected use to continue the operation. Mr. Tang Man To supplemented that the war game instructor would normally arrange briefing for the groups at their offices and there was no need for the participants to attend briefing at the application site.

Enforcement/prosecution action

47. In response to Members' question (f) above, Mr. Raymond Leung explained that the applicant was only aware of the need for planning permission for the applied uses upon receipt of the ENs in April 2008. The applicant required time to examine and consider the case, to seek assistance from the village representative and to employ consultants before making planning applications to the Board. On the progress of the prosecution action, Ms. Amy Cheung informed the Board that PlanD was now collecting evidence for the enforcement cases and had not yet instigated prosecution action.

Lands Matter

48. In response to Members' question (g), Miss Annie Tam replied that this was a land matter relating to unauthorised structures erected outside the application site boundary. Lands Department would clarify the discrepancy with the applicant separately.

Landscape Impact

49. In response to Members' questions (h) and (i) above, Ms. Amy Cheung replied that there was no information on whether the site was previously an agricultural field or orchard but it was noted that there were currently some fruit trees on the site. Some of the ditches were as deep as the height of a human being and the excavation of the ditches had damaged the landscape character of the site. Mr. Raymond Leung said that the ditches were in existence before the applicant used it as war game playground and there was no evidence that the ditches had damaged the environment. On the flooding and drainage concern, Mr. Leung indicated that Drainage Services Department had no objection to the application and an approval condition requiring the implementation of drainage facilities could be imposed if the application was approved. Mr. Leung also pointed out that PlanD and the applicant had already confirmed that 406 trees were found within the site at the time of planning application.

Access and Parking

50. In response to Members' question (j), Ms. Amy Cheung said that according to

Transport Department, no vehicle longer than 7m would be allowed along Lam Tai East and West Road. The two roads ended at a cul-de-sac with no parking areas and hence vehicles would only drop-off at the cul-de-sac and visitors would walk along a pedestrian track to enter the war game playground. If visitors needed to park their cars, they would have to drive along the local access road leading from Kung Um Road to the parking areas near the temporary office. Mr. Raymond Leung pointed out that TD had no comment on the traffic impact of Application No.A/YL-TYST/407 and referred Members to the photo in Plan R-3 of Paper No. 8281 which showed that Lam Tai East and West Road were of adequate width for vehicle drop-off and visitors, usually of limited number, could access the site via Lam Tai East and West Road. Visitors who needed to park their cars could easily find some parking areas nearby. Regarding TD's comment on Application No.A/YL-TYST/406, Mr. Leung referred Members to his submission in Appendix Id of Annex A of the Paper No. 8280 on the site operation and traffic arrangement. He said that the site was for office and storage use and only a few car parking spaces would be provided mainly to serve the staff.

51. In response to Members' question (k), Mr. Tang Man To stated that most of the participants would request for transport arrangement to the site. The applicant would arrange coaches for the participants to arrive at a drop-off at Kung Um Road and then transferred to the site by 24-seat mini-buses. The parking spaces outside the office were for staff only. Mr. Raymond Leung supplemented that there were adequate drop-offs and laybys along Kung Um Road and there was no past record of traffic problem.

“REC” zones

52. In response to Members' question (l) above, Ms. Amy Cheung replied that the “REC” zones on the Tai Tong OZP fell within the Yuen Long district. On this point, Mr. Raymond Leung supplemented that the applicant had approached landowners in the area but could not find suitable sites for the purpose.

[Mr. Maurice W.M. Lee left the meeting at this point.]

53. As the representatives of the applicant had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures

for the review applications had been completed. The Board would further deliberate on the applications in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the representative of the PlanD and the representatives of the applicant for attending the meeting. They all left the meeting at this point.

Deliberation Session

54. A Member objected to Application No. A/YL-TYST/407 as the war game activities at the application site would seriously damage the landscape character in the area and encourage proliferation of war game activities into the "GB" zone. However, this Member was not against war game activity itself. Another Member also did not support Application No. A/YL-TYST/407 and considered that the war game activities would have significant damaging effect on the environment and nearby structures. This Member however agreed that war game had its merits in training the youngsters and considered that such use should be located at sites within "REC" zone.

55. A Member supported the war game activities but considered that both Applications No. A/YL-TYST/406 and 407 should be considered from a wider planning perspective. Having noted that there were adverse departmental comments, this Member did not support the applications.

56. On the other hand, a few Members supported both Applications No. A/YL-TYST/406 and 407 and considered that war game activities were beneficial to the community and should be encouraged. One of them noted that the site under Application No. A/YL-TYST/407 was an abandoned agricultural field and orchard and there was no adverse public comment on the applied use. This Member considered that the application should be approved given that the impact on the existing landscape was not significant. Two Members supported both applications in view of the lack of similar recreational activities in Hong Kong. They considered that the impact generated by the war game activities on traffic and the existing environment was not significant and the applicant had already employed a landscape architect to undertake appropriate measures to mitigate impact on the existing landscape and trees. Besides, appropriate approval conditions could also be imposed to ensure the implementation of these measures. Another Member commented that the application site was not a natural woodland but an abandoned

agricultural field where ditches already existed. This Member supported the applications as he considered that war game was good for youngsters and it would unlikely create significant environmental impact.

57. Two other Members had no strong view on the approval of Application No.A/YL-TYST/406 as the site was located within an “U” zone without a clear planning intention and was also surrounded by open storage uses. The proposed office use would unlikely affect the traffic condition of the area. For Application No.A/YL-TYST/407, one of them considered that war game playground was preferable to open storage use at the site. This Member was however concerned about the setting of a precedent case in the “GB” zone if the application was approved. The other Member also had no objection to the approval of Application No.A/YL-TYST/407 as the site was surrounded by open storage uses. This Member said that if the application was approved, consideration should be given to rezone the site to “REC” in future as war game activities should not be encouraged in the “GB” zone.

58. Another Member supported Application No.A/YL-TYST/406 and was sympathetic to Application No.A/YL-TYST/407. This Member however was concerned about the large size of the site and the possible proliferation of the war game activities into the surrounding area and commented that such activity had to be closely monitored.

59. A Member also considered that an approval condition should be imposed to monitor the impact on the surrounding areas if the applications were approved and suggested that professionals should be engaged to provide proper guidance to the participants of the war game activities.

60. A Member stated that the existing ditches were excavated for the purpose of the war game activities instead of inherited from the previous agricultural use as claimed by the applicant. Another Member suggested filling up the ditches on safety grounds. A Member however said that the ditches were part of the war game facilities.

61. The Chairman noted that while there were diverging views on the applications, most of the Members agreed that the two applications should be approved given that the sites were surrounded by open storage uses without sensitive receivers in the vicinity, no

local objection was received, the traffic impact was insignificant and the potential environmental, landscape and drainage impacts could be monitored by imposing appropriate approval conditions. In this regard, Members agreed that the two applications could be approved for a shorter approval period of two years to monitor the situation.

62. Noting Members' concern, the Chairman asked whether approval condition could be imposed to monitor the existing ditches. The Secretary suggested and Members agreed that the applicant should be requested to submit a layout plan showing, inter alia, the location and dimension of the existing ditches and no new or further excavation of ditches would be allowed during the planning approval period.

63. In response to a Member's query on the implication of the approval on the enforcement action, Ms. Ava Ng clarified that the granting of planning permission and enforcement action were two separate mechanisms under the Town Planning Ordinance. Hence, the approval of the applications would not have implication on the enforcement or prosecution action.

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

64. After further deliberation, the Board decided to approve Application No.A/YL-TYST/406 on review. The permission should be valid on a temporary basis for a period of two years up to 2.1.2011 in order to monitor the situation and shorter compliance periods were also recommended, subject to the following conditions:

- (a) no night-time operation between 6:00 p.m. and 10:00 a.m., as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) no vehicles longer than 7m were allowed for the operation of the application site at any time during the planning approval period;
- (c) the implementation of the accepted landscape and tree preservation proposal within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board

by 2.4.2009;

- (d) the submission of drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 2.4.2009;
- (e) in relation to (d) above, the implementation of drainage facilities within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 2.7.2009;
- (f) the submission of water supply for fire-fighting and fire service installations proposals within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 2.4.2009;
- (g) in relation to (f) above, the provision of water supply for fire-fighting and fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 2.7.2009;
- (h) if any of the above planning conditions (a) or (b) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (i) if any of the above planning conditions (c), (d), (e), (f) or (g) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (j) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

65. Members also agreed to advise the applicant:
- (a) that prior planning permission should have been obtained before constructing any structures and commencing the applied use at the application site;
 - (b) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
 - (c) that a shorter approval period of 2 years was granted so as to monitor the situation on the site;
 - (d) to note District Lands Officer/Yuen Long, Lands Department's comments that his office reserved the right to take appropriate action against the erection of unauthorised structures on the site. The applicant was reminded to apply for Short Term Waiver (STW) to regularise the irregularities on site. Should no STW application be received/approved, his office on review of the situation would resume or take new action as appropriate according to the established district lease enforcement programme. Moreover, the applicant should clarify why the existing occupation area was found to be different from that under application;
 - (e) to note the Assistant Commissioner for Transport/New Territories, Transport Department's comments that a formal public road should be provided as the site would serve the public. The current minimum standard was to provide a road of 3.5m wide with passing bays at 60m interval and local widening to 6m wide at road junction. Besides, no vehicle longer than 7m should be allowed at the road. Adequate parking spaces should be provided within the application site. The land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified and the relevant lands and

maintenance authorities should be consulted accordingly;

- (f) to note the Chief Highway Engineer/New Territories West, Highways Department's comments that his office did not maintain the vehicular access track between the site and Kung Um Road;
- (g) to follow the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' issued by Director of Environmental Protection;
- (h) to note the Director of Fire Services' comments that for the provision of water supply for fire-fighting for compliance with approval condition, a fire hydrant system with adequate flow and pressure at a location within 500m from the site should be provided. In consideration of the design/nature of the proposed structures, fire service installations (FSIs) other than the said fire hydrant system were anticipated to be required. The applicant was advised to submit relevant building plans incorporated with the proposed FSIs to his Department for approval. In formulating the FSIs proposal, the applicant was advised to make reference to the requirements as stipulated in paragraph 4.14 'Commercial – low rise' of the current version of the Code of Practice for Minimum Fire Service Installations and Equipment. In this connection, the applicant was also advised that the building plans should be drawn to scale and depicted with dimensions and the location of where the proposed FSIs to be installed should be clearly marked on the building plans. Moreover, detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans;
- (i) to note the Chief Engineer/Development (2), Water Supplies Department's comments that for provision of water supply to the development, the applicant might need to extend his inside services to the nearest suitable Government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the

construction, operation and maintenance of any sub-main within the private lots to WSD's standards. Water mains in the vicinity of the site could not provide the standard fire-fighting flow; and

- (j) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the granting of planning approval should not be construed as condoning to any unauthorised structures existing on the site under the Buildings Ordinance and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structures, for approval under the Buildings Ordinance was required. If the site did not abut on a specified street having a width of not less than 4.5m, the development intensity should be determined under Building (Planning) Regulation 19(3) at the building plan submission stage. Emergency vehicular access (EVA) should also be provided to all buildings on site under Building (Planning) Regulation 41D. Detailed consideration would be made at the building plan submission stage.

66. After further deliberation, the Board decided to approve Application No.A/YL-TYST/407 on review. The permission should be valid on a temporary basis for a period of two years up to 2.1.2011 in order to monitor the situation and shorter compliance periods were also recommended, subject to the following conditions:

- (a) no night-time operation between 6:00 p.m. and 10:00 a.m., as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) no new or further excavation of the existing ditches was allowed on the application site during the planning approval period;
- (c) the provision of protective fence on the application site within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.4.2009;

- (d) the submission of landscape and tree preservation proposal, including a tree survey, within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.4.2009;
- (e) in relation to (d) above, the implementation of landscape and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.7.2009;
- (f) the submission of a layout plan of the site including the existing location and dimension of ditches within the site, within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.4.2009;
- (g) if any of the above planning conditions (a) or (b) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (h) if any of the above planning conditions (c), (d), (e) or (f) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (i) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

67. Members also agreed to advise the applicant:

- (a) that prior planning permission should have been obtained before commencing the applied use at the application site;

- (b) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (c) that a shorter approval period of 2 years was granted so as to monitor the situation on the site;
- (d) to note District Lands Officer/Yuen Long, Lands Department's comments that the access from Lam Tai West Road leading to the site run through Government land without particular maintenance works to be carried out thereon;
- (e) to note the Assistant Commissioner for Transport/New Territories, Transport Department's comments that the land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified and the relevant lands and maintenance authorities should be consulted accordingly;
- (f) to note the Chief Highway Engineer/New Territories West, Highways Department's comments that his office did not maintain the local access track between the site and Kung Um Road;
- (g) to follow the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' issued by Director of Environmental Protection;
- (h) to note the Chief Engineer/Mainland North, Drainage Services Department's comments that all the existing drainage facilities, watercourses, flow paths as well as runoff falling onto and passing through the site should be properly maintained. The development should neither obstruct overland flow nor adversely affect any existing watercourse, village drains or ditch;

- (i) to note the Chief Engineer/Development (2), Water Supplies Department's comments that due to the remoteness of the site, the applicant might need to extend his inside services to the nearest suitable Government water mains for connection and make use of his private sump and pump system to effect adequate water supply to the development. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of any private water supply system to WSD's standards for water supply to the development. Water mains in the vicinity of the site could not provide the standard fire-fighting flow; and

- (j) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that formal submission of any proposed new works, including any temporary structures, for approval under the Buildings Ordinance was required. If the site did not abut on a specified street having a width of not less than 4.5m, the development intensity should be determined under Building (Planning) Regulation 19(3) at the building plan submission stage.

[Ms. Maggie M.K. Chan, Professor Paul K.S. Lam, Mr. Walter K.L. Chan, Dr. Greg C.Y. Wong, Dr. Winnie S.M. Tang, Professor N.K. Leung and Professor David Dudgeon left the meeting at this point.]

Agenda Item 8

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/H8/390

Proposed Place of Recreation, Sports or Culture (including Redevelopment of Swimming Pool Complex) in "Open Space" zone, Northeastern Part of Victoria Park, Causeway Bay (TPB Paper No. 8282)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

68. Dr. Greg C.Y. Wong had declared interest for having current business dealings with Architectural and Services Department (ArchSD) which was the applicant's representative. Dr. Daniel B.M. To and Mr. B.W. Chan had declared interest for being the Eastern District Council Member and the ex-Eastern District Council Member respectively. Members agreed that as the interests of Dr. To and Mr. Chan were indirect and not substantial, they could stay at the meeting and participate in the discussion. Members also noted that Dr. Wong had left the meeting at this point.

69. The following representatives of the Government, the applicant and his representatives were invited to the meeting at this point:

- | | | |
|-------------------------------|---|--|
| Ms. Phoebe Chan | - | District Planning Officer/Hong Kong (Atg), Planning Department (PlanD) |
| Mr. Tom Yip | - | Senior Town Planner/Hong Kong (PlanD) |
| Mr. Wong Chi Fai, Gary | - | Chief Executive Officer (Planning) (Atg), Leisure and Cultural Services Department (LCSD)
(Applicant) |
| Mr. Siu Yau Kwong | - | District Leisure Manager (Eastern), LCSD
(Applicant) |
| Mr. Wong Tak Choi, Frank | - | Senior Project Manager, ArchSD
(Applicant's representative) |
| Mr. Wan Siu Yiu, Kennis | - | Project Manager, ArchSD
(Applicant's representative) |
| Mr. Joel Chan |) | |
| Ms. Clara Pang |) | |
| Mr. Aaron Chan |) | |
| Mr. Hui Chak Hung,
Dickson |) | |
| Ms. Wu Wan Yin, Winnie |) | Applicant's representatives |
| Mr. Mark Ng |) | |
| Mr. Johnny Li |) | |
| Ms. Carol Ting |) | |

Mr. Clement Fung)

Mr. Edward Chan)

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

71. With the aid of a Powerpoint presentation, Ms. Phoebe Chan covered the following main points as detailed in the Paper:

- (a) the Metro Planning Committee (MPC) rejected the application on 5.9.2008 on the ground that there was insufficient information in the submission to demonstrate that the proposed scheme was acceptable, including the location of the proposed swimming pool complex (SPC), its compatibility with the surrounding developments in terms of building bulk, height and the design of the SPC;
- (b) the applicant had submitted a revised scheme and written representation with justifications in support of the review application as summarised in paragraphs 2 and 3 of the Paper. Compared with the proposal submitted in the s.16 application, the revisions to the scheme were summed up below:
 - a reduction in site area by 1,649m² (9%) by excluding some slope areas;
 - corresponding reduction in total GFA by 2,305m² (9%) and the green area by 700m² (9%);
 - reduction of the building height of the proposed SPC from 27m to between 23m and 25m (with a slanting roof); and
 - revised design for the SPC and landscape proposal.
- (c) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper;
- (d) public comments - during the statutory publication period, 8 public

comments were received. A concern group and a member of public objected to the loss of open space and excessive building bulk of the proposal. The others commented that the proposed SPC should serve the local residents and school students instead of holding international events and temporary roller skating rink should be provided during redevelopment;

- (e) PlanD's view – PlanD had no objection to the application based on the assessment in paragraph 7 of the Paper. The applicant had reduced the total GFA and building height of the SPC to address MPC's concerns and adopted more planting and transparent materials to soften the building façade, integrate with Victoria Park in design and reduce the visual impacts. The development was compatible with the uses in the surrounding areas and there would not be a loss in public open space as the landscaped area was increased from the existing provision of 1,840m² to about 7,200m². On the issue of connectivity to the waterfront as raised by Harbour-front Enhancement Committee, a footbridge was provided at the western part of Victoria Park to access to Causeway Bay Typhoon Shelter and a landscaped deck connecting the Park and the waterfront had been proposed in the Wan Chai Development Phase II Review.

72. The Chairman then invited the applicant and his representatives to elaborate on the application. Members noted that a physical model prepared by the applicant was displayed at the meeting.

73. With the aid of a plan, Mr. Wong Chi Fai, Gary of LCSD made the following points:

- (a) the existing Victoria Park swimming pool was built in 1950s and the facilities were already worn out. Since 2000, LCSD had been consulting the swimmer groups and the Eastern District Council on the redevelopment proposal; and

- (b) the current redevelopment proposal was to meet public demand for an indoor heated swimming pool which could provide year-round services for local residents and the public. The SPC included a main pool (50m x 25m) and a multi-purpose pool (33m x 25m) providing facilities for various water-based sports activities such as water polo, diving and synchronised swimming.

74. With the aid of a Powerpoint presentation, Mr. Hui Chak Hung, Dickson made the following points:

- (a) there was a need for redevelopment as the existing swimming pool facilities were not up to the latest safety requirement. There was an increasing usage of pool facilities and strong public demand for year-round indoor heated swimming pool facilities. The proposal was also supported by the Eastern District Council;
- (b) a revised scheme was submitted in support of the review application to address MPC's concern on the building bulk and height of SPC by reducing the site area, GFA and building height;
- (c) in-situ redevelopment of SPC was not appropriate due to urban design and visual considerations. The current proposed location would be further away from the harbourfront and minimise visual obstruction to nearby residents. Besides, it would also allow the provision of uninterrupted swimming pool services during construction of the new SPC;
- (d) the existing Hing Fat Street car park served as both a carparking site and a police marshalling areas during festive events. It was not included in the development scheme as there was no interim location for re-provisioning of the existing car park. With the inclusion of the car parking site, the new SPC would be located closer to the residential blocks and was not desirable; and

- (e) due to various technical limitations, the building height of the new SPC could not be further lowered even with the inclusion of the Hing Fat Street car parking site.

75. With the aid of a Powerpoint presentation, Mr. Joel Chan made the following points:

- (a) the redevelopment scheme comprised a new SPC with a main pool (50m x 25m), a multi-purpose pool (33m x 25m), two spectator stands, a hand ball court, tai chi area and two roller skating rinks. The proposal would provide year-round swimming services to the public and facilitate other water-based sports activities such as water polo, synchronised swimming and high-platform diving. The provision of a total of 2,500 seats on the two spectator stands would address the current problem of inadequate spectator seats during joint-school swimming competitions;
- (b) the location of SPC had already taken into consideration the height of the surrounding buildings (e.g. the 30m podium of the Park Towers) and the existing trees (about 15m to 25m) in the Park. A curvilinear and a stepped height design ranging from 25m to 14.5m had been adopted for the new SPC to ensure good integration with the Park;
- (c) in-situ redevelopment was considered not acceptable as it would have significant visual impact to the surroundings and would require a suspension of swimming pool services during construction;
- (d) the current location and design would facilitate an improvement of the pedestrian access from Tsing Fung Street to the waterfront via the new SPC;
- (e) the revised scheme would address MPC's concerns by reducing the building mass and height and providing more landscaping and greening opportunities as follows:

- reduction of GFA by 9%;
 - reduction in the bulk of the main roof structure;
 - use of transparent materials, curving glass wall and façade greening;
 - increase in green area provision from 1,840m² to about 7,200m² (i.e. 5,200m² on ground level and 2,000m² on landscaped roof); and
 - other green features including 88 new trees, vertical greening and, indoor visual greenery.
- (f) the building height of the new SPC had been reduced from 27m to between 25m to 23m under the revised scheme. A half-sunken basement had already been proposed to accommodate the filtration plant room and the suggestion of building it wholly underground was not feasible due to the existing drains underneath. Diversion of the drainage facilities would seriously affect the traffic condition and the residents in the area. Besides, the existing water table was 1.4m below ground. Deeper basement construction would require more extensive de-watering of the site and the use of grout curtain, which would then affect the underground water and the growth of the existing trees;
- (g) the proposed height between 25m and 23m was already the minimum requirement based on international standard to accommodate the necessary facilities including the filtration plant, the pools, movable platform, 10m diving platform with clear headroom, spectator stand, changing room and roofing etc. The height was considered reasonable as compared with the existing facilities in Kowloon Park swimming pool (23m in height with 1,689 seats) and Shing Mun Valley swimming pool (24m in height with 1,000 seats); and
- (h) in providing year-round service to the public, the indoor SPC had incorporated sustainable and environmental-friendly design measures such as natural skylight and greening measures. The incorporation of

insulated glass façade and spot cooling system would also help minimise energy consumption and heat gain/loss.

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

76. Mr. Johnny Li stated that the design of the new SPC had met the standard and requirement under the International Swimming Federation (FINA - Fédération Internationale de Natation) and the Hong Kong Life Saving Society, in terms of pool depth, distance between pools, requirement for spectator stand and diving platform. A movable platform had been designed to allow an appropriate water depth for the public. Besides, the design of the SPC would allow the public and organised groups to use the facilities at the same time.

77. A Member commented while the revised scheme had addressed most of the previous concerns of MPC on building bulk, height and design of the new SPC, it did not take on the suggestion of providing a direct pedestrian connection from Tin Hau MTR Station to Victoria Park to resolve the traffic and pedestrian flow problems at the Hing Fat Street junction during major festive and international events. In response, Mr. Tom Yip of PlanD pointed out that the suggestion to provide an underground pedestrian connection between Tin Hau MTR Station and Victoria Park had already been conveyed to Transport Department (TD) for consideration. TD advised that further study was required and the connection point might not necessarily be provided at the proposed SPC. Mass Transit Railway Corporation Limited (MTRCL) also indicated that as the existing station exits were adequate, there was no plan to provide additional exit from Tin Hau Station to Victoria Park. The Chairman said that it might not be appropriate to resolve the matter at this meeting before TD had a clear decision.

78. A Member asked how the new SPC could serve different users i.e. organisations holding swimming competition and the general public at the same time. With the aid of some plans, Mr. Joel Chan explained that the current design of the new SPC allowed different user groups to use the pools simultaneously. The five groups of changing rooms and the two entrances available could be divided up conveniently for two different groups of users. This would allow special functions and competitions to be held at one part of the new SPC while the general public could still make use of the pool

facilities on the other part. This Member also suggested and the applicant agreed to adopt more permeable façade treatment to mitigate the visual impact of the new SPC facing Hing Fat Street.

79. A Member asked whether a green roof could be incorporated on top of the new SPC. Mr. Joel Chan replied that planters surrounding the periphery of the roof had been proposed to add greenery to the development. It was however not preferable to have a green roof above the swimming pool area as any water leakage from the plants and the soil layer to the swimming pools below would contaminate the water inside the pools. Mr. Wong Tak Choi, Frank of ArchSD added that double slabs and concrete materials required for the construction of the green roof would likely increase the bulk and height of the new SPC.

80. A Member asked whether facilities for the disabled would be provided within the new SPC. With the aid of some plans and photos, Mr. Joel Chan replied that the team had made reference to the similar type of facilities in the Watercube swimming complex in Beijing in the design and proper facilities for the disabled including wheel-chair spaces on the spectator stands and lifts would be provided within the new SPC.

81. A Member asked whether the proposed building height of the new SPC was already the absolute minimum required to accommodate the required facilities. Mr. Joel Chan replied that considerable efforts had been made to reduce the building height of the new SPC and the current proposal was a reasonable balance after taking into account all relevant factors.

82. A Member asked why the main entrance of the swimming pool was located away from the transport route and not on the main street. Mr. Joel Chan replied that the location of the two entrances was adopted after discussion with LCSD and ArchSD. He explained that the current spectator entrance facing Hing Fat Street was near to the Tin Hau MTR Station exit and would be more convenient for students, spectators and international visitors attending special events and competitions. The other entrance on the northern side of the site was near to the existing entrance, which was a familiar location to the public.

83. As the applicant and his 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 absence and inform the applicant of the Board's decision in due course. The Chairman thanked the representative of the PlanD and the applicant and his representatives for attending the meeting. They all left the meeting at this point.

Deliberation Session

84. Members generally considered that the revised scheme submitted by the applicant had addressed the previous concerns of MPC on the building height and bulk, visual impact, design and location of the new SPC and agreed that the application should be approved with conditions.

85. A Member commented that the current redevelopment scheme would provide a good opportunity to improve the pedestrian circulation in the area and the provision of an underground pedestrian link to connect with the MTR Station would be beneficial to the long term planning of the area. This Member suggested and the Board agreed to invite Transport Department to keep this in mind in planning for the area.

86. 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 2.1.2013, 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 granted. The permission was subject to the following conditions:

- (a) the submission of façade design, colour scheme and finishing materials of the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission and implementation of a tree preservation proposal and a landscape master plan to the satisfaction of the Director of Planning or of the Town Planning Board;

- (c) the submission and implementation of protection measures for railway related works including the future MTR Hong Kong North Island Line (NIL) as well as an interchange station at Victoria Park to the satisfaction of the Director of Highways or of the Town Planning Board; and
- (d) the provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

87. Members also agreed to advise the applicant:

- (a) to provide more landscaped and green areas within the proposed development; and
- (b) to note the comments of the Chief Engineer/Technical Services, Railway Development Office, Highways Department on the need to consult the Mass Transit Railway Corporation on interfacing issues in relation to the future NIL and the provision of details of the foundation and structural design for all facilities to be provided at the site in the vicinity of the NIL railway reserve.

Agenda Item 9

[Open Meeting (Presentation and Question Session only)]

Mid-levels West Outline Zoning Plan No. S/H11/14A - Confirmation of Proposed Amendments and Submission of Draft Plan to the Chief Executive in Council for Approval (TPB Paper No. 8283)

[The meeting was conducted in Cantonese.]

88. The Secretary reported that the draft Mid-levels West Outline Zoning Plan (OZP) No. S/H11/14 was exhibited for public inspection under section 5 of the Ordinance on 20.3.2008. During the two-month exhibition period, a total of 263 representations were received. On 6.6.2008, the representations were published for three weeks for

public comments. A total of 467 comments were received.

89. On 31.10.2008, after giving consideration to the representations and comments, the Board decided to proposed an amendment to the Notes of the draft OZP to partially meet one representation and not to propose any amendment to meet the remaining 262 representations. On 21.11.2008, the proposed amendment was published for three weeks for further representations. No further representation was received.

90. Members noted that there was no further representation upon the proposed amendment to the Notes of the “R(C)8” zone. In accordance with section 6G of the Ordinance, the Plan should be amended by the proposed amendment. After deliberation, Members agreed:

- (a) that the draft Mid-levels West OZP No. S/H11/14A and its Notes at Annexes II and III of the Paper respectively were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) to endorse the updated Explanatory Statement (ES) for the draft Mid-levels West OZP No. S/H11/14A at Annex IV 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) that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 10

Any Other Business

[Open Meeting. The meeting was conducted in Cantonese.]

91. There being no other business, the meeting was closed at 1:15 p.m.