

**Minutes of 967<sup>th</sup> Meeting of the  
Town Planning Board held on 8.10.2010**

**Present**

Permanent Secretary for Development  
(Planning and Lands)  
Mr. Thomas Chow

Chairman

Mr. K.Y. Leung

Mr. Walter K.L. Chan

Mr. B.W. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Mr. Timothy K.W. Ma

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr. C.P. Lau

Ms. Julia M.K. Lau

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Dr. W.K. Lo

Mr. Roger K.H. Luk

Ms. Anita W.T. Ma

Ms. Pansy L.P. Yau

Dr. W.K. Yau

Mr. Stephen M.W. Yip

Director of Lands  
Miss Annie K.L. Tam

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

Principal Assistant Secretary (Transport)  
Transport and Housing Bureau  
Mr. Fletch Chan

Director of Planning  
Mr. Jimmy C.F. Leung

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

Secretary

**Absent with Apologies**

Mr. Stanley Y.F. Wong

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Professor Paul K.S. Lam

Dr. James C.W. Lau

Dr. Winnie S.M. Tang

Professor Joseph H.W. Lee

Professor S.C. Wong

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

**In Attendance**

Assistant Director of Planning/ Board  
Mr. Lau Sing

Senior Town Planner/Town Planning Board  
Mr. J.J. Austin

**Agenda Item 1**

[Open Meeting]

Confirmation of Minutes of the 966<sup>th</sup> Meeting held on 17.9.2010

[The meeting was conducted in Cantonese.]

1. The minutes of the 966<sup>th</sup> meeting held on 17.9.2010 were confirmed without amendments.

**Agenda Item 2**

[Open Meeting]

Matters Arising

Request for Uploading Town Planning Board (TPB) papers on the Board's website

[The meeting was conducted in Cantonese.]

2. The Secretary reported that on 5.8.2010, a request was received from Mr. Paul Zimmerman of Designing Hong Kong Ltd to make the materials currently available for public inspection in the public enquiry counters of the Planning Department also available via the internet. A copy of the e-mail correspondence was tabled for Members' reference.
3. On 19.8.2010, the Secretariat replied to Mr. Zimmerman on behalf of the Chairman, stating that there were practical difficulties in uploading all TPB papers on the website as the papers were voluminous and the submissions were not made in a format that could be readily uploaded to the website (i.e. mostly available in hard copies and in one language only). Nevertheless, the minutes of TPB/PC meetings and audio recording (for open meetings) were already made available on the Board's website.
4. On 22.8.2010, Mr. Zimmerman wrote back and stated that there was no longer any technical excuse for delaying the uploading onto the website TPB papers which were not classified as other government departments were already moving in that direction. He considered that whether or not submissions were made in one language or voluminous was

irrelevant for the following reasons:

- (a) submissions could be prepared in digital format or scanned for copying and PDF formatted files could also be requested in the submissions;
- (b) maximum file sizes and minimum screen resolution could be stipulated; and
- (c) information prepared by government departments and provided to the Board were all prepared and stored in digital format.

5. On further consideration of the technical and other implications of the request, the Secretary noted that TPB/PC's paper could be broadly divided into two categories, as follows:

- (a) papers that did not involve third party submissions, including proposed amendments to OZP and general papers; and
- (b) papers that involved third party submissions, including section 16, 17 and 12A applications, representations and comments submitted in respect of OZP amendments, and briefings made to the Board by outside parties.

6. While it was the long-term intention to allow full public access to TPB/PC papers (except those classified as confidential or restricted) via the internet, there were currently practical and technical difficulties to upload all the papers onto the website in one go as submissions made by applicants/representers/commenters were not in electronic format. Taking into account the resource and technical implications, the issues of copyright and data security, and balancing the need to facilitate public access, the Secretary proposed the following phased approach for Member's consideration:

- (a) **Short-term:** the Secretariat would examine the possibility of uploading those papers which did not involve third party submissions on the website under the currently available resources and within a reasonable timeframe; and
- (b) **Long-term:** the uploading of those papers which involved third party

submissions would be considered in conjunction with the implementation of a more comprehensive electronic submission system. The system would be implemented in the long term as many technical issues needed to be resolved, such as information security, data accuracy and readiness of the applicants to accept the new system.

7. The Chairman noted that the current practice was for the applicant to submit the required number of copies of their submissions to the Board for incorporation as appendices to the TPB paper and hence the applicant was accountable for any omission.

8. A Member enquired whether the public could make copies of the TPB papers currently available at the public enquiry counters. In response, the Secretary explained that copying of certain documents could be made upon the payment of a fee.

9. A Member commented that although the request was not unreasonable, it would only bring convenience to a certain group of people as not all members of the public had access to the computer nor the technical knowledge on how to retrieve information on the computer. The Member suggested that applicants should decide for themselves whether the information they submitted should be made available on the internet.

10. Another Member was concerned with the issue of copyright as some of the proposals and designs submitted to the Board might be protected by copyright. The Member agreed with the suggestion that the applicants should be allowed to decide for themselves whether the information they submitted would be made available online. Moreover, the Board would need to set out clearly the type of documents that would be made available on the internet. The Member also enquired whether a Working Group should be set up to examine the long term strategy for digital submissions to the Board.

11. In response, the Secretary explained that the type of documents that would be made available online could be clearly specified. Except for TPB papers that involved third party information including section 16, 17 and 12A applications, representations and comments submitted in respect of OZP amendments, and briefings made to the Board by outside parties, the remaining TPB papers could be uploaded to the internet in the short term. Regarding digital submissions, when the Board might no longer be exempted from the

Electronic Transaction Ordinance within a period of time, submissions to the Board would be required by statute to be submitted in digital format. However, at the moment, there were practical difficulties in requiring submissions to be made in digital format including the volume of submissions concerned, the amount and size of the plans involved, problems in maintaining data security and accuracy, and the convenience for the relevant government departments and Town Planning Board members to access the information submitted. Although the suggestion to let the applicant decide whether the information submitted would be made available online could be an option for the time being, the Board would need to consider whether such an approach was appropriate as the uploaded information could be sketchy and incomplete as only those papers with third party's consent would be made available online. On the long term strategy for digital submission, the Board could request the Planning Department to look into the problem comprehensively and work out a strategy and report back instead of setting up a Working Group on the matter.

[Mr. Clarence W.C. Leung and Mr. Fletch Chan arrived to join the meeting at this point.]

12. A Member commented that although the request was to make the availability of information "barrier-free", the requirement for submissions to be made in digital format would create barriers for members of the public who did not have easy access to the computer (such as the elderly) and might increase the cost of simple applications such as Small House applications.

13. A Member commented that once the submitted information was available online, the Board would lose control on how the information was used as the public could use the information for purposes other than for the intended purpose, i.e. processing of the planning application. The same Member considered that unless the documents were all standardised in format or in a fixed template when uploaded, it might cause even greater inconvenience to the general public.

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

14. A Member enquired whether the information submitted to the Board was required by law to be made publicly available and whether there was an option not to disclose the information submitted to the public. In response, the Secretary explained that under the

existing Town Planning Ordinance which was amended in 2005, it was a statutory requirement that any application submitted under section 16, 17 and 12A of the Ordinance as well as any representations submitted under section 6 of the Ordinance to be made available for public inspection. However, there was no requirement under the statute for the submissions to be made in digital format.

15. As Members had no further questions and comments, the Chairman concluded that Members agreed to adopt the phased approach proposed. In the short term, TPB papers that did not involve third party submissions would be uploaded to the website. The uploading of TPB papers that involved third party submissions would be considered in the long term. Planning Department would submit a proposal to the Board for consideration after the various issues involved such as the interface problems, copyright issues, standardization requirements, and information security issues had been resolved.

### **Agenda Item 3**

[Open Meeting]

Consideration of Representations and Comments in Respect of the Draft Ting Kok Outline Zoning Plan No. S/NE-TK/16

#### **(TPB Paper No. 8631)**

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[The hearing was conducted in Cantonese.]

16. Some of the representations and comments were concerned with a spa resort hotel development proposed by Wheelock Properties Limited. The following Members had declared interests:

Mr. Roger K.H. Luk	)	having current business dealings with
Mr. Stephen M.W. Yip	)	Wheelock Properties Ltd.

17. Members noted that the interests of the above Members were direct and substantial and that they should be invited to withdraw from the meeting. Mr. Roger Luk and Mr. Stephen Yip left the meeting at this point.

Presentation and Question Session

18. Members noted that reasonable notice had been given to the representers and commenters to invite them to attend the meeting. While representers R7, R10, R11, R13, R14, R15 and R16 and commenter C3 would attend the meeting, the other representers and commenters had either indicated that they would not attend the hearing or did not reply. The Board agreed to proceed with the hearing in the absence of these parties.

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

Mr. Hui Wai Keung	District Planning Officer/Shu Tin, Tai Po and North, PlanD
Ms. Lisa Cheng	Senior Town Planner/Tai Po, PlanD

**R7 & R10**

Mr. Leung Shu Fat	-	Representer
Mr. Yu Sun Choi	)	
Mr. Leung Tin Sang	)	Representer's representatives
Mr. Lau Tin Sing	)	

**R11**

Mr. P.K. Leung	-	Representer
Mr. Leung Tin Sang	)	Representer's representatives
Mr. Leung Ching Kong	)	

**R13**

Mr. Lau King Pong	-	Representer's representative
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**R14**

Mr. Leung Pak Yin	-	Representer's representative
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**R15**

Mr. David Choy	)	Representer's representatives
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Mr. Ted Chan )

**R16**

Miss Eva Tam - Representer's representative

**C3**

Mr. Kenneth To )

Mr. David Fok ) Commenter's representatives

Mr. Ricky Wong )

Ms. Carol Choy )

20. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the representations.

[Mr. B.W. Chan and Ms. Anita W.T. Ma arrived to join the meeting at this point.]

21. With the aid of a Powerpoint presentation, Ms. Lisa Cheng made the following main points as detailed in the Paper:

- (a) the background to the amendments to the draft Ting Kok OZP as detailed in paragraph 1 of the Paper: the proposed amendments were mainly to incorporate two s.12A applications (No. Y/NE-TK/4 and Y/NE-TK/6) which had been agreed in principle by the Rural and New Town Planning Committee (RNTPC) respectively on 15.8.2008 and 27.2.2009. Amendment Item A1 involved the rezoning of an area to the north of Ting Kok Village from "Agriculture" ("AGR") to "Village Type Development" ("V") use. Amendment Item B1 involved the rezoning of two areas to the east of Ting Kok Village from "AGR" and "Green Belt" ("GB") to "Other Specified Uses" annotated "Spa Resort Hotel" ("OU(SRH)") while Amendment Item B2 involved the rezoning of an area to the west of Lo Tsz Tin Village from "AGR" and "GB" to "V". A total of 17 representations were received concerning the amendment items and 3 comments on the representations were received;

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

- (b) on 6.8.2010, when considering the hearing arrangements, the Board decided that those parts of representations R13 and R14 relating to the “Site of Special Scientific Interest” zoning and representation R17 relating to the Lung Mei beach were invalid;
  
- (c) an overview of the representations:
  - representations R1 to R6 supported Amendment Item B1 concerning the spa resort hotel;
  - representations R7 to R9 and R16 opposed all the three amendment items;
  - representations R10 and R11 opposed Amendment Items B1 and B2;
  - representation R12 indicated no comment on the zoning amendments;
  - and
  - representations R13 to R15 opposed Amendment Item B1;
  
- (d) the grounds of representations, the representer’s proposals, the views of the commenters and Government’s responses were summarized as follows:
  - (i) Supporting Representations (R1 to R6)
    - the site was ideal for the development of a spa resort hotel as it had a beautiful setting in a distinct countryside with spectacular views;
    - the proposal was in line with the long term tourism development strategy of the Government. The proposal provided an opportunity for the development of a high quality spa resort hotel which would help upgrade Hong Kong’s status as a destination for leisure and business; and
    - the proposed spa resort hotel would broaden the range of tourism products offered in Hong Kong and contribute to the economy as a whole;

(ii) Opposing Representations (R7 to R11 and R13 to R16)

- the villagers had not been consulted on the amendment items. Although the project proponent of the spa resort hotel had consulted the Tai Po Rural Committee, they should have consulted the villagers as the proposal would affect their land;
- the spa resort hotel would aggravate the traffic problem in the area during public holidays and adversely affect the environmental condition, safety, tranquility and fung shui of the villages. R15 was particularly concerned that the additional traffic generated by the proposal would increase the maintenance cost of the access road which was maintained by them;
- R14 considered that it was unfair for the Board to reject his application for Small House development in the “AGR” zone on the grounds of adverse traffic impact while, on the other hand, giving approval to the spa resort hotel which generated a much greater traffic impact;
- the Board was biased towards the big developers in approving the spa resort hotel proposal despite strong objections from the villagers;
- the spa resort hotel would infringe the property right of the villagers and their right to build Small Houses. The proposal had contravened Article 40 of the Basic Law which stated that the rights of indigenous inhabitants would be upheld;
- the proposed village extension areas (Amendment items A and B2) were currently used for car parking, village office and playground purposes. They were not suitable for use as extensions to the “V” zone; and
- R16 considered that the areas covered by the amendment items, which were zoned “AGR” and “GB”, were incompatible with urban sprawl and there was no plan for a sustainable village layout. There was also a need for the holistic review of planning and development of land in the New Territories, including the Small House Policy. The piecemeal rezoning of

agricultural land, green belt and conservation areas would lead to undesirable outcomes and unnecessary destruction of biodiversity;

(iii) Representers' proposals

- to rezone the “OU(SRH)” site to “V”;

(iv) Views of Commenters (C1 to C3)

- commenter C1, who was the proponent of the extension of the “V” zone in Ting Kok Village, supported Amendment Item A;
- commenter C2, who was the same person as representer R12, conveyed the objection raised by the villagers of Ting Kok, Shan Liu and Lo Tsz Tin Village to all the proposed amendment items on the grounds that the proposals would adversely affect the village environment, fung shui and traffic; and
- commenter C3 was submitted by Segor Ltd., the proponent of the spa resort hotel. The commenter disagreed with the opposing representers on the grounds that there was ample opportunity for public consultation during the s.12 application and the amendment to the OZP, various technical assessments had been conducted by the project proponent and mitigation measures had been proposed to address the concerns of the various stakeholders, the project proponent would offer assistance to the villagers to maintain the character of the village and improve the village environment, and the approval of the spa resort hotel did not infringe on the rights of the private land owners;

(v) PlanD's response

*Villagers Not Consulted*

- public consultation of the proposals had been carried out in accordance with the provisions of the Town Planning Ordinance. The two s.12A applications were published for

public inspection on 30.5.2008 and 19.12.2009 respectively and the proposed amendment to the Ting Kok OZP was published for public inspection on 19.2.2010. Public comments were received from Members of the Tai Po District Council, the Tai Po Rural Committee, the Village Representatives and local villagers. Moreover, the public still had the opportunity to comment on the details of the proposed spa resort hotel at the s.16 application stage;

*Adverse Impact from the Spa Resort Hotel*

- the site comprised mainly fallow agricultural land at a scenic location. The site was suitable for low density recreation or resort development and the proposal was supported by the Commissioner for Tourism;
- the scale of the proposed development at a plot ratio of 0.6, a site coverage of 28% and maximum building height of 3 storeys was compatible with the surrounding area;
- the impact assessments on traffic, environmental, drainage, sewerage, water supply and geotechnical aspects submitted by the project proponent were acceptable and mitigation measures were proposed to minimize any potential adverse impacts;
- the proponent was required to submit detailed design to the Board for consideration at the planning application stage and the public would be further consulted on the proposal;

*Bias Towards Developers*

- under the New Territories Small House Policy, consideration would only be given to Small House applications for sites within the “V” zone and the village ‘environs’ of recognized villages. As the site of the spa resort hotel was entirely outside the “V” zone and the village ‘environs’ of any recognized villages, the designation of the site for spa resort hotel would not affect the land availability for Small House developments or affect the right of indigenous villagers to build

Small Houses;

- the two planning applications for Small Houses (A/NE-TK/283 and A/NE-TK/284) were rejected by the Board for the reason that the proposed Small House developments did not comply with the Interim Criteria for Consideration of Applications for NTEH/Small House in the New Territories as the footprints of the proposed Small Houses were entirely outside the “V” zone and the village ‘environs’ of any recognized villages;

*Contravene Article 40 of the Basic Law*

- although Article 40 of the Basic Law protected the lawful traditional rights of indigenous inhabitants of the New Territories to apply for Small House grants, these Small House grants were still subject to statutory planning control. As the development of an NTEH was a Column 2 use under the “AGR”, “GB” and “OU(SRH)” zones, the rezoning of the site from “AGR” and “GB” to “OU(SRH)” did not affect the relevant planning control for Small House development. Hence, the contention that the proposed amendment contravened Article 40 of the Basic Law was not substantiated;

*Sites Not Suitable for “V” Use*

- the site under Amendment Item A adjoined an existing “V” zone and was suitable for “V” use as the land was already formed. The site under Amendment item B2 also adjoined an existing “V” zone and was within the village ‘environs’ of Lo Tsz Tin Village. It was considered suitable for “V” use;
- there was a shortfall of “V” land for Small House development in Ting Kok and the two pieces of land formed logical extensions to the “V” zone which would facilitate the efficient use of land and provision of infrastructure and services; and

*Comprehensive Review of Policies and Procedures*

- the request for a holistic review basically called for a halt of all

developments until the Small House Policy Review and the review of all OZPs and preparation of village layout plans were completed. Given that such a holistic review would take time, it was considered necessary to assess the subject developments in the context of the existing policy and the statutory planning framework.

22. The Chairman then invited the representatives of the representers and commenters to elaborate on the representations.

Representation No. R7 & R10

23. Mr. Yu Sun Choi made the following main points:

- (a) it was unfair to the villagers for the Board to adopt two different approaches in considering the development of the site under concern. The Board should explain why the site was considered suitable for a spa resort hotel development but not suitable for Small House developments;
- (b) Ting Kok was the largest village in Tai Po. However, because of the alignment of Ting Kok Road and the “GB” zoning on the OZP to the south of the road, only a very small area was made available for Small House development by the villagers. The end result was a very crowded village layout which was undesirable;
- (c) although the villagers had submitted a request for the extension of the “V” zone to cover the area to the south of the “OU(SRH)” zone, Planning Department did not respond to their request; and
- (d) even though there were only a few Small House applications submitted by the villagers, they were all rejected by the Board. This was unfair and unreasonable.

Representation No. R11

24. Mr. P.K. Leung made the following main points:

- (a) in approving the spa resort hotel proposal, the Board had failed to consider the interests of the villagers of Shan Liu Village;
- (b) the “V” zone for Shan Liu Village was located on top of the hill which was more suitable for burial ground use than for village development. The amount of flat land within the “V” zone suitable for Small House development was very limited and was totally inadequate to meet the Small House demand of Shan Liu village. Although a few villagers with land at the foot of the hill had applied for Small House development, their applications were rejected by the Board and the site was now rezoned for a spa resort hotel development;
- (c) the proposed spa resort hotel development, together with the proposed artificial beach at Lung Mei and the cycle track extension, would aggravate the traffic congestion problem which was already serious at the moment; and
- (d) Government officials as Board Members should not consider their personal interests but should take into account the interests of the villagers.

25. The Chairman clarified that Members of the Town Planning Board comprised mostly of non-officials coming from a wide range of expertise. Only a few Members were Government officials.

Representation No. R13

26. Mr. Lau King Pong made the following main points:

- (a) he represented Mr. Lau King Keung and Mr. Lau King Tong whose applications for Small House development (A/NE-TK/283 & A/NE-TK/284) on land within the proposed spa resort hotel site were rejected by the Board;

- (b) as three village houses in close proximity to the two Small House application sites had been approved and were already built, he considered that the Board had treated them unfairly. The Board should have given sympathetic consideration to the two Small House applications as their application was first submitted to Government in 1978 and 1979 and they could be considered as infill sites adjoining the three existing village houses. He had already applied to the Appeal Board to appeal against the Board's decision on the two planning applications and considered it procedurally inappropriate for the Board to consider the zoning amendment before the appeal was heard;
- (c) he objected to Amendment Item B1 as it would adversely affect the right of indigenous villagers who owned land within the site to build Small Houses;
- (d) making reference to Plan H-6 which showed the land ownership of the proposed spa resort hotel site, he claimed that the project proponent of the spa resort hotel was trying to forcibly take over the ownership of the land held by Mr. Lau King Keung and Mr. Lau King Tong. As they would not sell the land, the zoning amendment would never be realised;
- (e) contrary to the statement made in paragraph 2.14 of the Paper, the concerned landowners had never been contacted by the project proponent of the spa resort hotel;
- (f) he did not understand why the proposed spa resort hotel with over 200 rooms was considered by the government departments to have no adverse impact whereas the two Small House applications would cause adverse traffic impact; and
- (g) the zoning amendment would affect the rights of the indigenous villagers under Article 40 of the Basic Law as the zoning amendment had adversely affected the opportunity for developing Small Houses on the subject site. Many villagers, Village Representatives and Rural Committees raised

objection to Amendment Item B1 as it would adversely affect the interests of the villagers.

Representation No. R 14

27. Mr. Leung Pak Yin made the following main points:

- (a) his son had applied for a Small House development (A/NE-TK/289) but was rejected by the Board on the grounds that the application site was not within the “V” zone. He considered it unfair as the “V” zone was drawn up by the Board without prior consultation with the villagers or the Rural Committees;
- (b) he claimed that one of the reasons for rejecting the Small House application was that the application site would serve as a buffer area for the spa resort hotel. This was unacceptable and he queried whether Government would demolish 2 existing houses within the same buffer area;
- (c) he disagreed with the assessment that the proposed spa resort hotel would not affect the rural character of the area. In fact, the spa resort hotel would seriously affect the ecology of the area and change the rural character which was originally of an agricultural and green belt setting; and
- (d) by approving the spa resort hotel proposal and rejecting the Small House application, the Government was taking away the development right of the indigenous villagers and giving the developing right to the project proponent. This was unfair and unreasonable.

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

Representation No. R15

28. Mr. Ted Chan made the following main points:

- (a) he represented the Soka Gakkai International of Hong Kong Ltd (SGIHK). He noted that the proposed spa resort hotel would provide much convenience to the SGIHK when conferences and meetings were held by them;
- (b) the SGIHK was concerned that the proposed developments along the 20m contour on the spa resort hotel site would adversely affect the open views currently enjoyed by SGIHK. The layout of the spa resort hotel should be revised to avoid affecting the SGIHK; and
- (c) as Shan Nam Road was currently being maintained by SGIHK, the project proponent of the spa resort hotel should liaise with SGIHK to work out a mutually acceptable management and maintenance arrangement for the road under concern.

Representation No. R16

29. With the aid of a few Powerpoint slides, Miss Eva Tam made the following main points:

- (a) when the Board agreed to the s.12A rezoning application, the interface problems between the proposed spa resort hotel and the surrounding areas were not fully considered;
- (b) as the project proponent had not yet acquired all land within the “OU(SRH)” zone, the problem of land ownership was yet to be resolved; and
- (c) the SGIHK had recently submitted an application for a columbarium development on their site. The Board should consider the implications of the columbarium development on the proposed spa resort hotel site.

Commenter No. C3

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

- (a) he explained the reasons behind the project proponent's choice of the site at Ting Kok for the development of the spa resort hotel including the rural setting of the site, the relative ease of access, and the availability of infrastructure;
- (b) the spa resort hotel proposal was first submitted in 2005 and, after several rounds of revision to the scheme boundary and development parameters, the current scheme was agreed in principle by the Board in 2009;
- (c) on the issue of landownership, the project proponent currently owned 88% of the land under concern;
- (d) the project proponent did contact the local Rural Committee and villagers and consulted them on the scheme, although not all owners were successfully contacted;
- (e) the various technical assessments on traffic impact, environmental impact, drainage impact, landscape and visual impact had been conducted and mitigation measures had been proposed to address the concerns of the stakeholders;

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

- (f) with a plot ratio of only 0.6, the project would have minimal impact on the rural character of the area. More detailed design would be carried out to preserve the local character at the next stage;
- (g) to increase tree planting and to maximise integration with the neighbouring rural character, a buffer planting proposal was provided in the western part of the site;
- (h) to minimise the impact on fung shui, the proposal had already avoided causing any disturbance to Tai Wong Ye Temple. The project proponent would continue to liaise with the local villagers to carry out necessary

measures such as “Tun Fu” ceremonies;

- (i) the boundary of the spa resort hotel had already avoided all land within the village ‘environs’ of the recognised villages so that the proposal would not affect the right of the indigenous villagers to build Small Houses. The proponent had also offered to exchange land under their ownership which was zoned “V” on the OZP with the local villagers to enable them to build Small Houses;
- (j) the design of the spa resort hotel had already adopted a sensitive height profile which would not affect the views of SGIHK. Besides, a green buffer would be provided to minimise the visual impact on SGIHK and extensive landscaping elements would be provided to blend in with the rural environment;
- (k) the additional traffic generated by the spa resort hotel was estimated to be 100pcu/hour during peak hours and no adverse traffic impact on Shan Nam Road would be caused; and
- (l) the proposed “OU(SRH)” zone was in line with the strategic role of the Plover Cove area as a “Recreational Hub” for North-East New Territories.

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

32. A Member enquired whether the Board needed to decide at this stage on some of the detailed issues raised by the representers such as the building height and the management and maintenance of the access road. In response, Mr. Hui Wai Keung said that under the “OU(SRH)” zoning, the project proponent was required to submit a planning application for the development and the issues on the layout, building height and other arrangements could be considered at that stage. The same Member enquired about the interface problems mentioned by R16 and, in response, Mr. Kenneth To said that the various interface issues and land ownership issues would be addressed at the planning application stage.

33. A Member commented that the issue concerning the building height were detailed design issues which was not insurmountable and the Member suggested that the relevant parties should discuss and mediate on a mutually acceptable solution on such matters.

34. A Member enquired whether the lease for the proposed spa resort hotel had included the non-alienation clause to restrict sales of individual flats. In response, Mr. Hui Wai Keung explained that the proposed development was at an early stage and the lease was not yet prepared. Nevertheless, the non-alienation clause would normally be stipulated in the lease for hotel developments.

35. A Member noted that several lots within the site for the spa resort hotel were held by other owners and asked how much land was still owned by indigenous villagers. In response, Mr. Hui Wai Keung said that he did not have information on the ownership of the remaining lots. Mr. Kenneth To said that the project proponent owned 88.54% of the land within the “OU(SRH)” zone. Mr. To supplemented that the remaining lots were held by individuals, who the project proponent would continue to contact.

36. A Member noted the grievance of R13 whose land was at the south-western corner of the proposed spa resort hotel site and asked the project proponent whether they could find an amicable solution to the problem. In response, Mr. Kenneth To suggested that there could be three solutions to the problem. One option would be for the project proponent to revise the design and avoid the private lots at the corner of the site. Alternatively, the project proponent could offer an alternative site within the “V” zone of Lo Tsz Tin Village in exchange for the private lots held by the owners. A third option was for the lot owner to stay put as their right to submit a Small House application within the “OU(SRH)” zone was not affected.

37. The same Member asked whether the project proponent had discussed the options with the lot owner concerned, i.e. R13. Mr. Leung King Pong replied that the lot owner was never contacted by the project proponent. In response, Mr. Kenneth To said that, in the past, the project proponent had contacted the villagers and the village representatives through a middleman and he confirmed that not all lot owners were

successfully contacted. However, with the project proceeding to the planning application stage, the project proponent would try to contact the individual lot owners directly. Mr. Kenneth To supplemented that the project proponent did consult the Tai Po Rural Committee on the proposal.

38. At this point, the Chairman explained that the main objective of the Town Planning Board was to consider whether the proposed land use for the site was appropriate and that the negotiation between the project proponent and the local villagers and lot owners was outside the ambit of the Board.

39. Mr. Lau Tin Sing commented that although the project proponent suggested that the villagers could make use of the land covered by Amendment Item B2 to build Small Houses, the villagers were worried that upon the completion of the spa resort hotel development, the project proponent would proceed to develop the land under their ownership within the “V” zone and hence deprive the indigenous villagers of land for building Small Houses.

40. Mr. Yu Sun Choi said that as he was a Member of the Rural Committee, he would confirm that the project proponent had never contacted the Rural Committee concerning the project. He also commented that the remaining lots would not be easily acquired as some might be *tso tongs* and some lots might be owned by villagers living overseas who never returned to the village. He queried what would happen to these lots if they could not be acquired.

41. Mr. Lau Ting Pong commented that even though the site might be suitable for a spa resort hotel as claimed, it did not mean that the villagers should be deprived of their development rights. He also questioned why the environmental problems caused by the spa resort hotel development were considered acceptable by the Government but the impact caused by the Small House proposals were not. He was skeptical of the proponent’s claim that the right of the lots which were not yet acquired by the proponent to build Small Houses would not be affected by the spa resort hotel proposal. Moreover, he suggested that the private lot owned by R13 should be rezoned to “V”.

42. Mr. Leung Pak Yin reiterated his concern that the project proponent was not

trustworthy. He queried whether villagers who refused to sell their land could continue to farm their land within the “OU(SRH)” site once the development was completed.

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

#### Deliberation Session

44. A Member enquired whether the right of the lot owners which were not acquired by the project proponent would be affected by the zoning amendment. In response, the Secretary explained that Small House was a Column 2 use within the “OU(SRH)” zone and planning permission would be required for Small House development. These lot owners could always submit a planning application and the Board would consider the application in accordance with the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories. In this respect, the right of the lot owners to apply for Small House development would not be affected. However, there was no guarantee that the application would be approved.

45. A Member was concerned whether the hotel rooms could be sold individually in the future and thus changing the nature of the project. In response, the Secretary explained that it was now the practice for a non-alienation clause to be included in the lease of any hotel development to prohibit strata title sale of hotel rooms.

46. A Member enquired whether the development right of the lot owners were affected by the zoning amendment. In response, the Secretary clarified that the zoning amendment had not affected the status of the unacquired lots which were agricultural lots nor the right of the lot owners to apply for Small House developments on the lot.

47. A Member enquired about the reason for rejecting the Small House application mentioned by one of the representers. In response, the Secretary explained that

Small House applications were considered in accordance with the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories. According to the Interim Criteria, development of NTEH/Small House with more than 50% of the footprint outside both the village 'environs' and the "V" zone would normally not be approved unless under very exceptional circumstances. Since the lot owned by the representer (as shown in Plan H-2) was entirely outside both the "V" zone and the 'village environs' of the recognised villages in Ting Kok, the application had failed to meet the Interim Criteria and was rejected.

48. A Member considered that the submissions of the representers and commenters were about the vested interests of the different parties with little bearing on the land use planning of the sites under concern. The Member considered that the Board should note the representations without making any amendments to the zoning of the sites. Another Member agreed and commented that the issues raised by the various parties involved their vested interests. These problems could not be resolved by the Board and the approach to resolve these issues should be through mediation between the parties.

49. A Member considered that the villagers had been misguided as they did not understand that a spa resort hotel development and a Small House application were considered separately by the Board based on two different sets of criteria.

50. Another Member considered that it was a problem of education as the villagers did not understand the land use planning regime and how the planning system worked. There was much room for improvement in educating the general public, in particular the villagers. It would help avoid the waste of resources in handling similar cases in future. This view was echoed by another Member.

51. Two Members considered that the opposing representers did not provide any valid points to justify their objection to the zoning amendments. A Member considered that the difference between the application for spa resort hotel from the application for Small House development and the reasons behind the decision of the Board should be highlighted in the minutes of the TPB Meeting.

52. A Member enquired about the procedures and the considerations that should be

taken into account when considering the representations. In response, the Secretary clarified that the hearing was to consider the representations against the proposed zoning amendments and the material considerations which the Board should consider would include whether the zoning of the land under concern was appropriate taking into account its location, topography and compatibility with adjacent uses, etc. The Board should also consider whether there were any planning justifications put up by the representers and commenters to warrant a change of the Board's decision.

53. In conclusion, the Chairman noted that Members generally agreed to note the supporting representations and not to uphold the opposing representations. Members then went through the suggested reasons for not upholding the representations as detailed in paragraph 6 of the Paper and considered that they were appropriate.

Representation No. R1 to R6 and R12

54. The representations in support of the proposed amendments to the OZP (R1 to R6) and the representation with no comment (R12) were noted by the Board.

Representation No. R7 to R11 and R13 to R16

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

- (a) through the statutory planning process and the administrative practices of the Planning Department, the public had been consulted and the different representatives of the villages/the local villagers had submitted their comments on the planning applications and proposed amendments to the Outline Zoning Plan (OZP). As the spa resort hotel development would require planning permission from the Town Planning Board (the Board), any person, including the local villagers, would have the opportunity to submit comments on the details of the proposal when the planning application was published for public inspection and comments. The public comments received would be taken into consideration when the application was considered by the Board; (*for R7 to R9*)

- (b) the review requested by the representer basically called for a halt of all

developments until the Small House policy review and the review of all OZPs and preparation of village layout plan were completed. It was considered that pending the said reviews, the subject developments should continue to be assessed in the context of the existing policy and the statutory planning framework; *(for R16 only)*

- (c) the “Village Type Development” (“V”) zoning under Amendment Items A and B2 was considered appropriate for the site having regard to the shortfall of land within the “V” zones of Ting Kok for Small House development, the location and physical condition of the site and the surrounding land-use pattern. It formed a logical extension of the Ting Kok “V” zones to facilitate efficient use of land and provision of infrastructures and services; *(for R8, R10 and R11)*
  
- (d) the “Other Specified Uses” annotated “Spa Resort Hotel” (“OU(SRH)”) zoning for the site under Amendment Item B1 was considered appropriate having regard to the existing natural landscape and scenic quality of the Ting Kok area and the findings of various impact assessments conducted by the proponent demonstrating that the proposed spa resort hotel development would not generate adverse traffic, environmental, drainage, sewerage, water supply and geotechnical impacts on the surrounding areas, subject to mitigation measures identified to further minimise any potential adverse impacts. To ensure better planning control on the detailed design and layout of the development and the implementation of mitigation measures identified therein, the detailed proposals for development in the “OU(SRH)” zone would be subject to planning permission from the Board under s.16 of the Ordinance; *(for R8 to R11, R14 and R15)*
  
- (e) the designation of the site for spa resort hotel had not affected the land availability for Small House development and the indigenous villagers’ right to build Small Houses as the spa resort hotel site was entirely outside the “V” zone and the village ‘environs’ (‘VE’) of any recognised villages. The approval in principle of the spa resort hotel had no bearing on the Board’s decision in rejecting Small House applications as each application had been

considered by the Board based on individual merit of the application; (*for R8 to R11, R13 and R14*)

- (f) no planning justifications had been provided in the representation to designate the area under Amendment Item B1 as “V”; (*for R13 and R14*) and
- (g) while Small House grants were covered by Article 40 of the Basic Law (BL40), they were subject to statutory planning controls. The rezoning from “Agriculture” and “Green Belt” to “OU(SRH)” had not changed the scheme of planning control for Small House development as ‘House (New Territories Exempted House only)’ was a Column 2 use in all three zones. The contention that the proposed amendment contravened BL40 was not substantiated. (*for R14 only*)

[Mr. Clarence W.C. Leung, Mr. Felix W. Fong, Mr. B.W. Chan and Prof. Eddie C.M. Hui left the meeting at this point.]

[Mr. Roger K.H. Luk and Mr. Stephen M.W. Yip returned to join the meeting at this point.]

#### **Agenda Item 4**

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/NE-LK/56

Proposed Filling of Land and Pond for Permitted Agricultural Use in “Agriculture” zone, Lots 504 s.A to 504 s.J and 504 R.P. in D.D. 45 and Adjoining Government land, Kai Kuk Shue Ha, Luk Keng

**(TPB Paper No. 8632)**

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[The meeting was conducted in Cantonese.]

Presentation and Question Session

56. The following representative of Planning Department (PlanD) and the applicant's representatives were invited to the meeting at this point.

Mr. Hui Wai Keung	District Planning Officer/Shu Tin, Tai Po and North, PlanD
Mr. Ng Kwok Lun	)
Mr. Chu Kwok Ling	)
Mr. Chu Wan Fuk	) Applicant's representatives
Mr. Chu Kam Wing	)
Mr. Sit Kim Ming	)

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

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

- (a) the applicant sought planning permission for filling of land and pond at the application site which fell within an area zoned "Agriculture" ("AGR") on the Luk Keng and Wo Hang Outline Zoning Plan (OZP);
- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 19.3.2010 and the reasons were:
  - the depth of land and pond filling up to 3m for agricultural use was considered excessive. No strong planning justifications had been provided to demonstrate the need for such excessive land and pond filling;
  - the application site fell within the Luk Keng Marsh Priority Site for Enhanced Conservation identified under the New Nature Conservation Policy and was adjacent to an ecologically important stream. No preventive measures were proposed to

protect the flow of the adjacent ecologically important stream and no flood mitigation measures were proposed to alleviate the increase in flooding risk. The proposed filling of land and pond would result in loss of wetland and had adverse ecological and drainage impacts on the surrounding area; and

- approval of the application would set an undesirable precedent for similar application within the “AGR” zone, the cumulative effect of approving such similar applications would cause irreversible impacts on the ecologically sensitive wetland and stream in the area;
- (c) the application site was subject to planning enforcement action for unauthorised filling of land/pond. An Enforcement Notice was issued on 30.9.2009 and a Reinstatement Notice was issued on 19.10.2009. The concerned parties were convicted and fined by court in mid-June 2010 for non-compliance with the statutory notice. The applicant was required to remove the fill materials and had not yet done so;
- (d) the further justifications in support of the review submitted by the applicant were set out in paragraph 3 of the Paper. The applicant claimed that the proposed depth of the land filling up to 3m would match the height of existing carriageway. If the land was not filled, the site would be waterlogged during heavy rain. The applicant was prepared to revise the application to backfill up to 1 m. The pond under concern was no longer a pond but had been a piece of grassland since 9.3.2009. The loss of wetland and drainage impacts would be minimal. The application was for filling of land for agricultural use which fully complied with the zoning. Moreover, the environmental impact assessment (EIA) and drainage impact assessment (DIA) submitted had demonstrated that the potential adverse impact of the proposed backfilling work could be contained;
- (e) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. The Director of Agriculture, Fisheries and

Conservation (DAFC) did not support the application as the site fell within the Luk Keng Marsh Priority Site which was originally a freshwater wetland area and was worthy for protection. The site formed part of the ecologically sensitive wetland and had good potential to be restored. Being a previously abandoned fishpond, there was good potential for the site to be rehabilitated for fish culture activities. Moreover, the unauthorised filling of the pond had caused negative ecological impact on the stream and its riparian zone. Besides, the fill material comprised a mixture of soil, stones and construction waste which was not suitable for cultivation. The Director of Environmental Protection (DEP) did not support the application due to potential water quality concerns. The EIA and DIA submitted did not provide any effective and practical measures to minimise/avoid potential adverse water quality impact on the ecologically important stream immediately next to the site. There were neither preventive measures to protect the ecologically important stream nor any flooding mitigation measures to alleviate the increase in flooding risk. The Director of Drainage Services (DDS) advised that the DIA was not acceptable as it did not include the project profile nor a DIA study;

- (f) public comments – during the statutory publication period of the review application, 5 public comments were received when the application was published and three public comments were received when the further information submitted by the applicant was published. One public comment supported the application, one indicated no comment, and the rest raised objection to the application. The reasons for objection included that any land/pond filling on the site would cause inevitable ecological damage to the area and adversely affect the ecologically important stream, no information was submitted to address the adverse impacts on the ecology of the wetland, no precautionary protective measures were suggested, no assessment on the potential landscape impact, and the proposed filling of land and pond would cause environmental blight; and

- (g) PlanD's view – PlanD did not support the application based on the assessment in paragraph 7 of the Paper. Although agricultural use was in line with the planning intention, the depth of land and pond filling up to 3m was excessive and no strong planning justifications had been provided. Besides, the fill material was not suitable for cultivation. DAFC considered that the unauthorised filling of the pond had caused adverse ecological impact on the ecologically important stream and its riparian zone. Approval of the application would set an undesirable precedent for unauthorised land/pond filling which might lead to further degradation of the habitats. The submitted technical assessments including the EIA and DIA did not propose effective and practical measures to minimise/avoid potential water quality impact on the ecologically important stream. The filling of the pond had incurred adverse impact on the landscape value of area.

59. The Chairman then invited the applicant's representatives to elaborate on the application and Mr. Ng Kwok Lun made the following main points:

- (a) there was a lack of recreation space in Kai Kuk Shue Ha Village nor was there any place suitable for agricultural activities;
- (b) the fish pond did not form part of the wetland as the site used to be a piece of paddy field before it was turned into a fish pond. Besides, the fish pond had been abandoned several years ago and it was currently a piece of wasteland;
- (c) the fish pond had been a mosquito-breeding ground and it was also a safety hazard for children and cows in the area;
- (d) the applicant would place soil suitable for cultivation on top of the filled land to enable the planting of flowers and trees. The site would be landscaped and would be open for the enjoyment of villagers;
- (e) the depth of the soil filled up to 3m was to provide a level access point

with the adjoining road. Only that part of the site which formed the access road would need to be filled up to 3m;

- (f) as the site never formed part of the wetland, he considered that the ecological impact of the filling of the site to be insignificant. Besides, the area proposed to be filled was some distance away from the ecologically important stream so that the impact on the stream was unlikely to be significant; and

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

- (g) as the site was not a water storage area and it was not a black spot for flooding, the issue of drainage and flooding should not be of concern.

60. Referring to paragraph 5.2.2(d) of the Paper, a Member asked the applicant to respond to DAFC's comment that the fill material was not suitable for farming. In response, Mr. Ng said that the fill material used was to form the foundation for the site and the land filling works had been stopped when the Enforcement Notice was received. Upon approval of the application, the applicant would add soil that was suitable for cultivation on top of the existing fill material.

61. A Member enquired whether construction waste found on the site had already been removed and, if not, whether the applicant would remove the construction waste before placing top soil on the site upon approval of the application. In response, Mr. Ng said a Compliance Notice had already been issued by PlanD, although this information was not reflected in the Paper.

62. A Member asked the applicant to clarify the depth of the soil fill applied for. In response, Mr. Ng explained that level of the site was currently about 2m to 3m below the adjoining road. The applicant would need to fill up part of the site to a depth of 3m, particularly at the ingress/egress point along the road. The Chairman asked why vehicular access was required if the site was for agricultural use. Mr. Ng explained that there was no vehicular access to the site. The proposed access road would provide convenience for watering and harvesting activities.

63. In response to a Member's enquiry, Mr. Ng confirmed that the application site was jointly owned by the applicant's representatives present at the meeting. On the same Member's question about the investment made and the rate of return, Mr. Ng explained that the proposed agricultural use of the site was not for profit but to provide a form of useful activity for villagers who had retired. It would also make better use of an existing piece of land held by the *tso tong*.

[Mr. Fletch Chan left the meeting at this point.]

64. A Member enquired about the level of the paddy field before it was turned into a fish pond. In response, Mr. Ng said that there was no change in level when the paddy field was turned to a fish pond about 20 years ago. However, the level of the Brides's Pool Road had been raised in the intervening period. The same Member queried why a vehicular access to the site was required if the site was to be used for leisure farming as claimed, particularly given that many farm land in the New Territories were without any vehicular access. In response, Mr. Ng explained that an access road would provide the possibility of further development of agricultural activities on the site in future.

65. A Member enquired about the scale of the farming activity envisaged and the products being farmed. In response, Mr. Ng said that the farming activity would be limited to the indigenous villagers and would be small in scale. The type of products being farmed would include flowers, and the growing of fruits trees and nurseries. Another Member asked about the number of farmers likely to be involved and Mr. Chu Kwok Ling said that about 5 to 6 villagers would be engaged in the farming activity. In response to the Chairman's enquiry, Mr. Chu explained that they had not yet decided whether the application site would be used for hobby farming or simply for the growing of fruit trees and other farm products.

66. A Member suggested that the applicants could make better use of the existing fish pond and reduce investment by starting a hobby fishing business instead of hobby farming. In response, Mr. Ng explained that as the site was no longer a fish pond but a piece of wasteland, starting a hobby fishing business would be more costly.

67. Noting the presence of fruit trees already planted on the site, a Member queried the applicant on the need to fill the land. In response, Mr. Ng said that the applicant did not need to fill up the entire site but would only need adequate land to be filled to provide an access road of about 3m in width.

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

#### Deliberation Session

69. A Member commented that as the applicant's objective for filling the land was unclear and no valid justifications were provided, he did not support the application.

70. On the point whether the application site was still subject to enforcement action, the Secretary reported that the Compliance Notice had been issued. She reminded Members that the consideration of the planning application and planning enforcement action carried out by the Planning Authority were different processes. For the case under concern, Members should consider whether the proposed filling of land to a depth of 3m was reasonable and whether the submitted technical assessments were acceptable.

[Professor P.P. Ho and Dr. C.P. Lau left the meeting at this point.]

71. A Member noted that the proposed filling of the land to enable a few villagers to carry out farming activities on the application site was out of all proportions. The same Member, however, was unsure how to handle the applicant's suggestion raised at the meeting that they could do with the filling of land up to 1m in depth. In response, the Secretary explained that as the applicant had not provided any details on the location and extent of the proposed land filling of 1m, the Board would not be able to deal with the proposal. The Board should consider the present case, i.e. the application for land filling up to 3m as originally submitted.

72. The Chairman concluded that Members generally considered that the application should not be approved as there were no strong planning justifications, the proposal would adversely affect an ecologically important stream and the Luk Keng Marsh Priority Site, and the EIA and DIA submitted were not acceptable. Members then went through the reasons for rejecting the application as stated in paragraph 8.1 of the Paper and considered that they were appropriate.

73. After further deliberation, the Board decided to reject the application on review for the following reasons:

- (a) the depth of land and pond filling up to 3m for agricultural use was considered excessive. No strong planning justifications had been provided to demonstrate the need for such excessive land and pond filling;
- (b) the application site fell within the Luk Keng Marsh Priority Site for Enhanced Conservation identified under the New Nature Conservation Policy and was adjacent to an ecologically important stream. The submitted Drainage Impact Assessment and Environmental Impact Assessment had failed to demonstrate that the proposed filling of land and pond would not have adverse drainage and ecological impacts on the surrounding area; and
- (c) approval of the application would set an undesirable precedent for similar applications within the “AGR” zone, the cumulative effect of approving such similar applications would cause irreversible impacts on the ecologically sensitive wetland and stream in the area.

## **Agenda Item 5**

[Open Meeting]

Review of Application No. A/TM-LTY Y/201

Temporary Private Vehicle Park (Private Cars and Light Goods Vehicles) for Villagers of To Yuen Wai and Recreation and Village Affairs Centre (with Ancillary Self-help Car Cleansing Facilities) for a Period of 3 Years in “Village Type Development” zone and area shown as ‘Road’, Lots 538 s.B-L, 581, 586 s.A-C and 586 RP in D.D. 130, To Yuen Wai, Lam Tei, Tuen Mun

**(TPB Paper No. 8633)**

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[The hearing was conducted in Cantonese.]

Presentation and Question Session

74. The following representative of Planning Department (PlanD) and the applicant’s representative were invited to the meeting at this point.

Ms. Amy Cheung	District Planning Officer/Tuen Mun and Yuen Long, PlanD
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Mr. Tai Wing Sun	Applicant’s representative
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75. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Ms. Amy Cheung to brief Members on the background of the application.

76. With the aid of some plans and photos, Ms. Amy Cheung made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for a temporary private vehicle park for private cars and light goods vehicles for the villagers of To Yuen Wai and a recreation and village affairs centre with ancillary self-help car cleansing (i.e. wiping) facilities for a period of three years on the application site which fell within an area zoned “Village Type Development” (“V”) on the Lam Tei and Yick Yuen Outline Zoning Plan (OZP) and an area shown as ‘Road’ on the Tuen Mun OZP;

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

- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 11.6.2010 for the reasons that the proposed development would frustrate development of Small Houses at part of the site and contravene with the planning intention of the “V” zone, the proposed development would cause adverse environmental impacts to the local residents and surrounding area, and there was no information in the submission to demonstrate that the proposed development would not cause adverse drainage impacts on the surrounding areas;
- (c) no further justifications in support of the review were submitted by the applicant;
- (d) departmental comments – the departmental comments were summarized in paragraph 4 of the Paper. DLO/TM advised that one Small House application on lot 586 s.C, which was within the application site, had been approved and 10 other Small House applications were being processed. The Director of Environmental Protection (DEP) commented that two environmental complaints on noise and water pollution were received in 2008 and 2009. Moreover, he did not support the car cleansing activities on the consideration that the grey water from these activities would pose further environmental nuisance and that there was no public sewerage connection within the area. The Director of Drainage Services (DDS) commented that the site was in an area with no sewerage connections. Direct stormwater drainage connection was also not available. The applicant should arrange his own stormwater collection and discharge system to cater for runoff within the site as well as overland flow;
- (e) public comments – one public comment was received commenting that there was a lack of information on the detailed facilities to be provided in the proposed recreation and village affairs office and details of the operation and management of the proposed car park and car cleansing facilities; and

- (f) PlanD's views – PlanD did not support the application based on the assessment and reasons as stated in paragraph 6 of the Paper. The “V” zone was intended for Small House development by indigenous villagers. As 11 Small House applications had been received by DLO with one application already approved, approval of the proposed development for three years would frustrate the Small House developments. A number of village houses were located nearby and two elderly homes were located to the south and south-west of the site. The vehicle park with 80 parking spaces would pose environmental nuisance to the villagers/residents. DEP did not support the car cleansing activities as there was no public sewerage connection within the area. DDS also advised that there was no direct stormwater drainage connection to the site. Moreover, the site had included a section of an existing local access road which could give rise to conflict as the use of the road would be shared with the villagers.

77. The Chairman then invited the applicant's representative to elaborate on the application and, with the aid of a letter and a few photos that were tabled at the meeting, Mr. Tai Wing Sun made the following main points:

- (a) the site had been used for car parking purposes for many years, mainly to serve the villagers;
- (b) a significant investment was required to fulfill the approval conditions of the previous applications. As the applicant did not have enough funds, only part of the required works, including the fire services installations and some drainage works were implemented; and
- (c) the applicant had already contacted the objectors and reached an agreement with them on the mitigation measures.

78. A Member enquired how the foul water from the existing car cleansing activities were disposed of given that there was no sewerage connection to the application site. In response, Mr. Tai Wing Sun explained that there was sewerage connection to the site, even though it was not shown on the plans submitted by the applicant. The Chairman

pointed to paragraph 4.3.3(b) of the Paper and noted that, according to the information provided by DEP, there were no public sewerage connections to the area.

79. A Member enquired whether the building of the Small Houses would affect the access road to the site and asked about the management and mode of operation of the car park and car cleansing facilities. In response, Mr. Tai explained that the existing access road was wide enough to accommodate the Small Houses. As for the operation of the car park and car cleansing facilities, he said that they were provided free of charge to the local villagers.

80. Referring to the photos that were tabled, Mr. Benny Wong noted a water tank and a switch board and enquired about the specific purposes of these facilities. In response, Mr. Tai said that these were the fire service installations which were installed to meet the approval condition of the previous planning approval.

81. The Chairman noted from the photos a sign showing the price list of the car cleansing services. Mr. Tai explained that the price list was set up by another villager and he had already requested that person to remove the price list.

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

### Deliberation Session

83. A Member pointed out that as there were Small House applications approved on part of the site, the approval of the application would frustrate the planning intention of the "V" zone. Another Member pointed out that there would be adverse impacts on the environment generated by grey water discharged from the site, especially given that there was no public sewerage system connecting the site. The review application could not be supported.

84. After some deliberation, the Chairman concluded that Members generally did not support the application as the proposal would frustrate the planning intention of the “V” zone and cause adverse drainage impacts to the surrounding areas. Members then went through the reasons for rejecting the application as stated in paragraph 7.1 of the Paper and considered that they were appropriate.

85. After further deliberation, the Board decided to reject the application on review for the following reasons:

- (a) the proposed development would frustrate development of Small Houses at part of the site and contravene with the planning intention of the “V” zone;
- (b) the proposed development would cause adverse environmental impacts to the local residents and surrounding environment; and
- (c) there was no information in the submission to demonstrate that the proposed development would not cause adverse drainage impacts on the surrounding areas.

### **Agenda Item 6**

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-PN/26

Temporary Place of Recreation (War Game Playground) for a Period of 3 Years in “Agriculture” zone, Lots 24 RP (Part), 26 RP (Part), 27 RP, 28 (Part), 29, 30 (Part), 31 (Part), 32 (Part), 34 (Part), 35 (Part) in D.D. 135 and adjoining Government land, Pak Nai, Yuen Long

**(TPB Paper No. 8634)**

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[The meeting was conducted in Cantonese.]

Presentation and Question Session

86. The following representative of Planning Department (PlanD) and the applicant's representatives were invited to the meeting at this point.

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

Ms. Lam Sin Yee                      ) Applicant's representatives

Mr. Siu See Lap                      )

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

[Mr. Rock C.N. Chen left the meeting at this point.]

88. With the aid of a Powerpoint presentation, Ms. Amy Cheung made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for temporary place of recreation (war game centre) for a period of 3 years at the application site which fell within an area zoned "Agriculture" ("AGR") on the Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP);
- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 5.3.2010 for the reasons that the proposed development was not in line with the planning intention of the "AGR" zone, it was incompatible with the tranquil rural character of the area, there was no information to demonstrate that the development would have no adverse traffic, ecological, landscape and drainage impacts, and approval of the application would set an undesirable precedent for similar applications;
- (c) the application site was subject to planning enforcement action against

unauthorised use for war game centre. An Enforcement Notice was issued on 5.12.2009. As the concerned parties had not complied with the Enforcement Notice, further enforcement action would be taken;

- (d) the further justifications in support of the review submitted by the applicant were set out in paragraph 3 of the Paper. The applicant claimed that the participants of war game activities were required to comply with stringent rules and to exercise self-discipline. War game activities would help young people to build self-confidence. The site did not comprise high quality arable land and had been lying idle for some time. The applicant would increase the amount of land used for cultivation and more fruit trees would be planted on the site. To address TD's concerns, the 14 car parking spaces originally provided would be removed and all participants would be brought to the site by coaches. The applicant would fence-in the site to prevent causing any disturbance to nearby areas;
- (e) departmental comments – the departmental comments were summarized in paragraph 5 of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site had a high potential for agricultural rehabilitation. The Antiquities and Monuments Office (AMO) commented that the site fell within the Sheung Pak Nai Archaeological Site with a high archaeological potential. No ground excavation work was allowed without the prior written consent from the AMO;
- (f) public comments – during the statutory publication period of the review application, one public comment from a Member of the Yuen Long District Council was received objecting to the proposal on traffic grounds. The Kadoorie Farm had also objected to the proposal at the s.16 stage on the grounds that approval of the application would set an undesirable precedent for legitimizing farmland degradation; and
- (g) PlanD's views – PlanD did not support the application based on the

assessment as stated in paragraph 7 of the Paper. DAFC considered that the site had a high potential for agricultural rehabilitation and no strong planning justifications had been given to support a departure from the planning intention of the “AGR” zone, even on a temporary basis. The surrounding area was predominantly rural in character. The proposed war game centre, being a place of entertainment not related to agricultural use, was not compatible with the existing land uses and the tranquil rural setting.

89. The Chairman then invited the applicant’s representatives to elaborate on the application and, with the aid of some photos, Ms. Lam Sin Yee made the following main points:

- (a) as the participants of war game activities were required to exercise self-discipline and group co-operation, they would not cause any visual and noise impacts to the uses nearby;
- (b) in order to address DAFC’s concerns on agricultural rehabilitation, the applicant had already carried out quite extensive landscaping works and reserved a large part of the site for the planting of fruit trees;
- (c) the existing car parking spaces would be replaced by a shed for the growing of vegetables and flowers. To provide activities for the participants’ family members, the shed and the cultivated fields would be used as a nature education centre; and
- (d) the applicant had not received any complaints from its neighbours.

90. A Member enquired about the location of the trees to be planted and Ms. Lam replied that the trees would be planted at the periphery, surrounding the whole site. These trees would also act as a protective barrier to prevent stray bullets from affecting the nearby uses.

91. In response to a Member’s concern on the man-made structures to be developed

on the site, Ms. Lam explained that there were no permanent structures on-site and that only removable articles would be used. The applicant would do all it can to protect the environment. To address DEP's concerns on possible environmental pollution, the applicant had refrained from using any used-tyres on the site.

92. In response to a Member's enquiry, Ms. Amy Cheung confirmed that the existing war game centre was an unauthorized development. An Enforcement Notice had been issued by the Planning Authority but the Reinforcement Notice was not yet issued to the concerned parties.

93. A Member asked about the status of the archaeological site. In response, Ms. Amy Cheung explained that the site fell within the Sheung Pak Nai Archaeological Site which was considered to have a high potential for archaeological finds. However, as excavation works had not been carried out, the real significance of the site could not be confirmed.

94. Mr. Siu See Lap explained to Members that the applicant had spent a tremendous amount of effort and resources to develop the application site into a proper war game centre which was well-equipped and operated. The applicant required participants to strictly follow the safety procedures and requirements when playing war games. The main purpose was to provide a proper facility suitable for young people. However, in order to meet the various government requirements, it had been very costly and the war game centre was still operating at a loss. He explained that he had rented the site at the end of August 2009 and had spent about 9 months' time cleaning up the site which used to be filled with construction waste.

95. A Member noted from the photos a covered structure on site and, in response, Ms. Lam said that the 2-storey structure shown on the photo was a resting place for the participants and their families. Participants were prohibited from going to the upper floor of the structure in order not to cause any disturbance to the neighbours. The structure was installed in early 2010 and could be easily disassembled if required. Mr. Siu supplemented that the war game centre was open only once a week so that any disturbance to the neighbours would be minimal.

96. Making reference to paragraph 5.2.5 (a) and (b) of the Paper, a Member noted that the comments of DAFC under the two sub-paragraphs seemed to be contradicting. Ms. Amy Cheung explained that the two sub-paragraphs covered two different aspects, i.e. agriculture rehabilitation and nature conservation. Although DAFC considered that the nature conservation aspect could be addressed, he maintained his objection from the agriculture rehabilitation aspect.

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

#### Deliberation Session

98. A Member commented that a properly-run war game facility would be beneficial to young people. Noting the effort made by the applicant in clearing the site which was previously filled with construction waste, the Member considered that favourable consideration could be given to the application. This view was echoed by another Member who considered that a temporary approval could be given and the agricultural rehabilitation potential of the site would not be adversely affected.

99. A Member, however, considered that as a matter of principle, the application should not be supported as the proposed war game centre was not compatible with the "AGR" zone. Two other Members supported this view and said that even though the applicant had cleaned up the site, he had only replaced an originally unauthorized development (the construction waste) with another unauthorized development (the war game centre). In view of this fact, it would be difficult to give sympathetic consideration to the application. Besides, it would not be appropriate as a matter of principle for the Board to regularize the unauthorized development which was not compatible with the "AGR" zone. Another Member added that if the construction waste on the site was not an unauthorized use and had now been cleaned up by the applicant, the case might be viewed differently. However, as the construction waste was not an 'existing use', there was no

ground to give sympathetic consideration to the applicant.

100. A Member considered that it would not be appropriate for the Board to reverse the decision of the RNTPC unless there were new grounds and justifications which were not previously considered by the RNTPC. Two other Members agreed with this view. On this matter, the Secretary clarified that it had been the practice of the Board to consider an application under s.17 of the Ordinance *de novo*, i.e. the Town Planning Board was not bound by the decision of the RNTPC when considering the application. The Chairman added that as the review hearing was conducted by the full Board and each Member of the Board was entitled to his/her own views, the Board should consider the s.17 application afresh.

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

101. A Member made a general comment that the Government should assess the amount of land that had the potential for agricultural rehabilitation and how much agricultural rehabilitation had actually taken place as this would have a bearing on the amount of land that should be zoned for "AGR". Nevertheless, for this application, the Member considered that it should not be supported as it was an unauthorised development and there were adverse impacts. In response to the general remark, the Chairman said that although there were no available statistics at hand on the amount of agricultural land rehabilitated, he explained that planning was a continuous process and that the issues raised could be further considered when opportunity arose.

102. The Chairman concluded that Members generally agreed to reject the application as the site was currently zoned "AGR" and the proposed development was not in line with the planning intention of the "AGR" zone. Members then went through the reasons for rejecting the application as stated in paragraph 8.1 of the Paper and considered that they were appropriate.

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

- (a) the development was not in line with the planning intention of the

“Agriculture” (“AGR”) zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Approval of the application, even on a temporary basis, would set an undesirable precedent for other similar uses to proliferate into the “AGR” zone frustrating the planning intention of the zone;

- (b) the proposed development was incompatible with the tranquil rural character of the surrounding area; and
- (c) approval of the application would set an undesirable precedent for other similar uses to proliferate in the area. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

104. The meeting was adjourned for lunch break at 1:30 p.m.

[Professor Edwin H.W. Chan, Dr. W.K. Yau and Ms. Julia M. K. Lau arrived to join the meeting at this point.]

105. The meeting was resumed at 2:30 p.m.

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

Mr. Thomas Chow

Mr. Y.K. Cheng

Professor Edwin H.W. Chan

Ms. Julia M.K. Lau

Mr. Roger K.H Luk

Dr. W.K Yau

Director of Planning  
Mr. Jimmy C.F. Leung

### **Agenda Item 7**

[Open Meeting]

Review of Application No. A/K7/99

Proposed School (Tutorial School) in “Residential (Group B)” zone,

G/F, 108C Boundary Street (NKIL 2323), Ho Man Tin, Kowloon

(TPB Paper No. 8638)

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[The hearing was conducted in Cantonese.]

### **Presentation and Question Sessions**

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

Mr. Eric Yue - District Planning Officer/Kowloon (DPO/K,

PlanD)

Mr. Mak Kin Man - Applicant's representative

108. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/K to brief Members on the background to the application on review.

109. With the aid of a Powerpoint presentation, Mr. Eric Yue presented the application on review and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for a proposed school (tutorial school) at the premises zoned "Residential (Group B)"("R(B)") on the approved Ho Man Tin Outline Zoning Plan (OZP);
- (b) on 11.6.2010, the Metro Planning Committee (MPC) rejected the application for the following reasons:
  - (i) the proposed tutorial school would cause disturbance or nuisance to the local residents; and
  - (ii) the approval of the application would set an undesirable precedent for similar applications for tutorial schools within residential buildings in the area;
- (c) the applicant had submitted supplementary information to support the review application at Annexes E to G of the Paper, which included a survey on pedestrian flow and revised access arrangement to the tutorial school from the western side of the site from Boundary Street. His justifications in support of the review application were summarised in paragraph 3 of the Paper;

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

- (d) departmental comments on the review application were summarised in

paragraph 5 of the Paper. The District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD) advised that the proposed school use was in breach of the covenant laid down in the Government lease of the subject lot, the covenant allowed the erection of ‘one domestic house of an European type’. The Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD) advised that according to the Occupation Permit, the subject building including the application premises was for domestic purposes only. The revised access to the tutorial school was commonly used by other users/residents of the concerned residential development and it would be regarded as a common area of the residential development;

- (e) during the statutory publication period, two public comments objecting to the review application were received. One commenter was against the review application on the grounds that there had already been too many schools including kindergartens and primary schools in the vicinity, and that any additional school of any form would lead to further traffic congestion, degradation of the living environment and aggravation of public safety. The other commenter objected to the relaxation of building height, which was irrelevant to the review application;
- (f) PlanD’s views - PlanD did not support the review application based on the assessments set out in paragraph 7 of the Paper, which were summarised below:
  - (i) the proposed tutorial school at the application premises did not comply with the Town Planning Board Guidelines for ‘Application for Tutorial School under section 16 of the Town Planning Ordinance’ (TPB Guidelines No. 40) as the access to the proposed tutorial school was not separated from the domestic portion of the building and would cause disturbance or nuisance to the residents in the subject residential development;
  - (ii) the applicant proposed a revised access, which was located at the

common main gate at the side entrance along Boundary Street, as an exclusive access to the application premises. However, CBS/K of BD advised that the revised access was commonly used by other users/residents of the concerned residential development and it would be regarded as a common area of the residential development. Therefore, the revised access could not be regarded as a separate access to address the problem of possible nuisances caused by the tutorial school to the residents living in the same building. The MPC had previously rejected five similar applications for tutorial school with access to the application premises shared with residents living in the same building. Approval of the application would set an undesirable precedent for other similar applications;

- (iii) while the applicant claimed that the subject building was used wholly for commercial purposes, CBS/K of BD advised that according to the Occupation Permit, the subject building including the application premises was for domestic purposes only. Moreover, DLO/KE of LandsD indicated that the proposed school was in breach of the covenant laid down in the Government lease governing the subject lot which was for domestic use only; and
- (iv) a commenter objected to the review application on the grounds that there were too many schools including kindergartens and primary schools in the vicinity, and that any additional school of any form would have adverse impact on traffic, living environment and public safety of the area.

110. The Chairman then invited the representative of the applicant to elaborate on the application.

[Mr. Laurence L.J. Li arrived and Mr. Y.K. Cheng returned to join the meeting at this point.]

111. With the aid of some photographs shown at the meeting, Mr. Mak Kin Man made the following main points:

- (a) as illustrated in the photographs taken along Prince Edward Road West and Boundary Street, many of the existing tutorial schools in the area were located on the ground floor and/or first floor of low-rise buildings, with residential units on the upper floors. The tutorial schools and residential units in these buildings shared common corridors and/or staircases;
- (b) a survey on pedestrian flow was conducted in July 2010. It was found that the flow of people in and out of the subject building was very low. During the surveyed time lots, it was found that there were five man-counts in only one time slot and 0 man-count in many other time slots. Therefore, no nuisance or disturbance would be caused to the users of the home for the aged or the residents of the subject building. Moreover, as compared to the pedestrian flow of other low-rise buildings in the vicinity with a mix of tutorial school and residential units, the flow of people in the subject building lot was much less;
- (c) legal actions had been taken to open up the common access on the other side to provide an alternative access to the tutorial school from the other side of Boundary Street and the revised access would be for the exclusive use of the proposed tutorial school during the operation hours; and
- (d) the public comments against the application were groundless. It was not clear whether the commenter was a local resident of the area.

112. A Member asked how many of the existing tutorial schools illustrated by the applicant's representative in his presentation were approved after February 2008, i.e. after the promulgation of the TPB Guidelines No. 40. Mr. Mak Kin Man said that such information was indicated in Appendix II of the MPC Paper. When compared to other existing tutorial schools in the area, the subject tutorial school had much smaller scale with only some 30 students. The nuisances generated by the proposed school would be minimal. The Secretary supplemented that according to Appendix II of the MPC Paper no. A/K7/99 (i.e. Annex A of the TPB Paper No. 8638), the majority of the approved applications for tutorial school use were approved by the Board before February 2008, i.e. before the

promulgation of the TPB Guidelines No. 40.

113. Mr. Mak Kin Man noted from the MPC Paper No. A/K7/99 that the home for the aged on the upper floors of the subject building had been operating for many years without the Board's approval. He questioned why there was exceptional treatment on the subject case. The Chairman replied that concerned departments would take follow up actions on uses without approvals.

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

#### Deliberation Session

115. A Member said that the approved cases of tutorial school use quoted by the applicant's representative were not relevant as they were considered by the Board before February 2008, i.e. before the promulgation of the TPB Guidelines No. 40. In considering the review application, the Board should take into account whether the proposed use complied with the principles and assessment criteria laid down in the concerned Guidelines. In this regard, one of the criteria set out in the Guidelines was that the proposed access (entrance) to the tutorial school should be separated from that of the domestic portion of the building so as to minimize any disturbance to the residents in the same building. However, for the proposed tutorial school, its access was not separated from the domestic portion of the building.

116. The Chairman summed up that the review application did not comply with the concerned TPB Guidelines in that the access to the proposed tutorial school was not separated from the domestic portion of the building and would cause disturbance or nuisance to the residents in the subject residential development. Members agreed.

117. Members then went through the reasons for rejecting the review application as

stated in paragraph 8.1 of the Paper and considered that they were appropriate.

118. After further deliberation, the Board decided to reject the application on review for the following reasons:

- (a) the proposed tutorial school would cause disturbance or nuisance to the local residents; and
- (b) the approval of the application would set an undesirable precedent for similar applications for tutorial schools within residential buildings in the area.

### **Agenda Item 8**

[Open Meeting (Presentation and Question Session Only)]

Request for Deferment of the Hearing Date

Consideration of Representations and Comments to the Draft Aberdeen and Ap Lei Chau Outline Zoning Plan No. S/H15/25  
(TPB Paper No. 8644)

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[The hearing was conducted in Cantonese.]

119. The following Members had declared interests on the item:

- Mr. K.Y. Leung - His mother owned a flat in Ap Lei Chau and his employer, the University of Hong Kong, intended to acquire a piece of land in the Aberdeen & Ap Lei Chau area for its development.
- Mr. Laurence L.J. Li - Owned a flat in the Aberdeen area

120. Members noted that Mr. K.Y. Leung had not yet returned to the meeting. Mr. Laurence L.J. Li left the meeting temporary at this point.

121. The Secretary reported that the draft Aberdeen and Ap Lei Chau OZP No.

S/H15/25 was exhibited for public inspection under section 5 of the Town Planning Ordinance on 7.5.2010. During the two-month exhibition period, a total of 13 representations were received. On 16.7.2010, the representations were published for public comments for three weeks and a total of 502 comments were received. Consideration of the representations by the Town Planning Board (the Board) was originally scheduled for 22.10.2010. On 27.9.2010, all the representers and commenters were notified of the hearing arrangement and the scheduled hearing date. TCL, the representative of the Aberdeen Marina Club (Representer No. 8, (R8)) wrote to the Secretary of the Board on 29.9.2010 requesting to defer the hearing of the representations by the Board to 5.11.2010. In her letter, TCL claimed that R8 and TCL had scheduled their working itinerary with reference to the tentative hearing date of 8.10.2010 as indicated in the Board's paper of Information Note and Hearing Arrangement for Consideration of Representations and Comments to the draft Aberdeen and Ap Lei Chau OZP, which was considered by the Board on 3.9.2010. TCL would be in the United Kingdom on 22.10.2010 and could not alter the confirmed travel commitments. It was essential for TCL to be in attendance together with R8 to address any queries from the Board.

122. As regards the reason put forward by R8, the Secretary clarified that the purpose of the concerned Information Note was not to seek the Board's agreement to the hearing date. The date of 8.10.2010 given in the Information Note was just a tentative date. When the actual hearing date was fixed, the Secretariat would inform the representers and commenters in writing accordingly. On 27.9.2010, the Secretariat wrote to the representers and commenters informing them about the scheduled hearing date which would be held on 22.10.2010.

123. The Secretary said that the TPB Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance was relevant to the consideration of the request made by the R8. According to the said Guidelines, deferment of consideration of representations and comments might affect the submission of the draft OZP to the Chief Executive in Council (CE in C) for approval and other parties involved in the hearing. Hence, such a request should not be entertained unless with the consent of all other concerned parties and there were very strong reasons to do so. If it was absolutely unavoidable, the Board might only adjourn the meeting for a period up to a maximum of four weeks (counting from the

original hearing date) taking into account all relevant considerations and circumstances of the cases.

124. The Secretary continued by pointing out that as stipulated in the said Guidelines, request for deferment of consideration of representations should not be entertained unless with the consent of all other concerned parties. Hence, if any one of the representers/commenters objected to the request for deferral, the hearing had to be held on 22.10.2010 as scheduled. The Chairman suggested and Members agreed that the hearing could be deferred for two weeks, subject to the consent of all other representers and commenters.

125. After deliberation, the Board agreed to defer the hearing of the representations and comments to the draft Aberdeen and Ap Lei Chau OZP for two weeks to 5.11.2010, subject to consent of all representers and commenters. The Board also agreed that if any one of the representers/commenters objected to the deferral, the hearing would be held on 22.10.2010 as scheduled.

*(Post Meeting Note: As one of the representers objected to the deferral, the hearing would be held on 22.10.2010 as scheduled.)*

### **Agenda Item 9**

[Open Meeting (Presentation and Question Session Only)]

Consideration of Further Representation No. TPB/R/S/K1/23-F1 and F2 on Proposed Amendments to the Draft Tsim Sha Tsui Outline Zoning Plan (TSTOZP) No. S/K1/25 arising from the Consideration of Representations and Comments on TSTOZP No. S/K1/23 (TPB Paper No. 8635)

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[The hearing was conducted in Cantonese and English.]

126. The following Members had declared interests on this item:

Mr. Jimmy C.F. Leung ] was a non-executive director of the Urban  
as the Director of Planning Renewal Authority (URA)

- Miss Annie Tam ]  
as the Director of Lands
- Mr. Walter K.L. Chan ]
- Mr. Andrew Tsang - was an assistant to the Director of Home  
as the Assistant Director of Affairs who was a non-executive director  
Home Affairs of URA
- Mr. Maurice W.M. Lee ) was a former non-executive director of  
URA with the term of office ended on  
30.11.2008
- Mr. Stephen M.W. Yip )
- Mr. B.W. Chan - was the chairman of the Appeal Board  
Panel under the URA Ordinance (URAO)
- Dr. James C.W. Lau - was a member of the Appeal Board Panel  
under the URAO, and spouse owned a  
property at Austin Road
- Professor Edwin H.W. ] was a member of the Home Purchase  
Chan Allowance Appeals Committee
- Ms. Maggie M.K. Chan ]
- Mr. Raymond Y.M. Chan - was a member of the Home Purchase  
Allowance Appeals Committee,  
owned a property at Hillwood Road,  
was a consultant of R292 and R293, and  
had current business dealings with  
Henderson Land Development Co. Ltd.  
(HEND). R295 was submitted by  
Miramar Hotel and Investment Co. Ltd, a  
member of HEND
- Ms. Anna S.Y. Kwong - owned a property at Granville Road
- Mr. Roger K.H. Luk - was a Member of the Board of Directors  
of Wharf T&T Ltd and i-Cable

Communications Ltd. These two companies were members of the Wharf (Holdings) Limited. F1 was submitted by the Wharf Realty Limited, a subsidiary of the Wharf (Holdings) Limited.

Mr. Clarence W.C. Leung - was the Director of a Non-Government Organisation which recently received a private donation from a family member of the Chairman of HEND. R295 was submitted by Miramar Hotel and Investment Co. Ltd, a member of HEND.

Dr. C.P. Lau - had current business dealings with HEND. R295 was submitted by Miramar Hotel and Investment Co. Ltd, a member of HEND.

127. The meeting agreed that the interest of Mr. Roger K.H. Luk was direct and he should leave the meeting for this item. Mr. Roger K.H. Luk left the meeting at this point.

128. The meeting also agreed that the interests of Members relating to the URA and Home Purchase Allowance Appeals Committee were indirect and these Members could stay at the meeting. Members noted that Mr. Andrew Tsang, Dr. James C.W. Lau, Ms. Maggie M.K. Chan and Mr. Raymond Y.M. Chan had tendered apologies for not attending the meeting; Mr. Walter K.L. Chan, Mr. Maurice W.M. Lee, Mr. Stephen Yip, Mr. B.W. Chan, Ms. Anna S.Y. Kwong, Mr. Clarence W.C. Leung and Dr. C.P. Lau had left the meeting already; and Miss Annie Tam had not yet arrived to join the meeting.

[Mr. K.Y. Leung and Mr. Laurence L.J. Li returned to join the meeting at this point.]

129. Members noted that Further Representer No. 1 (F1) had tabled a document and Representer No. 59 (R59) had tabled some drawings at the meeting.

#### Presentation and Question Session

130. As reasonable notice had been given to invite the further representers (Nos. F1 and F2) as well as representers (Nos. R1 to R297) and commenters (Nos. C1 to C14) to attend the hearing, Members agreed to proceed with the hearing of further representations

on proposed amendments to the draft Tsim Sha Tsui OZP in the absence of the representers and commenters who had indicated that they would not attend or did not reply to the invitation of this meeting.

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

Mr. Wilson Chan	District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK, PlanD)
Mr. C.K. Soh	Senior Town Planner/Yau Tsim Mong
Ms. Kitty Chiu	Town Planner/Yau Tsim Mong

132. The following representatives of further representers and representers were also invited to the meeting:

Further Representations

F1 Wharf Realty Ltd.

Mr. Ian Brownlee	]F1's
Mr. C.Y. Ng	]representatives

F2 Ms. Mulvihill, Mary

Ms. Mulvihill, Mary	F2
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Representations

R59 The Real Estate Developer Association of Hong Kong

Mr. Ian Brownlee	R59's representative
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R60 Million Success Ltd, Wide Harvest Investment Ltd. & Bestown Ltd.

R63 Murdoch Investments Inc. and Hornbrook Investment Ltd.

R297 Long Whole Investments Ltd.

Miss Kerry Lee	R60, R63 and R297's representative
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R61 The Hong Kong Hotel Ltd.

R62     Harbour City Estates Ltd.

Mr. Ian Brownlee                     ]R61 and R62's  
Mr. C.Y. Ng                             ] representatives

R64     Mantegna Investments Co. Ltd.

Mr. Ian Brownlee                     ]R64's representative

R289    Sailors Home and Missions to Seamen

Mr. Chan Tze Fook                    R289's representative

R292    Achieve Investments Ltd.

R293    Holdwin Ltd.

Mr. Ho Shek Tim                     ] R292 and R293's  
Mr. Lui Wai Kuen, Louie             ] representatives

R295    Miramar Hotel and Investment Co. Ltd.

Ms. Ada Lam                           R295's representatives

133.       The Chairman extended a welcome and explained the procedures of the hearing. He then invited PlanD's representative to brief Members on the further representations.

134.       With the aid of a Powerpoint presentation, Mr. C.K. Soh made the following main points as detailed in the Paper:

- (a)   the background of the proposed amendments to the draft Tsim Sha Tsui OZP No. S/K1/25 arising from the consideration of representations and comments on the OZP No. S/K1/23 as set out in paragraph 1 of the Paper and highlighted below:
  - (i)   on 25.4.2008, the draft Tsim Sha Tsui OZP No. S/K1/23 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance);

(ii) on 3.12.2008, after considering the 304 valid representations and the 14 valid comments, the Board decided to uphold Representation No. 289 (R289) and partially uphold R59 to R288 and R290 to R294 as follows:

- to meet R289 by indicating that the public road where the non-building area (NBA) requirement was applicable to “Commercial (1)” (“C(1)”), “C(2)” and “C(6)” sub-zones would refer to the area shown as ‘Road’ on the OZP, except Nathan Road and Chatham Road South;
- to partially meet R59 and R290 to R294 by providing a minor relaxation clause for the 1.5m wide NBA restriction under “C(1)”, “C(2)” and “C(6)” sub-zones;
- to partially meet R62 by providing a minor relaxation clause for the 15mPD building height (BH) requirement within the “C(8)” sub-zone;
- to partially meet R63 to R288 by revising the BH restrictions for sites in the Tsim Sha Tsui East (TSTE) area from 60mPD to 80mPD/95mPD;
- to partially meet R59 and R60 to R62 by making provision for application for relaxation of the BH restriction for “C” sites approaching a certain size and having other urban design merits (i.e. the relaxation scheme). It was also agreed that the relaxation scheme should also be applicable to the TSTE area (R63 to R288 were related);

The PlanD was requested by the Board to refine the assessment

criteria and consider further how the relaxation scheme would be incorporated into the OZP, taking into account views expressed by Members at the meeting. The Board agreed that the proposed amendments to the OZP under section 6B(8) of the Ordinance to meet or partially meet the representations should be submitted to the Board for further consideration;

- (iii) on 4.6.2010, the proposed amendments to the draft Tsim Sha Tsui OZP No. S/K1/25 arising from the consideration of representations and comments on the OZP No. S/K1/23 were considered and agreed by the Board. The proposed amendments involved:

Amendments shown on the Plan

- Item A Revision to the maximum BH restriction stipulated for sites zoned “C” to the southeast of Mody Road in Tsim Sha Tsui East area from 60mPD to 80mPD;
- Item B Revision to the maximum BH restriction stipulated for sites zoned “C”, “C(3)” and “C(5)” to the northwest of Mody Road in Tsim Sha Tsui East area from 60mPD to 95mPD;

Amendments to the Notes of the Plan

- (a) Incorporation of a new Remark under the Notes for the “C” zone to allow for application for relaxation of BH restrictions for sites with an area not less than 1,800m<sup>2</sup>, except on land designated “C(7)” and “C(10)” and on land stipulated with BH restriction of 386.7mPD within the “C(8)” sub-zone;
- (b) Revision to paragraph (14) of the Remarks of the Notes

for the “C” zone to allow for application for minor relaxation of the 15mPD BH restriction within the “C(8)” sub-zone;

- (c) Revision to paragraph (11) of the Remarks of the Notes for the “C” zone to indicate that the public road where the NBA restriction is applicable for the “C(1)”, “C(2)” and “C(6)” sub-zones refers to the area shown as ‘Road’ on the Plan, except Chatham Road South and Nathan Road, and to incorporate a minor relaxation clause for the NBA restriction;
- (b) on 18.6.2010, the proposed amendments were published under section 6C(2) of the Ordinance for three weeks for further representations. Two further representations (F1 and F2) objecting to the proposed amendments to the OZP were received;
- (c) the background of drawing up the building height restrictions for the “C(8)” sub-zone and the “C” sites in the TSTE area, as well as the relaxation scheme as detailed in paragraphs 3.1 to 3.10 of the Paper;
- (d) the main grounds of the further representations and their proposals were summarised in paragraph 2.2 of the Paper and highlighted below:

*Relaxation scheme (F1 & F2)*

- (i) F1 opposed the terms of the relaxation scheme in that it was not clear if there was an incentive for providing space for the public within a private site, other than through the granting of concessionary gross floor area (GFA) through the Buildings Ordinance processes. As the relaxation scheme was provided through the provisions of the OZP, it was more appropriate for the ‘incentive GFA’ to be included in a section 16 application which would be publicly notified and where the form of the building

would be approved by the Board. F1 proposed that for sites with an area not less than 1,800m<sup>2</sup> within the “C” zone, application for relaxation of plot ratio (PR) restriction should be allowed;

- (ii) F2 objected to the provision to allow application for relaxation of BH restrictions for sites with an area not less than 1,800m<sup>2</sup>. F2 considered that the BH restrictions had just been incorporated into the OZP for two years and it was unacceptable to make further significant changes before the full impact on ventilation and traffic could be assessed. F2 proposed that the amendment should be shelved and reconsidered in, say, 5 years’ time when the impact of the new developments could be fully assessed;

*Minor relaxation of 15mPD BH restriction within “C(8)” sub-zone (F1 & F2)*

- (iii) F1 opposed that within the “C(8)” sub-zone, there was only provision for minor relaxation of the BH restriction of 15mPD for the ‘air ventilation corridors’. There was no provision within the “C(8)” sub-zone to allow application for variation of the alignment, width and design of the ‘air ventilation corridors’ and to allow minor relaxation of the 85mPD BH restriction;
- (iv) F1 noted that the minor relaxation provision for ‘air ventilation corridors’ only allowed for a relaxation of the height ‘within these two strips of land’. This would appear to exclude the possibility of realigning the two corridors upon application (supported by an Air Ventilation Assessment (AVA)), and might be in conflict with the 85mPD BH restriction which existed on either side of the corridors. During the representation stage, a proposal was made to realign the ‘air ventilation corridors’. Instead of accepting the submission, the Board accepted that there should be some flexibility in the way the ‘air ventilation corridor’ requirement was met and agreed that this could be provided for by way of a

relaxation under the section 16 application process. However, the Notes and ES did not achieve this;

- (v) F1 also noted that the ‘minor relaxation’ process did not apply to the area under 85mPD BH restriction while the ‘relaxation scheme’ did. The intention was clear that no relaxation should be granted to the area restricted to 386.7mPD. There was potential for improving the street level environment along Canton Road by application for relaxation of the 85mPD BH restriction, provided that the relevant criteria were met;
- (vi) F1 proposed to revise the Notes for the “C(8)” sub-zone to permit on application for the relaxation of BH restriction, variation in alignment and variation to the width of the ‘air ventilation corridors’ as shown on the OZP, and changes to the design of the ‘air ventilation corridors’, with the support of an AVA and other relevant information. In addition, paragraph (14) of the Remarks for the “C” zone should be amended by deleting “85mPD” so that the provision for minor relaxation of BH restriction would also be applicable to this part of the “C(8)” sub-zone;
- (vii) F2 objected to the provision to allow application for minor relaxation of the 15mPD BH restriction for the ‘air ventilation corridors’ within “C(8)” sub-zone. F2 considered that the BH restrictions had just been incorporated into the OZP for two years and it was unacceptable to make further significant changes before the full impact on ventilation and traffic could be assessed. F2 proposed that the amendment should be shelved and reconsidered in, say, 5 years’ time when the impact of the many new developments could be fully assessed;

*BH restrictions in Tsim Sha Tsui East (TSTE) (F2)*

- (viii) F2 strongly objected to the amended maximum BH restrictions

for the sites in TSTE area. F2 considered that the BH restrictions had just been incorporated into the OZP for two years and it was unacceptable to make further significant changes before the full impact on ventilation and traffic could be assessed;

- (ix) F2 noted that according to the AVA, air ventilation in the inland area of Tsim Sha Tsui, i.e. areas bounded by Chatham Road South, Kimberley Road, Haiphong Road, Kowloon Park Drive and Middle Road, was relatively poor. To allow penetration of prevailing wind from the east to the inner areas, the maximum BH restriction in TSTE area should be capped at 60mPD. Taller buildings would adversely affect the heavily polluted inland areas;
  - (x) F2 considered that increasing by 50% the BH on the internal border (i.e. “C” sites to the northwest of Mody Road with BH restriction increase from 60mPD to 95mPD) was not in the interest of local residents and visitors who used the open space in TSTE area. Changes in BH restrictions would initiate immediate redevelopment in an area where there was no overriding need for demolition or rebuilding as none of the buildings in TSTE area was in bad condition;
  - (xi) F2 also mentioned that she did not understand the implication of proposed amendment (c) to the Notes on definition of public road and members of the public received no briefing or explanation on the proposals;
  - (xii) F2 proposed that the amendment should be shelved and reconsidered in, say, 5 years’ time when the impact of the many new developments could be fully assessed;
- (e) PlanD’s responses to the grounds of representations and the representers’ proposals were detailed in paragraphs 3.11 to 3.24 of the Paper and the

key points were as follows:

*Relaxation scheme (F1 and F2)*

- (i) the relaxation scheme related to the granting of BH relaxation on application to the Board. It provided greater flexibility to developers in designing their building properties as well as incentive in terms of higher BH, which might call for a higher value, for improving streetscape and pedestrian environment;
- (ii) the relaxation scheme concerned the granting of BH relaxation in relation to building design only and had no bearing on the permitted PR/GFA. The developers could already achieve the permitted PR/GFA under the stated BH on the OZP. If developers chose to apply to the Board for higher BHs, they should strive to meet the assessment criteria under the relaxation scheme on a voluntary basis and there should be no granting of additional PR/GFA, which would have cumulative impact on traffic and infrastructure. Since the ground level space freed up under the relaxation scheme was still in the hands of the landowners and developers, it would be up to them to decide if such ground level space was to be dedicated for public passage. Whether bonus PR/GFA would be granted in return for the dedication for public passage was a matter to be dealt with under Building (Planning) Regulation (B(P)R) 22(1) or (2) under the jurisdiction of the Building Authority (BA) in accordance with the established mechanism. It was inappropriate to deal with the bonus PR/GFA issue through the relaxation scheme under the Town Planning Ordinance as proposed by F1;
- (iii) F2 considered that it was premature to make provision for the relaxation scheme in the OZP before the full impact on ventilation and traffic could be assessed. Since the proposed amendments including the relaxation scheme did not involve any relaxation in

PR restrictions, there should be no additional traffic generation and hence impact on the Tsim Sha Tsui area. The impact of air ventilation had been assessed at the stage of imposing BH restrictions on the OZP. In applying to the Board for BH relaxation under section 16 of the Ordinance, the applicant was required to demonstrate to the Board with relevant assessments that the proposed development would not have any adverse impacts (e.g. air ventilation, visual and landscape) on the surrounding areas and ensure that the relevant assessment criteria, including minimum site area, design, building orientation, disposition, green coverage, setback, building gap, streetscape, basement carpark, etc., which aimed at encouraging good urban design practice and improving the overall townscape would be met. Since the application would be published for public comments, any comments/concerns from the local residents would be submitted together with the application to the Board for consideration. Under the circumstances, it was considered appropriate to incorporate the proposed relaxation scheme into the OZP at this stage;

*Minor relaxation of 15mPD BH restriction within “C(8)” sub-zone (F1 & F2)*

- (iv) the provision had made allowance for the adjustment of the height as well as the alignment, width and/or design of the concerned ‘air ventilation corridors’ in the “C(8)” sub-zone. Any such application should be supported by site-specific AVA and other relevant assessments to clearly indicate the merits and implications of the proposal, in particular, improvements to air ventilation in the locality;
- (v) the BH restriction of 85mPD for the “C(8)” sub-zone had been drawn up in accordance with the overall BH concept for the Planning Scheme Area. The BH for the strip of land on the

western side of Canton Road, including the “C(8)” sub-zone but excluding the “OU” zones protruding into the Harbour, should generally be in the region of 85mPD to 90mPD in view of its waterfront location and its proximity to the West Kowloon Cultural District. While a BH of 386.7mPD within the “C(8)” sub-zone was stipulated to reflect the ‘committed’ status of the redevelopment project at Ocean Centre which was recognised when the Urban Design Study was carried out in 1998-2002, it was proposed that a lower building profile be stipulated for the remaining portion of the site in view of its harbourfront location without compromising the permitted development intensity. The BH restrictions for the site had been assessed as a whole taking account of its waterfront location and consideration of air ventilation. Since the BH restriction of 85mPD was required to balance the committed high block of 386.7mPD to the south, minor relaxation to the BH restriction of 85mPD within this sub-zone without lowering the height of the 386.7mPD high block was considered not appropriate. If there was a need to vary the 85mPD BH restriction, the BH profile including the BH of 386.7mPD block and air ventilation factors of the whole “C(8)” sub-zone should be reviewed. Submission of a comprehensive development/ redevelopment scheme showing the overall layout arrangement of the site, assessing the air ventilation performance and clearly indicating the design and planning merits and other benefits for consideration of the Board under section 12A for amendment to the OZP would be more appropriate;

- (vi) F2 considered that it was premature to make provision for minor relaxation of the BH restriction of 15mPD for the ‘air ventilation corridors’ within the “C(8)” sub-zone before the full impact on ventilation and traffic could be assessed. However, the proposed amendment would not have any additional traffic impact on the area. The proposed provision would allow flexibility in planning control and the public would be allowed to make comments on

any proposed minor relaxation of the 15mPD BH restriction;

*BH restrictions in TSTE (F2)*

- (vii) taking into account the recommendation of AVA Study that TSTE area was a major window for the prevailing wind from the east to the core area of Tsim Sha Tsui and the fact that majority of the existing commercial buildings in TSTE area were in the range of 48mPD to 54mPD, a BH restriction of 60mPD for TSTE area was imposed. During the exhibition of the amendments to the OZP, a total of 226 representations opposing the BH restriction in TSTE area (R63 to R288) were received. To facilitate better building design and provide variation in the skyline of TSTE area without undermining significantly the overall air ventilation performance of Tsim Sha Tsui, PlanD recommended that consideration could be given to relax the BH restriction for TSTE area from 60mPD to 80mPD. At its meeting on 3.12.2008, the Board agreed that 80mPD should be the reference point in deciding the height limit for part of TSTE and the BH limit for the part of TSTE away from the waterfront area could be further relaxed to 95mPD to create a stepped BH profile. On this basis, the proposed 80mPD/95mPD BH restriction for TSTE area was a balanced approach which could achieve a stepped height profile for visual permeability and wind penetration, and maintain an intertwined relationship with the Victoria Harbour edge;

*Public Consultation (F2)*

- (viii) the public had been adequately informed of and allowed to give their views on the proposed amendments in accordance with the statutory provisions under the Ordinance:

- related TPB/MPC Papers, minutes, AVA Study Report, the OZP and its accompanying Notes and ES were

available for public inspection/purchase;

- the amendments to the OZP were presented to the Sub-committee on Harbour Plan Review of the then Harbourfront Enhancement Committee and the Yau Tsim Mong District Council on 21.5.2008 and 12.6.2008 respectively;
- the current proposed amendments were consequential to the Board's decision to meet or partially meet the representations upon consideration of the representations and comments to the OZP on 3.12.2008. The background and justifications for the proposed amendments (including the reason for the amendment related to public road as mentioned by F2) were detailed in TPB Paper No. 8557, which was available in PlanD's Planning Enquiry Counters and the minutes of the meeting were available at the Board's website for public inspection;
- the public could make further representation in respect of the proposed amendments;

- (f) PlanD's views – PlanD did not support the further representations No. F1 and F2 and considered that they should not be upheld for the reasons as set out in paragraph 5 of the Paper.

135. The Chairman then invited the representatives of the further representers and representers to elaborate on their submissions.

F1 (Wharf Realty Ltd.)

136. With the aid of photographs, drawings and materials tabled at the meeting, Mr. Ian Brownlee, the representative of F1, made the following main points:

- (a) F1, Wharf Realty Ltd, was one of the owners of the Harbour City – Gateway Development located within the “C(8)” sub-zone. The representation was in support of the principles embodied in the proposed amendments and was made with a view to seeking clarification, refinement and relatively small adjustments to the way the amendments would be applied to the “C(8)” sub-zone. F1’s proposed amendments to the concerned sections of the Notes and ES were tabled at the meeting for Members’ consideration;
- (b) there were three issues F1 would like to address and they were outlined in its written submission in Appendix VIa of the Paper. The three issues were as follows:

*‘Air Ventilation Corridors’*

- (c) two 30m-wide ‘air ventilation corridors’ were imposed on the “C(8)” sub-zone, both with BH restriction of 15mPD. One of them was impractical as it cut across Sun Life Tower, a relatively new building which would not be redeveloped for a long time. The Board previously decided that some flexibility in the ‘air ventilation corridor’ requirement could be provided by way of a relaxation under the section 16 application process. However, the wording of the Notes and ES of the OZP did not achieve this purpose. The Notes provided for minor relaxation of the BH restriction within the ‘air ventilation corridors’, but the ES stated that application for minor relaxation of BH restrictions within ‘these two strips of land’ was allowed. There might be some conflict with the 85mPD BH restriction which existed on either side of the corridors where minor relaxation of the height restriction was not permitted. Moreover, as shown in the drawing shown to members at the meeting, adopting alternative alignments and changes in design of ‘air ventilation corridors’ after taking into account the existing building gaps within the “C(8)” sub-zone would be more effective in improving air ventilation of the area;

- (d) in view of the above, it was proposed that the Notes and ES of the OZP be revised to permit on application relaxation of the BH restriction, variation in the alignment, width of the 'air ventilation corridors', and changes in the design of the corridors, with the support of an AVA and other relevant information;
- (e) it was noted that the intention of providing flexibility for the 'air ventilation corridors' was agreed by the Government in paragraph 3.14 of the Paper. The proposed provision to allow minor relaxation of the 15mPD BH restriction on application to the Board had made allowance for adjustment of the height as well as the alignment, width and/or design of the concerned 'air ventilation corridors' in the "C(8)" sub-zone. In this regard, F1 proposed to include such intention specifically in the ES so to enable the Board to make reference to it when considering a planning application for revised 'air ventilation corridors'. Line 4 of paragraph 8.1.13 of the ES was suggested to be amended to read:

*'In order to provide for greater flexibility, application for relaxation of building height restrictions within these two 'air ventilation corridors', or the realignment or relocation of these two strips of land is allowed.'*

*Minor relaxation for the area covered by the 85mPD BH restriction*

- (f) under the amendments to the "C" zone, the relaxation scheme applied to the area covered by the 85mPD height restriction while the minor relaxation clause did not. It was proposed to amend paragraph 14 of the Remarks for the "C" zone by deleting "85mPD" so that the provision for minor relaxation of BH restriction would also be applicable to this part of the "C(8)" sub-zone. There was scope for improved design opportunities if this minor relaxation provision was available, particularly if it could be considered in relation to the applications for the minor relaxation of the design of the air ventilation corridors through the site;
- (g) in paragraph 3.15 of the Paper, PlanD responded that the minor relaxation

clause should not apply to the 85mPD area because it was required to balance the tall building within the zone, and a section 12A application to the zoning would be more appropriate for considering relaxation of the BH of the 85mPD area. However, the plan-making process of the draft Tsim Sha Tsui OZP had not completed and it should be considered by the Board at this meeting. Besides, there should be a mechanism to consider variations of building profiles within the extensive area covered by the “C(8)” sub-zone. The minor relaxation clause would, for instance, permit parts of this portion to be designed at, say, 90-95mPD and others at 35-40mPD. With the minor relaxation provision, better urban design could be achieved without affecting the GFA or height of the approved tall building. In addition, with the provision of minor relaxation clause for the area covered by 85mPD restriction, flexibility could then be provided to enable consideration of a change to the form of the tall building and possibly a reduction in its height;

*The Relaxation Scheme*

- (h) the relaxation scheme applied to the “C(8)” sub-zone under the amended Notes. The intention and the provisions of the scheme and the criteria set out in paragraph 8.1.17 of the ES were supported. However, given the status of the approved building plans for the site, there was no real incentive for the inclusion of the proposed measures within the site. The permitted GFA and the height restrictions could be achieved, and concessionary GFA under the B(P)R could be claimed under the approved building plans. F1 proposed that the Notes to the “C” zone be amended so that a relaxation of the PR could be applied for through a section 16 application under the relaxation scheme and the ES should be amended to the same effect; and
- (i) in conclusion, the “C(8)” sub-zone had an approved scheme which was in the process of being refined for implementation. The BH restrictions had imposed a rather inflexible straightjacket on design options for amending and improving that scheme. The Board should empower itself to be able to

consider better design schemes by allowing the minor relaxation clause to apply to the area covered by 85mPD of the “C(8)” sub-zone. F1 would also welcome clarification regarding the ‘air ventilation corridors’ provided by PlanD to be formally included in the ES.

F2 (Ms. Mary Mulvihill)

137. Ms. Mary Mulvihill made the following main points:

- (a) the focus of the arguments put forward by the developers and PlanD with regard to height restrictions was that Tsim Sha Tsui was the central business district (CBD) of Hong Kong. However, Central was the CBD of Hong Kong, but not Tsim Sha Tsui. While Central was a dead zone after 8pm, streets in Tsim Sha Tsui were still crowded after 11pm with small businesses doing roaring trades. Tsim Sha Tsui was and should remain a magnet for recreational and tourism activities and the planning intention should reinforce this objective;
- (b) while office towers could be situated anywhere and most efficiently on top of MTR stations, they should not be allowed to cover the harbour front where there was a strong demand for recreation and leisure uses by the public as well as visitors;
- (c) it was obvious from the acute traffic problems in Central that sustainable development would better be realised through decentralisation. In order to reduce travel time and traffic, office blocks should be planned on basis of proximity to large pools of personnel;
- (d) the BH restrictions for the core area of Tsim Sha Tsui were already too high for a district with vibrant street level activities. The TSTE area was a leisure node for both tourists and locals as shopping centres were located there and it was close to the waterfront. Allowing even taller buildings would block out the sky in TSTE area and adversely affect the leisure activities in the area. Sites under 95mPD BH restrictions would develop to

some 100mPD with various concessions. It was unacceptable that people enjoying the open space would be trapped between the tall buildings and heavy traffic;

- (e) now that works on Salisbury Road and the MTR were completed, the focus should be on developing a calendar of events, like the Dragon Boat Festival, that could make use of the open spaces and attract large crowds of both Hong Kong people and tourists to the area. This could not be achieved if the area was turned into one large building site;
- (f) it was stated in the Papers that 'tall buildings with high quality architectural design would help define images of the city'. However, most of the tall buildings recently erected like The Masterpiece and The One were eyesores. Tall buildings in Hong Kong were designed with the sole objective to maximize the floor area and thus profit margins. The many concessions granted for green features were exploited and added to further deterioration of the environment, rather than to any improvement. For instance, one floor for coach parking at K11, which was granted under GFA concession, had become private property. The parking problems created by large tourist buses in that area remained unresolved;

[Ms. Julia M.K. Lau left the meeting at this point.]

- (g) the north wall of The One was the largest windowless wall in Asia, and the 2008 TPB Paper on representations stated that it would bring benefits due to the possibility of down winds. This completely ignored the fact that the increased presence of goods vehicles and queues of cars waiting to enter the badly designed parking facilities of The One had turned a once well ventilated street into a most polluted street in the district, and regularly brought through traffic to a standstill;
- (h) the open corridor through the Poly Tech hotel demonstrated how wind tunnels could be compromised. This should have provided ventilation but had been glassed in on the lower floors, where the ventilation was most

needed;

- (i) setbacks were supposed to improve ventilation and penetration of natural light and there was a setback area on the Carnarvon Road side of The One. However, the Buildings Department (BD) had given approval for the erection of a one foot-wide 12-storey high wall on this setback area, and this had completely removed the benefit of the setback requirement. It was obvious that developers could easily get around the restrictions;
- (j) there were a number of new buildings being developed on Cameron Road, Granville Road and Hau Fook Street and they would add considerable vehicular movement and further block air flow to the core area. Their impact could not be effectively evaluated as this would be determined by the tenant mix. Because of the imposition of the 80% compulsory sale of old buildings, there would also be extensive redevelopment of Kimberley Street, Observatory Road and other streets;
- (k) with regard to keeping the public involved, YTMDC did not keep residents informed of the progress of the zoning amendments. There was no attempt by the Government to hold a public forum to explain to the layman what the issues were for the technical terms and references like “C(6)”, “C(8)” sub-zones were confusing. There was no notice of the zoning amendments posted on local streets. Ventilation issues were of concern to the public working or living in the Tsim Sha Tsui district;
- (l) the zoning amendments proposed were in the process of gradually ‘chipping away’ space whereby the PlanD conspired with property developers to gradually achieve the maximum development intensity of the area to the detriment of local residents, small businesses and visitors;  
and
- (m) there was no overriding need to change the existing BH restriction in TSTE area at the moment. The buildings were less than thirty years old and well maintained, and most of them enjoyed full PR. A substantial

increase in height limits from one third to 50% would trigger a redevelopment phase that would bring more construction waste, large vehicles on streets, disruption to daily life and degradation of the only part of the district that provided a refuge for residents away from stressful activities in the core area of Tsim Sha Tsui; and

- (n) with reference to the 1.5m NBA, this was not clearly stated whether it also covered private roads.

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

R59 (The Real Estate Developer Association of Hong Kong, (REDA))

138. With the aid of the drawings tabled at the meeting, Mr. Ian Brownlee, the representative of R59, made the following main points:

- (a) when the BH restrictions were imposed on the draft Tsim Sha Tsui OZP No. S/K1/23, REDA made an extensive representation relating to matters of principle. These were based on Tsim Sha Tsui becoming an important expansion of the CBD for Hong Kong and an area served by railway connections. The need to provide a vision and basis for encouraging good urban design and commercial building development to maintain the competitiveness of Hong Kong was part of the submission. REDA also pointed out in its submission that there was a need to encourage the re-building of the stock of old buildings in Tsim Sha Tsui. The existence of the PR restriction of 12 previously imposed by the Board and the new BH restriction were likely to stifle redevelopment rather than result in quality new buildings. PlanD proposed that there should be an ‘incentive scheme’ (now renamed as ‘relaxation scheme’) which reflected improved urban design, particularly at street level for a relaxation of the BH restriction. It would only be permitted through the section 16 application process and would therefore be carefully controlled. REDA supported the scheme in principle but considered that there was scope to refine and improve the criteria and provisions. Subsequently, the scheme was refined

as the relaxation scheme with details elaborated in paragraph 8.1.17 of the amended ES. However, some of REDA's submissions were not included;

- (b) R59 supported the proposals made by F1 and opposed those made by F2;

#### *Control Regime*

- (c) while the BH restrictions, NBAs, ventilation corridors, and building setbacks might achieve some basic requirements that the Board now considered important, they might not go far enough to ensure that the quality of the new buildings and the urban environment would continue to improve. As in any control process, the minimum requirements were set by regulation while the innovative and non-standard solutions should be encouraged by incentive schemes. The relaxation scheme was considered by REDA as very important in providing a potential means for encouraging better building and urban design. As a principle, wherever there was a restriction imposed, there should always be provision for relaxation or modification of that restriction so that the planning intention could be achieved in different ways. This allowed for unforeseen circumstances and changes in technology and societal needs. In this context, REDA strongly supported the principles of relaxation scheme and opposed F2 to have it removed from the OZP;

- (d) however, the relaxation scheme was not perfect. The Board was unnecessarily fettering or limiting itself through the wording of the amendments. The relaxation scheme would unnecessarily prohibit the submission of good schemes because of the minimum site size requirement and as it did not allow application for minor relaxation of PR;

#### *Minimum Site Area*

- (e) REDA proposed to reduce the minimum site area for the relaxation scheme from 1,800m<sup>2</sup> to 1500m<sup>2</sup>. Setting the minimum site area too high would prohibit the submission of schemes on sites less than 1800m<sup>2</sup> but

with potentially significant improvement at ground level. The relaxation scheme should encourage as many applications as possible as the potential benefits to the community were significant. There were many good quality commercial buildings built on sites of around 1500m<sup>2</sup> and that variety in size, form of building and office floor plate sizes was beneficial. For instance, four quality buildings in Central, namely, Wheelock House (1500m<sup>2</sup>), St. George Building (1130m<sup>2</sup>), Ritz Carlton Hotel redevelopment, and Hong Kong Club Building (1750m<sup>2</sup>) would not be eligible to apply for the relaxation scheme as their site areas were less than 1800m<sup>2</sup>. Besides, it was easier to achieve amalgamation of properties with site areas of 1500m<sup>2</sup> than 1800m<sup>2</sup>. As such, REDA requested the Board to change the minimum site area to 1500m<sup>2</sup>;

- (f) the reason for setting the minimum area requirement as 1800m<sup>2</sup> was that it could provide an office floor plate of about 1000m<sup>2</sup>. However, the four examples mentioned above illustrated that good-quality buildings could be designed and built on smaller sites;

#### *Relaxation of PR*

- (g) while many OZPs allowed for the relaxation of PR on application, there was no provision for minor relaxation of PR in the relaxation scheme. It was considered that the relaxation scheme lacked incentive. Under the existing B(P)R, every commercial site could achieve the maximum PR of 12 by simply submitting a complying scheme to the BD, and all the usual GFA bonus and concessions for public passage could be obtained without reference to the relaxation scheme. This was illustrated by two drawings (i.e. drawings titled 'Site C\_Existing' and 'Site C\_Fully complied with BPR') tabled at the meeting;
- (h) notwithstanding, there were limitations under the Buildings Ordinance and B(P)R on granting of bonus GFA as these were only related to areas dedicated for public passage. It was very time consuming and difficult to obtain such approvals from the BD which required confirmation from

other departments that the amount of space to be dedicated was the minimum area required for vehicles or pedestrians to move over. Even if a planning approval was obtained for a development scheme based on the presently drafted relaxation scheme, the bonus GFA might not be granted by the BA. If this was so, there was unlikely to be sufficient incentive for the developer to pursue application under the relaxation scheme;

- (i) as illustrated by another drawing (i.e. Site C\_Based on PlanD's Latest Guideline) shown at the meeting, the relaxation scheme had taken a big step forward in encouraging good design and planning gains which went beyond the 'public passage' criteria of BD. Also, the reasons for granting bonus GFA or exemptions under the BO were different to the reasons for creating the relaxation scheme. For instance, the criteria (i.e. criteria (a), (c), (d), (e) and (f)) in relation to improvement measures for the ground level/pedestrian environment set out in paragraph 8.1.17 of the ES would not be eligible for application for bonus GFA under the B(P)R
  
- (j) REDA suggested that the additional GFA might be granted in the section 16 application made under the relaxation scheme. In other words, if the criteria for the relaxation scheme were achieved to the satisfaction of the Board, additional GFA would be granted in exchange for the public planning gains. The planning application process would allow the Board to consider as well as the public to comment on the complete package of the redevelopment proposal. Consequently, there would be no need for BD to consider any bonus GFA matters as the scheme had already considered in totality by the Board. BD would just need to approve the building plans for schemes which had obtained approval from the Board with bonus GFA granted;
  
- (k) the representative of R59 alleged that during the hearing of representations in 2008, some of the Board Members expressed concern that under the 'incentive scheme' proposed by PlanD, the granting of bonus GFA would be left with the BA to approve, rather than by the Board. Members had

indicated that they preferred to be empowered to consider the development in totality. Under the proposal from REDA, the granting of additional GFA would be controlled by the Board through the section 16 process;

- (l) PlanD indicated the inadequacies of the relaxation by stating in paragraph 3.12 of the Paper that ‘the application under relaxation scheme was on a voluntary basis and should not attract additional PR/GFA which would have cumulative impact on traffic and infrastructure. Since the ground level space freed up under the relaxation scheme was still in the hands of the landowners and developers, it would be up to them to decide if such ground level space was to be dedicated for public passage’. Given this situation, there was no real incentive or reason for the developer to take part in the relaxation scheme. The intended public planning gains would not be achieved;
- (m) REDA’s proposal to allow PR relaxation under the relaxation scheme through planning application would empower the Board to allow designs which met the criteria to include a PR relaxation as part of the application. The impact of that additional PR would be assessed in the application;
- (n) the GFA at ground level was most valuable to the landlord, often between five to fifteen times more valuable than office space on the top floors of an office building. There must be some economic incentive to forgo the extremely valuable floor space to provide a public planning gain;
- (o) in many zones in the OZP, the Board permitted an application for PR relaxation. Given the potential benefits that the relaxation scheme could bring to Tsim Sha Tsui, it was considered that the Board should empower itself and incentivise developers by:
  - (i) allowing section 16 application for sites of 1500m<sup>2</sup> or greater, not 1800m<sup>2</sup>; and
  - (ii) including provision for relaxation of the PR as well as BH in the

incentive scheme (i.e. relaxation scheme) by amending the Notes;  
and

- (p) REDA supported the proposal made by F1 and the relevant amendments proposed to the Notes and ES.

R61 (The Hong Kong Hotel Ltd.)

R62 (Harbour City Estates Ltd.)

139. Mr. Ian Brownlee, the representative of R61 and R62, said that R61 supported the relaxation scheme subject to the amendments proposed by R59. In view of the form and height (127mPD) of the Gateway II buildings, R62 considered that the 85mPD restriction on the “C(8)” sub-zone unacceptable. R62 supported F1’s proposal to allow minor relaxation of the 85mPD area of the “C(8)” sub-zone.

R64 (Mantegna Investments Co. Ltd.)

140. Mr. Ian Brownlee, the representative of R64, said that the amended BH restrictions for the TSTE area was supported as they had created a stepped height profile descending towards the waterfront.

R292 (Achieve Investments Ltd.)

R293 (Holdwin Ltd.)

141. Mr. Ho Shek Tim, the representative of R292 and R293, said that the setback requirement of 1.5m for “C(6)” zone was objected to because it would reduce the rentable ground level GFA and hence the profit of the landowners. He said that the public roads abutting “C(6)” such as Peking Road and Hankow Road were wide and there was no need to impose a setback requirement for sites abutting those public roads.

142. As the representatives of the further representers and representers had completed their presentations, the Chairman invited questions from Members.

143. A Member enquired whether the ‘air ventilation corridor’ demarcated on the

“C(8)” sub-zone over Sun Life Tower could be realised, given that there would be no redevelopment plans for that building as stated by F1. Mr. Wilson Chan, DPO/TWK, replied that the BH restrictions and the ‘air ventilation corridors’ stipulated on the OZP reflected the long-term planning intention for the “C(8)” sub-zone. It was intended that the subject ‘air ventilation corridor’ would be realised upon redevelopment of the Gateway II buildings including Sun Life Tower in the long run.

144. In response to a Member’s question as to how to prepare the guidelines on calculation of bonus GFA under the relaxation scheme, Mr. Ian Brownlee, the representative of R59, said that reference could be drawn from the practice in BD, i.e. 5m<sup>2</sup> of GFA would be granted for dedication of 1m<sup>2</sup> of the land at ground level for public passage use. He said that the conceptual scheme as shown in one of his drawings tabled at the meeting was drawn up based on such calculation. In that conceptual scheme, the bonus GFA gained from setting aside 35% of the ground floor space for greening and public space would be accommodated in three extra floors. In his view, the relative proportion of the additional floors to the total building was not excessive, and in return, there would be a reasonable improvement of pedestrian environment on the ground floor.

145. As Members had no further question to raise, the Chairman said that the hearing procedures had been completed and the Board would deliberate on the representations in the absence of the further representers and representers. They would be informed of the Board’s decision in due course. The Chairman thanked the representatives of the further representers and representers as well as PlanD for attending the meeting. They left the meeting at this point.

#### Deliberation Session

146. The Chairman said that according to BD’s practice, for dedication of setback area at street level for the purpose of public passage, the maximum bonus PR to be granted was five times the area so dedicated or 20% of the permissible PR, whichever was the lesser.

147. The Secretary pointed out that the PR restrictions stipulated on the OZPs covering the Kowloon areas, including Tsim Sha Tsui, were lower than those stipulated

under the B(P)R. Hence, there was scope for developers to secure a higher PR for the concerned “C” sites in Tsim Sha Tsui through the relaxation scheme.

148. The Chairman also pointed out that the relaxation scheme was proposed in the course of considering the representations to the draft OZP. Its main objective was to allow application to the Board for relaxation of BH restriction for “C” sites in order to provide more flexibility to achieve good building design, better streetscape and pedestrian environment, and to encourage provision of Grade A office buildings which required larger floor plates. To assess the application of relaxation scheme, a set of relevant criteria were agreed by the Board, including minimum site requirement and criteria on building design, greenery, landscaping and pedestrian environment.

149. In response to a Member’s questions, the Secretary said that in proposing the BH restrictions to be imposed on the OZP, assessments had been made to ensure that the proposed BH could accommodate the permissible PR of individual sites and meet modern day building requirements such as floor to floor height and provision of ancillary facilities as set out in the B(P)R. In the course of considering the representations to the draft OZP, the Board agreed that there was opportunity to provide taller buildings on larger sites which befitted Tsim Sha Tsui as the CBD as well as a high-rise node of Hong Kong. The Board agreed to the proposed relaxation scheme to encourage quality and well designed Grade A office buildings with larger floor plate at suitable locations in Tsim Sha Tsui.

150. The Secretary went on to say that under the relaxation scheme, the proposed development/redevelopment should meet the minimum site area requirement of 1800m<sup>2</sup> and strive to meet other relevant assessment criteria on design, building orientation, disposition, green coverage, setback, building gap, streetscape and basement carpark with a view to encouraging good urban design practice and improving the overall townscape. The application for relaxation of BH restriction under the relaxation scheme would need to be supported by technical assessments, including visual impact assessment, landscape proposal and, if necessary, air ventilation assessment for the proposed relaxation scheme.

151. The Secretary said that the main argument put forward by the representative of R59 at the meeting was that under the relaxation scheme, the Board stipulated a maximum site coverage of 65% for the “C” sites so that more spaces at the ground floor would be

provided for public enjoyment. Given that the GFA at the ground level was most valuable to the landlord, there must be some economic incentive for the developers to forgo the valuable floor space to provide a public planning gain. To provide such incentive, the representative of R59 argued that there should also be provision for relaxation of PR for the public planning gains under the relaxation scheme.

152. The Secretary said that Members should consider whether R59's arguments for obtaining additional GFA were in line with the Board's objectives of relaxation scheme which were to encourage amalgamation of smaller sites for development/redevelopment, allow flexibility for development/ redevelopment of sites for quality and well-designed Grade A office buildings with larger floor plate at suitable locations and improve the pedestrian environment and streetscape. The relaxation scheme concerned the granting of BH relaxation only and did not affect the permitted PR/GFA of the sites as the developers could already attain the permitted PR/GFA under the stated BH on the OZP. Whether it was worthwhile to forgo some ground floor space in return for a higher BH was a commercial decision to be made by individual developers. If they chose to apply to the Board for higher BHs, they should strive to meet the assessment criteria under the relaxation scheme on a voluntary basis and any such approval should not attract additional PR/GFA which would have cumulative impact on traffic and infrastructure. Since the ground level space freed up under the relaxation scheme was still in the hands of the landowners and developers, it would be up to them to decide if the ground level space was to be dedicated for public passage. Whether bonus PR/GFA would be granted in return for the dedication for public passage was a matter to be dealt with under B(P)R in accordance with the established mechanism.

153. In response to the Member's follow up question, the Secretary said that there were provisions for minor relaxation of restrictions in many zones of the OZP. The provision primarily catered for design flexibility. She quoted examples in some cases where the relaxation in PR was to cater for extension of the entrance lobby on the ground floor of existing buildings or to provide for an owner's corporation office and caretaker's office for the benefit of the residents. In some cases, the minor relaxation provision would also allow developers to amend the previously approved development proposals and/or relax the PR restriction to accommodate GFA concessions granted by BD for road widening purposes supported by Transport Department. In any case, the relaxation of PR

restriction should be minor in nature and with good planning merits.

154. A Member said that the main objective of the relaxation scheme was to allow BH relaxation in relation to building design only, but not relaxation of permitted PR/GFA. Moreover, the developers could achieve the permitted PR/GFA under the permitted BH on the OZP or the relaxation scheme. Hence, this Member did not support bonus GFA application under the relaxation scheme. Other Members agreed.

155. Regarding the proposal of reducing the site area requirement from 1800m<sup>2</sup> to 1500m<sup>2</sup> under the relaxation scheme, the Secretary briefed Members of the background. She said that according to the desk-top study conducted by PlanD, a site area of 1800m<sup>2</sup> would result in a building with floor plate of about 1000m<sup>2</sup> which was akin to the floor plate size for Modern Grade A office buildings. A site area of 1800m<sup>2</sup> was therefore regarded as the minimum requirement under the relaxation scheme to achieve a floor plate of not less than 1000m<sup>2</sup> for good quality Grade A office buildings. Site area less than 1800m<sup>2</sup>, e.g. 1500m<sup>2</sup> as proposed by R59, would result in a floor plate of less than 1000m<sup>2</sup>.

156. A Member said that the local and international trends for high quality office development were towards larger floor plates for higher efficiency ratio and more spacious office accommodations. Modern Grade A office buildings would not have a floor plate less than 1000m<sup>2</sup>. Another Member said that the four buildings quoted by R59 were not typical examples of modern Grade A office buildings. Other Members agreed.

157. On the proposal to allow minor relaxation of the 85mPD restriction of the “C(8)” sub-zone, the Secretary recapped that the Harbour City (Gateway III) redevelopment plans were approved by BD in 1999 and it comprised a tower of 386.7mPD. The BH of 85mPD was drawn up for other parts of the site in view of its waterfront location, proximity to the West Kowloon Cultural District and the committed tall building in the southern part of the “C(8)” sub-zone. At its meeting in December 2008, the Board had considered representation No. 62 (lodged by Harbour City Estates Ltd.) which objected to the BHs of the “C(8)” site (i.e. 85mPD and 15mPD). The Board decided to allow minor relaxation for the 15mPD ‘air ventilation corridors’ and maintain the 85mPD restriction for the other parts of the site without any provision for minor relaxation.

158. A Member said that the BH restrictions for the “C(8)” site, i.e. the 386.7mPD for the southern part of the site, the 15mPD for the ‘air ventilation corridors’ and the 85mPD for the remaining portions of the site, were devised on the basis that the entire site was considered as one development. Therefore, the proposed provision of minor relaxation clause for the area covered by 85mPD within the site was not supported. Other Members agreed.

159. Regarding F1’s proposal of amending the ES on the provision of minor relaxation for the two ‘air ventilation corridors’ in the “C(8)” sub-zone, the Secretary said that the same wording was set out in the ES of other OZPs concerning minor relaxation of ‘air ventilation corridor’. A Member considered that as it had been clarified in the Paper and explained to the representative of F1 and R59 at the meeting that the provision of minor relaxation for the two ‘air ventilation corridors’ also covered width, design and disposition/alignment, the proposed amendment to the ES of the OZP was not necessary. Other Members agreed.

160. As regards F2’s proposal to shelve the proposed amendments to the OZP, Members noted that the proposed amendments were agreed by the Board upon consideration of the representations to the OZP in December 2008 and further agreed at its meeting in June 2010. The proposed 80mPD/95mPD BH restrictions for TSTE area were considered a balanced approach which could achieve a stepped height profile for visual permeability and wind penetration, and maintain an intertwined relationship with the Victoria Harbour edge. In addition, since planning permission was required from the Board for development/redevelopment proposals related to the relaxation schemes for areas zoned “C” and minor relaxation of the 15mPD BH restriction within “C(8)” sub-zone, any impacts resulted could be assessed during the process.

161. Regarding F2’s concern on the 1.5m NBA requirement on private roads and the objection raised by R292/ R293 on the 1.5m setback requirement for the “C(6)” sub-zone, Members noted that they had already been fully considered during the consideration of the concerned representations in December 2008 and the Board had agreed to partially meet R292/R293 by providing a minor relaxation clause for the 1.5m wide NBA restriction under “C(1)”, “C(2)” and “C(6)” sub-zones.

*Further Representation F1*

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

- (a) the relaxation scheme intended to provide greater flexibility for building designs as well as opportunities for improving streetscape and pedestrian environment. Whether bonus plot ratio/gross floor area would be granted in return for the dedication for public use was a matter under the jurisdiction of the Building Authority. It was inappropriate to deal with the same issue through the relaxation scheme under the Town Planning Ordinance;
- (b) paragraph (14) of the Remarks of the Notes of the OZP had allowed for application to the Board for minor relaxation of the 15mPD building height (BH) restriction. This provision had made allowance for the adjustment of the height as well as the alignment, width and/or design of the concerned ‘air ventilation corridors’ in the “Commercial (8)” (“C(8)”) sub-zone; and
- (c) the BH restrictions for the “C(8)” sub-zone had been assessed as a whole taking account of its waterfront location and consideration of air ventilation. Since the BH restriction of 85mPD was to reflect the recommended BH for the part of the site upon redevelopment to balance the committed high block of 386.7mPD to the south, provision for minor relaxation to the BH restriction of 85mPD alone within this sub-zone was considered not appropriate.

*Further Representation F2*

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

- (a) the proposed 80mPD and 95mPD building height (BH) restrictions for TSTE were agreed by the Board upon consideration of the representations to the OZP in December 2008 taking into account the BH concept, the waterfront location of the area, and the need to facilitate better building design and provide variation in the skyline of TSTE without undermining significantly the overall air ventilation performance of Tsim Sha Tsui. It was considered a balanced approach which could achieve a stepped height profile for visual permeability and wind penetration, and maintain an intertwined relationship with the Victoria Harbour edge; and
  
- (b) town planning was an on-going process. The proposed amendments were agreed by the Board upon consideration of the representations to the OZP in December 2008 and further considered/agreed at its meeting in June 2010. Since the permission from the Board under section 16 of the Ordinance was required for development/redevelopment proposals related to the relaxation scheme for areas zoned “C” and minor relaxation of the 15mPD BH restriction within the “C(8)” sub-zone, any impacts resulted from these proposals could be assessed during the process. In addition, the public including the local residents would be allowed to provide comment upon publication of the applications. Given that any public concerns could be adequately addressed during the planning application stage, there was no need to shelve the proposed amendments until the impact of the many new developments in Tsim Sha Tsui could be fully calculated as proposed by the further representer.

164. The Board decided to amend the draft Tsim Sha Tsui OZP No. S/K1/25 by incorporating the proposed amendments as published under section 6C(2) of the Ordinance. These amendments should form part of said OZP.

**Agenda Item 10**

[Open Meeting (Presentation and Question Session Only)]

Request for Deferral of Review of Application No. A/H8/398

Proposed Residential Development in "Comprehensive Development Area (1)" zone, 14-30 King Wah Road, North Point (Inland Lot 7106 s.B, s.C, RP and Portion of Extension to RP) (TPB Paper No. 8637)

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[The hearing was conducted in Cantonese.]

165. The following Members had declared interests on the item:

- |  |   |   |
|--|---|---|
| Mr. Raymond Y.M. Chan                        | - | had current business dealings with Henderson Land Development Co. Ltd. (HEND) and the application was submitted by a subsidiary of HEND     |
| Dr. James C.W. Lau                           | - | had current business dealings with Ho Tin & Associated Consulting Engineers Ltd, a consultant for the applicant                             |
| Professor S.C. Wong and Mr. Stephen M.W. Yip | - | had current business dealings with Ove Arup & Partners Hong Kong Ltd., a consultant for the applicant                                       |
| Mr. Clarence W.C. Leung                      | - | was the Director of a Non-Governmental Organisation which recently received a private donation from a family member of the Chairman of HEND |
| Dr. C.P. Lau                                 | - | had a relative working as a consultant for HEND   |

166. As the item was to consider a request for deferment received from the applicant, Members agreed that the above Members could stay in the meeting. Members noted that Mr. Stephen M.W. Yip, Mr. Clarence W.C. Leung and Dr. C.P. Lau had left the meeting already, and Mr. Raymond Y.M. Chan, Dr. James C.W. Lau and Professor S.C Wong had tendered apologies for not attending the meeting.

167. The Secretary briefed Members on the background of the review application as

set out in paragraph 1 of the Paper. The applicants applied for a review of the Metro Planning Committee's decision on 18.12.2009 to approve the application with an approval condition, amongst others, that the applicant was required to provide a setback of at least 3m from the lot boundary of the adjacent Harbour Grade Hong Kong Hotel. The Board agreed to defer a decision on the review application on 16.4.2010 and 18.6.2010 at the requests of the applicant. On 8.9.2010, the applicant requested the Board to further defer the consideration of the review application for two months as the planning consultants of the applicant needed more time to investigate the implications of the 3m setback requirement on the overall viability of the approved residential development scheme and to submit supplementary information. The request was in compliance with the criteria for deferment as set out in the TPB Guidelines No. 33 in that the applicant needed more time to prepare documentation for the review hearing, the deferment period was not indefinite, and that the deferment would not affect the interest of other relevant parties.

168. After deliberation, the Board agreed to defer consideration of the review application as requested by the applicants pending the submission of further information from the applicants. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicants. The Board also agreed to advise the applicants that a period of two months was allowed for the preparation of the submission of the further information, and that no further deferment would be granted unless under very special circumstances.

### **Agenda Item 11**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Sai Ying Pun & Sheung Wan Outline Zoning Plan No. S/H3/24 (TPB Paper No. 8628)

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[The meeting was conducted in Cantonese.]

### **Declaration of Interests**

169. The following Members had declared interests on this item.

- |                         |  |
|-------------------------|--|
| Ms. Maggie M.K. Chan    | - owned a flat in Sheung Wan   |
| Professor P.P. Ho       | - his spouse owned flats in the area   |
| Mr. Clarence W.C. Leung | - his mother owned a flat in the area  |
| Mr. Roger K.H. Luk      | - was a Council Member of St. Paul's College from 1992   |
| Mr. Felix W. Fong       | - had current business dealings with Cheung Kong (Holdings) Ltd./Hutchison Whampoa Ltd. (CKH/HWL). Hong Kong Electric Co. Ltd., a subsidiary of CKH, was one of the representers (R22) |
| Mr. Rock C.N. Chen      | - was an ex-Member (2007-08) of the Tung Wah Group of Hospital (TWGH) Advisory Board. TWGH was one of the representers (R23)   |

170. As the item was procedural in nature and no deliberation was required, Members agreed that the above Members could stay in the meeting. Members noted that Professor P.P. Ho, Mr. Clarence W.C. Leung, Mr. Roger K.H. Luk, Mr. Felix W. Fong and Mr. Rock C.N. Chen had left the meeting already and Ms. Maggie M.K. Chan had tendered apologies for not attending the meeting.

171. The Secretary reported that on 7.5.2010, the amendments incorporated in the draft Sai Ying Pun & Sheung Wan Outline Zoning Plan No. S/H3/24 were exhibited for public inspection under section 7 of the Town Planning Ordinance. During the two-month exhibition period, a total of 33 representations were received. On 16.7.2010, the representations were published for three weeks for public comments. A total of 17 comments were received. It was suggested that the representations and comments should be heard collectively in one group by the full Board as the amendments to the OZP were related to imposition of building height and other development restrictions for the area and had attracted wide public interests, and all the representations and comments were similar in nature.

172. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of representations and comments as detailed in paragraph 2 of the Paper.

**Agenda Item 12**

[Open Meeting]

Submission of the Draft North Point Outline Zoning Plan No. S/H8/23A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8643)

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[The hearing was conducted in Cantonese.]

**Declaration of Interests**

173. The following Members had declared interests on this item.

Mr. B.W. Chan	- owned a flat in Braemar Hill Mansion
Ms. Anna S.Y. Kwong	- owned a flat on Cloud View Road
Dr. James C.W. Lau	- owned a flat at Braemar Hill Road
Mr. Roger K.H. Luk	- owned a flat in City Gardens
Ms. Anita W.T. Ma	- owned a flat in Island Place
Mr. K.Y. Leung	- owned a flat on Cloud View Road

174. As the item was procedural in nature and no deliberation was required, Members agreed that the above Members could stay in the meeting. Members noted that Mr. B.W. Chan, Ms. Anna S.Y. Kwong, Mr. Roger K.H. Luk and Ms. Anita W.T. Ma had left the meeting already and Dr. James C.W. Lau had tendered apologies for not attending the meeting.

175. The Secretary briefed Members as detailed in the Paper.

176. After deliberation, the Board:

- (a) agreed that the draft North Point Outline Zoning Plan No. S/H8/23A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Ordinance to the Chief Executive in Council (CE in C) for approval;

- (b) endorsed the updated Explanatory Statement (ES) for the draft North Point Outline Zoning Plan No. S/H8/23A at Annex III of the Paper as an expression of the planning intentions and objectives of the Board for various land-use zonings on the draft OZP and to be issued under the name of the Board; and
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

### **Agenda Item 13**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representation to the Draft The Peak Area Outline Zoning Plan No. S/H14/10  
(TPB Paper No. 8640)

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[The meeting was conducted in Cantonese.]

177. The Secretary reported that on 28.5.2010, the draft The Peak Area Outline Zoning Plan No. S/H14/10 was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, one representation was received. On 6.8.2010, the representation was published for three weeks for public comments. No comment was received. It was suggested that the representation, which was related to the rationalisation of the zoning boundary of an existing residential development, should be heard by the full Board.

178. After deliberation, the Board agreed to the proposed hearing arrangement for consideration of the representation as detailed in paragraph 2 of the Paper.

**Agenda Item 14**

179. This item was reported under confidential cover.

**Agenda Item 15**

Any Other Business

[The meeting was conducted in Cantonese.]

180. There being no other business, the meeting was closed at 4:40pm.