

**Minutes of 978th Meeting of the
Town Planning Board held on 25.3.2011**

Present

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

Chairman

Mr. Stanley Y.F. Wong

Vice-Chairman

Mr. K.Y. Leung

Mr. Walter K.L. Chan

Mr. B.W. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Rock C.N. Chen

Mr. Felix W. Fong

Professor P.P. Ho

Professor Eddie C.M Hui

Ms. Anna S.Y. Kwong

Dr. C.P. Lau

Ms. Julia M.K. Lau

Mr. Maurice W.M. Lee

Mr. Clarence W.C. Leung

Mr. Laurence L.Y. Li

Mr. Roger K.H. Luk

Mr. Timothy K.W. Ma

Miss Anita W.T. Ma

Dr. Winnie S.M. Tang

Professor S.C. Wong

Ms. Pansy L.Y. Yau

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

Deputy Director of Environmental Protection
Mr. Benny Wong

Director of Lands
Miss Annie Tam

Director of Planning
Mr. Jimmy C.F. Leung

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

Secretary

Absent with Apologies

Professor Edwin H.W. Chan

Mr. Y.K. Cheng

Professor Paul K.S. Lam

Dr. James C.W. Lau

Professor Joseph H.W. Lee

Dr. W.K. Lo

Dr. W.K. Yau

Mr. Stephen M.W. Yip

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

In Attendance

Assistant Director of Planning/Board
Mr. C.T. Ling

Chief Town Planner/Town Planning Board
Miss H.Y. Chu (a.m.)
Ms. Christine K.C. Tse (p.m.)

Senior Town Planner/Town Planning Board
Ms. Donna Tam (a.m.)
Mr. J.J. Austin (p.m.)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 977th Meeting held on 11.3.2011

[The meeting was conducted in Cantonese.]

1. The minutes of the 977th meeting held on 11.3.2011 were confirmed without amendments.

Agenda Item 2

Matters Arising

[The meeting was conducted in Cantonese.]

- (i) The item was recorded under confidential cover.
 - (ii) The item was recorded under confidential cover.
 - (iii) Decision on Representation of Central District Outline Zoning Plan No. S/H4/13
[Closed Meeting]
2. Mr. Raymond Y.M. Chan, having current business dealings with Swire Pacific Ltd., a parent company of Pacific Place Holdings Ltd., had declared interest on this item. Mr. Chan left the meeting at this point.
 3. The Secretary reported that a letter from Masterplan Limited sent in on behalf of Pacific Place Holdings (Representation R6 to the Central District Outline Zoning Plan (OZP) No. S/H4/13) was received by the Secretary of the Board on 10.3.2011. The letter was tabled for Member's information.
 4. The Secretary said that the Board heard the representations and comments on the draft Central District OZP No. S/H4/13 on 21.1.2011. R6 opposed the rezoning of the Pacific Place site from "Commercial/Residential" ("C/R") to "Commercial" ("C"), mainly on

the grounds that the original “C/R” zone was more compatible with the existing mixed form of development on the site (about 55% non-domestic and 45% domestic) which complied with the lease and was more appropriate for the site located at the fringe of the Central Business District (CBD). R6 proposed to revert the zoning to “C/R”; or to rezone the site to a sub-area of “C” zone (with ‘flat’ use under Column 1) or “Other Specified Uses” annotated “Mixed Use” (“OU(Mixed Use)”). After deliberation, the Board decided not to uphold R6 for the reasons that:

- the “C/R” zoning was an obsolete zoning to be phased out. The rezoning of the Pacific Place site, which was located within the expanded CBD, was appropriate to ensure that the site would continue to function as a major commercial and business area in future to support the economic development of Hong Kong;
- a whole range of uses including ‘Office’, ‘Retail Shop’ and ‘Hotel’ were Column 1 uses in the “C” zone, which were always permitted. There was also provision for residential use in the “C” zone through the planning permission system which would allow flexibility to meet changing planning circumstances; and
- amendments to the OZP were exhibited for public inspection for a period of 2 months in accordance with the provisions of the Ordinance. The exhibition process itself was a statutory public consultation process for the Board to consider representations and comments on the draft OZP.

5. In the letter of 10.3.2011, R6 alleged that the Board’s decision had been made on the basis of inaccurate information provided by the Secretary during the deliberation stage of the hearing when the Secretary informed the Board that “whereas the serviced apartments developed as part of and/or operated within hotel establishments had all along been considered by the Board as “Hotel” in planning terms” (paragraph 75 of the minutes). On this point, R6 stated that Pacific Place consisted of four towers of which three had separate uses in the upper and lower sections and that Pacific Place Apartments were separated from the Conrad Hotel which was in the same building. 45% of the Pacific Place development had been approved as domestic floor space. Pacific Place Apartments were therefore

completely independent of any hotel, and not managed by a hotel. They were, like any other apartment, capable of being strata titled and sold as individual flats and were truly a residential development. In view of the above, R6 requested the Board to reconsider its representation.

6. The Secretary clarified that the extract of minutes quoted by R6 was a statement explaining the Board's established practice on the interpretation of service apartment development. The same interpretation had been covered in the TPB Guidelines No. 2B for Interim Planning Control on Service Apartment. As regards the uses within Pacific Place, as recorded in paragraph 75 of the minutes, Members had clearly noted that the existing development on the site included office accommodation and shopping mall, hotels and service apartments. Noting that there was provision for residential use in the "C" zone through the planning permission system which would allow flexibility to meet changing planning circumstances, Members considered that R6's proposals of rezoning the site to "OU(Mixed Use)" or putting 'Flat' use in Column 1 of the "C" zone were inappropriate (paragraph 75 of the minutes).

7. A Member said that Pacific Place occupied a large site. Whether the existing service apartment use was counted as domestic gross floor area (GFA) or non-domestic GFA might have implication on its redevelopment potential.

8. Another Member said that there was no need for the Board to reconsider the subject representation as the hearing procedures had already been completed and decision had already been made by the Board on the representation. This Member also considered that for the subject site, the main consideration was the planning intention for commercial use of this site which was located within the CBD.

9. The Secretary said that, during the representation hearing on 21.1.2011, Members considered that the Pacific Place site was located within the expanded CBD and the site should be rezoned to "C" to ensure that the site would function as a major commercial and business area. The Board decided not to uphold the representation of R6 for the reasons mentioned in paragraph 4 above.

10. The Vice-chairman and other Members who had made comments supported the

view that the Board had already made a decision on the subject representation. There was no need for the Board to revisit the case. The deliberation and decision of the Board on the subject representation were recorded in the minutes.

11. The Chairman concluded that Members did not consider that the subject representation should be reconsidered in response to the allegation and request raised in the letter from R6 on 10.3.2011. The representer should refer to the minutes of the Board's meeting on 21.1.2011 for the deliberation and decision of the Board on the subject representation.

12. The Secretary said that on R6's request to bring their allegation to the attention to the Chief Executive in Council in the future submission for the approval of the Central District OZP, the Secretariat would seek legal advice on the appropriate follow up action.

13. After further deliberation, the Board decided that having considered the letter of 10.3.2011 from R6, there was no need for the Board to reconsider its decision on the representation. A reply should be given to the representer stating that the Board had already made a decision on the representation of R6 and the decision was recorded in the minutes of the Board's meeting on 21.1.2011.

(iv) Amendment to TPB Guidelines No. 23 on "Application for Kindergarten/Child Care Centre in Kowloon Tong Garden Estate under section 16 of the Town Planning Ordinance"

[Open meeting]

14. The Secretary reported that on 18.3.2011, the Metro Planning Committee (MPC) considered a planning application (No. A/K18/281) for kindergarten and child care centre at 14 Essex Crescent, Kowloon Tong. The kindergarten and child care centre were the subject of a previous planning application approved by the Board on 9.5.2008 on a temporary basis for a period of three years until 9.5.2011. While relevant government departments had no objection to the application, a temporary permission was given so that the situation could be monitored in the light of the local objections on the grounds of traffic problems and too many schools in the area. The applicant had complied with all the approval conditions including that on design and provision of parking facilities, loading/unloading spaces, lay-bys and car

park layout for the proposed development. The current application was to continue the operation of the kindergarten and child care centre at the application site. A total of 24 public comments were received and all objected to the application mainly on traffic congestion and pedestrian safety grounds.

15. In considering the application, the MPC noted that it complied with the TPB Guidelines No. 23 on “Application for Kindergarten/Child Care Centre in Kowloon Tong Garden Estate under section 16 of the Town Planning Ordinance” in that the use was compatible with the surrounding developments; the provision of on-site parking and loading/unloading facilities and the parking layout and vehicular access arrangement were considered acceptable to the Transport Department; no significant adverse impact on traffic, environment and infrastructure provisions was anticipated; and relevant government departments had no adverse comment on the application. After thorough discussion, in view of Members’ concerns on the traffic conditions in the area and the local objections received, the application was approved by the MPC with conditions on a temporarily basis for a period of three years.

16. The Secretary said that in view of the existing traffic congestion problems of the area and the strong public concerns on this aspect, Members of MPC considered that it was necessary for applicants of future applications for kindergarten/child care centre use in the Kowloon Tong Garden Estate (KTGE) area to undertake a Traffic Impact Assessment (TIA) to examine any possible traffic problems that might be caused by the proposed kindergarten/child care centre and propose mitigation measures, including traffic management measures, to tackle the problems, if required for the Board’s consideration. Members also agreed that the TPB Guidelines No. 23 should be revised to incorporate the requirement for submission of TIA.

17. In this connection, the Secretary drew Members’ attention to the draft revised TPB Guidelines No. 23A tabled at the meeting that a new paragraph 3.1 was added as follows:

New proposal for kindergarten/child care centre within KTGE should be supported by a traffic impact assessment to examine any possible traffic problems that may be caused by the kindergarten/child care centre and propose

mitigation measures to tackle the problems, if required.

18. The Secretary said that the opportunity had also been taken to update some information in the Guidelines as highlighted in the draft. Subject to Members' agreement, the revised Guidelines No. 23A would be promulgated for public information and a press release on the amendments would be issued.

19. After deliberation, the Board endorsed the revised TPB Guidelines No. 23A on "Application for Kindergarten/Child Care Centre in Kowloon Tong Garden Estate under section 16 of the Town Planning Ordinance" and agreed that the revised Guidelines be promulgated for public information and a press release on the amendments to the Guidelines would be issued.

[Ms. Anna S.Y. Kwong left the meeting temporarily at this point. Dr. C.P. Lau left the meeting at this point.]

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments

to the Draft Wang Tau Hum & Tung Tau Outline Zoning Plan No. S/K8/20

(TPB Papers No. 8772 and 8773)

[The hearing was conducted in Cantonese.]

20. Mr. Timothy K.W. Ma had declared an interest in this item as his office was located at Chuk Yuen area. Members noted that the office of Mr. Ma was located far away and would not be affected by the representation sites and agreed that Mr. Ma could be allowed to stay in the meeting for this item.

Group 1 Representation – R1 and C1

Presentation and Question Session

- (i) the BHRs had not considered the different height profile and use of individual sites. ESSs were small in scale and any incremental visual or airflow impacts of the ESSs could be considered as negligible. The BHRs would create minimal benefit to the surrounding environment;
 - (ii) the imposition of BHRs deprived the representer of his development right. The existing development intensity of the ESSs which was based on operational need might not reflect the maximum development potential conferred under the lease conditions;
 - (iii) ESSs were essential facilities to support the daily living of the public and continuous development of Hong Kong. The surrounding environment had been taken into account in the design of ESSs. CLP Power had developed ESS greening initiatives, environmental design guidelines and policies aiming at reducing environmental impact. As such, there was no adverse visual impact caused by these ESSs; and
 - (iv) R1 proposed to relax the BHR for the Wong Tai Sin “B” ESS and Wong Tai Sin “A” ESS from one storey to not more than eight storeys;
- (d) commenter C1 objected to R1’s proposed amendment to relax the BHRs of the ESS sites without giving any reason;
- (e) PlanD’s responses to the grounds of representation and representer’s proposals were summarized in paragraph 4.4 of the Paper and highlighted below:
- (i) the formulation of the BHRs for the ESS sites had taken into account factors including the protection of ridgeline, the recommendations of the Air Ventilation Assessment (AVA) Study

and the existing development intensity. As the ESS sites were located along the air path of Tung Tau Tsuen Road, their existing BHs should be maintained to ensure good air ventilation;

- (ii) the existing relatively low-rise Wong Tai Sin “B” ESS and Wong Tai Sin “A” ESS had provided breathing space as well as spatial and visual relief to the surrounding built-up area. BHR in terms of number of storeys was imposed so as to allow more design flexibility, in particular for those with specific functional requirements. There was no design merit or strong planning justification for relaxing the BHRs of the Wong Tai Sin “B” ESS and Wong Tai Sin “A” ESS from one storey to eight storeys; and
- (iii) there were no known or agreed redevelopment proposals at the representation sites. In the absence of details on the functional and operational needs of the ESS redevelopments, there was no justification to relax the BHRs at the present stage. Should there be any functional or operational needs for the subject developments to exceed the stipulated BHRs, the representer might seek the Board’s permission for a minor relaxation of the restriction under s.16 or amendment to the OZP under s.12A of the Ordinance; and

PlanD’s view

- (f) based on the assessments set out in paragraph 4 of the Paper, PlanD did not support the Representation R1 and considered that it should not be upheld for the reasons as set out in paragraph 6.1 of the Paper.

25. As Members had no question to raise, the Chairman thanked the representatives of PlanD for attending the meeting. They left the meeting at this point.

[Professor P.P. Ho arrived to join the meeting at this point.]

Deliberation Session

26. After deliberation, the Chairman concluded that Representation R1 should not be upheld as the BHRs were to reflect the existing heights of the ESSs. Members then went through the suggested reasons for not upholding the representation as detailed in paragraph 6.1 of the Paper and considered them appropriate.

27. After deliberation, the Board decided not to uphold the representation of R1 for the following reasons:

- (a) apart from providing GIC facilities, the “G/IC” sites in the built-up urban area also functioned as breathing space as well as spatial and visual relief. As the low-rise Wong Tai Sin “B” ESS and Wong Tai Sin “A” ESS were located along the air path of Tung Tau Tsuen Road, their existing BHs should be maintained to ensure good air ventilation. Any piecemeal relaxation of BHRs would lead to cumulative loss of breathing space and visual relief and affect air ventilation;
- (b) the BHRs for the Wong Tai Sin “B” ESS and the Wong Tai Sin “A” ESS sites were to reflect their existing heights. It would not affect the existing development intensity. In the absence of any concrete redevelopment proposal to demonstrate the functional and operational needs, there was no justification to support the proposed relaxation of the BHRs for the ESS sites; and
- (c) should there be a need for relaxation of BHRs of the ESSs, there were provisions for application for minor relaxation of the BHRs under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on its own merits.

Group 2 Representations – R2 to R5 and Comment C2

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

Mr. Jimmy Leung

- being a non-executive director of the

- as Director of Planning URA
- Mr. Maurice W.M. Lee - being a former non-executive director of URA
- Mr. Felix W. Fong) having business dealing with Cheung Kong (Holdings) Ltd. which was a joint venture partner with the URA
- Professor P.P. Ho)
- Mr. Walter K.L. Chan - being a non-executive director of the URA
- Ms. Maggie M.K. Chan - being a Wong Tai Sin District Council (WTSDC) Member and a member of the East Kowloon District Residents' Committee
- Miss Annie Tam - being a non-executive director of the URA
as Director of Lands
- Mr. Andrew Tsang - being an assistant to the Director of Home Affairs who was a non-executive director of the URA
as Assistant Director of the Home Affairs Department

29. Members agreed that as the representations were related to the URA urban renewal project at Nga Tsin Wai Village, and two representations were submitted by the WTSDC and East Kowloon District Residents' Committee, the interests of the above Members were direct and substantial. Members noted that Mr. Maurice W.M. Lee had not yet arrived and Mr. Andrew Tsang had tendered apology for being unable to attend the meeting. Mr. Jimmy Leung, Mr. Felix W. Fong, Professor P.P. Ho, Mr. Walter K.L. Chan, Ms. Maggie M.K. Chan and Ms. Annie Tam left the meeting temporarily for this item.

Presentation and Question Session

for three weeks until 17.12.2010 and two comments were received;

- (b) R2 to R5 opposed the BHRs of 100mPD to 134mPD for the “Residential (Group A)” (“R(A)”) site at Nga Tsin Wai Village;
- (c) the main grounds of representations and their proposals were summarized in paragraphs 2.3 and 2.4 of the Paper and highlighted below:
 - (i) the URA consulted the WTSDC (R2) about the Nga Tsin Wai Village Redevelopment on 27.9.2007 and the proposed scheme had a maximum BH of not more than 120mPD and a stepped BH profile to minimize impacts on the surrounding environment, with a Conservation Park in the central part of the site;
 - (ii) R2 opposed the current BHR of 134mPD on the draft OZP he considered to be not in line with the proposal agreed by the WTSDC. Furthermore, the WTSDC was not consulted on the change in BH before the gazettal of the draft OZP. Even during the meeting on 21.9.2010 (after the gazettal of the OZP), when Lands Department and URA consulted WTSDC on the arrangement of land resumption for the Nga Tsin Wai Village Redevelopment, the change in BH of the scheme was not mentioned;
 - (iii) the current BHRs were not in line with the planning intention of preserving the Lion Rock ridgeline. The site was situated at a site level of less than 10mPD. It would be difficult to protect the Lion Rock ridgeline in the north when viewing from the future Conservation Park, as it would be surrounded by tall buildings with more than 100mPD in height (*R3, R4 and R5*);
 - (iv) the current BHRs were contrary to the original intent of conserving Nga Tsin Wai Village in that the BHs of the residential towers ranging from 100mPD to 134mPD were incompatible with the

cultural relics of the gatehouse with the stone tablet “Hing Yau Yu”, Tin Hau Temple, eight existing old houses as well as the future Conservation Park. The original unique cultural ambience of the village would be vanished as a result (R3);

- (v) the height profile of developments along both sides of Kai Tak River was mainly 80mPD. The high-rise towers at the site were incompatible with the proposed revitalization/landscaping of the Kai Tak River to be carried out by the Government (R3, R4 and R5);
 - (vi) the residential towers of more than 100mPD in height at the site would seriously affect the views and air ventilation of the residential units in the neighbourhood of Tung Tau Estate (R5);
 - (vii) R2 proposed to reduce the BHR of the site from 134mPD to not exceeding 120mPD;
 - (vii) R3 proposed to reduce the BHRs of the site from 100mPD - 134mPD to not exceeding 80mPD; and
 - (ix) R4 and R5 did not make any proposed amendment to the draft OZP;
- (d) Comment C2's responses to the representations were summarized in paragraph 2.5 of the Paper and highlighted as follows:
- (i) the BHRs for the site, which were derived through a due process of technical investigation by both PlanD and URA, would not only protect the Lion Rock ridgeline, but also allow for a cascading height profile of the proposed residential towers when viewing from the north apron area in Kai Tak area. Based on the agreed height profile, URA proceeded to enter into a Development Agreement with the major landowner of the site in 2008, in

accordance with the intention to restore the entity via the “conservation by design” concept for the redevelopment project;

- (ii) under the current design, the residential towers would be built along the southern and northern edges of the site, with separation of about 40m between the towers, leaving ample open space for a proposed Conservation Park. The proposed residential towers would also be raised 15m above the ground level in order to enhance visual permeability and air ventilation; and
 - (iii) the reduction of the maximum BH from 134mPD to 120mPD would have severe impact on the design of the project. To accommodate the reduction in BH while maintaining the overall permitted domestic plot ratio of 7.5 would mean reduction of either the 40m-wide separation of the towers to allow for “fatter” or larger tower footprints, and/or reduction of the 15m vertical clearance for the towers to make up the residential floors at lower heights. Both would have negative impact on the function and visual integrity of the Conservation Park and less overall ventilation benefits to the area. The proposed scheme could not fully utilize the permitted non-domestic plot ratio of 1.5;
- (e) PlanD’s responses to the grounds of representations and representers’ proposals were summarized in paragraph 4.4 of the Paper and highlighted below:
- (i) on 27.9.2007, the URA presented a conceptual scheme of the proposed redevelopment of Nga Tsin Wai Village to the WTSDC. Under the scheme, URA proposed to adopt the “conservation by design” concept and the BH of the residential towers would not exceed 120mPD. Refinements of the BHs for the conceptual scheme had been made subsequent to the on-going discussions between PlanD and URA. A slightly higher BH (i.e. 134mPD) was adopted for preserving the setting of the Conservation Park

with 15m vertical clearance and 40m horizontal building separation, while allowing lower BHRs of 100mPD and 106mPD along Kai Tak River. The stepped BHRs would not only protect the Lion Rock ridgeline when viewing from Kai Tak view corridor, but also allow the future redevelopment to blend in with the developments along Kai Tak River which were mainly at 80mPD and 100mPD;

- (ii) the proposed BHs were subsequently incorporated in recent BH review. No public consultation had been made on the OZP amendments before gazettal as pre-mature release of the information might lead to a surge of building plan submissions and would defeat the purpose of development control. URA consulted the WTSDC on the revised conceptual scheme in response to their concerns on 4.1.2011 and had committed to engage the WTSDC further on the detailed design of the redevelopment project in particular on how the Conservation Park could be integrated with Kai Tak River and the surrounding;
- (iii) the need of preserving the Lion Rock ridgeline from Kai Tak view corridor and the conservation elements of Nga Tsin Wai Village had been taken into account when formulating the BHRs for the site. As shown in the photomontages on Plan H-9 of the Paper, the 20% building free zone of the Lion Rock ridgeline would largely be preserved under the current proposal;
- (iv) a slightly higher BH (i.e. 134mPD) was necessary for preserving the setting of the Conservation Park with 15m vertical clearance and 40m horizontal building separation. Adopting lower BHRs but maintaining the same development intensity would affect the setting and design of the proposed Conservation Park. The Antiquities & Monuments Office (AMO) indicated that the vertical clearance and the horizontal distance were “visual relief”, which were proposed in the Conservation Plan as mitigation measures and as part of the Conservation Park;

- (v) the current stepped BH profile would not have adverse impact on preserving the Lion Rock ridgeline while maintaining a lower BHs of 100mPD and 106mPD along the Kai Tak River. It should be noted that the view to the Lion Rock at Nga Tsin Wai Village was at present blocked by the nearby residential developments including Tung Tau Estate;
- (vi) the general BH profile along the Kai Tak River was from 80mPD to 100mPD. The stepped BH profile with BH of 134mPD descending towards 106mPD and 100mPD next to the river would help maintain a compatible setting with Kai Tak River. Also, two 10m-wide NBAs had been designated along the two sides of Kai Tak River, which were useful to provide sufficient separation between the built-up areas and the river;
- (vii) on air ventilation, according to the AVA Study, the 40m horizontal distance between the residential towers and the 15m vertical clearance on pedestrian level proposed under the URA scheme would allow the wind to penetrate through. The future redevelopment at the site would not lead to air ventilation problem on its neighbourhood including Tung Tau Estate. The 15m vertical clearance was for a better design of the Conservation Park as well as to enhance visual permeability. Any reduction in this vertical clearance might have impact on the design for the Conservation Park; and
- (viii) as Tung Tau area was already a built-up area with BHRs ranging from 80mPD to 120mPD, it was considered that the BHs of 100mPD to 134mPD of Nga Tsin Wai Village was not incompatible with the height profile in the local context and would not have significant adverse visual impact on its neighbourhood;

- (f) based on the assessments set out in paragraph 4 of the Paper, PlanD did not support the Representations R2 to R5 and considered that they should not be upheld for the reasons as set out in paragraph 6.1 of the Paper.

34. The Chairman then invited the representatives of the representers and commenter to elaborate on their submissions.

R4 (Messrs Mok Ying Fan and Lam Man Fai, WTSDC Members)

35. Mr. Mok Ying Fan made the following main points:

- (a) URA as a quasi-government organization should have the social responsibility to provide a better living environment for the people of Hong Kong. URA should therefore not aim at optimizing the profit of the subject redevelopment scheme to preserve the Nga Tsin Wai Village with a history of over 600 years. A lower BH of the proposed redevelopment would also help avoid creating wall effect in this developed area;
- (b) in 2007, URA and PlanD presented a scheme with maximum BH of 120mPD to the WTSDC. The height was increased to 134mPD without further consultation with the DC; and
- (c) PlanD had recently proposed BHs of 60mPD to 80mPD for the Kai Tak River area. These BHs should be recognized as reference for the redevelopment scheme of Nga Tsin Wai Village. The currently proposed BH up to 134mPD would be much higher than the BHs recently proposed by PlanD for the surrounding developments in the context of the building height review of the relevant OZP.

R5 (The Incorporated Owners of Tung Tau (II) Estate)

36. Mr. Mok Ying Fan made the following main points:

- (a) three residential towers of more than 100m would be built in the area

which would seriously affect the views and air ventilation of the residential developments in the neighbourhood. The high-rise towers were also incompatible with the proposed revitalization of the Kai Tai River. It would spoil the overall planning of the area, fail to protect the ridgeline and deprive the public of their right to enjoy a beautiful environment; and

- (b) the residents in the area had not been fully consulted on the proposal and the Board was requested to seriously reconsider the proposal with a view to minimizing its potential impact on residents in the neighbourhood.

C2 (URA)

37. With the aid of a Powerpoint presentation, Mr. Michael Ma made the following main points:

- (a) URA had started discussion with the WTSDC on the Nga Tsin Wai Village redevelopment scheme since 2005. There was no BHR for the site on the OZP at that time. In 2006, URA engaged consultants to undertake a design for the redevelopment scheme with a conservation park proposal with a view to preserving the village layout and the historical relics;
- (b) the scheme presented to WTSDC in 2007 had a uniform BH of 120mPD. Under the current proposal, a higher BH of 134mPD was adopted for south-western portion of the site, while allowing a lower BHs of 100mPD and 106mPD for the building blocks along Kai Tak River. The stepped BHs could help preserve the Lion Rock ridgeline when viewing from the view corridor at Kai Tak. The other design elements, including the 40m distance between the towers and the 15m vertical clearance above ground level would remain unchanged. To complement the design elements, there would be no retail uses within the redevelopment scheme;
- (c) based on the agreed BH profile, URA proceeded to enter into a Development Agreement with the major landowner of the site in 2008. If

the BHR of 134mPD was reduced to 120mPD, the redevelopment potential of the site would be affected; and

- (d) during the meeting with WTSDC in January 2011, URA undertook to work with the DC in the detailed design of the redevelopment scheme.

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

39. In response to a Member's questions, Mr. Mok Ying Fan made the following main points:

- (a) Nga Tsin Wai Village had a history of over 600 years and was the only remaining old village in East Kowloon. The village should in fact be preserved in whole without adding any new building on the site. The historic site should be preserved at all cost such that the future generations could know about the history of the Village;
- (b) while in 2007, the WTSDC had agreed to the redevelopment scheme, as PlanD recently proposed the rehabilitation scheme of the Kai Tak River with BHs of 60m to 80mPD in the area, the redevelopment scheme of Nga Tsin Wai Village should be revised to tally with the latest plan and BHs for the area;
- (c) for the purpose of preservation, there was no need to maximize the development potential of the site; and
- (d) it was acknowledged that the view towards the Lion Rock from the proposed conservation park had mostly been blocked by existing buildings. It was however not a reason to allow a higher BH for the subject redevelopment scheme.

40. In response to another Member's question, Mr. Mok Ying Fan said that he did not object to the redevelopment scheme with BH at 120mPD presented to the WTSDC by

URA in 2007. However, it would be welcome if the BH of the redevelopment scheme could be further reduced to 60mPD to 80mPD.

41. In response to the same Member's questions on the agreement with the landowner, Mr. Michael Ma said that the agreement with the landowner of the site was based on the BH profile of 100mPD to 134mPD. There would be no impact on the development potential of the site and hence the agreement with the landowner if the BH of the whole site was reverted back to 120mPD. However, a uniform BH of 120mPD would have more adverse impact on the ridgeline.

42. In response to a Member's question, Mr. Mok Ying Fan said that conservation had becoming an important element in the development of Hong Kong. URA, as a quasi-government organization, should not aim at maximizing the profit from the redevelopment scheme, but to preserve the historic site as far as possible so that the future generations could learn about the history from it.

43. In response to another Member's question, Mr. Mok Ying Fan said that the current redevelopment scheme of URA had some merits. However, it was still largely a property development project. Although not all buildings in the Village were built 600 years ago and some of them had in fact been rebuilt lately, the village should be preserved in its entirety as it was the only remaining old village in the East Kowloon area. It was also part of the cluster of historic relics in the East Kowloon area.

44. 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 representers and commenter. The representers would be informed of the Board's decision in due course. The Chairman thanked the representatives of the representers and commenter and PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

45. The Vice-chairman said that URA had made a lot of effort in improving the redevelopment scheme so as to preserve the view to the ridgeline as far as possible. This

view was supported by another Member who said that the current proposal with stepped BHs had been worked out after thorough study and should be supported.

46. After further deliberation, the Chairman concluded that the representations should not be supported as the current BHRs of the site had struck a balance between conservation and development. The stepped BH profile was adopted to preserve the Lion Rock ridgeline from the Kai Tak view corridor and the conservation elements of the Nga Tsin Wai Village. Members then went through the suggested reasons for not upholding the representations as detailed in paragraph 6.1 of the Paper and considered them appropriate.

Representations No. 2 to 5

47. After further deliberation, the Board decided not to uphold the representations of R2 to R5 for the following reasons:

- (a) the current BHRs of 134mPD, 106mPD and 100mPD at the Nga Tsin Wai Village site had taken into account the need of preserving the Lion Rock ridgeline viewing from Kai Tak view corridor and the conservation elements in the site. Adopting lower BHRs but maintaining the same development intensity would have adverse impact on the proposed Conservation Park including the vertical clearance and the horizontal building separation which were important ‘visual relief’ and should not be affected;
- (b) the current BHRs were considered compatible with the Kai Tak River. The stepped BH profile with BH of 134mPD descending towards 100mPD along the Kai Tak River could blend in with developments along the river which were 80mPD and 100mPD in height and help maintain a compatible setting with the river; and
- (c) the AVA Study concluded that there was no focus area of concerns in the Wang Tau Hom & Tung Tau Area and appropriate measures including NBAs and building gap had been incorporated in the OZP to ensure good air ventilation. Also, the current BHRs of 100mPD to 134mPD were not

incompatible with the surrounding built-up area. Therefore, it was considered that there would be no significant adverse visual and air ventilation impacts on Tung Tau Estate (R5).

[Mr. Maurice W.M. Lee arrived to join the meeting at this point. Professor S.C. Wong left the meeting at this point.]

Agenda Item 4

[Open meeting (Presentation and Question Session only)]

Consideration of Representations and Comments

to the Draft Cheung Sha Wan Outline Zoning Plan No. S/K5/32

(TPB Papers No. 8774 and 8775)

[The hearing was conducted in Cantonese.]

Group 1 Representation – R3

Presentation and Question Session

48. As sufficient notice had been given to invite the representer to attend the hearing, Members agreed to proceed with the hearing of representation in the absence of Representer R3 who had indicated that they would not attend the hearing.

49. The following representatives from 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)
Mr. Philip Chum	Senior Town Planner/Tsuen Wan and West Kowloon (STP/TWK)
Ms. Carrie Chan	Town Planner/Tsuen Wan and West Kowloon (TP/TWK)

Dr. Conn Yuen

Air Ventilation Assessment (AVA) Consultant

50. The Chairman extended a welcome and invited STP/TWK to brief Members on the representation.

[Ms. Maggie M.K. Chan returned to join the meeting at this point. Ms. Julia M.K. Lau arrived to join the meeting at this point.]

51. With the aid of a Powerpoint presentation, Mr. Philip Chum made the following main points as detailed in the Paper:

- (a) on 30.9.2010, the draft Cheung Sha Wan OZP No. S/K5/32, incorporating mainly amendments to impose BHRs for various development zones and other rezoning proposals to reflect completed developments, was exhibited for public inspection under s.5 of the Town Planning Ordinance (the Ordinance). Upon expiry of the two-month exhibition period on 30.11.2010, a total of five representations were received. On 10.12.2010, the representations were published for three weeks for public comments. Upon expiry of the publication period on 31.12.2010, no comment was received;
- (b) R3 opposed the BHRs/setback requirement of various electricity substations (ESSs) and CLP Power Sham Shui Po (SSP) Centre on the OZP;
- (c) the main grounds of representation and the representer's proposals were summarized in paragraphs 2.3 and 2.4 of the Paper and highlighted below:
 - (i) the ESSs were small in scale and any incremental visual or airflow impacts were considered negligible. The BHRs had minimal planning gain, but had sacrificed the Representer's development rights;

- (ii) the BH controls and setback requirement would materially restrict the upgrading/redevelopment potential of the representation sites, resulting in the need of either relocating the existing ESSs or identifying additional ESS sites to cater for the surging demand for electricity in future. Such approach was not making the best use of scarce land resources. It was always very difficult to locate new suitable ESS sites in urban area as they were often seen as a 'not-favoured' neighbour use. It would put the electricity supply security and reliability of the area at risk;
- (iii) the site coverage of most of the existing ESSs was fully utilized. Enhancement of ESSs might require additional storey(s) to accommodate plant and equipment. There was virtually no design flexibility with the imposition of BHRs in terms of number of storey. Although minor relaxation of BHRs and setback requirement might be considered by the Board on their own merits, there were considerable uncertainties;
- (iv) the existing development intensity of the representation sites might not reflect the development potential under the lease conditions. The imposition of BHRs and setback requirement would deprive the representer of his development rights and significantly affect the opportunity to redevelop these sites for operational or other purposes;
- (v) in designing ESS building, the surrounding environment had been taken into account in designing ESS buildings and the representer had endeavoured to make ESSs integrated into the neighbourhood. It was considered that there was no adverse visual impact caused by the ESSs;
- (vi) for the CLP Power SSP Centre, a relaxation of BHR would have minimal adverse impact on the ridgeline and visual permeability. A taller and thinner building could improve air ventilation;

- (vii) the SSP Centre had been used for depot and industrial uses. The “G/IC” zoning of the site did not reflect the uses. An “Other Specific Uses” annotated “Business” (“OU(B)”) zoning, with a BHR similar to other “OU(B)” zones, was more appropriate;
- (viii) the Cheung Sha Wan Government Offices at 303 Cheung Sha Wan Road in the vicinity was also zoned “G/IC” but had a BHR of 76mPD. Much higher BHRs had been imposed on other nearby sites, such as 177-205 Fuk Wa Street and Yee Ching Court at 90mPD and 100mPD respectively. The BHR of 8 storeys for the SSP Centre was inconsistent with these surrounding “G/IC” sites and the rationale and fairness of the BHRs were doubtful; and
- (ix) R3 proposed to relax the BHRs for various ESS sites and the SSP Centre as follows:

Representation Sites	OZP Restrictions	Representer’s proposal
King Lam Street Link ESS	BH: 6 storeys	BH: not more than 45.73mPD
Tai Nan West Street ESS	<ul style="list-style-type: none"> • BH: 4 storeys • Setback of 3.5m from lot boundary abutting Castle Peak Road 	<ul style="list-style-type: none"> • BH: not more than 45.73mPD • Setback requirement removed.
Kwong Cheung Street ESS	BH: 4 storeys	BH: not more than 45.73mPD
Lai Chi Kok Road ESS	BH: 1 storey	BH: not more than 45.73mPD
Shun Ning Road “A” ESS	BH: 1 storey	BH: not more than 45.73mPD
Shun Ning Road	BH: 1 storey	BH: not more than

Representation Sites	OZP Restrictions	Representer's proposal
"B" ESS		45.73mPD
Kwong Lee Road ESS	BH: 1 storey	BH: not more than 91.44mPD
Kiu Kiang Street ESS	BH: 2 storeys	BH: not more than 17mPD
Un Chau Street ESS	BH: 1 storey	BH: not more than 45.73mPD
Ki Lung Street ESS	BH: 1 storey	BH: not more than 45.73mPD
Tai Po Road ESS & Staff Quarters	BH: 5 storeys	BH: not more than 51.82mPD
SSP Centre at 215 Fuk Wa Street	BH: 8 storeys	BH: at least 76mPD

- (d) no comment had been received in respect of representation R3;
- (e) PlanD's responses to the representation and the representer's proposals were summarized in paragraph 4.4 of the Paper and highlighted as follows:
- (i) the low-rise and low-density GIC developments should function as breathing space and visual relief in the densely built-up urban area. It was necessary to contain the existing BHs of the representation sites so as to ensure good air ventilation. Any piecemeal relaxation of BHRs of the "G/IC" sites would lead to cumulative loss of visual relief and breathing space in the congested urban core;
 - (ii) the imposition of BHRs was a response to public aspirations for a better living environment. A careful balance had been struck between efficient use of land and good urban design. In determining the BHRs for the ESS sites, consideration had been

given to the existing BHs, development /redevelopment plan, if any, and other relevant factors;

- (iii) the Chief Town Planner/Urban Design and Landscape of PlanD also advised that compatibility in terms of height with the surrounding buildings should not be the sole consideration in justifying a significant relaxation of BHRs;
- (iv) redevelopment proposals exceeding the BHRs could be submitted to the Board for consideration under s.16 of the Ordinance for minor relaxation of the BHRs or under s.12A of the Ordinance for amendments to the OZP. Each case would be considered by the Board on its merits. Should there be a need for additional ESS sites to meet functional and operational needs, alternative sites would be identified through the established practice and procedure for site search for GIC use. To cater for future electricity demand, an additional site south of Lai Chi Kok Road had been reserved for new ESS development;
- (v) the Director of Electrical and Mechanical Services (DEMS) advised that there was no record of redevelopment programme for the representation sites. In the absence of any redevelopment proposal to demonstrate any expansion plan and hence the need to relax the BHRs of the representation sites to meet the operational requirement, the proposed relaxation of the BHRs was not justified at the present stage;
- (vi) the BHRs for the representation sites were to reflect the as-built situation so as to contain their existing low-rise profile. The OZP imposed no plot ratio/gross floor area/site coverage restriction on these sites. The existing development intensity of these sites had not been affected;
- (vii) the setback requirement for developments along Castle Peak Road,

including Tai Nan West Street ESS, was to create an additional east-west air path to improve air ventilation of the Cheung Sha Wan Industrial/Business Area;

- (viii) the setback was also in line with the road widening and streetscape improvement requirements at the Cheung Sha Wan Industrial/Business Area incorporated in the Outline Development Plan (ODP) for the area since 2002. The same setback requirement applied to all sites along the concerned section of Castle Peak Road. It had no impact on the existing ESS building and would only be taken into account upon redevelopment;
- (ix) piecemeal removal of the setback requirement for the Tai Nan West Street ESS was not supported as it would defeat the planning intention of improving the air ventilation, and facilitating road widening and streetscape improvement for the Cheung Sha Wan Industrial/Business Area;
- (x) should there be any functional or operational needs for relaxation of setback requirement in future redevelopment, an application for minor relaxation could be submitted for the Board's consideration;
- (xi) the primary use of the CLP Power SSP Centre was depot, with subsequent approval for ancillary office use (including showroom) under planning Application No. A/K5/529 (approved by the MPC on 13.6.2003). The depot and ancillary office of CLP Power should not be categorised as industrial or office development comparable to those in the "OU(B)" zone. The "G/IC" zoning was appropriate for the site;
- (xii) the proposed "OU(B)" zone was not compatible with the neighbouring land uses which were mainly residential intermixed with GIC uses; and

- (xiii) the SSP Centre served as breathing space and visual relief in the densely built-up urban area. It was inappropriate to apply the BH bands, which were adopted for the adjacent residential developments, to the SSP Centre. The proposed BHR of 76mPD was higher than the buildings for GIC uses in the immediate surroundings. There was no detailed information in the representer's submission to justify the proposal based on operational requirement; and

PlanD's view

- (f) based on the assessments set out in paragraph 4 of the Paper, PlanD did not support the Representation R3 and considered that it should not be upheld for the reasons as set out in paragraph 6.1 of the Paper.

52. As Members had no question to raise, the Chairman thanked the representatives of PlanD for attending the meeting. They left the meeting at this point.

Deliberation Session

53. After further deliberation, the Chairman concluded that Representation R3 should not be upheld. Members then went through the suggested reasons for not upholding the representation as detailed in paragraph 6.1 of the Paper and considered them appropriate.

54. After further deliberation, the Board decided not to uphold the representation of R3 for the following reasons:

- (a) apart from providing GIC facilities, the "G/IC" sites in the built-up urban area also functioned as breathing space as well as spatial and visual relief. Their BHs should be contained to ensure good air ventilation. Any piecemeal relaxation of BHRs would lead to cumulative loss of breathing space and visual relief and affect air ventilation;
- (b) the setback requirement along Castle Peak Road was to improve air ventilation of the Cheung Sha Wan Industrial/Business Area, and also to

facilitate road widening and streetscape improvement taking into account the recommendation of the AVA and advice of the Transport Department. Removing the setback requirement for Tai Nan West Street ESS as piecemeal removal of setback requirement for Castle Peak Road would defeat the planning intention of improving air ventilation, and facilitating road widening and streetscape improvement of the Cheung Sha Wan Industrial/Business Area;

- (c) any relaxation of the BHRs and setback requirement had to be justified by functional and operational needs with planning and design merits. Should there be such needs, the representer might seek the Board's permission for a minor relaxation of the BHRs and setback requirement under s.16 or to apply for amendments to the OZP under s.12A of the Ordinance. In the absence of any redevelopment proposal, there was no strong justification to support the proposed relaxation of the building height restrictions and the removal of the setback requirement; and
- (d) the primary use of the CLP Power SSP Centre was a CLP Power depot supporting electricity supply in the district. The "G/IC" zoning was appropriate for the site. There was no strong justification submitted to rezone it to "OU(B)".

Group 2 Representations – R1, R2, R4 and R5

Presentation and Question Session

55. As sufficient notice had been given to invite the representers to attend the hearing, Members agreed to proceed with the hearing of representation in the absence of Representers R1, R4 and R5 who had not responded to the invitation to attend the hearing.

56. The following representatives from the Planning Department (PlanD) and representer were invited to the meeting at this point:

Mr. Wilson Chan	District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), PlanD
Mr. Philip Chum	Senior Town Planner/Tsuen Wan and West Kowloon (STP/TWK), PlanD
Ms. Carrie Chan	Town Planner/Tsuen Wan and West Kowloon (TP/TWK)
Dr. Conn Yuen	AVA Consultant

R4 (Real Estate Developers Association (REDA))

Mr. Ian Brownlee Representers' representative

57. The Chairman extended a welcome and invited STP/TWK to brief Members on the representations.

58. With the aid of a Powerpoint presentation, Mr. Philip Chum made the following main points as detailed in the Paper:

- (a) on 30.9.2010, the draft Cheung Sha Wan OZP No. S/K5/32, incorporating mainly amendments to impose BHRs for various development zones and other rezoning proposals to reflect completed developments, was exhibited for public inspection under s.5 of the Ordinance. Upon expiry of the two-month exhibition period on 30.11.2010, a total of five representations were received. On 10.12.2010, the representations were published for three weeks for public comments. Upon expiry of the publication period on 31.12.2010, no comment was received;

R1

- (b) R1 supported the imposition of BHRs in Cheung Sha Wan as the high-rise buildings in Lai Chi Kok south of the area had already weakened winds penetrating inland;

- (c) R1 also opposed the rezoning of the sites bounded by Lai Chi Kok Road, Tonkin Street, Tung Chau Street and Hing Wah Street for residential use as there was concern that the future buildings would aggravate the heat island effect;
- (d) R1 proposed to retain the existing use of the sites bounded by Lai Chi Kok Road, Tonkin Street, Tung Chau Street and Hing Wah Street, or change the use of the sites for environmental protection industries purpose;
- (e) R1 also proposed to create an air path by pulling down some buildings between Wong Chuk Street and Maple Street;
- (f) PlanD's responses to the representation of R1 and the representer's proposals were summarized in paragraph 4.5 of the Paper and highlighted as follows:
 - (i) R1's support to the imposition of BHRs for the area was noted;
 - (ii) the sites bounded by Lai Chi Kok Road, Tonkin Street, Tung Chau Street and Hing Wah Street had been zoned "Residential (Group A)" ("R(A)"), "Residential (Group E)" ("R(E)") and "Comprehensive Development Area" ("CDA") on the OZP since 1998 and 2002. The current amendments to the OZP were mainly related to imposition of BHRs and the zonings of these sites were not a subject of amendments to the OZP. The representation related to the zonings of these sites were considered invalid; and
 - (iii) the sites between Wong Chuk Street and Maple Street were largely zoned "R(A)6", "R(A)7", "Government, Institution or Community" ("G/IC") and "Open Space" ("O") and partly shown as 'Road' on the OZP. R1's proposal to create a "linear park" by pulling down buildings between Wong Chuk Street and Maple Street was not a subject of the present amendments to the OZP and thus not subject to representation. Moreover, the proposal should be considered

prudently since there was huge implication on development rights of private lot owners;

R2

- (g) R2 opposed all the Amendment Items shown on the OZP except Item G, and amendments to the Notes regarding imposition of BHRs, setback requirements, and designation of NBA and building gap;
- (h) the main grounds of representation and their proposals were summarized in paragraph 2.4 of the Paper and highlighted below:
 - (i) the BHRs had been set unreasonably low, lower than what was necessary to address public concern. The low BHRs unnecessarily constrained the provision of good quality development, which could only be achieved by providing flexibility for the design of developments with good internal spaces and sufficient internal headroom;
 - (ii) the low BHRs restrained building bulk, making incorporation of any innovative architectural designs impossible, and having a direct negative impact on the provision of space around buildings. The low BHRs forced the buildings to become lower and bulkier, thus directly affected streetscape and lowered property values and reduced air ventilation at street level. To improve air ventilation at street level, means should be identified to create space around buildings at street level in critical locations. The imposition of BHRs created a solid wall effect closer to ground level;
 - (iii) imposition of BHRs was an inappropriate means of controlling development intensity. Most of the objectives for BHRs could be achieved with a more reasonable height limits. The BHRs were so low which would not allow for the existing gross floor area (GFA) to be achieved in a new building. The BHRs acted as a “down-zoning” and were depriving development potential of

existing landowners;

- (iv) the Cheung Sha Wan area was located inland. The vantage points identified in the “Urban Design Guidelines for Hong Kong” were blocked by the very tall buildings (about 50 storeys) in Lai Chi Kok. The BHRs of Cheung Sha Wan area could be increased by 20m to 40m;
- (v) the BHRs, NBAs and setback requirements duplicated with/were in conflict with the provisions of the new Practice Notes on Sustainable Building Design (SBD) recently issued by the Buildings Authority. The restrictions would complicate the development and approval process, resulting in poorer quality building and delays in urban renewal implementation;
- (vi) prior to gazettal of the OZP, the public had not been informed of the justifications for the need of BHRs, NBAs and setback requirements and no visual impact analysis had been made available;
- (vii) It was difficult to see the statutory basis and justifications for the incorporation of NBA requirements. It did not fall with the duties defined in s.3 and 4 of the Ordinance on preparation of draft plans for “types of building” and “lay-out” of an area. The objective of ensuring ‘gaps’ between buildings in appropriate places could be achieved through making provision for open space, parks and streets. The term “NBA” was liable to uncertainty and confusion as the same term was used with special meaning in the context of lease. The implications of NBA under the Buildings Ordinance (in particular on site coverage and PR calculations) were unclear;
- (viii) the ‘spot zoning approach’ was unnecessarily restrictive. It violated the object of the OZP to indicate only the broad principles of development and was inconsistent with the Ordinance. The

designation of various sub-areas within the same zone with different BHRs and different BHs permitted for sites with different site area were unnecessary and inconsistent with the principle of treating private property rights in a generalized, fair and consistent manner;

- (ix) the building gap and setback requirements were not appropriate for the scale and generality of the OZP. Provisions for road widening were covered by other ordinances such as the Buildings Ordinance and the Roads (Works, Use and Compensation) Ordinance which provided compensation to land owners for loss of land for a public purpose. There was no legal recognition of the provision of setbacks for “air paths” as being a public purpose for which private land could be taken. The justifications stated in the ES for providing setbacks were confusing. The unclear justifications would render unnecessary complication relating to compensation of loss of land under Buildings Ordinance and Roads (Works Use and Compensation) Ordinance;
- (x) R2 proposed to:
- relax the BHRs by 20m to 40m, and to have more relaxed height limits for transport nodal sites;
 - incorporate a relaxation clause on BHRs for sites zoned “C” and “OU(B)” with an area not less than 1,500m², similar to the relaxation clause under the Tsim Sha Tsui OZP;
 - consolidate the ‘sub-areas’ under the “C”, “R(A)”, “G/IC” and “OU(B)” zones into a small number of broader zones;
 - delete the NBA and setback requirements;
 - consider minor relaxation of all restrictions or requirements on

‘individual merits’ instead of ‘under exceptional circumstances’; and

- delete the provisions for lower heights for smaller sites in the “R(E)” zone and to allow the greater height for all sites;

- (i) PlanD’s responses to the representation of R2 and the representer’s proposals were summarized in paragraph 4.6 of the Paper and highlighted as follows:

BHR

- (i) the purpose of imposing BHRs in the area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the area. There had been rising public aspirations in particular from the Sham Shui Po District Council (SSP DC) in recent years for visually compatible developments and concern on excessively tall developments. The SSP DC was consulted on the BHRs on 2.11.2010 and DC members generally supported the BHRs;
- (ii) in considering the building bulk, apart from the size and volume of a building, reference should also be made to the shape and form of the building, including any podium, balcony, bay window, architectural feature and stepped height profile; the disposition of building in relation to the boundary of the site and the adjacent building, including setback at both ground and upper levels; and the location of the building in relation to the characteristics of the surrounding area, including surrounding buildings, heritage, open areas, natural topography, ridgeline, main street and pedestrian circulation pattern, view corridor and breezeway. Tall buildings did not necessarily enable provision of space at ground level, given

the tendency to maximize the best view in certain direction (particularly sea view), and to capitalize on land values on the lower floors by designing a 100% site coverage commercial podium permissible under B(P)R to 15m. Without appropriate BH control, excessive tall developments might proliferate;

- (iii) the BHRs were formulated based on reasonable assumptions, having regard to the development intensity permissible under the OZP, without precluding the possibility for incorporating building design measures to achieve good quality developments. They should be sufficient to accommodate the permissible PR under the OZP as well as meeting various building requirements. Besides, the BHRs did not preclude the incorporation of green features, innovative architectural features and a reasonable floor-to-floor height for development/redevelopment;
- (iv) the new measures on SBD and the OZP restrictions on BHRs, NBAs, building setback/gaps were under two separate regimes. They were complementary, rather than duplicating with each other. The SBD Guidelines focused on the building design at a site level. Unlike the requirements on OZP which were determined based on specific district circumstances and conditions, the SBD guidelines were applicable to all building developments with no reference to specific district characteristics. The requirements under SBD Guidelines were the prerequisite for the granting of GFA concession under the Buildings Ordinance. Developers did not have to follow the SBD Guidelines if they chose not to apply for GFA concession;
- (v) for the Cheung Sha Wan area, a stepped height concept was generally adopted with BH profile gradually ascending from the area nearer to the waterfront in the south towards inland in the north and northeast which echoed with the mountain backdrop in Eagle's Nest. The stepped height concept should respect the view

from major vantage points on Hong Kong side towards the ridgeline on Kowloon side commensurate with the BHs already stipulated for the adjoining areas including Shek Kip Mei and Mong Kok so as not to block the flow of wind into the hinterland. There was no strong justification provided in the representation to support the increase of the BHRs by 20m to 40m;

- (vi) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits;

Consultation

- (vii) it was an established practice that proposed amendments involving BHRs should not be released to public prior to gazetting. Premature release of such information before exhibition of the amendments might prompt an acceleration of submission of building plans by developers to establish “fait accompli”, hence defeating the purpose of imposing the BHRs;
- (viii) the exhibition of OZP for public inspection under the provisions of the Ordinance itself was a public consultation to seek representations and comments on the draft OZP. During the exhibition period, PlanD also provided briefings on the OZP amendments to SSP DC;
- (ix) the rationales for the BHRs, NBAs, building setback and building gap requirements for the area as well as photomontages showing the visual impacts of the proposed BHRs had been clearly stated and incorporated in the MPC Paper on the proposed amendments to the OZP. The relevant MPC Paper, the AVA and the ES of the OZP, were all available to the public;

Spot Zoning Approach

- (x) according to advice from the Department of Justice (DoJ), s.3 and 4 of the Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP, if there were necessary and sufficient planning justifications;
- (xi) the sub-zones on OZP covered completed developments and the PR/GFA and BH restrictions were to reflect the as-built conditions. Given the wide coverage of the area that comprised areas with different site history, varying characteristics and that there were different planning intentions/objectives to achieve, different restrictions for different sub-areas under the same broad zone were necessary;

NBA, Building Gap and Setback

- (xii) designation of NBAs, building gap and setback requirements on the OZP could serve a positive planning purpose and had positive planning benefits by improving air ventilation, visual permeability and/or road widening and streetscape improvement. It had legal basis as it would form part of the planning control of the Board, which had the necessary and sufficient justifications. The development potential of the concerned sites would not be affected;
- (xiii) the NBA imposed on the OZP was mainly based on the recommendations of the AVA, taking into consideration site constraints and impacts on development/redevelopment potential. The 10m NBA along the eastern boundary of Lai On Estate and Yee Ching Court served as the entrance of the prevailing south-westerly wind into the inner area, and was an effective measure in improving the local air ventilation. The NBA along the eastern boundary of Lai On Estate and Yee Ching Court was an emergency vehicular access (EVA). The NBA served dual

purposes and the development right and development potential of the sites would not be affected;

- (xiv) the areas designated as “NBA” were clearly marked and shown in the OZP. There should be no building structure above ground, but development was permitted below ground. The objectives of the NBA were described in the Explanatory Statement (ES);
- (xv) the AVA recommended designation of a 15m-wide building gap above 20mPD at an area covering the footpath between Sham Shui Po Sports Ground and Cheung Yue Street and adjoining parts of 8 and 10 Cheung Yue Street to create a new air path to facilitate the penetration of south-westerly wind. The AVA also recommended setting back of buildings along Castle Peak Road, Cheung Shun Street, Cheung Yue Street and Cheung Yee Street to improve the air ventilation of the local area. A minimum of 2m to 5m-wide building setbacks from the lot boundaries were stipulated to improve the air ventilation. The setback requirement was also in line with planned road widening/streetscape improvement. Removing the setback requirement would defeat the planning intention of improving the air ventilation and road widening and streetscape improvement for the Cheung Sha Wan Industrial/Business Area;
- (xvi) to cater for site specific circumstances, there was provision under the OZP for minor relaxation of the NBAs, building setback and building gap requirements on application to the Board and each case would be considered based on its individual merits;
- (xvii) to avoid unnecessary doubts, it was proposed that the paragraphs on “C(4)” and “G/IC(4)” zones in the ES could be revised to clearly state that the setback requirements were for improving air ventilation, and facilitating road widening and streetscape improvement;

R4 and R5

- (j) R4 opposed the BHRs of 80mPD and 90mPD for 98-100 Apliu Street and 68-70 Cheung Sha Wan Road;
- (k) R5 opposed the rezoning of 1-27 Berwick Street, 214-220 Nam Cheong Street and 1-8 Yiu Tung Street from “R(A)” to “R(A)7” and the BHRs of 90mPD or 110mPD for sites with an area of 400m² or more;
- (l) the main grounds of representations and their proposals were summarized in paragraph 2.5 of the Paper and highlighted below:
 - (i) the BHRs affected redevelopment of the representation sites;
 - (ii) the BHRs restricted streetscape, built forms and design flexibilities for better building design, affected the quality of living of the future occupiers and neighbouring areas;
 - (iii) the BHRs were unfair and illogical, discouraged or had little room or incentive to allow comprehensive development on a large development site to improve the overall built environment. Site amalgamation effort should be recognised and the Board should consider incorporating more sensitive height bands to allow design flexibilities on larger sites (R5);
 - (iv) height relaxation offered potential for specific design merit, e.g. setback for building blocks or recess of lower floors, and improved air ventilation by creating significant height difference (R5);
 - (v) R4 proposed to remove the BHRs of 80mPD and 90mPD for 98-100 Apliu Street and 68-70 Cheung Sha Wan Road respectively; and
 - (vi) R5 proposed to incorporate a relaxation clause on BHRs for 1-27

Berwick Street, 214-220 Nam Cheong Street and 1-8 Yiu Tung Street and to relax the BHR by 20m to 40m (i.e. up to 130mPD to 150mPD) as an incentive for comprehensive redevelopment;

- (m) PlanD's responses to the representations of R4 and R5 and the representers' proposals were summarized in paragraph 4.7 of the Paper and highlighted as follows:
- (i) the BHRs were formulated based on reasonable assumptions, having regard to the development intensity permissible under the OZP, without precluding the possibility for incorporating building design measures to achieve good quality developments. They should be sufficient to accommodate the permissible PR under the OZP as well as meeting various building requirements. The BHRs did not preclude the incorporation of green features, innovative architectural features and a reasonable floor-to-floor height for development/redevelopment;
 - (ii) the representation sites fell within an area characterized by low to medium-rise composite developments. There were no strong justifications provided by the representers to demonstrate the visual, air ventilation and other impacts of the proposed relaxation of BHRs. To cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits;
 - (iii) a higher BH (20m more) for sites with an area of 400m² or more was allowed to cater for amalgamation of site for comprehensive development, more design flexibility and provision of other supporting facilities to meet modern standards. In the absence of sufficient justifications for the proposal to allow relaxation of BHRs by 20m to 40m for comprehensive development, extending the two-tier provision proposed by the representer was considered

inappropriate (R5);

- (iv) deletion or piecemeal relaxation of the BHRs for individual sites as proposed by R4 and R5 was not supported as it would jeopardize the coherence of the stepped BH profile and would result in proliferation of excessively tall developments, which was not in line with the intended planning control; and
- (v) considering that the site was located immediately adjacent to the air path, there was no information provided in the submission to demonstrate that the proposed relaxation of the BHRs by 20m to 40m would not affect the performance of the air path (R5);

PlanD's Views

- (n) based on the assessments set out in paragraph 4 of the Paper, PlanD did not support the Representations R1, R2, R4 and R5 and considered that they should not be upheld for the reasons as set out in paragraphs 6.1 to 6.5 of the Paper; and
- (o) to avoid unnecessary doubts, it was proposed to amend the ES of the OZP as stated in paragraph 6.5 of the Paper and as follows:
 - (i) "C(4)" zone (paragraph 8.1.7 of ES):

"To facilitate air ventilation, **road widening and streetscape improvement** of the Cheung Sha Wan Industrial/Business Area, a minimum building setback of 3.5m from the lot boundary abutting Cheung Shun Street shall be provided within the "C(4)" sub-area to improve east-west air/wind path. Under exceptional circumstances, minor relaxation of the setback requirement may be considered by the Board on application under section 16 of the Ordinance."
 - (ii) "G/IC(4)" zone (paragraph 8.6.8 of ES):

“In order to enhance the local air ventilation performance, to facilitate **road widening and streetscape improvement of the Cheung Sha Wan Industrial/Business Area**, a minimum building setback of 3.5m from the lot boundary abutting Castle Peak Road shall be provided within the “G/IC(4)” sub-area. Under exceptional circumstances, minor relaxation of the setback requirement may be considered by the Board on application under section 16 of the Ordinance.”

59. The Chairman then invited the representative of the representer to elaborate on their submission.

[Miss Anita W.T. Ma arrived to join the meeting at this point. Mr. Rock C. N. Chen left the meeting at this point.]

R3 (REDA)

60. Mr. Ian Brownlee made the following main points:

- (a) REDA was very concerned about the impact of the zoning amendments on the development system as a whole. REDA’s representations were related to matters of principle and in particular, to the need to protect property rights of individual property owners;
- (b) Cheung Sha Wan, Mong Kok and Yau Ma Tei were three OZPs covering the oldest and most dense developments in the central part of West Kowloon. The issues related to the amendments to the Cheung Sha Wan OZP, namely, the protection of ownership rights, equality in approach to zonings, the sustainability of the Hong Kong urban environment and of the development system, were also applicable to the other two areas;

Comments on Representation from Green Sense (R1)

- (c) the Board should look at alternatives to achieve the various objectives.

Where possible, public benefits should be gained on public land, rather than by imposing unreasonable restrictions on private land;

- (d) the “linear park” proposal mentioned in Green Sense’s (R1) representation was a proposal developed in an independent study for REDA in conjunction with other professionals, including AVA experts. This was suggested as an alternative and more effective approach, rather than over-controlling private development and imposition of unreasonable controls on set-backs, which adversely affected private land ownership rights. It was a proposal to make up the deficit of public open space in the area, to provide a green ‘cool’ strip through the old crowded district and to provide a ventilation corridor of a significant width, so that it could have a major positive impact. It would also be a stimulus for urban renewal in the area and a massive improvement in the quality of the area, which was occupied by some of the poorer people in Hong Kong;
- (e) the proposal was not supported by PlanD as there was “huge implications on development rights of private lot owners”. However, it should be noted that all amendments on the OZPs had huge implications on development rights of private lot owners through excessively low BHRs, setbacks, gaps between buildings. No form of compensation was paid to the landowners;
- (f) where there was a need for private land to be taken for a public purpose such as ventilation corridors, the area should be zoned open space. The affected land should be resumed and the private landowner should be properly compensated from the public purse;
- (g) regarding Green Sense’s (R1) submission in relation to the Lai Chi Kok Road/Tonkin Street, these sites were occupied by out-dated low-rise government developments which were planned for sale. The sites were zoned “R(A)” with the highest BHR at 110mPD;
- (h) paragraph 3.3.2(b) of the TPB Paper stated that detailed AVA studies

would need to be carried out for these site and air paths would need to be incorporated. However, it had not been explained why the option of having lower buildings and/or open space at these sites had not been tested in the AVA. It was clear from the AVA that these low-rise sites were a gateway for summer breezes to the whole area, but as the area was on government land, it was treated in a different approach from that on private land;

[Ms. Maggie M.K. Chan left the meeting at this point.]

Sustainable Building Design (SBD)

- (i) REDA had concern on the direct conflicts between Buildings Department's (BD) new Practice Notes on SBD guidelines and the BHRs, NBAs set-backs and building gaps requirements being imposed on OZPs, as detailed in the letter from REDA to the Board on 7.3.2011 tabled at the meeting;
- (j) an urgent review should be undertaken jointly by PlanD and the industry to assess the combined effect of the new Practice Notes and the BHRs on OZPs and how these affect existing property rights;
- (k) it was wrong for PlanD to advise the Board that the two controls were under two different regimes that were complementary and not duplicating. REDA considered that they were in direct conflict and that the measures introduced by the Board were actually going to prevent the SBD guidelines from being implemented;
- (l) under the Joint Practice Note (JPN) 1, sky gardens and podium gardens were encouraged. In a building with 20 storeys, two sky gardens, each with a height of no less than 4.5m, could be provided. The sky gardens should be provided with greening and could allow cross ventilation. There was also a criterion stated in the JPN that the provision of sky garden should be subject to "no concern from PlanD on the overall building height." The JPN also required that provision of sky garden was

acceptable only if it did not contravene the BHRs on the OZP, otherwise an application for minor relaxation to the Board was required. If the BHRs were set so low, i.e. lower than 100mPD, that the inclusion of an extra 9m for sky gardens could not be provided, PlanD should advise BD that such provision of sky garden would be contrary to the statutory restrictions on OZP;

- (m) the SBD guidelines required the provision of three key building design elements to enhance the sustainability of our living environment. They were building separation, building set back and site coverage of greenery. The objectives were to achieve better air ventilation, enhance the environmental quality of our living space, particularly at pedestrian level, provide more greenery and mitigate the heat island effect. These measures tended to focus on the podium levels where building gaps, building permeability, set-back from streets and areas for greening were to be provided. To achieve the provision of these spaces, it was necessary to relocate GFA from the podium levels to the upper levels. The illustrations in the SBD Practice Notes showed that a typical building with a BHR of 90mPD could not achieve the most basic building separation requirement;
- (n) SBD requirements were not dependent on the provision of GFA concessions. They needed to stand on its own right as a means for encouraging a more sustainable form of building design;
- (o) the Board had to look into the impacts of these new controls and to review its approach on imposition of BHRs accordingly. PlanD should also provide the basis of the assumptions made in determining the BHRs, such as assumptions regarding floor-to-floor heights;

BHRs were set too low

- (p) as shown in Plan H-3c of the TPB Paper, the BHRs for the public housing sites started from 100mPD to 120mPD at Un Chau Estate and Lei Cheng Uk Estate. The height band dropped to 90 or 100mPD over the private

housing sites in between the public housing sites. It was considered that the whole band north of Cheung Sha Wan Road should be relaxed to at least 120mPD or 130mPD to be consistent with the BHR of the “OU(B)” sites to the west;

- (q) the private housing sites on the south-eastern part of the area were severely restricted to BHRs of only 80mPD and 90mPD. It was considered that the BHR of the area between Tung Chau Street and Cheung Sha Wan Road should be relaxed from 80mPD to 100mPD, which was the same as the BHR of the adjacent public housing estates, and that for the area north of Cheung Sha Wan Road should be relaxed from 90mPD to 120mPD or 130mPD;
- (r) these broad and general changes to the BHR bands would not result in a proliferation of high-rise developments, but would permit similar developments in terms of height to the nearby areas in the same OZP;

Spot Zonings and Two-tier BHRs

- (s) there were different BHRs within the same zone and with different site area. The lower BHR was unreasonably penalising smaller lots and resulting in a poorer quality of development. The higher height limit should be accepted as the BHR and the two-tier approach should be abandoned. However, should the Board consider that there was some merit to retain the 20m difference under the two-tier system, it should be applied to the higher BHR bands of 100mPD and 130m PD;

Effective Down-zoning

- (t) the BHRs were set too low and resulted in a reduction in achievable GFA. As showed in a diagrammatic illustration of a development on a site with an area of 1,000m² under a BHR of 80mPD, the permitted GFA (PR 9.5) could not be achieved with a reasonable floor-to-floor standard. Assuming that there were three non-domestic floors and an E&M floor above (up to 24mPD), only 21 domestic floors could be provided with a substandard floor-to-floor height of about 2.6m. The illustration had not

taken into account the provisions for lifts, stairs, off-street drop-off or parking, concessionary GFA, sky gardens and provision of the building permeability as required under BD's new Practice Notes. To achieve a market norm floor-to-floor height of 3.2m, a BHR of at least 91mPD was required;

- (u) no explanation had been provided to indicate how the existing GFA rights had been preserved in the setting of the BHRs and what assumptions had been taken into account to allow development potential permissible under the OZP and at the same time to allow design flexibility;

Urban Renewal

- (v) the areas within the Cheung Sha Wan, Mong Kok and Yau Man Tei OZPs covered some of the oldest and poorest quality residential developments occupied by people with low incomes. A large proportion of them are elderly;
- (w) these old areas were subject to the lowest BHRs of 80 and 90mPD. With an assumed floor-to-floor height of only 2.6m, which was well below modern standards, there was little incentive for amalgamating sites and redevelopment of these old properties. The low BHRs made this whole area forever subject to the provision of low quality flats and a low quality urban environment;

Relaxation Scheme

- (x) while there was provision for minor relaxation of the BHRs through s.16 applications, the restriction to be imposed, if necessary, must be both reasonable and adequately justified. Furthermore, the extent to which the Board could grant a minor relaxation was limited by the content of the OZP;
- (y) REDA therefore proposed that the relaxation scheme that was incorporated into the Tsim Sha Tsui OZP should be applied on a wider basis. A relaxation without being bound by the word "minor" would allow for

consideration of schemes which met specific requirements in improving townscape and achieving better building form;

- (z) REDA proposed that the same relaxation scheme should be applied to the “C” and “OU(B)” zones on the Cheung Sha Wan OZP;

Proposals

- (aa) REDA requested that:
 - (i) the Board should review the approach in OZP review, taking into account the impact of the BD’s new SBD requirements. The Board and PlanD should make known the assumptions made in setting the BHRs;
 - (ii) the BHRs at 80 and 90mPD had been set unreasonably low and did not allow for a good quality of new urban development, and should be replaced by broad bands of 100mPD and 120mPD;
 - (iii) the two-tier BHRs should be removed by adopting a higher BHR level overall within the stepped profile concept;
 - (iv) the relaxation scheme should be applied to the “OU(B)” and “C” zones on the Cheung Sha Wan OZP;
 - (v) the setbacks, spot zoning and NBAs should be removed from the OZP as they were redundant. The SBD guidelines provided a more appropriate form of design requirements which could achieve the same objectives; and
 - (vi) the Board should take steps to ensure that there was no down-zoning effect and that the development potential of existing buildings could be reasonably achieved within the BHRs without the need to make a s.16 application for minor relaxation.

61. As the presenter's representative had completed his presentation, the Chairman invited questions from Members.

62. In response to a Member's question, Mr. Wilson Chan made the following main points:

- (a) the government sites were all larger than 400m² in area, so there was no need to apply the two-tier BHRs for these sites;
- (b) the BHR of 120mPD for the Un Chau Estate site was only to reflect the existing height of the estate. For privately owned residential sites to the north of Un Chau Estate, they were subject to a two-tier BHR of 100mPD for sites smaller than 400m² and 120mPD for sites larger than 400m². There was in fact no difference in BH for this area; and
- (c) BHRs of 120mPD and 130mPD were imposed for industrial sites in Cheung Sha Wan as they were subject to a PR of 12. However, residential sites in the area were subject to a maximum PR of 7.5 for domestic and 9 for composite building. The calculation presented by representative of R3 with an assumed PR of 9.5 was not correct.

63. In response to another Member's question, Mr. Wilson Chan said that as the area was subject to a maximum non-domestic PR of 1.5, two non-domestic floors could be provided. For sites smaller than 400m², it was estimated that development up to the permissible PR of 7.5 for domestic and 9 for composite building under the OZP was achievable under the BHR of 80mPD, with two non-domestic floors and 23 domestic floors (site coverage of 33.3%) and a floor-to-floor height at around 2.9m. For sites larger than 400m², an additional 20m, and hence more flexibility, would be allowed under the two-tier system.

64. Mr. Ian Brownlee said in response to the above Member's question that it was considered an unfair restriction that the government site was given a BHR of 120mPD, while the private sites were subject to the two-tier BHRs. Instead, a broad band BHR of 120mPD should be imposed for the whole area.

65. In response to another Member's question, Mr. Ian Brownlee said that his calculation above had not included GFA concessions. In this connection, it was important for PlanD to provide the assumptions taken and discuss with REDA so as to work out more reasonable BHRs.

66. Mr. Wilson Chan said that the BHRs of 80mPD to 90mPD on the south-eastern part of the area were to form a stepped BH profile towards the Shek Kip Mei area (110mPD). As for sites along the central part of the area, BHs also followed a stepped height profile, with BH of 100mPD for the government sites to the south, 120mPD for Un Chau Estate in the middle, and 135mPD for So Uk Estate to the north.

67. Mr. Ian Brownlee referred to the letter from REDA to the Board tabled at the meeting and said that the developers were not provided with information on whether the permissible GFA/PR could be achieved under the BHRs. It was estimated that the SBD requirements under BD's new Practice Notes could not be achieved with BH less than 100mPD, unless good quality buildings were to be sacrificed. This was contrary to the objective of the SBD guidelines to have a quality building environment.

68. Dr. Conn Yuen made the following main points in respect of the AVA for the area and R1's proposal for the provision of a "linear park":

- (a) for the industrial area which was subject to a higher PR and hence a higher height band, requirements on provision of set-backs were recommended so as to improve air flow;
- (b) for the middle part of the area, there were existing open spaces and sports ground which acted as air paths for the area;
- (c) for the south-eastern part of the area, a relatively lower BH was recommended as the streets were narrow. It was therefore recommended that a NBA should be provided along the south-east boundary of the "R(A)" site of Lai Kok Estate to improve air flow; and

- (d) regarding R1's proposal for the provision of a "linear park", while provision of additional air paths would help improve air movement, the location of the proposed "linear park" was not an effective air path for the area.

69. Mr. Ian Brownlee said that the "linear park" proposal was not only to provide an air path, but also a park to improve the local environment. This should be taken as an alternative to imposing BHRs on private properties.

70. 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 representers. The representers would be informed of the Board's decision in due course. The Chairman thanked the representative of the representer and PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

71. A Member said that the imposition of BHRs was to meet public aspiration for a better living environment. In formulating BHRs, various considerations had already been taken into account. As explained by the representative of PlanD, the BHRs would not affect development potential of sites permissible under the OZP. There should not be any deprivation of private development rights.

72. The Vice-chairman said that the two-tier BHR system was supported as this would encourage amalgamation of sites for redevelopment.

73. Another Member said that a floor-to-floor height of around 2.9m was lower than market norm, which was about 3m and above. The representer's argument that the BHR was too low was not unreasonable.

74. A Member was of the view that BHRs should be formulated based on reasonable assumptions and they could not be made to meet ever changing market demand.

75. In response, the Secretary clarified that the area of the site in the illustration of

the representer's representative was 1,000m². It should be noted that under the two-tier BHR system, the BHR for the site should be 100mPD, not 80mPD as quoted by the representer's representative. As such, using the same calculation method of the representer's representative, it was estimated that the permissible PR of 7.5 for domestic and 9 for composite buildings under the OZP could be achieved with a floor-to-floor height of 3m or more.

76. After further deliberation, the Chairman concluded Members' views that the support of R1 was noted and R1's other proposals were not the subject of the amendments to the OZP. Members agreed that R2, R4 and R5 should not be upheld. Members then went through the suggested reasons for not upholding the representations as detailed in paragraphs 6.1 to 6.4 of the Paper and considered them appropriate.

Representation No.1

77. After further deliberation, the Board noted the support of R1 and decided not to uphold the remaining part of the representation of R1 for the following reasons:

- (a) the zonings and development restrictions on the OZP had struck a balance between public aspirations for a better living environment, air ventilation and private development right;
- (b) the residential zoning of the sites bounded by Lai Chi Kok Road, Tonkin Street, Tung Chau Street and Hing Wah Street was not a subject of amendments in the OZP and the objection to the zonings of these sites was considered invalid; and
- (c) to create a 'liner park' by pulling down buildings between Maple Street and Wong Chuk Street was not a subject of amendments in the OZP. Buildings between Maple Street and Wong Chuk Street were under private lots, pulling down the private buildings would deprive development rights of the concerned owners.

Representation No.2

78. After further deliberation, the Board decided not to uphold the representation of R2 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height profile, site formation level and site constraints, the zoned land uses of the site concerned, development potential, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development potential;
- (b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Blanket relaxation of the BHRs was not supported as it would result in proliferation of excessively high developments, which was not in line with the intended planning control. Deletion or piecemeal relaxation of BHRs for individual sites would jeopardize the coherence of the stepped BH profile and would result in proliferation of excessively high developments, which was not in line with the intended planning control;
- (c) the BHRs would not result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone. Given the tendency to maximize the best view in certain direction (particularly sea view), and to capitalize the land value of the lower floors by designing 15-m high commercial podium with a 100% site coverage under B(P)R to 15m, a development with no BH control might be even

taller and bulkier. The provision of better design buildings was not guaranteed. In this regard, the BHRs had been formulated based on reasonable assumptions on building design with allowance for design flexibility to accommodate maximum development potential permitted under the OZP for the residential sites;

- (d) given that the lots in these areas were largely small in size, allowing a higher maximum BH (i.e. 20m more) for sites with an area of 400m² or more was mainly to cater for site amalgamation for more comprehensive development and provision of other supporting facilities to meet modern standards;
- (e) the BHRs were intended to avoid future developments with excessive height, the development intensity of individual sites would not be affected. There would not be adverse impacts on the development intensity permitted under the OZP in general. For an existing building which had already exceeded the BHRs, the rights of redeveloping the building to its existing height would be respected on the OZP;
- (f) apart from providing GIC facilities, the “G/IC” sites in the Area formed major visual relief and breathing spaces to the built-up area. It was recommended in the AVA Study that BHRs should be imposed on “G/IC” sites to contain their development scale. In order to preserve the openness and existing character of the “G/IC” sites, the BHRs for the “G/IC” sites were mainly to reflect and contain the existing BHs;
- (g) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the ES of the OZP;
- (h) the Area was very different in character from Tsim Sha Tsui and it was inappropriate to apply the approach adopted for the Tsim Sha Tsui OZP to

the subject OZP. In the absence of strong justifications, incorporating a relaxation clause on BHRs for sites zoned “C” and “OU(B)” with an area of not less than 1,500m² was considered inappropriate;

- (i) given the wide coverage of the Area that comprised areas with varying characteristics and that there were different planning intentions/objectives to achieve, different restrictions for different sub-areas under the same broad zone were necessary;
- (j) s.3 and 4 of the Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under s.3 and 4 of the Ordinance if there were necessary and sufficient planning justifications;
- (k) designation of NBA, building gap and setback requirements on the OZP could serve a positive planning purpose and had positive planning benefits by improving air ventilation, visual permeability and the pedestrian environment. It had legal basis as it would form part of the planning control of the Board, which had the necessary and sufficient justifications;
- (l) the setback requirement for “OU(B)1” to “OU(B)4”, “C(4)”, “G/IC(4)” sub-areas and “OU(Petrol Filling Station)” zone was to improve air ventilation of the Cheung Sha Wan Industrial/Business Area, and to facilitate road widening and streetscape improvement taking into account the recommendation of the AVA and advice of the Transport Department. Removing the setback requirement would defeat the planning intention of improving air ventilation, and facilitating road widening and streetscape improvement of the Cheung Sha Wan Industrial/Business Area. Whether the setback area would be allowed to claim bonus plot ratio would have to be determined by the Buildings Authority;
- (m) the relaxation of the NBA, building gap and setback requirements for one

site would affect the effectiveness of their planning intention. The wording 'exceptional circumstances' was included in the minor relaxation clause of these requirements to cater for the situation that only in some exceptional cases under which the requirement could not be met due to site constraints but the planning objectives would be achieved in other forms; and

- (n) the two-month statutory exhibition period and provision for representations and comments formed part of the public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the building height restrictions. All information supporting the building height, NBA, building gap and setback requirements on the OZP including the AVA Report and visual analysis, was available for public inspection.

Representation No. 4

79. After further deliberation, the Board decided not to uphold the representation of R4 for the following reasons:

- (a) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Piecemeal deletion of BHRs for individual sites was not supported as it would jeopardize the coherence of the stepped BH profile and could result in proliferation of high-rise developments, which was not in line with the intended planning control; and
- (b) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits and a set of criteria for consideration of such applications had been set out in the ES of the OZP.

Representation No.5

80. After further deliberation, the Board decided not to uphold the representation of R5 for the following reasons:

- (a) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Piecemeal relaxation of BHRs for individual sites was not supported as it would jeopardize the coherence of the stepped BH profile and would result in proliferation of excessively high developments, which was not in line with the intended planning control;
- (b) a higher maximum BH (i.e. 20m more) for sites with an area of 400m² or more was allowed to cater for amalgamation of site for more comprehensive development and provision of other supporting facilities to meet modern standards. In the absence of sufficient justifications for the proposal to allow relaxation of BHRs by 20m to 40m for comprehensive development, extending the two-tier provision was considered inappropriate; and
- (c) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits and a set of criteria for consideration of such applications has been set out in the ES of the OZP.

81. The Board also agreed to amend the ES of the OZP as follows:

- (a) “C(4)” zone (paragraph 8.1.7 of ES):

“To facilitate air ventilation, **road widening and streetscape improvement** of the Cheung Sha Wan Industrial/Business Area, a minimum building setback of 3.5m from the lot boundary abutting Cheung Shun Street shall be provided within the “C(4)” sub-area to improve

east-west air/wind path. Under exceptional circumstances, minor relaxation of the setback requirement may be considered by the Board on application under section 16 of the Ordinance.”

(b) “G/IC(4)” zone (paragraph 8.6.8 of ES):

“In order to enhance the local air ventilation performance, to facilitate **road widening and streetscape improvement of the Cheung Sha Wan Industrial/Business Area**, a minimum building setback of 3.5m from the lot boundary abutting Castle Peak Road shall be provided within the “G/IC(4)” sub-area. Under exceptional circumstances, minor relaxation of the setback requirement may be considered by the Board on application under section 16 of the Ordinance.”

[Mr. Laurence L.J Li, Mr. K.Y. Leung, Mr. Maurice W.M. Li and Mr. Felix W. Fong left the meeting at this point.]

Agenda Item 5

[Open meeting (Presentation and Question Session Only)]

Consideration of Further Representation to the
The Draft Aberdeen and Ap Lei Chau Outline Zoning Plan No. S/H15/25
(TPB Paper No. 8766)

[The hearing was conducted in Cantonese.]

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

Mr. K.Y. Leung	his mother owned a flat in Ap Lei Chau
Mr. Laurence L.J. Li	owned property in an industrial building in Wong Chuk Hang
Mr. Roger K.H. Luk	being an independent non-executive director of

Wheelock Properties Limited which owned a property in Heung Yip Road

Professor S.C. Wong a family member owned properties in South Horizons and Aberdeen Centre

83. Members noted that Mr. Laurence L.J. Li and Professor S.C. Wong had already left the meeting. Members agreed that as the property of Mr. K.Y. Leung's mother and the property of Mr. Roger K.H. Luk were located far away and would not be affected by the further representation site, Mr. Leung and Mr. Luk could stay in the meeting for this item.

Presentation and Question Session

84. The following representatives from the Planning Department (PlanD), further representer, representer and commenter were invited to the meeting at this point:

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

Mr. David Lam Senior Town Planner/Hong Kong (STP/HK), PlanD

F1 (Mr. Chai Man Hon)

Mr. Chai Man Hon Further Representer

Mr. Yeung Siu Pik Further Representer's representative

R10 (Hong Kong Ice and Cold Storage Ltd)

Ms. Grace Cheung)

Mr. Stanley Lam) Representer's representatives

Ms. Winnie Wu)

Miss. Connie Chan)

C2 (Designing Hong Kong Limited)

Mr. Paul Zimmerman Commenter's representative

85. The Chairman extended a welcome and explained the procedures of the hearing. He then invited DPO/HK to brief Members on the further representation.

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

- (a) on 7.5.2010, the draft Aberdeen & Ap Lei Chau Outline Zoning Plan (OZP) No. S/H15/25, incorporating mainly amendments to impose building height restrictions (BHRs) for various development zones, some zoning amendments and designation of a non-building area (NBA), was exhibited for public inspection under s.5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 13 representations were received. On 16.7.2010, the Town Planning Board (the Board) published the representations for three weeks for public comments. A total of 502 comments were received;
- (b) on 22.10.2010, after considering the 13 representations and the 502 comments under s.6B(1) of the Ordinance, the Board noted one representation providing comments, decided not to propose any amendment to the OZP to meet 11 adverse representations and deferred a decision on representation R10, subject to the PlanD's further review study on the BHR for the representation site i.e. the Hong Kong Ice and Cold Storage site, and the Lands Department (LandsD)'s advice on the lease entitlements of the site. In connection with this representation (R10), there was a comment (C2) opposing the representer's proposal to relax the BHR without giving any reason;
- (c) on 21.1.2011, the Board further considered representation R10 and decided to propose amendments to the draft Aberdeen & Ap Lei Chau OZP No. S/H16/26 (which was exhibited on 16.7.2010) under s.6B(8) of the Ordinance to partially meet the representation by revising the BHRs for the "T" zone covering the Hong Kong Ice and Cold Storage site from 30m to 40m (AML 11) and 60m (AML 10) on the following grounds:

- (i) the LandsD advised that the PR levels for the site claimed by the representer were not unreasonable;
 - (ii) the intention was to avoid out-of-context development, achieve a coherent gradation of the BH profile on the waterfront and protect the ridgeline behind. In this regard, the BHR of 60mPD for AML 10 would not be unacceptable and the proposed BHR of 40mPD for AML 11 could help create a stepped BH profile descending from the east to west to align with the existing BH profile along the waterfront. The relaxed BH profile would retain about a minimum of 35% of the green backdrop when viewed from South Horizons;
 - (iii) obstruction of view from Shek Pai Wan Road should be minimized. In this regard, the proposed BHRs of 40mPD and 60mPD would not cause significant adverse impact when viewed from Shek Pai Wan Road; and
 - (iv) the proposed 40mPD on AML 11 would not affect the existing pylons and overhead transmission lines currently encroaching on the lot;
- (d) on 28.1.2011, the proposed amendments to the OZP were published under s.6C(2) of the Ordinance for three weeks. Upon expiry of the three-week publication period, one valid further representation was received;
- (e) F1 opposed the amended BHRs for the representation site;
- (f) the main grounds of further representation and the further representer's proposals were summarized in paragraph 2.2 of the Paper and highlighted below:
- (i) the existing ice-making plant was the main supply of ice for fishing

vessels before departing from the Aberdeen Typhoon Shelter, and for storage of fishes at the Aberdeen Wholesale Fish Market. Since demand for ice was quite steady, the existing ice-making plant could meet the operational need without any increase in BH;

- (ii) the relaxation of BHR would attract redevelopment and hence affect the existing ice-making process. Redevelopment might also attract a lot of uses and facilities not relating to the ice-making process, which deviated from the originally permitted uses for the site. The local fishing industry would also suffer during redevelopment since the supply of ice would be suspended;
 - (iii) there were already a lot of industrial and obnoxious facilities along Tin Wan Praya Road. According to record, during the past 5 years there had been at least 10 traffic accidents involving casualties along Tin Wan Praya Road. The proposed amendments would provide incentive for redevelopment which would increase the usage of Tin Wan Praya Road by industrial vehicles and the traffic entering/leaving the buildings along the road, and hence leading to traffic congestion and more accidents; and
 - (iv) F1 proposed that the proposed amendments to the BHRs should not be agreed by the Board.
- (g) PlanD's responses were as follows:
- (i) the proposed BHRs for the site were mainly intended to avoid out-of-context development, achieve a coherent gradation of BH profile on the waterfront and protect the ridgeline, whilst having due regard to the representer's lease entitlement. There was no change to the current "I" zoning, the planning intention or the permissible uses of the site. Any redevelopment of the site would have to follow the provisions in the Notes of the "I" zone and any non-industrial related uses, such as general commercial or office

uses not related to industrial activities, were still subject to the requirement for planning permission from the Board;

- (ii) whether the site, if redeveloped, would still be used only as an ice-making and cold storage plant or not should be the developer's decision, subject to the compliance with all other relevant legislation and the lease;
- (iii) in terms of the impact on the ice-making process and local fishing industry, the Director-General of Trade and Industry (DG of I) considered that given that the leases of the subject lots were restricted to ice-making plant, general cold storage and business allied to the fishing industry etc., there was no evidence that the relaxation of BHRs would cause adverse effect to the ice manufacturing industry;
- (iv) in determining the BHRs, due regard had been given to the permissible development intensity for the site under the OZP and the lease. The currently proposed BHRs of 60mPD (AML 10) and 40mPD (AML 11) were intended to provide a reasonable scope to accommodate the permissible level of development. The proposed BHRs were not to cater for a higher development intensity than that permissible before the incorporation of the BHR, and therefore the traffic implications of future redevelopment on the site should be similar; and
- (v) the revised BHRs of 40mPD and 60mPD for the site were amendments proposed by the Board on 21.1.2011 after considering LandsD's advice on the lease entitlement and the findings of the PlanD's review of the BHRs. The currently proposed BHRs would not have any unacceptable visual impact and the relaxed BH profile would retain about a minimum of 35% of the green backdrop when viewed from South Horizons. As the site did not fall within any major air path identified under the Air Ventilation

Assessment conducted for the comprehensive BH review for the Aberdeen and Ap Lei Chau area, no adverse impact on the air ventilation was anticipated from the currently proposed BHRs. The proposed BHRs had therefore struck a proper balance between the urban design considerations and the private development right, and were considered appropriate for the site;

- (h) on 21.3.2011, the Southern District Council (SDC) was consulted on the proposed amendments. The SDC members had the following main views:
- (i) relaxation of the BHRs from 30mPD to 40mPD and 60mPD was acceptable;
 - (ii) relaxation of the BHR might lead to redevelopment for non-industrial uses;
 - (iii) there was genuine demand for ice and cold storage; and
 - (iv) the site should be retained for marine-supporting industries; and

PlanD's Views

- (i) based on the assessments set out in paragraph 3 of the Paper, PlanD did not support the further representation F1 and considered the draft OZP should be amended by the proposed amendments.

87. The Chairman then invited the further representer, representer and commenter to elaborate on their submissions.

F1 (Mr. Chai Man Hon)

88. Mr. Chai Man Hon made the following main points:

- (a) while it was given in the TPB Paper that a balance had been struck

between the urban design considerations and the private development right, it was considered that the proposed amendments were only to facilitate developer to make profit through development;

- (b) although the “I” zoning of the site had not been changed, redevelopment of the site to other uses such as warehouse, studio and office was always permitted. Such redevelopment would generate substantial impact on infrastructure. The potential impact on traffic condition in the area had not been assessed;
- (c) the views of some SDC members were that the column 1 uses under the Notes of the “I” zone should be made more restrictive so that the site should be retained for ice-making and cold storage uses for the fishery industries; and
- (d) there was no need to amend the BHR for the site.

89. Ms. Yeung Siu Pik made the following main points:

- (a) Tin Wan Praya Road was the only access connecting to Wah Kwai Estate. There were a number of traffic accidents along this road in the past. The road would be seriously congested whenever there was accident. Redevelopment of the site for warehouse and office uses would increase traffic to the area;
- (b) it was expected that the fishing industries would not have a substantial expansion, and hence there would not be substantial demand for ice supply. There was no need to expand the ice-making factory; and
- (c) the area had been developed as a residential area. It was not appropriate to allow other uses such as office and warehouse which would generate additional traffic to the area.

90. With the aid of a Powerpoint presentation, Ms. Winnie Wu made the following main points:

- (a) the business of HKICS included two aspects: (i) ice-making and supply to fishing boats in Aberdeen Shelter (46% of the ice supply) and various infrastructure projects, such as MTR West Island Line and South Island Line; and (ii) cold storage of dried seafood (nearly 100% of seasonal dried seafood stored in HKICS and delivered worldwide) and cold storage of frozen ready to serve convenient food;
- (b) most of the existing commercial ice and cold storages would be shut down in the coming five to ten years, which amounted to a total reduction of about 45% of the cold storage. There were 30 cold storages with license in Hong Kong, however, only two cold storages were located on Hong Kong Island;
- (c) the existing building of the HKICS was in obsolete condition and the machinery and facilities were insufficient and substandard. These all required to be upgraded to meet operational needs; and
- (d) the proposed BHRs of 40mPD and 60mPD for the site were barely adequate to meet the operational needs and increase in demand of the HKICS. The BHRs were only to reflect the entitlement under the lease.

C2 (Designing Hong Kong Limited)

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

- (a) to address the demand for ice at low price for the fishing industries, the Government had made a special concession in leasing the subject site for ice-making purpose. The lease for the site was therefore very restrictive, which was for ice-making only;

- (b) there was no need to increase the BHR to allow the provision of additional accommodation for the ice-making factory;
- (c) the price of ice was decreasing and as such the ice-making factories were closing down. The representer's claim for need to upgrade the facilities of the ice-making factory was unproven;
- (d) most of the sites at the Aberdeen Harbour area had been zoned for open space and other uses. The subject site was the remaining one suitable for marine supporting uses and should be retained; and
- (e) with the increase in BHR of the site, the developer could seek approval from LandsD to modify the lease to allow redevelopment to other commercial uses not related to the marine uses.

92. As the representatives of further representer, representer and commenter had completed their presentations, the Chairman invited questions from Members.

93. In response to a Member's question, Ms. Brenda Au said the if BHR was not imposed, part of the site (within AML 10) could be redeveloped up to a PR of 15 with no height restriction under the lease. Ms. Brenda Au also clarified that the proposed amendments were related to the BHRs of the site. There was no change to the "I" zoning of the site. F1's request to revise the permitted uses under the "I" zoning of the site was not related to the proposed amendments.

94. In response to another Member's question, Ms. Brenda Au referred Members to paragraph 5.2 of Enclosure I of the Paper and said that the development potential of the two lots had been redistributed within the site such that no out-of-context development would be resulted. Other factors including the visual impact of the future redevelopment, impact on views to the ridgeline from South Horizons and the constraints imposed by the existing pylons had also been taken into account in formulating the BHRs.

95. In response to a Member's question, Ms. Brenda Au said that the site could be redeveloped in accordance with the provision of the "I" zone. However, as the site was

restricted to ice-making and cold storage under the lease, modification of the lease would be required if the site was redeveloped to other uses.

96. Mr. Paul Zimmerman said that instead of allowing redevelopment of the site up to the development potential under the lease, C2 requested to maintain the existing GFA of the site to safeguard the site for marine related industries. In this connection, no additional height was required.

97. Mr. Chai Man Hon said that if a relaxation of BHR was allowed, the developer could redevelop the site to other uses such as warehouse and office which were permissible under the “I” zoning. It was therefore necessary for the Board to deal with the permissible uses of the site first.

98. 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 further representation in the absence of the further representer. The further representer would be informed of the Board’s decision in due course. The Chairman thanked the representatives of the further representer, representer and commenter and PlanD for attending the meeting. They all left the meeting at this point.

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

Deliberation Session

99. The Chairman said that the “I” zoning of the site was not related to the proposed amendments to the OZP.

100. A Member said that the proposed BHRs were to accommodate the gross floor area permitted under the lease. The Board should not impose any control on developer’s right to redevelop his site. This view was supported by the Vice-chairman. The Vice-chairman supplemented that while the lease of the site restricted its use as ice-making, there was no reason for the Board to restrict redevelopment of the site in accordance with the existing lease.

101. After further deliberation, the Chairman summarized Members' views that the further representation should not be upheld. Members then went through the suggested reason for not upholding the further representation as detailed in paragraph 5 of the Paper and considered it appropriate.

102. After further deliberation, the Board decided not to uphold the representation of F1 for the following reason:

the proposed BHRs of 40mPD and 60mPD for the Site were considered appropriate in that they represented a balanced approach between the need to avoid out-of-context development in the area and the private development right.

103. The Board also agreed that:

- (a) the draft Aberdeen & Ap Lei Chau OZP No. S/H15/26 should be amended by the proposed amendments and such amendments should form part of the draft OZP. In accordance with s.6H of the Ordinance, the OZP should thereafter be read as including the amendments; and
- (b) the amendments should be made available for public inspection until the Chief Executive in Council had made a decision in respect of the draft plan in question under s.9 of the Ordinance.

104. The meeting was adjourned for lunch break at 2:00 p.m.

105. The meeting was resumed at 3:15 p.m.

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

Mr. Thomas Chow

Mr. Stanley Y.F. Wong

Mr. K.Y. Leung

Mr. Timothy K.W. Ma

Mr. Clarence W.C. Leung

Mr. Roger K.H. Luk

Ms. Pansy L.P. Yau

Mr. Benny Y.K. Wong

Mr. Jimmy C.F. Leung

Agenda Item 6

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-KTS/506

Temporary Storage of Household Goods and Vehicle Parts with Parking of Private Cars for a Period of 3 Years in “Village Type Development” zone, Lot 1537 RP (Part) in D.D. 106, Yuen Kong Tsuen, Kam Sheung Road, Kam Tin, Yuen Long

(TPB Paper No. 8767)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

107. The following representative of Planning Department (PlanD) and the applicant 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. Leung Wai Kit	- Applicant
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108. 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.

109. With the aid of a powerpoint presentation, Ms. Cheung made the following main points:

- (a) the applicant sought planning permission for temporary storage of household goods and vehicle parts with 3 parking spaces for private cars for a period of 3 years at the application site which was zoned “Village Type Development” (“V”) on the Kam Tin South OZP (OZP);

- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 26.11.2010 and the reasons were:
- (i) the development was not in line with the planning intention of the “V” zone, which was to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within the zone was primarily intended for development of Small Houses by indigenous villagers. No strong planning justification had been given in the submission to justify for a departure from the planning intention, even on a temporary basis;
 - (ii) the development was not compatible with the surroundings which were predominantly rural and residential in character; and
 - (iii) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area;
- (c) the application site was subject to planning enforcement action for unauthorised storage use (including deposit of container) and parking of vehicles at the site. An Enforcement Notice (EN) was issued to the concerned parties on 7.6.2010. As the unauthorised development had not been discontinued after the expiry of the EN on 7.9.2010, the recipients of the EN were subject to prosecution action;
- (d) no further justifications in support of the review were submitted by the applicant;
- (e) departmental comments – the departmental comments were summarised

in paragraph 4 of the Paper. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L) of PlanD had no in-principle objection to the application but considered that should the application be approved, an approval condition requiring the submission and implementation of landscape proposals should be included. Director of Fire Services (DFS) had no objection to the proposal provided that fire service installations were provided to his satisfaction. The other departments had no adverse comments on the application;

- (f) public comments – during the first three weeks of the statutory publication period of the review application, one public comment was received objecting to the application on the grounds that the proposed temporary use did not match the planning intention of the “V” zone, adequate parking facilities and similar land uses were already in existence in the area, and a holistic approach in planning for parking spaces was required; and

- (g) PlanD’s view – PlanD did not support the application based on the assessment in paragraph 6 of the Paper. The temporary storage of household goods and vehicle parts with parking of private cars was akin to a warehouse and was not in line with the planning intention of the “V” zone which was to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis. The development was not compatible with the surroundings which were predominantly rural and residential in character and the nearest residential dwellings were located only about 15m away from the site. In particular, the village houses to the east and southeast of the site would be subject to potential nuisance caused by the development. Though there were scattered open storage/storage yards,

workshops and parking lots in the vicinity, most of them which were located to the south of Kam Sheung Road within Yuen Kong Tsuen in the “V” zone were suspected unauthorized developments subject to enforcement action taken by the Planning Authority. Moreover, no previous or similar approval for storage use had been granted within the same “V” zone. The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

110. The Chairman then invited the applicant to elaborate on the application and Mr. Leung Wai Kit made the following main points:

- (a) he was an indigenous villager and had submitted a Small House application at a site north of the application site. He did not understand why his application for Small House was not allowed as he was only using his private land and there was no objection from the local villagers;
- (b) he was only using the application site, which was already fenced off, for the storage of his personal belongings which included some household goods and a few private cars. He did not understand why planning application was required for the parking of his own private cars on the site. The presence of other parking lots in the vicinity as mentioned in the Paper was totally irrelevant;
- (c) he considered it inappropriate to classify the use of the application site as a warehouse as the site was for his personal use. There was only one container structure on the site and the site was not rented out;
- (d) as the site was agricultural land, storage of tools for agricultural purpose on the site should be allowed. In the same vein, the storage of his personal belongings on the site should be permitted as of right; and

- (e) he was not aware that an EN was issued to him in June 2010. He complained that although the current application site was on Lot No. 1537 s.B, the EN was registered against Lot 1537 RP, which was the Small House application site under application to the District Lands Office (DLO). Due to the registration of the EN against Lot No. 1537 RP, the DLO had held up the processing of his Small House application. He said that as an indigenous villager, he had the right to build Small House within the village 'environs' and "V" zone.

111. In response to the Vice-Chairman's enquiry, Ms. Amy Cheung referred to Plan R-2 and explained that Lot. No. 1537 RP originally covered both the application site and the Small House application site to the north. Planning permission was not required for the proposed Small House development as that site was within the "V" zone. Unauthorized storage use and parking of vehicles was found on the application site, and hence an EN was issued to the concerned parties on 7.6.2010 and the EN was registered against the lot (i.e. Lot No. 1537 RP). The applicant would need to comply with the requirements of the EN before the registration could be removed. The application site was subsequently carved out from the lot and was renamed Lot No. 1537 s.B.

112. Mr. Leung reiterated the point that the application site was privately owned and he was only using the site for the storage of his personal belongings. He said that DLO had refused to process his Small House application as an EN was registered against the lot involved. The Chairman advised the applicant that he would need to comply with the requirements of the EN before the registration against the lot could be removed. Mr. Leung, however, repeated his point that the subject application site and the Small House application site were currently on two different lots and the EN should not be registered against the lot for the proposed Small House development, i.e. Lot 1537 RP.

113. A Member asked the applicant whether he would discontinue the unauthorized storage use at the application site. In response, Mr. Leung said that the site under application for storage purposes and the site for the proposed Small House development were on two different lots and should be handled separately. The Chairman explained that the hearing was only related to the proposed temporary storage use on the application site

and was not related to the proposed Small House development on the other site.

114. As the applicant had no further comment to make and Members had no further questions 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 him of the Board's decision in due course. The Chairman thanked the applicant and PlanD's representative for attending the meeting. They left the meeting at this point.

Deliberation Session

115. A Member said that it was not clear in the application whether the temporary storage was for the private use of the applicant. The Chairman, however, said that as shown in the photos, the goods that were stored did not seem to be for personal use. The Chairman also doubted whether permission should be granted for such a large container structure within the "V" zone for storage purpose.

116. Another Member considered that since an EN was already issued against the unauthorized storage use, enforcement action should be taken until the existing use had been discontinued. This Member also doubted whether the site was used for storage of personal belongings given the scale of the structure involved.

117. As regards the applicant's complaint that the EN was wrongly registered against another lot where a Small House development was proposed, the Secretary said that it would be more appropriate for PlanD to follow up with the applicant to clarify the matter as part of the enforcement action taken. In this regard, the Board should consider whether the temporary storage use on the application site should be permitted.

118. Regarding the applicant's claim that the proposed storage area was for his personal use and hence should be permitted as of right, a Member considered that the installation of a structure on the application site had already changed the original land use and planning permission was thus required. This Member was of the view that, in accordance with the existing practice of the Board, planning permission would not be

granted for such uses within the “V” zone.

119. Another Member said that the use under application was not in line with the planning intention of the “V” zone and planning permission should not be granted. This Member was also concerned that the approval of this application would set an undesirable precedent for other similar applications, particularly when the application included the storage of vehicle parts. The concern on setting an undesirable precedent was echoed by another Member who also considered that the structure on the site appeared to be a permanent structure.

120. The Chairman concluded that Members generally agreed that the application should not be approved as it was not in line with the planning intention of the “V” zone, it was not compatible with the surroundings which were predominantly rural and residential in character, and that approval of the application would set an undesirable precedent for similar applications within the “V” zone.

121. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the development was not in line with the planning intention of the “Village Type Development” (“V”) zone, which was to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within the zone was primarily intended for development of Small Houses by indigenous villagers. No strong planning justification had been given in the submission to justify for a departure from the planning intention, even on a temporary basis;
- (b) the development was not compatible with the surroundings which were predominantly rural and residential in character; and
- (c) the approval of the application, even on a temporary basis, would set an

Villas. The application site was zoned “Green Belt” (“GB”) while the house was zoned “Residential (Group C)” on the Tai Po Outline Zoning Plan (OZP);

- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 30.7.2010 and the reasons were:
 - (i) the proposed development was not in line with the planning intention of the “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development in “GB” zone and no strong planning justifications had been provided in the submission for a departure from this planning intention;
 - (ii) the proposed development did not comply with the TPB Guidelines No. 10 in that the development had affected the natural landscape; and
 - (iii) approval of the subject application would set an undesirable precedent for other similar development proposals in the “GB” zone. The cumulative effect of approving such proposals would result in a general degradation of the environment in the area;
- (c) 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 all he wanted was to maintain the existing condition and that he had no intention to develop the “GB” zone. The existing condition of the site could be seen on aerial photos dating back to as early as 1997. There had been no adverse environmental impact for some 13 years. Moreover, the garden deck and fence wall concerned were built with reinforced concrete. The previous owner had filled the platform with

waste material left from demolition and decoration works. Since the platform was surrounded by slopes and dense woodland, it was impossible to demolish the platform and remove the construction waste. If the existing platform and fence wall were demolished without removing the construction waste, it would damage the surrounding green environment and adversely affect the living environment and personal safety of the applicant;

- (d) departmental comments – the departmental comments were summarized in paragraph 5 of the Paper. The Chief Town Planner/Urban Design & Landscape (CTP/UD&L) did not support the application from the landscape planning point of view due to the high landscape quality of the area and that approval of the application would set an undesirable precedent for other similar applications in the area. The other departments had no adverse comments on the application;
- (e) public comments – one public comment was received objecting to the application on the grounds that the site was zoned “GB” and the proposed changes were inconsistent with the established practices; and
- (f) PlanD’s views – PlanD did not support the application based on the assessment as stated in paragraph 7 of the Paper. The conversion of the subject site into a private garden for private enjoyment was not in line with the planning intention of the “GB” zone which was primarily for defining the limits of urban and sub-urban development areas and to contain urban sprawl as well as to provide passive recreational outlets. Although the applicant claimed that he had no intention to develop the “GB” concerned and that it was impossible to demolish the platform and remove the construction waste, these were not valid justifications for a departure from the planning intention. The application site was a piece of vegetated area that formed part of the woodland before 1997. It was a piece of Government land and was subsequently cleared of natural vegetation and became illegally occupied for use as a private garden.

The private garden use did not comply with the TPB Guidelines No. 10 as the development had previously involved extensive clearance of natural vegetation, affecting the natural landscape. There was no exceptional circumstance or strong justification that merit sympathetic consideration of the application. There were other houses within Southview Villas and other low density residential developments nearby with similar circumstances, i.e. adjacent to land zoned "GB". Approval of the application would set an undesirable precedent for attracting similar applications. The cumulative effect of approving such proposals would result in a general degradation of the environment in the area.

125. The Chairman then invited the applicant to elaborate on the application and Mr. Chan Kwong Shing made the following main points:

- (a) the house was bought by the applicant in 2007. He was informed in 2009 by the District Lands Officer (DLO) that the private garden adjoining the house was illegally built;
- (b) he applied to DLO for a short term tenancy to use the government land as a private garden. However, the DLO replied that as the site was zoned "GB", planning permission from the Board for the private garden use was required;
- (c) he subsequently applied for planning permission but only after the application was rejected did he realize that environmental assessments and landscape proposals had to be submitted to support the application. He tried to appoint environmental specialists and landscape architects to prepare assessments for the review but was told that the application would not be approved;
- (d) there were practical difficulties in demolishing the private garden. The garden platform was built on a foundation about 6 feet tall with cement and construction waste. The entire foundation and all the construction

waste would need to be cleared if the site had to be reinstated to its original state. This was impossible as there was no separate vehicular access to the private garden. The only access available was through the applicant's house. In this respect, it was impractical to reinstate the site to the original greenery situation;

- (e) if planning approval was not granted and the area was fenced off by DLO, that would likely create drainage problems in the area. The area would become a rubbish dump, hence adversely affecting the environmental hygiene of the area; and
- (f) the site had been developed as a private garden since 1997. Given the long history of the existing use and the practical difficulties in demolishing the garden platform, he requested the Board to approve the application for continuing the private garden use.

126. A Member enquired whether Enforcement Notices had been issued against the unauthorized use. In response, Mr. Hui Wai Keung said that the application site was within the Tai Po OZP which had not been previously designated as a Development Permission Area and the Planning Authority did not have enforcement power.

127. The Chairman asked the applicant why he considered that it was impractical to demolish the garden platform and how the site would become a rubbish dump if there was no access to the site except through his house. In response, Mr. Chan Kwong Shing said that it was impractical to demolish the garden platform as the machinery required for demolition had to go through his house to gain access to the garden. He also explained that once the area was fenced off, fallen leaves and rubbish would gather on the site and the drains might be blocked, thus causing flooding problems.

128. A Member asked if the applicant would consider demolishing the garden platform and reinstate the site to the original state with the planting of trees so as to avoid the flooding problem in the long run. Mr. Chan reiterated that it was not practical to demolish the garden platform unless the Government was prepared to build a road to

provide access to the garden platform from the other side of the slope.

129. As the applicant had no further comment to make and Members had no further questions 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 him of the Board's decision in due course. The Chairman thanked the applicant and PlanD's representative for attending the meeting. They left the meeting at this point.

Deliberation Session

130. Two Members were of the view that the applicant had the responsibility to check the legal status of the private garden before he acquired the house. A Member said that the applicant had not provided strong justifications for the application and the application should not be supported.

131. A Member enquired how the problem could be resolved if planning approval was not granted. The Chairman said that there should be ways to carry out demolition works at the site. He further explained that if the planning application was rejected, the DLO would follow-up with the applicant on the illegal occupation of government land.

132. The Chairman concluded that Members generally considered that the application should not be approved as the proposed private garden use was not in line with the planning intention of the "GB" zone, there was no exceptional circumstance or strong justification that merit sympathetic consideration of the application, and approval of the application would set an undesirable precedent for other similar applications.

133. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the proposed development was not in line with the planning intention of the "Green Belt" ("GB") zone which was primarily for defining the

limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development in “GB” zone and no strong planning justifications had been provided in the submission for a departure from this planning intention;

- (b) the proposed development did not comply with the TPB Guidelines No. 10 in that the development had affected the natural landscape; and
- (c) approval of the subject application would set an undesirable precedent for other similar development proposals in the “GB” zone. The cumulative effect of approving such proposals would result in a general degradation of the environment in the area.

Agenda Item 8

[Open Meeting (Presentation and Question Session Only)]

Request for Deferral for Review of Application No. A/NE-TK/329

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Government Land in D.D. 15, Shan Liu Village, Tai Po

(TPB Paper No. 8768)

[The hearing was conducted in Cantonese.]

134. The Secretary reported that on 16.3.2011, the applicant’s representative submitted a request for deferment of consideration of the review application for three months as the applicant needed to wait for the finalization of the detailed design of the trunk sewer currently being prepared by the Drainage Services Department before he could submit the sewerage connection proposals. The justifications for deferment met the criteria set out in Town Planning Board 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 interests of other relevant parties. The Secretary, however, noted that the Board would normally allow 2 months for the preparation of further

information from the applicant.

135. After deliberation, the Board decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Board agreed that the application should be submitted to the Board for consideration within three months upon receipt of the further submission from the applicant. The Board also agreed to advise the applicant that two months were allowed for the preparation of the submission of further information and no further deferment would be granted unless under very special circumstances.

Agenda Item 9

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/NE-TK/330

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Government Land in D.D. 15, Shan Liu Village, Tai Po

(TPB Paper No. 8769)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

136. The following representative of Planning Department (PlanD) was invited to the meeting at this point.

Mr. Hui Wai Keung

District Planning Officer/Shan Tin, Tai Po and
North (DPO/STN), PlanD

137. The Chairman extended a welcome and explained the procedures of the review hearing. He noted that the applicant had decided not to attend the meeting. The Board would proceed with the review hearing in the absence of the applicant. He then invited Mr. Hui Wai Keung to brief Members on the background of the application.

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

- (a) the applicant sought planning permission for a proposed New Territories Exempted House (NTEH) – Small House at the application site which was zoned “Green Belt” (“GB”) on the Ting Kok Outline Zoning Plan (OZP);
- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 26.11.2010 and the reasons were:
 - (i) the proposed development was not in line with the planning intention of the “GB” zoning for the area which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone;
 - (ii) the application did not comply with the Town Planning Board Guidelines for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance in that the proposed development would cause adverse landscape impacts on the surrounding area. The applicant failed to demonstrate that the trees, the natural stream course and the riparian vegetation in the vicinity of the application site would not be affected by the proposed development;
 - (iii) the proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories as the proposed Small House would cause adverse landscape impacts to the surrounding areas. Being located within the Water Gathering Ground (WGG), the feasibility of connecting the proposed Small House to the planned sewerage system was also

doubtful; and

- (iv) the approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the rural environment and landscape quality of the area;
- (c) the applicant had submitted further written justifications in support of the review and the justifications put forward were:
- (i) it was a mistake to zone areas within the village ‘environs’ (‘VE’) as “GB” where all development was prohibited. Under the Small House Policy, indigenous villagers were allowed to develop Small Houses within the ‘VE’. However, the “GB” zoning on the OZP had restricted the development of Small Houses without compensation which was unfair and had adversely affected the rights enjoyed by indigenous villagers since 1898;
 - (ii) the comments on the adverse impacts caused by the Small House on the surrounding countryside had been over exaggerated. As the proposed development was small in size, it was incomprehensible how the proposed development would cause significant adverse impacts on the landscape. Besides, the Board could impose relevant approval conditions and restrictions to minimize any adverse impacts;
 - (iii) the Board’s concern on the practicability of discharging the sewage generated from the proposed Small House to the public trunk sewer were noted. However, as construction works for the proposed public trunk sewer in Shan Liu Village had not yet commenced and the details were yet to be finalized, it was impracticable for the applicant to commission an authorised person to design a branch sewer connecting the proposed Small House to the public trunk

sewer;

- (iv) if the Board was worried that the cumulative effect of approving all the similar applications would result in a general degradation of the environment, it should limit the number of approvals for each area. As indicated in paragraph (e) of the Interim Criteria, application of the Criteria should be on an individual basis, and the Board should not over-react and reject all applications to avoid potential cumulative effect;
 - (v) on the Director of Agriculture, Fisheries and Conservation's (DAFC) comments that the proposed development would require felling of trees and removal of vegetation, there were in fact no mature trees on the site. As for PlanD's comments that there was technical uncertainty on the sewerage connection between the proposed Small House and the public trunk sewer, the applicant had obtained the consent of the landowners of the private lots concerned to construct a branch sewer via their lots in order to connect the proposed Small House to the public trunk sewer. The written consent was included in the applicant's submission; and
 - (vi) regarding the on-going dialogue between the PlanD and the villagers of Shan Liu Village to review the "V" zone of Shan Liu mentioned in paragraph 47 of the minutes of RNTPC meeting, the representatives of the PlanD only met the village representatives twice and they did not show sincerity as they did not accept the villagers' proposal to expand the "V" zone;
- (d) departmental comments – the departmental comments were summarized in paragraph 5 of the Paper. The Director of Environmental Protection (DEP) did not support the application as the site was within water gathering grounds (WGG) and there was uncertainty on the connection to the nearest trunk sewer which was about 75 metres away and would need

to pass through private land. Although the applicant claimed that he had obtained consent of the landowners to construct a branch sewer through their lots, he could only provide proof that one landowner had given consent. The Director of Water Supplies (DWS) objected to the application as the site was within WGG and it was questionable whether it could be connected to the planned public sewer. The Director of Agriculture, Fisheries and Conservation (DAFC) had reservations on the application from the nature conservation point of view and raised concern on the extensive felling of trees and clearance of vegetation within the “GB” zone. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application from the landscape planning point of view as it was anticipated that the proposed Small House development would have adverse impacts on the existing landscape profile, landscape resources such as trees and vegetation as well as the overall landscape character of Shan Liu. Head, Geotechnical Engineering Office, Civil Engineering and Development Department advised that the site was located below steep natural hillsides and a natural terrain hazard study (NTHS) was required. Any mitigation measures recommended by the NTHS would need to be implemented;

- (e) public comments – during the first three weeks of the statutory publication period of the review application, two public comments were received objecting to the application on the grounds that substantial land degradation and tree felling had been carried out deliberately in the area and that the application should be rejected to send a clear message to the public that the “destroy first, develop later” approach would not facilitate the approval of any development, the planning intention of the “GB” zone and the character of the area was incompatible with urban sprawl, and the area lacked a plan for a sustainable layout of infrastructure and development; and
- (f) PlanD’s views – PlanD did not support the application based on the assessment as stated in paragraph 7 of the Paper. The application site

was located within woodland with trees and dense vegetation. There was a natural stream course with dense riparian vegetation to the immediate north of the site. The proposed development was not in line with the planning intention of the “GB” zone which was primarily for defining the limits of urban and sub-urban development areas and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within the “GB” zone. The proposed NTEH/Small House development did not comply with TPB PG No. 10 as the proposed development would cause adverse landscape impacts on the surrounding environment, resulting in general degradation of the rural environment and landscape quality in the area. The proposed development would likely lead to felling of trees and clearance of vegetation in the woodland as well as excavation works close to the stream. The applicant did not submit any information to demonstrate that the trees, the natural stream course and the riparian vegetation would not be affected. In this regard, DAFC had reservations on the proposal and CTP/UD&L, PlanD objected to the proposal on its adverse landscape impacts. The proposed development did not comply with the Interim Criteria as the proposal would cause adverse landscape impact on the surrounding area. There was also technical uncertainty on whether the sewerage connection was feasible as the site was surrounded by private lots and the applicant had only obtained the consent of one private lot owner to build sewerage connections from the application site to the trunk sewer which was located about 75m away and separated by a stream course. Both DEP and DWS objected to the application in view of the potential water quality impact on the WGG.

139. As Members had no questions to raise, the Chairman said that the hearing procedures for the review applications had been completed and the Board would deliberate on the application and inform the applicant of the Board’s decision in due course. The Chairman thanked DPO/STN for attending the meeting. He left the meeting at this point.

140. The Chairman noted that the proposed development was not in line with the planning intention of the “GB” zone and it did not comply with the TPB PG No. 10 as the proposed development would cause adverse landscape impacts on the surrounding environment. He also noted that the application was within the WGG and there was uncertainty on the feasibility in connecting the proposed Small House to the public sewers. The application was therefore not in line with the Interim Criteria.

141. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the proposed development was not in line with the planning intention of the “Green Belt” (“GB”) zoning for the area which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone;
- (b) the application did not comply with the Town Planning Board Guidelines for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance in that the proposed development would cause adverse landscape impacts on the surrounding area. The applicant failed to demonstrate that the trees, the natural stream course and the riparian vegetation in the vicinity of the application site would not be affected by the proposed development;
- (c) the proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories as the proposed Small House would cause adverse landscape impacts on the surrounding areas. Being located within the Water Gathering Ground (WGG), the feasibility of connecting the proposed Small House to the planned sewerage system was also doubtful; and

- (d) the approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the rural environment and landscape quality of the area.

Agenda Item 10

[Open Meeting]

Review of Application No. A/NE-TK/331

Proposed House (New Territories Exempted House – Small House) in “Agriculture” zone, Lot 262 S.B RP in D.D. 17 and Adjoining Government Land, Ting Kok Village, Tai Po

(TPB Paper No. 8770)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

142. The following representative of Planning Department (PlanD) was invited to the meeting at this point.

Mr. Hui Wai Keung

District Planning Officer/Shu Tin, Tai Po and
North (DPO/STN), PlanD

143. The Chairman extended a welcome and explained the procedures of the review hearing. He noted that the applicant had decided not to attend the meeting. The Board would proceed with the review hearing in the absence of the applicant. He then invited Mr. Hui Wai Keung to brief Members on the background of the application.

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

- (a) the applicant sought planning permission for a proposed New Territories

Exempted House (NTEH) – Small House at the application site which was zoned “Agriculture” (“AGR”) on the Ting Kok Outline Zoning Plan (OZP);

(b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 26.11.2010 and the reasons were:

(i) the proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/ Small House in New Territories as the application site was entirely outside the “Village Type Development” (“V”) zone and the village ‘environs’ (‘VE’) of any recognised villages; and

(ii) the approval of the application would set an undesirable precedent for other similar applications in the area;

(c) the applicant had submitted further written justifications in support of the review and the justifications put forward were:

(i) to the west of the site, there were clusters of Small Houses facing Ting Kok Road. The proposed development would be compatible with the existing landscape. The area in the vicinity of the site could be regarded as an extension of the existing “V” zone of Ting Kok Village;

(ii) sufficient infrastructural facilities were available in the vicinity of the site and the proposed development would not generate additional burden on the local facilities;

(iii) regarding the planning intention that the site and its neighbouring areas would serve as a buffer between Small Houses and urban development, it was noted that the river and Shan Liu Road on the east of the site already acted as a natural boundary separating the

existing Small Houses and the spa resort hotel. It was not necessary to include the site as a buffer area. PlanD seemed to favour the developer of the spa resort hotel by enlarging the size of the buffer area and ignoring the villagers' Small House demand;

- (iv) there was a general shortage of land in meeting the future Small House demand in Ting Kok Village. If the small piece of land between the river on the east and the existing village houses on the west was allowed for Small House developments, the problem of shortage of land would be mitigated to a certain extent; and
 - (v) the objection raised by the Jade Tide Villa Owners' Committee to the proposed development at the site was due to their selfishness. The Village Representative of Ting Kok strongly supported the application;
- (d) departmental comments – the departmental comments were summarized in paragraph 5 of the Paper. The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) did not support the application as the site was wholly outside the 'VE' of Ting Kok Village and the "V" zone where, as a general practice, any Small House application would not be approved by the LandsD. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) also objected to the application from the landscape planning point of view as the application site was in close proximity to a semi-natural stream and areas of natural vegetation. Approval of the application would set an undesirable precedent to other similar applications in the area, leading to urban sprawl, disintegration of the buffer between the existing village and the proposed spa resort hotel development, and degradation of the existing landscape quality of the area;
- (e) public comments – during the first three weeks of the statutory publication period of the review application, one public comment was received

objecting to the application on the grounds that the proposed development might cause flooding to the area as the site was near a drainage channel; and

- (f) PlanD's views – PlanD did not support the application based on the assessment as stated in paragraph 7 of the Paper. Although there was a general shortage of land to meet the future Small House demand in Ting Kok Village, the proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/ Small House in New Territories as the site was entirely outside the “V” zone and the ‘VE’ of any recognised villages. In this regard, DLO/TP, LandsD did not support the application. CTP/UD&L, PlanD also did not support the application as approval of the application would set an undesirable precedent for other similar applications in the area, leading to urban sprawl, disintegration of the buffer between the existing village and the proposed spa resort hotel development, and degradation of the existing landscape quality of the area.

145. As Members had no questions to raise, the Chairman said that the hearing procedures for the review applications had been completed and the Board would deliberate on the application and inform the applicant of the Board's decision in due course. The Chairman thanked DPO/STN for attending the meeting. He left the meeting at this point.

Deliberation Session

146. The Chairman noted that the proposed development did not comply with the Interim Criteria as it was located entirely outside the “V” zone and the ‘VE’ of recognized villages and that approval of the application would set an undesirable precedent.

147. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories as the site was entirely outside the “Village Type Development” (“V”) zone and the village ‘environs’ (‘VE’) of any recognised villages; and
- (b) the approval of the application would set an undesirable precedent for other similar applications in the area.

Agenda Item 11

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Further Representations to the Draft Central District Outline Zoning Plan No. S/H4/13

(TPB Paper No. 8777)

[The meeting was conducted in Cantonese.]

148. The following Members had declared interests on this item as the International Finance Centre (IFC), which was one of the representation sites, was a joint venture of Sun Hung Kai Properties Ltd. (SHK), Henderson Land Development Co. Ltd. (HDL), and Hong Kong & China Gas Co. Ltd. (HKCGC):

Mr. Raymond Y.M. Chan - having business dealings with SHK, HDL and HKCGC

Dr. James C.W. Lau) having business dealings with HDL and HKCGC

Dr. C.P. Lau)

Mr. Felix W. Fong) having business dealings with SHK

Mr. Y.K. Cheng)

- Ms. Julia M.K. Lau - being a former employee of SHK
- Mr. Clarence W.C. Leung - being a director of an NGO that had recently received a donation from a family member of the Chairman of HDL
- Mr. Roger K.H. Luk - being a member of the Council of the Chinese University of Hong Kong which recently received a donation from a family member of the Chairman of HDL

149. As the item was procedural in nature and no deliberation was required, Members agreed that the above Members could stay at the meeting. Members noted that Dr. James C.W. Lau, Mr. Y.K. Cheng and Ms. Julia M.K. Lau had tendered their apologies for not attending the meeting and that Mr. Raymond Y.M. Chan, Dr. C.P. Lau and Mr. Felix W. Fong had already left the meeting.

150. The Secretary briefly introduced the Paper. On 21.1.2011, after giving consideration to the representations and comments on the draft Central District Outline Zoning Plan No. S/H4/13, the Board decided to propose amendments to the Plan to partially meet 3 representations (i.e. R2 and R5 in respect of Cheung Kong Center and R8 in respect of IFC) and not to uphold the remaining representations. The proposed amendments were published on 18.2.2011. Upon expiry of the three-week publication period, one further representation against the amended Notes of the “Commercial (1)” (“C(1)”) zone and the corresponding changes to the Explanatory Statement in relation to the planning intention of the “C(1)” zone for the Cheung Kong Center site was received. As the representations and comments were considered by the full Board on 21.1.2011, it was considered more appropriate for the full Board to hear the further representation without resorting to the appointment of an Objection Hearing Committee. The hearing would be accommodated in the Board’s regular meeting.

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

Agenda Item 12

[Open Meeting]

Submission of the Draft Aberdeen & Ap Lei Chau Outline Zoning Plan No. S/H15/26A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance

(TPB Paper No. 8778)

[The meeting was conducted in Cantonese.]

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

- Mr. Laurence L.J. Li - owned property in an industrial building in Wong Chuk Hang
- Mr. Rock C.N. Chen – being a former Member of the Tung Wah Group of Hospitals Advisory Board. The TWGHs Jockey Club rehabilitation Complex was one of the commenters
- Mr. K.Y. Leung - a family member owned a flat in Ap Lei Chau
- Mr. Roger K.H. Luk - independent non-executive Director of Wheelock Properties Limited which had a property in Heung Yip Road
- Professor S.C. Wong - a family member owned properties in South Horizons and Aberdeen Centre
- Mr. Fletch Chan - being an Assistant to the Secretary for Transport and Housing who was a non-executive Director of MTRCL, which was related to one of the representation sites

153. As the item was procedural in nature and no deliberation was required, Members agreed that the above Members could stay at the meeting. Members noted that Mr. Laurence L.J. Li, Mr. Rock C.N. Chen, Professor S.C. Wong and Mr. Fletch Chan had already left the meeting.

154. The Secretary briefly introduced the Paper. On 7.5.2010, the draft Aberdeen & Ap Lei Chau Outline Zoning Plan No. S/H15/25 mainly to incorporate building height restrictions together with various zoning amendments was exhibited for public inspection under section 5 of the Town Planning Ordinance. Thirteen representations and 502 public comments were received. On 22.10.2010, after giving consideration to the representations and comments in respect of the draft Aberdeen & Ap Lei Chau OZP No. S/H15/25, the Board decided not to uphold 11 adverse representations and deferred a decision on one representation (R10). On 21.1.2011, upon further consideration of representation R10, the Board decided to propose amendments to the Plan to partially meet the representation by revising the building height restrictions for the western and eastern parts of the “Industrial” zone covering the Hong Kong Ice and Cold Storage site at Tin Wan Praya Road. During the exhibition period of the proposed amendments to the OZP under section 6C(2) of the Ordinance, 2 further representations were received. On 25.2.2011, the Board decided that one of the further representations not related to the proposed amendments was invalid. The remaining further representation was heard by the Board earlier today and it was decided not to uphold the further representation.

155. On 16.7.2010, the draft Aberdeen & Ap Lei Chau OZP No. S/H15/26 mainly to rezone the site of the proposed property development of the South Island Line (East) and to delete the obsolete Route 4 alignment was exhibited for public inspection under section 7 of the Town Planning Ordinance. Twelve representations and 2 public comments were received. On 3.12.2010, after giving consideration to the representations and comments, the Board noted the 10 supportive representations and decided not to uphold the 2 adverse representations.

156. As the plan-making process had been completed, the draft Aberdeen & Ap Lei Chau OZP was ready for submission to the Chief Executive in Council (CE in C) for approval.

157. After deliberation, the Board agreed:

(a) that the draft Aberdeen & Ap Lei Chau OZP No. S/H15/26A together

with its Notes at Annex II and Annex III of the Paper were suitable for submission under section 8 of the Ordinance to the CE in C for approval;

- (b) to endorse the updated Explanatory Statement (ES) for the draft Aberdeen & Ap Lei Chau OZP No. S/H15/26A at Annex IV of the Paper as an expression of the planning intention and objectives of the Board for various land-use zones on the draft OZP and issued under the name of the Board; and
- (c) that the updated ES for the draft Aberdeen & Ap Lei Chau OZP No. S/H15/26A was suitable for submission to CE in C together with the draft OZP.

Agenda Item 13

[Closed Meeting]

158. This item was recorded under confidential cover.

Agenda Item 14

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

159. There being no other business, the meeting was closed at 4:20 p.m.