

**Minutes of 1182nd Meeting of the
Town Planning Board held on 10.8.2018**

Present

Permanent Secretary for Development
(Planning and Lands)
Ms Bernadette H.H. Linn

Chairperson

Professor S.C. Wong

Vice-Chairperson

Mr Lincoln L.H. Huang

Mr Sunny L.K. Ho

Dr F.C. Chan

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Dr C.H. Hau

Mr Alex T.H. Lai

Professor T.S. Liu

Miss Winnie W.M. Ng

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Professor Jonathan W.C. Wong

Director of Lands

Ms Karen P.Y. Chan

Director of Planning

Mr Raymond K.W. Lee

Deputy Director (1),

Environmental Protection Department

Mr C.F. Wong

Chief Engineer (Works),

Home Affairs Department

Mr Martin W.C. Kwan

Chief Transport Engineer (Hong Kong),

Transport Department

Mr Eddy K.K. Wu

Deputy Director of Planning/District

Ms Jacinta K.C. Woo

Secretary

Absent with Apologies

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Stephen H.B. Yau

Mr David Y.T. Lui

Mr Thomas O.S. Ho

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Ms Sandy H.Y. Wong

Dr Jeanne C.Y. Ng

Mr Ricky W.Y. Yu

In Attendance

Assistant Director of Planning/Board

Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board

Ms April K.Y. Kun

Senior Town Planner/Town Planning Board

Mr Alex C.Y. Kiu

Agenda Item 1

Confirmation of Minutes of the 1180th Meeting held on 27.7.2018

[Open meeting] [The item was conducted in Cantonese]

1. The draft minutes of the 1180th meeting were sent to Members on 10.8.2018 and tabled at the meeting. Subject to no proposed amendment by Members on or before 13.8.2018, the minutes would be confirmed without amendment.

[Post-meeting Note : On 13.8.2018, the minutes of the 1180th Meeting were confirmed without amendment.]

Agenda Item 2

Matters Arising

New Judicial Review Application (HCAL 1565/2018) against the Decisions of the Town Planning Board and the Chief Executive in Council in respect of the Draft Kai Tak Outline Zoning Plan No. S/K22/5

[Open Meeting] [The item was conducted in Cantonese]

Declaration of Interests

2. The Secretary reported that the draft Kai Tak Outline Zoning Plan (OZP) No. S/K22/5 mainly involved the optimization of the development potential of residential/commercial sites in the North Apron and Runway areas of the ex-airport site, rezoning of suitable sites for residential, commercial, Government, institution or community (GIC) and open space uses, and incorporation of the latest development proposals for the area. The proposed amendments included the rezoning of sites for proposed public housing developments by the Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA). The consultants of the Review Study of Kai Tak Development (the Review) included AECOM Asia Co. Limited (AECOM), Urbis Limited (Urbis) and Leigh & Orange Limited (L&O). One of the amendment items was related to a proposed campus development by the Vocational Training Council (VTC), part of which was currently occupied by the Construction Industry Council (CIC). The following Members had declared interests on the item for being acquainted/having

affiliations/business dealings with HKHA, the consultants of the Review, the representers and commenters or their representatives including Kerry Group (Kerry), the parent company of Kerry DG Warehouse (Kowloon Bay) Limited (R11) and its representative, Llewelyn Davis Hong Kong Limited (LD); CK Hutchison Holdings Limited (CKH), the parent company of Goodwell-Fortune Property Services Limited (C309), Sandy Bay Rugby Football Club of the University of Hong Kong (HKU) (C152), Ms Mary Mulvihill (C260 and C433), Masterplan Limited, representatives of Hong Kong Water Sports Council (R3) and Hong Kong Rugby Union (R13), the Royal Hong Kong Yacht Club (RHKYC), the Vice Commodore of which was a commenter (C3), VTC (R1/C263) and its consultants, and/or Ove Arup Partners Hong Kong Limited (Arup), and CIC :

- Mr Raymond K.W. Lee - being a member of the Strategic Planning
(as Director of Planning) Committee (SPC) and Building Committee of
HKHA
- Ms Karen P.Y. Chan - being a member of HKHA
(as Director of Lands)
- Mr Martin W.C. Kwan - being a representative of the Director of Home
(as Chief Engineer (Works), Affairs who was a member of SPC and the
Home Affairs Department) Subsidised Housing Committee of HKHA; and
personally having past teaching work in the
member institute of VTC
- Professor S.C. Wong - being the consultant of AECOM, an employee of
(Vice-chairperson) HKU, an Adjunct Professor of the Technological
and Higher Education Institute which was a
member institute of VTC, but the appointment
was honorary and courtesy in nature, a council
member of CIC and convener of the Objections
Board of CIC; and having current business
dealings with Arup

- Mr Lincoln L.H. Huang - being a member of RHKYC
- Mr H.W. Cheung - being the Chairman of Zero Carbon Building of CIC and past executive director of CIC
- Mr Ivan C.S. Fu - having current business dealings with CKH, AECOM, Urbis, Masterplan Limited, VTC and Arup, and past business dealings with HKHA; and being a council member of CIC
- Dr Lawrence W.C. Poon - his spouse being an employee of the HD but not involved in planning work and ex-employee of Kerry; having past teaching work in the member institute of VTC
- Mr K.K. Cheung - his firm having current business dealings with CKH, Kerry, HKHA, L&O, Arup and HKU, and hiring Ms Mary Mulvihill on a contract basis from time to time
- Mr Wilson Y.W. Fung - being the Chairman of the Accounting Advisory Board of School of Business, HKU, and a former member of the Accountancy Training Board of VTC
- Dr C.H. Hau - his institute having current business dealings with HKHA and AECOM and being an employee of HKU
- Mr Thomas O.S. Ho - having current business dealings with HKHA and past business dealings with AECOM; his company having current business dealings with Urbis; and

being the Chairman of the Board of the Construction Innovation and Technology Application Centre of CIC

- Mr Alex T.H. Lai - his firm having current business dealings with CKH, Kerry, HKHA, L&O, Arup and HKU, and hiring Ms Mary Mulvihill on a contract basis from time to time; and having past teaching work in the member institute of VTC
- Mr Stephen L.H. Liu - having past business dealings with HKHA, CKH and LD; and having past teaching work in the member institute of VTC
- Miss Winnie W.M. Ng - an ex-Council member of VTC
- Mr Franklin Yu - having past business dealings with HKHA, AECOM and Urbis; being the director of a firm having current business dealings with VTC and a member of Construction Workers Registration Board of CIC; and having past business dealings with Arup
- Mr Daniel K.S. Lau - being Director (Development and Marketing) of Hong Kong Housing Society which was currently in discussion with HD on housing development issues
- Mr Ricky W.Y. Yu - his firm having current business dealings with LD
- Ms Jacinta K.C. Woo
(Secretary) - being a member of RHKYC; and her spouse being a director of P&T Architects and Engineers Ltd., which was the consultant of VTC but not involved in the project

3. Members noted that Mr H.W. Cheung, Mr Ivan C.S. Fu, Mr Thomas O.S. Ho, Mr Stephen L.H. Liu and Mr Ricky W.Y. Yu had tendered apologies for not being able to attend the meeting, and Mr Alex T.H. Lai, Ms Winnie W.M. Ng and Mr Franklin Yu had not yet arrived at the meeting. As the item was to report a new judicial review (JR) application, the other Members and the Secretary were allowed to stay in the meeting.

4. The Secretary reported that on 7.8.2018, a JR application (HCAL 1565/2018) was lodged by Mr Tam Ka Tsun (the Applicant) against the Town Planning Board (the Board)'s decision dated 10.5.2018 to submit the draft Kai Tak OZP under section 8 of the Town Planning Ordinance (TPO) and the Chief Executive in Council (CE-in-C)'s decision dated 15.5.2018 to approve the Kai Tak OZP. The relevant Notice of Application (Form 86) had been dispatched to Members before the meeting.

5. The Applicant was a resident at Laguna City and a representer (R602 and R11075) and commenter (C322) in respect of the draft Kai Tak OZP No. S/K22/5. The Board and the CE-in-C had been named as the Putative Respondents, while VTC had been named as the Putative Interested Party. The Court had not yet granted leave for JR.

Grounds of JR

6. Five grounds of JR had been raised, namely :

- (a) the Board erred in law in failing to (i) properly direct itself as to the applicable planning policy for the Cha Kwo Ling (CKL) Harbourfront (ii) exercise its statutory duties and powers to zone the CKL Harbourfront in accordance with the Harbourfront Planning Policy, and (iii) take into account material considerations, including section 3(1) of the Protection of The Harbour Ordinance;
- (b) failure to ask the correct questions and take reasonable steps to acquaint itself with all relevant information;
- (c) error of fact as to whether there was a reduction in the planned open space;

- (d) the Board's decision being an abuse of power and unreasonable in the public law sense; and
- (e) CE-in-C's decision being tainted with the errors and/or failures as mentioned above.

Relief Sought

7. The relief sought for the JR application included, inter alia :
- (a) an order to quash the decisions of the Board and the CE-in-C and/or such part of the decision(s) concerning the CKL Harbourfront; and
 - (b) an order to remit the decisions to the CE-in-C and/or the Board for reconsideration.
8. The meeting noted the new JR application, and that the Secretary would act on behalf of the Board in handling the JR application in consultation with the Department of Justice.

[Mr Philip S.L. Kan, Ms Winnie W.M. Ng and Mr Franklin Yu arrived to join the meeting at this point.]

Tuen Mun & Yuen Long West District

Agenda Item 3

Review of Application No. A/YL-TT/421

Proposed Temporary Shop and Services (Building Surveying Consultancy) for a Period of 3 Years in "Village Type Development" Zone, Lots 4891 RP (Part), 4892 RP (Part), 4893 (Part) and 4894 in D.D. 116 and Adjoining Government Land, Tai Tong Road, Yuen Long

(TPB Paper No. 10458)

[Open Meeting (Presentation and Question Sessions only)]

[The meeting was conducted in Cantonese.]

Presentation and Question Sessions

9. The following representatives from the Planning Department (PlanD) and the applicant were invited to the meeting :

Mr David Y.M. Ng - District Planning Officer/Tuen Mun & Yuen Long West (DPO/TMYLW), PlanD

Ms Floria Y.T. Tsang - Town Planner/YLW(1), PlanD

Mr Lam Sun Tak - Applicant

10. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited DPO/TMYLW to brief Members on the review application.

11. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TMYLW briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Board, departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10458 (the Paper).

12. The Chairperson then invited the applicant to elaborate on the review application.

13. Mr. Lam Sun Tak made the following points :

(a) the application site was a piece of abandoned land along Tai Tong Road years ago and was subject to flooding and hygienic problems, which caused nuisance to the neighbourhood. The previous planning applications were to improve the conditions of the application site;

(b) should the planning application be approved, he would adhere to departments' requirements and comply with all the approval conditions

including the parking arrangement and provision of the run-in/run-out. As such, the proposed development would not cause adverse traffic impact;

- (c) he had re-submitted the landscape proposal, and would plant trees and provide planters in accordance with departments' requirements with a view to creating a densely vegetated area which would provide a refreshing landscape;
- (d) whilst the previous permissions granted to the applicant at the same site under applications No. A/YL-TT/289, 302 and 327 had been revoked due to non-compliance with approval conditions, he had successfully complied with all the time-limited approval conditions under application No. A/YL-TT/418, the application site of which was adjacent to the subject application site. As such, he had experience and confidence in complying with the approval conditions which the Board might impose on the current application;
- (e) the application was made to encourage a group of young people who started the building surveying consultancy firm; and
- (f) he questioned the credibility of an anonymous comment, which was not in favour of his application. He also pointed out that there was a comment submitted under the name of his friend who had denied making such comment, and the remaining commenter seemed not living in his village.

[Mr Frankie W.C. Yeung and Mr Alex T.H. Lai arrived to join the meeting at this point.]

14. As the presentations from DPO/TMYLW and the applicant had been completed, the Chairperson invited questions from Members.

Compliance of Approval Conditions

15. Some Members raised the following questions :

- (a) the compliance periods for approval conditions of application No. A/YL-TT/327, which was allowed by the Town Planning Appeal Board (TPAB) on 22.12.2015;
 - (b) which approval conditions had not yet been complied with; and
 - (c) the reasons for taking 18 months to revoke application No. A/YL-TT/302 noting that shorter compliance periods were imposed for the approval conditions.
16. In response, Mr David Y.M. Ng, DPO/TMYLW made the following main points :
- (a) application No. A/YL-TT/327 was allowed by TPAB for a period of 12 months. The approval conditions required submission and implementation of relevant proposals within three months and six months respectively from the date of approval (i.e. 22.12.2015);
 - (b) application No. A/YL-TT/289 was approved with conditions for a period of three years by RNTPC on 19.8.2011 and was revoked on 19.2.2012 due to non-compliance with the approval conditions on the submission of run-in/run-out, landscaping and tree preservation, drainage and fire services installations (FSIs) proposals. The subsequent application (No. A/YL-TT/302) was approved with conditions for a period of three years by RNTPC on 20.4.2012. Shorter compliance periods were imposed in order to monitor the progress on compliance with approval conditions in view of the previous revocation. Although the applicant had complied with the approval condition requiring the submission and implementation of FSIs proposal within the specified time limit, the planning approval was subsequently revoked on 20.10.2013 due to non-compliance with other approval conditions on the submission and implementation of parking arrangement, run-in/run-out, landscaping and tree preservation and drainage proposals. Application No. A/YL-TT/327 was allowed by TPAB on 22.12.2015 for a period of 12 months with conditions. However, the planning approval was subsequently revoked on 22.3.2016 due to

non-compliance with approval conditions on the submission and implementation of parking arrangement, run-in/run-out, landscaping and tree preservation proposals and implementation of drainage and FSIs proposals; and

- (c) shorter compliance periods were imposed on the approval conditions of application No. A/YL-TT/302, which required submission and implementation of relevant proposals within three months and six months respectively from the date of approval (i.e. 20.4.2012). However, the applicant had applied five times for extending the time limit for compliance of approval conditions up to 18 months before the planning permission was finally revoked on 20.10.2013.

17. A Member asked about the requirements for landscape proposal as set out by PlanD. Mr David Y.M. Ng replied that the applicant was advised to submit a tree preservation and landscape proposal with information such as the condition of existing trees and a planting schedule showing the proposed species, size, spacing and quantity for each type of planting on the site. The applicant was also advised that the minimum soil provision for all new tree planting should be 1m (W) x 1m (L) x 1.2m (D) and all trees should be planted at-grade at 4 to 5m intervals generally along the boundary to provide reasonable screening for the application site.

18. A Member enquired about the difficulties that the applicant encountered when complying with the approval conditions. In response, Mr. Lam Sun Tak indicated that satisfactory fulfilment of those approval conditions involved different government departments. Also, he took a long time to obtain consent from relevant utility companies in order to sort out the run-in/run-out arrangement.

The Proposed Scheme

19. The Chairperson and some Members raised the following questions :

- (a) the number of staff expected in the proposed office;

- (b) the need for the proposed 19 parking spaces in the application site, noting that the proposed parking layout was not feasible as some of the parking spaces would be blocked by adjacent parked vehicles;
- (c) whether the applicant had made any adjustment to the proposed scheme in response to departmental comments; and
- (d) whether the applicant had submitted any landscape proposal.

20. In response, Mr. Lam Sun Tak made the following points :

- (a) it was expected that there would be about seven to eight staff in the proposed office. The proposed 19 parking spaces were to meet their operational needs;
- (b) should the application be approved, the parking arrangement including the number of and arrangement for parking spaces could be adjusted subject to the comments of relevant government departments; and
- (c) he had indicated the location of planters on the proposed landscape plan and the proposal to preserve the existing *Bombax ceiba* in the application site. The information was included in the Paper.

21. In response to another Member's query on anonymous comments on the application, Mr David Y.M. Ng explained that the application was published for public comments following the established procedures. Any members of the public could make comments on the application. The name of a commenter was not an essential information for the Board to consider the comment.

22. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in the absence of the applicant. The Chairperson thanked PlanD's representatives and the applicant for attending the meeting, and they left the meeting at this point.

Deliberation Session

23. The Chairperson said that the application was rejected by the RNTPC on the two reasons as stipulated in paragraph 1.2 of the Paper. She asked Members to consider whether there was any reason to alter RNTPC's decision.

24. A Member considered that previous planning permissions were granted for similar shop and services uses on the application site to the same applicant. However, those planning permissions were all revoked due to non-compliance with the approval conditions. It was doubtful whether the applicant was able to discharge the approval conditions if the current application was approved.

25. Some Members considered that the applicant had not demonstrated genuine effort in resolving departmental comments, in particular, on the parking arrangement and the landscape proposal. In this connection, a Member enquired whether the applicant was required to resolve all the technical issues during the application stage. In response, Mr Raymond K. W. Lee, Director of Planning, said that some of the technical issues could be addressed in the course of complying with the approval conditions, but the applicant had a record of repeated non-compliances with approval conditions.

26. As background information, Mr Raymond K.W. Lee, Director of Planning, supplemented that when the previous application No. A/YL-TT/327 was allowed by TPAB on 22.12.2015, the major considerations of TPAB, amongst others, were that the appellant had accepted all the suggested conditions and promised to comply with them; and it appeared at that time the Appellant would remedy the issues and comply with the approval conditions to be imposed. Planning permission was granted for a shorter period of 12 months with conditions. However, the planning permission was revoked on 22.3.2016 due to non-compliance with approval conditions. Subsequently, the applicant applied for appeal against the decision of the Board for application No. A/YL-TT/357 in 2016. On 25.8.2017, the appeal against the decision of the Board for application No. A/YL-TT/357 was also dismissed as TPAB was not convinced that if the appeal was allowed with conditions, the appellant would be able to comply with the relevant approval conditions within a reasonable period of time; and allowing the appeal would set an undesirable

precedent, allowing other applicants to believe that even if an application was revoked due to non-compliance with approval conditions, they could continue to submit planning applications. Allowing these applications was no different from extending the compliance period of approval conditions indefinitely.

27. Some Members raised concerns that approving the application would extend the compliance period indefinitely and hence would abuse and nullify the statutory planning control mechanism.

28. A Member asked whether the current use on the application site would be subject to planning enforcement action in case the application was rejected. Mr Raymond K.W. Lee, Director of Planning, responded that, in general, planning enforcement action would be undertaken against unauthorized developments if there was sufficient evidence upon investigation.

29. In response to a Member's enquiry on the anonymous comment on the application, the Secretary referred to the Town Planning Board Guidelines No. 30B on "Publication of Applications for Amendment of Plan, Planning Permission and Review and Submission of Comments on Various Applications" that the provision of personal particulars (including name etc.) was required only to facilitate communication with the Board and relevant government departments for the purpose of processing the applications. The essential information of a comment included the particular matter in the application to which the comment related rather than the name of the commenter.

30. Some Members had different views on the current practice of allowing anonymous comments to be made on applications. The Chairperson expressed that it was the current practice of the Board, which could be reviewed separately if considered necessary.

31. After deliberation, the Board decided to reject the application on review and the reasons were as follows :

- “(a) the applicant fails to demonstrate that the development would not cause adverse traffic and landscape impacts on the surrounding area; and

- (b) previous planning permissions granted to the applicant by the Board/Town Planning Appeal Board under applications No. A/YL-TT/289, 302 and 327 were revoked due to non-compliance of the approval conditions. Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.”

Sai Kung & Islands District

Agenda Item 4

Request for Deferment of Review of Application No. A/SK-PK/240

Proposed House (New Territories Exempted House - Small House) in “Green Belt” Zone, Lot 470 S.B RP in D.D. 222, Pak Kong, Sai Kung

(TPB Paper No. 10459)

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

32. The Board noted that the applicant’s representative requested on 26.7.2018 deferment of the consideration of the review applications for two months to allow more time to consult relevant government departments. This was the first time that the applicant requested deferment of the review application.

33. After deliberation, the Board decided to defer a decision on the review application, as requested by the applicant, pending the submission of further information (FI) by the applicant. The Board agreed that the review application would be submitted to the Board for consideration within three months upon receipt of FI from the applicant. If the FI submitted by the applicant was not substantial and could be processed within a shorter time, the review application could be submitted to an earlier meeting for the Board’s consideration. The Board also agreed to advise the applicant that the Board had allowed two months for the preparation of submission of FI, and no further deferment would be granted unless under very special circumstances.

Agenda Item 5

Request for Deferment of Review of Application No. A/SK-PK/241

Proposed House (New Territories Exempted House - Small House) in “Green Belt” Zone,
Lot 470 S.B ss.3 in D.D. 222, Pak Kong, Sai Kung

(TPB Paper No. 10459)

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

34. The Board noted that the applicant’s representative requested on 26.7.2018 deferment of the consideration of the review applications for two months to allow more time to consult relevant government departments. This was the first time that the applicant requested deferment of the review application.

35. After deliberation, the Board decided to defer a decision on the review application, as requested by the applicant, pending the submission of further information (FI) by the applicant. The Board agreed that the review application would be submitted to the Board for consideration within three months upon receipt of FI from the applicant. If the FI submitted by the applicant was not substantial and could be processed within a shorter time, the review application could be submitted to an earlier meeting for the Board’s consideration. The Board also agreed to advise the applicant that the Board had allowed two months for the preparation of submission of FI, and no further deferment would be granted unless under very special circumstances.

Hong Kong District

Agenda Item 6

Section 12A Application No. Y/H4/12

Application for Amendment to the Approved Central District Outline Zoning Plan No. S/H4/16, To Rezone the Application Site from “Government, Institution or Community” (“G/IC”) to “Other Specified Uses” annotated “Heritage Precinct” or “G/IC(1)”, Hong Kong Sheng Kung Hui Compound, Government House, Former Central Government Offices (The Main Wing and East Wing are now the Justice Place), Former French Mission Building, St. John’s Cathedral and Battery Path in Central, Hong Kong

(TPB Paper No. 10460)

[Open Meeting (Presentation and Question Sessions only)]

[The meeting was conducted in Cantonese and English.]

Declaration of Interests

36. The Secretary reported that the applicant, Government Hill Concern Group, comprised various local and green groups, including Conservancy Association (CA) and Ms Mary Mulvihill among others. Masterplan Limited (Masterplan) was the representative of the applicant. The following Members had declared interests in the item :

Dr C.H. Hau - being a life member of CA and his spouse being the Honorary Secretary of the Board of Directors of CA

Mr K.K. Cheung] their firm having past business dealings with CA and hiring

Mr Alex T.H. Lai] Mary Mulvihill on a contract basis from time to time

Mr Ivan C.S. Fu - having current business dealings with Masterplan

37. In response to Members’ queries, the Chairperson clarified that Members needed only to declare interests for close relationship with the organizations involved in the rezoning application. Members who were merely church members of the Hong Kong Sheng Kung Hui (HKSKH) would not need to declare interest.

38. The meeting noted that Mr Ivan C.S. Fu had tendered apologies for not being able to attend the meeting. The meeting further noted that the other Members had no direct involvement in the project or with the applicant, and agreed that they should be allowed to stay in the meeting.

Presentation and Question Sessions

39. The following representatives from the Planning Department (PlanD), the Commissioner for Heritage's Office, Development Bureau (CHO, DEVB) and the applicant's representatives were invited to the meeting :

Government Representatives

PlanD

Mr J.J. Austin - District Planning Officer/Hong Kong (DPO/HK)

CHO, DEVB

Mr José H.S. Yam - Commissioner for Heritage (C for H)

Ms Joey C.Y. Lee - Assistant Secretary (Heritage Conservation)

Mr William W.K. Lo - Engineer (Heritage Conservation)

Applicant's Representatives

Government Hill Concern Group – (the Group)

Ms Katty Law]
Ms Mary Mulvihill] Applicant's Representatives
Mr John Batten]

Masterplan Ltd.

Mr Ian Brownlee] Applicant's Representatives
Ms Cynthia Chan]

40. The Chairperson extended a welcome and explained the procedure of the application hearing. She then invited DPO/HK, PlanD to brief Members on the rezoning application.

41. With the aid of a PowerPoint presentation, Mr J.J. Austin, DPO/HK, briefed Members on the applicant's proposal, departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10460 (the Paper).

42. The Chairperson then invited the applicant's representatives to elaborate on the rezoning application.

43. With the aid of a PowerPoint presentation, Mr Ian Brownlee made the following points :

- (a) the Group had contributed views to the 'Conserving Central' initiatives out of public interests, and no personal interest was involved. These views had resulted in the preservation of the Central Police Station Compound (Tai Kwun), the Former Police Married Quarters (PMQ) on Hollywood Road, the Central Market and the West Wing of the Former Central Government Offices (CGO);
- (b) the application site (the Site) was a special low-rise, low-density area within the high-rise urban core due to its special history as the political and religious centre of the former colony;
- (c) the Group was disappointed that building height (BH) control was not imposed on the Central District OZP to preserve the historic buildings despite it had been stated in the Hong Kong Planning Standards and Guidelines (HKPSG) that efforts should be made to protect and preserve buildings of historical merits by appropriate zonings; and
- (d) the application was triggered by the HKSKH Compound's proposed redevelopment schemes. The Group was concerned that both the current

and previous redevelopment schemes did not require the Board's approval as the proposed uses were always permitted under the "Government, Institution or Community" ("G/IC") zone, which did not have any BH restriction.

44. With the aid of a PowerPoint presentation, Ms Katty Law made the following points :

- (a) the Group's efforts in preserving the territory's heritage had been recognized internationally;
- (b) submitting a rezoning application was an important step taken by the Group which had limited resources;
- (c) the Site had not changed much during the past decades as it was under the Government's and HKSKH's ownership. It was an intact heritage area, and the setting of the Site should be preserved together with the graded buildings as an integral part;
- (d) under HKSKH's redevelopment proposal, several existing buildings of heritage value would be demolished, and a lot of trees would be felled;
- (e) the proposed private hospital would not be non-profit-making as claimed, and would be a huge building overwhelming the adjoining low-rise St. Paul's Church and Bishop's House;
- (f) the roads in the area were narrow and heavily congested, and could not support the large scale redevelopment;
- (g) the Central and Western District Council (C&WDC) and the Antiquities Advisory Board (AAB) did not support HKSKH's proposal as reported in the Paper;
- (h) HKSKH also refused to submit the traffic impact assessment (TIA) to C&WDC; and

- (i) hospital use was permitted under the lease of the HKSKH Compound site, and CHO's policy support meant that there would be no control on HKSKH's redevelopment proposal. The Board had to intervene, and planning permission should be required for any proposal at the Site.

45. With the aid of a PowerPoint presentation, Ms Cynthia Chan made the following points :

- (a) the "G/IC" zoning of the Site was inadequate in reflecting the historical significance of the Site. The planning intention should be amended to spell out the need to '*preserving the historical structures and the associated historic context and landscape in an integral conservation zone*';
- (b) the existing preservation mechanism adopted by the Antiquities and Monuments Office (AMO) did not protect historic buildings from the possible impacts of surrounding development/redevelopment. The Board's control was needed to complement AMO's control;
- (c) the proposed Notes followed those restrictions under the existing "Other Specified Use" ("OU") zones with graded historic buildings. The intent was to impose control on the exterior of the buildings, which would potentially affect the amenity and character of the area. There was no intention to interfere with maintenance works of the internal parts of the buildings;
- (d) the overall historic building cluster and the landscape of the precinct, rather than the individual historic building(s) should be conserved for the benefit of the general public. Demolishing buildings within the HKSKH Compound for the development of a huge building would have an irreversible detrimental impact on the Site which was an important historic precinct;
- (e) the absence of BH restriction and planning control at the Site on the OZP meant that the project proponent could bypass public consultation and the proper town planning control on future development in the area. There

were concerns from AAB and C&WDC members on the BH, density, design and traffic aspects of HKSKH's redevelopment proposal;

- (f) the scale of HKSKH's redevelopment proposal was not compatible with the setting of Bishop Hill (i.e. the HKSKH Compound);
- (g) there was no lacking of hospital beds on Hong Kong Island and there was no imminent need for a private hospital within the HKSKH Compound;
- (h) the Board might wish to consider imposing a BH restriction of about 55mPD for buildings along Lower Albert Road, and about 80mPD for buildings along Upper Albert Road. The Board could also uphold part of the rezoning proposal by adjusting the boundary of the Site to exclude the Government House etc., which were already sufficiently protected under the existing mechanism. Alternatively, PlanD could counter propose suitable BH restrictions; and
- (i) the proposed rezoning, if agreed by the Board, would trigger the plan amendment process to give the general public an opportunity to voice out their views.

46. With the aid of the visualizer, Ms Mary Mulvihill made the following points :

- (a) as opposed to the Oil Street redevelopment where a Grade 2 historic building was preserved, the Old Sheng Kung Hui (SKH) Kei Yan Primary School, a Grade 2 historic building, was proposed to be demolished under HKSKH's proposal, leaving only the façade preserved;
- (b) the Government should take back unused premises and allocate them to other organizations; and
- (c) the traffic impact of HKSKH's redevelopment proposal should be a major concern but the Transport Department (TD) had remained silent.

[Mr Alex T.H. Lai left the meeting at this point.]

47. Mr John Batten made the following points :

- (a) the Group cared about Hong Kong with the best intentions; and
- (b) citing the removal of barb wires at the ex-Victoria Prison (now part of Tai Kwun) as an example, he re-iterated the importance of conserving the setting of a heritage site rather than individual historic buildings alone. Otherwise, the essence of the heritage site would be lost.

[The meeting was adjourned for 5 minutes break.]

48. As the presentations from DPO/HK, PlanD and the applicant's representatives had been completed, the Chairperson invited questions from Members.

Traffic and other Technical Assessments

49. Some Members said that the roads around Bishop Hill were already congested, and asked if the traffic capacity of the local road network could accommodate the additional traffic generated by the proposed hospital.

50. In response, Mr J.J. Austin, DPO/HK, advised that HKSKH was still carrying out and had yet to submit the technical studies, including TIA, for the proposed hospital development. The relevant departments, including TD, would examine HKSKH's technical studies before a decision was made on the proposed hospital.

51. Mr José H.S. Yam, C for H, supplemented that C&WDC had been regularly briefed on the progress of HKSKH's redevelopment proposal, including the various preliminary development parameters. Information related to the traffic arrangement such as the pick-up/drop-off area for vehicles and ingress/egress points had been relayed to C&WDC in March 2018. HKSKH was required to carry out a series of technical studies such as TIA, visual impact assessment (VIA), air ventilation assessment (AVA), and submit a conservation management plan (CMP). HKSKH's redevelopment proposal would only be

submitted to Chief Executive in Council (CE-in-C) for consideration if the outcome of the technical studies were to the satisfaction of the government departments concerned.

52. In response to a Member's enquiry about the scope of HIA, Mr José H.S. Yam, C for H, advised that the CMP would need to assess the impact of the proposed hospital building on the four graded historic buildings (which were all preserved) within the HKSKH Compound, including whether the new building would be too close to the historic buildings that it would affect the public's enjoyment of the façade of the historic buildings, compatibility between the new building and the historic buildings, and the ambience of the historic buildings. The Buildings Department, at the building plan submission stage, would look at the construction method of the new building to ensure structural safety of the surrounding buildings would not be adversely affected.

53. Ms Katty Law alleged that since the consultants carrying out the CMP were employed by HKSKH, they would do whatever HKSKH told them to, and government officials, in the absence of the Board's scrutiny, would harbour the CMP to make sure that it sailed through. Citing the Union Church case, she said that it would be too late if HKSKH was allowed to proceed to get the lease modification and building plans approved.

54. In response to Ms Law's accusations on the professional ethics of AMO staff, Mr José H.S. Yam, C for H, pointed out that AMO would, similar to the treatment of other preservation-cum-development projects, scrutinize the CMP of HKSKH's redevelopment proposal both professionally and diligently, and if the CMP results were not acceptable, the lease modification application would not be supported. The Government would not harbour HKSKH or any organization/body for that matter.

Application Site Boundary

55. Noting that the applicant's major concern was on redevelopment of the HKSKH Compound site, some Members questioned the rationale behind or the need to rezone such a huge site and to include declared monuments, which were already under statutory protection, as well as those historic buildings under the Government's ownership, in the application. A Member asked if the rezoning application would amount to requesting the Board to be in charge of heritage conservation.

56. In response, Mr Ian Brownlee reiterated that the Board could choose to approve the application in whole or in part. He pointed out that some buildings in the Site were not protected under the existing heritage conservation regime. He said that the applicant was not against redevelopment, but was concerned about its scale.

57. Ms Katty Law supplemented that there had been much criticism on the territory's conservation policy which focused on the preservation of individual historic buildings only. No effort had been paid to preserving the landscape and ambience of the areas surrounding the buildings for a comprehensive and harmonious environment. Citing Macau and international conservation experience, she opined that buffer zones were needed around the historic buildings. Bishop Hill and Government Hill were an intact old city core worth preserving. It was a perfect opportunity to rezone the whole area as an integral part of the territory's old city for conservation purpose.

Control on HKSKH's Preservation-cum-Development Proposal

58. A Member enquired about the Board's involvement in the 2011 and the present HKSKH redevelopment schemes. In response, Mr J.J. Austin, DPO/HK, advised that in 2011, CE-in-C approved the lease modification for a proposed preservation-cum-development project for the HKSKH Compound. HKSKH would preserve the four graded historic buildings within the HKSKH Compound and redevelop the other ungraded buildings to provide space for HKSKH's religious and community services and a medical centre (the 2011 Scheme). Building plans for the centre were subsequently approved. In 2013, HKSKH revisited its scheme, and subsequently decided to build a non-profit-making private hospital instead. Since the uses of both schemes were always permitted under the "G/IC" zoning of the HKSKH Compound site, planning permission from the Board was not required.

59. Mr John Batten said that at the moment, HKSKH could redevelop the HKSKH Compound site into anything it liked as the lease of the HKSKH Compound site was unrestrictive, and CE-in-C had already approved the lease modification for the 2011 Scheme. Ms Katty Law argued that according to the Lands Department (LandsD), the lease modification for the 2011 Scheme was never completed. She said that the 2011 Scheme

involved a 11-storey residential building at Upper Albert Road, a 18-storey religious and community services cum medical centre at the HKSKH Compound and a transfer of gross floor area (GFA) to Mount Butler for a 12-storey development. When the Mount Butler development was objected to by the locals, HKSKH had to lump the GFA back to the HKSKH Compound site for a 25-storey development under the present Scheme. Everything was behind the backdoors and there was no public consultation. That was why the Group had to seek help from the Board.

[Mr K.K. Cheung left the meeting at this point.]

Transfer of Plot Ratio

60. In response to a Member's query on the alleged transfer of plot ratio (PR), Mr J.J. Austin, DPO/HK, clarified that the issue of transfer of PR did not arise as there was no PR control under the "G/IC" zoning of both the HKSKH Compound and the Mount Butler site. According to the Building (Planning) Regulations, both sites could be developed up to a maximum non-domestic PR of 15. Under the 2011 Scheme, HKSKH proposed to relocate the kindergarten and HKSKH Ming Hua Theological College within the HKSKH Compound to the Mount Butler site to spare sufficient space for the provision of enhanced community services.

61. Mr José H.S. Yam, C for H, supplemented that the HKSKH's current redevelopment scheme was announced as early as in 2013, and at that time, the Mount Butler development was still proceeding ahead. It was only until 2015/16 that HKSKH revised its proposal such that only the kindergarten would be redeveloped at the Mount Butler site having regard to the local comments received. It was therefore incorrect to say that the current redevelopment scheme at the Central site was intended to compensate the loss of GFA in the Mount Butler development.

Conserving Central and the HKSKH Compound Redevelopment

62. In response to a Member's query about the Government's 'Conserving Central' initiative, Mr José H.S. Yam, C for H, made the following points :

- (a) there were eight projects under the 'Conserving Central' initiative announced in the 2009-10 Policy Address, and the preservation-cum-development project of the HKSKH Compound was one of them. HKSKH's original preservation-cum-development proposal was approved by CE-in-C in 2011. The progress of those projects was reported to the C&WDC once every two months;
- (b) taking into account the relocation of the Alice Ho Miu Ling Nethersole Hospital to another district, and the growing population in the Central and Western districts, HKSKH revisited the 2011 Scheme in 2013 and subsequently decided to develop a non-profit-making private hospital;
- (c) in 2015, having worked on the proposal, HKSKH provided more details on the development parameters of the proposed hospital to C&WDC, including the non-profit-making nature of the proposed hospital, and the need for an economy of scale to allow for efficient operation and thus lowering the fees;
- (d) in 2017, HKSKH further advised C&WDC that the proposed hospital would be 25-storey high, including three storeys of basement, about 90 parking spaces would be provided in accordance with the HKPSG; and there would not be any emergency service. The proposed hospital would mainly be used for non-emergency operations, and could cater for the many private doctors practicing in Central. As a side issue, there was more provision of hospital beds in Kowloon despite the presence of six private hospitals on Hong Kong Island. There was a deficit in the provision of hospital beds in Central and Western District, though a surplus on Hong Kong Island;
- (e) in 2018, HKSKH provided information related to the traffic arrangement such as the pick-up/drop-off area for vehicles and ingress/egress points of the proposed hospital to C&WDC, though the TIA had yet to be completed;
- (f) in addition to other technical assessments, AMO also required HKSKH to submit a CMP for preserving the historic buildings in the HKSKH Compound and their ambience;

- (g) HKSKH had committed to preserve all four historic buildings in the HKSKH Compound, including the three Grade 1 historic buildings and the façade of the Grade 2 historic building, the Old SKH Kei Yan Primary School, since the interior of the school had already been modernized. HKSKH would also preserve three ungraded buildings and demolish the remaining four;
- (h) according to HKSKH, preservation of the historic buildings would mean a smaller footprint for redevelopment. From the operational point of view, the proposed hospital could not be accommodated in several buildings, with patients on trolleys transferred from one building to the other. Hence, one 25-storey new building was proposed; and
- (i) that said, the design of the proposed hospital would be fine-tuned in accordance with the findings of the technical assessments.

63. Some Members asked whether there was any declared monument within the HKSKH Compound, and whether it was possible for HKSKH to demolish all 11 buildings in the Compound. In response, Mr José H.S. Yam, C for H, advised that there was no declared monument within the HKSKH Compound. Grading of historic buildings was an administrative measure only, and therefore, it was theoretically possible for HKSKH to demolish all 11 buildings in Bishop Hill. That said, it was HKSKH's intention to keep the four graded historic buildings in their redevelopment proposal, hence the limited footprint for the proposed hospital building. Citing the No. 23 Coombe Road case, he assured the meeting that there was a very effective notification mechanism among government departments, and CHO would take immediate action to liaise with owners of graded historic buildings when such buildings were under threat for redevelopment.

64. The Chairperson and some Members asked about the approach for heritage conservation adopted for private land/properties as compared with that for government land/properties. Mr José H.S. Yam, C for H, admitted that there were indeed differences in the treatment of Government-owned and privately owned historic properties. The Government strived to set a good example on heritage conservation involving heritage sites under its ownership, and Heritage Impact Assessment was required for all new capital works

projects that would affect buildings/sites of historic/archaeological significance. On the other hand, the Government needed to respect private property rights, and owners should not be deprived of reasonable development of their land. In negotiating with private owners to preserve the graded historic buildings under their ownership, the Government would provide economic incentives such as relaxation of PR, GFA and/or BH. There were past successful examples approved by the Board like the Cheung Chau Theatre, which was a Grade 3 historic building. He emphasized the need to strike a balance between heritage preservation and private property rights, which was stipulated in the heritage conservation policy promulgated in 2007, and there should be sufficient flexibility and incentives for the owners to preserve graded historic buildings under their ownership. A Member remarked that HKSKH might not be an ordinary landowner, and if the lease of the HKSKH Compound was on concessionary premium, this Member queried if the property right enjoyed by HKSKH should be treated the same as other private properties.

65. Mr John Batten suggested that as lease modification for the HKSKH Compound site required CE-in-C's approval, there was a de facto protection of the buildings thereon. He opined that the HKSKH Compound site was too important for CE-in-C to decide on their own.

66. In response to Member's enquiry, Mr J.J. Austin, DPO/HK, said that the user clause under the lease only restricted the uses permitted on the buildings within the lot. The lease did not normally specify any control over the demolition of existing buildings within the lot. The Chairperson supplemented that the lease did not normally mandate the land for a gainful use, and the owner could demolish the buildings on-site without rebuilding. That said, demolition of buildings/structures required the Buildings Department's approval, and as mentioned by C for H, the Government would take the opportunity to liaise with the owners with a view to arriving at a preservation-cum-development proposal. Ms Karen P.Y. Chan, Director of Lands remarked that old leases such as that of the HKSKH Compound were commonly drafted/executed after the buildings had been completed, and were therefore very specific about the use(s) of each building. It was reasonable to expect redevelopment of the building(s) on a piece of land at some point during the tenure, and normally there would not be lease restriction on demolition/redevelopment subject to prior written consent from the Government.

67. In response to Mr Raymond K.W. Lee, Director of Planning's query on the timeframe for completing the lease modification for development of the non-profit-making private hospital, Mr José H.S. Yam, C for H, advised that the lease modification was already at an advanced stage given that five years had lapsed since HKSKH first announced the its revised proposal in 2013.

Public Consultation

68. Following up on the Director of Planning's question, the Chairperson asked the applicant why it chose to submit the rezoning application more than four years after HKSKH had first announced the revised proposal in 2013. In response, Ms Katty Law claimed that HKSKH's redevelopment proposal was only informally sounded out in 2013, and it was not until 2017 that C&WDC was formally consulted. She only knew of the HKSKH proposal through her private connection with a C&WDC member. HKSKH only attended the C&WDC meeting in January 2017, while all other progress reporting to C&WDC was given by CHO. Mr John Batten supplemented that the Group was unable to comment on HKSKH's redevelopment proposal without knowing the substantive details. The Group wrote to HKSKH requesting the provision of details, but HKSKH declined to provide the details. Ms Katty Law remarked that the Group had waited too long for HKSKH's response.

69. In response to the Chairperson's and Members' queries on the public consultation process in HKSKH's lease modification application, Mr José H.S. Yam, C for H, emphasized that there had all along been public consultation on HKSKH's redevelopment proposal with C&WDC, and through the Home Affairs Department (HAD) as part of the lease modification process.

70. Mr Ian Brownlee alleged that comments received by LandsD/HAD during their consultation exercise generally got ignored according to his experience, and internal scrutiny of the technical assessments by government departments was inadequate. He was refused to get involved in some lease modification cases by LandsD which claimed that it was a private land matter between the Government and the particular landowner. On the contrary, scrutiny of the technical aspects of development proposals, the form of

development and the public consultation exercise under the statutory planning system was much more open, structured and reliable. Ms Katty Law supplemented that leaving the public consultation on such an important redevelopment proposal to the administrative arrangement of LandsD as part of the lease modification process was very dangerous.

71. Mr José H.S. Yam, C for H, pointed out that C&WDC meetings were open public meetings, and there were dedicated public sessions when the ‘Conserving Central’ initiative was discussed. Members of the public, including the Group, could voice out their comments on the ‘Conserving Central’ initiatives. Ms. Law for example, often spoke at C&WDC meetings, commenting on the ‘Conserving Central’ initiative. He further advised that comments received by LandsD/HAD had already been passed to HKSKH for response. Ultimately, the matter would be put before CE-in-C for a decision, including the assessment of land premium. He remarked that although there was no statutory requirement for HKSKH to consult AAB on its redevelopment proposal of HKSKH Compound, it had pro-actively done so in June 2018. Despite the fact that the relevant minutes of the AAB meeting had yet to be confirmed, the Chairman of AAB said in a press standup after the meeting that AAB supported the Compound redevelopment proposal in principle, though individual members had comments on the design of the proposed hospital building. HKSKH was open-minded and willing to refine its design for further consultation with AAB, if necessary. AAB’s meetings were also open meetings and AAB welcomed the public to submit comments before the meetings. Indeed, it was noted that the applicant had also submitted its comments to AAB before the said meeting.

72. Ms Katty Law pointed out that a number of C&WDC members had concerns on HKSKH’s redevelopment proposal. She attended the relevant C&WDC meetings but only had 3 minutes to give views. She also opined that the Chairman of AAB had distorted the meeting’s views. She attended the said AAB meeting and her perception was that a number of AAB members did not support HKSKH’s redevelopment proposal.

[Mr Franklin Yu left the meeting at this point.]

Building Height Control in “G/IC” Zones

73. Some Members asked whether it was common to have no BH restriction in “G/IC” zones, and whether requesting the imposition of BH restrictions on a particular site fell within the ambit of s.12A application. Mr J.J. Austin, DPO/HK, advised that under the TPO, any person could submit a s.12A application to request the imposition of development restrictions on a particular site. In general, a comprehensive review and relevant studies, including AVA study, would need to be carried out before any specific proposal on BH restrictions could be formulated, as in the case of the Sheung Wan and Sai Ying Pun OZP, which covered the adjacent area next to Central District. For sites under the “G/IC” zoning, BH restrictions would usually be specified in terms of number of storeys with reference to the designated use of the sites. Since 2010, BH restrictions had been imposed on a number of OZPs. Notwithstanding the above, since 2012, the Government’s priority was to provide land for housing development in order to meet the pressing housing needs of the community. In this regard, there was no timetable at the moment to impose BH restrictions on the Central District OZP.

74. As Members had no further question to raise, the Chairperson said that the hearing procedure for the application had been completed. The Board would further deliberate on the application in the absence of the applicant. The Chairperson thanked the government representatives and the applicant’s representatives for attending the meeting, and they left the meeting at this point.

[The meeting was adjourned for a 5 minutes break.]

Deliberation Session

75. The Chairperson invited Mr Raymond K.W. Lee, Director of Planning, to brief Members on the procedures to follow if the application was approved or rejected, and the implications on the on-going projects/proposals, notably HKSKH’s redevelopment proposal.

76. Mr Raymond K.W. Lee, Director of Planning, advised the meeting the following points :

- (a) there was no review mechanism for s.12A applications, and the Board's decision was final;
- (b) the Board could accept the applicant's proposed amendment(s) in full, in part or amend them as the Board considered appropriate, or reject the application;
- (c) if the Board agreed that zoning amendment(s) was required, PlanD would incorporate the amendment(s) to the OZP for the Board's consideration before gazetting;
- (d) since the Central District OZP was an approved plan, CE-in-C's agreement to refer the OZP back to the Board for amendment was required;
- (e) if the proposed amendment(s) to the OZP were agreed by the Board, the OZP would be published for public inspection for a period of two months, and submitted to the CE-in-C for approval within nine months after expiry of the publication period and upon completion of the representation hearing procedures; and
- (f) until the publication of the zoning amendment(s), the zoning in force would remain as "G/IC".

77. The Chairperson supplemented that since the "G/IC" zoning would remain in force before any OZP amendment, HKSKH could theoretically push forward its redevelopment proposal immediately without the Board's scrutiny. Nevertheless, the proposal was still subject to lease modification application.

Development Control for Heritage Conservation

78. Some Members enquired whether the applicant's heritage conservation concerns could be sufficiently addressed through the existing mechanism in heritage conservation administered by CHO/AMO/AAB. The Chairperson pointed out that heritage conservation proposals were subject to the Government's heritage conservation policy. Mr Raymond K.W. Lee, Director of Planning, supplemented that as pointed out by C for H, the

existing heritage conservation mechanism would ensure that any new development/redevelopment in the vicinity of graded historic buildings would have due regard to the setting. In the present case, the ambience of the HKSKH Compound, would be taken into consideration though it was not possible to forbid development outside the Compound, say along Glenealy.

79. While some Members noted that duplication of controls was not uncommon in Hong Kong's development control system, the existing mechanism through CHO, AMO and AAB was considered adequate in heritage conservation and the Board's scrutiny or interference on the heritage conservation aspect might not be necessary. In particular, for those declared monuments and graded historic buildings under the Government's ownership, it was unreasonable to assume that the Government would not or was not capable of preserving the ambience around those historic properties under its control. Members noted that the applicant's major concern was on HKSKH's redevelopment proposal.

80. Some Members pointed out that there was a multitude of development controls in Hong Kong, and there should be a reasonable trust on the administrative mechanism by the concerned departments to scrutinize the redevelopment proposal. A Member supplemented that there were also development control under the lease and the Buildings Ordinance, and established procedures and standards in vetting HKSKH's technical assessments. This Member opined that there should be respect for the existing administrative mechanism, including CE-in-C's consideration of HKSKH's lease modification application.

81. As a piece of background information, Ms Karen P.Y. Chan, Director of Lands supplemented that lease modification, notably for those sale sites, did not usually require CE-in-C's approval. The Chairperson remarked that as the HKSKH Compound site was directly granted to HKSKH at concessionary premium by private treaty grant (PTG), CE-in-C's approval of lease modification was required.

82. Some Members noted that the applicant's proposal to restrict the BH of any new development, or addition, alteration, and/or modification to or redevelopment of an existing building to the height of the existing building was extremely harsh on the landowner, HKSKH. The proposed amendments to the OZP would effectively mean that the Board

would take up CHO's heritage conservation duties for the Site or supervise CHO's work. There was a need for clear division of responsibilities from the governance point of view.

83. A Member considered the proposed "OU" annotated "Heritage Precinct" zoning not justified in planning terms given that there were only three declared monuments within the Site, the design and architecture of other buildings within the Site were too diverse, and the graded historic buildings were scattered throughout the huge site. Members generally agreed that the existing "G/IC" zoning was appropriate in reflecting the existing and planned uses of the Site.

The Board's Role in, and Development Control for, Heritage Conservation

84. A Member pointed out that had the s.12A application not been submitted, the Board would not have known about HKSKH's preservation-cum-development proposal. While he opined that the Board should be given an opportunity to comment on HKSKH's preservation-cum-development proposal from the urban design point of view, he wondered whether there was any alternative other than approving the rezoning application.

85. Another Member considered that the Board had previously looked into other heritage conservation proposals, e.g. the *Dragon Kiln* case in Tuen Mun. A Member suggested that PlanD should collaborate with AMO/AAB and provide planning input on HKSKH's preservation-cum-development proposal rather than for the Board to intervene in heritage conservation matters.

Private Property Rights

86. A Member considered that NGOs should generally enjoy a lesser claim of private property rights than a bona fide private landowner. Another Member shared similar views. The Chairperson clarified that private property rights was only one of the considerations for zoning amendments and the Board had been planning for various public uses on private land as appropriate. The rationale and planning consideration behind such zoning amendments would be given due weight.

87. Citing the Tai Long Sai Wan incident as an example, a Member considered it reasonable for the Board to act quickly in response to the public's aspirations. While agreeing with the applicant's point that heritage conservation should also consider the ambience around historic buildings, another Member considered it unreasonable to prohibit or restrict development at the HKSKH Compound purely for the sake of preserving the historic buildings therein. Preservation of privately owned historic buildings without regard to private property rights was not in line with the existing heritage conservation policy. A Member pointed out that the s.12A application was an infringement of HKSKH's private property rights, and this was a point raised in the Hysan case. It was not the Board's primary function to protect historic buildings.

Public Consultation

88. A Member shared the applicant's views that the statutory public consultation process under the planning application system was better than the administrative consultation process. Another Member cautioned that while the administrative consultation process was not as transparent as that under the planning application system, it might not be a valid reason for intervention by the Board.

89. Some Members remarked that HKSKH was a reputable and reasonably trust worthy religious organization which had a track record of providing non-profit-making services to its religious followers and the community. A Member suggested that if HKSKH were an irresponsible organization, it would have demolished all the graded historic buildings on-site already.

90. A Member suggested that CHO should convey the message to HKSKH and perhaps CE-in-C that the views of the applicant should be considered in finalizing the proposed hospital scheme in the HKSKH Compound site.

Need for Private Hospital

91. A Member remarked that while non-profit making private hospitals would not necessarily offer services at low prices, there was a need for more private medical services. Another Member advised that the profits accrued from many private hospital developments

were used to subsidize the parent NGO's community services. However, noting that there was surplus in the provision of hospital beds on Hong Kong Island, this Member considered that hospital development should be located where it was needed most, say, in Tuen Mun.

92. The Chairperson reminded that the subject site was zoned "G/IC" and 'Hospital' was permitted under the OZP. Members might wish focus consideration on whether the proposed scale of redevelopment and its compatibility with the surrounding historic buildings should warrant the Board's scrutiny.

Urban Design

93. A Member advised that there were two schools of thought regarding heritage conservation, namely 'blending of historic buildings and new buildings' versus 'pure preservation'. Singapore and Northern European countries generally adopted the former approach. The Peninsula Hong Kong development was also a classic example of the former school of thought.

94. Some Members considered that HKSKH's proposed hospital building too massive and should be subject to scrutiny by the Board from the urban design perspective. Putting aside heritage conservation which would be subject to a separate vetting mechanism involving the AAB and AMO, the excessive BH of HKSKH's current proposal was of concern and the Board did have a role in ensuring good urban design, particularly given the ambience of the Government Hill and the Bishop Hill. The proposed 25-storey building was not harmonious with the surrounding areas. A BH or GFA restriction might be required for preserving the Bishop Hill site, though not as stringent as the applicant's proposal in the subject application.

95. Members generally considered that the applicant had not provided sufficient justifications/basis or any data/technical assessment for imposing the proposed BH restriction on the Site. In the absence of a study/review, the Board could not impose an arbitrary BH restriction on the Bishop Hill site. Some Members supported rejecting the subject application, while suggesting that the Board might need to review the BH of the whole area.

96. Mr Raymond K.W. Lee, Director of Planning, pointed out that a comprehensive review would need to be carried out before any specific proposal on BH restrictions could be formulated on the OZP, which would take time. Since 2010, BH restrictions had been imposed on a number of OZPs. However, the Government's current priority was to undertake landuse review for increasing land supply for housing development to meet the pressing needs of the community.

97. A Member pointed out that urban design was the major planning concern and had no overlapping with AMO/AAB's heritage conservation ambit. Noting that HKSKH's preservation-cum-development proposal was the only one to be pursued in the foreseeable future for the Government Hill and Bishop Hill area, it was reasonable for the Board to provide the necessary planning input which was apparently lacking in considering HKSKH's redevelopment proposal, and it might not necessarily be a stipulation of BH restriction. The view was generally supported by other Members.

98. The Chairperson summed up the deliberation :

- (a) while the Site covered a wider area, Members considered that HKSKH's redevelopment proposal for Bishop Hill would be the major concern and it was not necessary to impose control on Government Hill and the remaining part of the Site which was under government ownership. Members generally did not agree with the applicant's proposed drastic approach to heritage conservation involving privately owned properties which would not be in line with the Government's conservation policy; and
- (b) while not agreeing to the s.12A application, Members were generally concerned about the urban design aspect of HKSKH's redevelopment proposal, and some form of planning control was considered necessary.

99. Mr Raymond K.W. Lee, Director of Planning, pointed out that to address Members' concern on the compatibility of the HKSKH's preservation-cum-development proposal with the surrounding development in terms of urban design, the OZP could be amended to require planning permission for new development/redevelopment within the Compound so as to put HKSKH's proposed redevelopment plan under the Board's scrutiny.

100. In response to a Member's queries on the procedures, Mr Raymond K.W. Lee, Director of Planning, said that PlanD would propose the aforesaid amendment to the OZP for the Board's consideration in accordance with the established procedures. If agreed, the draft Central District OZP would be gazetted for a period of two months for public inspection.

101. After deliberation, the Board decided not to agree to the application and the reasons were as follows :

- “(a) the existing “G/IC” zoning was appropriate to reflect the existing and planned uses of the application site;
- (b) there is insufficient justification/basis for the proposed building height restrictions; and
- (c) the rezoning will lead to unnecessary delays in the carrying out of necessary maintenance and repair works to existing historic buildings, and will not be conducive to the preservation-cum-development of privately-owned historic buildings under the Government's heritage conservation policy.”

[Dr C.H. Hau, Mr Franklin Yu, Mr L.T. Kwok, Mr Daniel K.S. Lau and Professor Jonathan W.C. Wong left the meeting during the deliberation session.]

102. The Board also decided to request PlanD to consider suitable amendment to the OZP to ensure that the urban design aspect of any redevelopment proposal on Bishop Hill would be subject to the scrutiny of the Board. The proposed amendment to the OZP would be submitted to the Board for consideration prior to gazetting for public inspection in accordance with the provisions of the Ordinance.

Procedural Matters

Agenda Item 7

Any Other Business

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

103. There being no other business, the meeting was closed at 16:10 p.m.