

**Minutes of 892<sup>nd</sup> Meeting of the  
Town Planning Board held on 17.8.2007**

**Present**

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

Chairman

Dr. Peter K.K. Wong

Vice-Chairman

Dr. Greg C.Y. Wong

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Dr. Lily Chiang

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Professor Paul K.S. Lam

Dr. James C.W. Lau

Mr. K.Y. Leung

Principal Assistant Secretary (Transport)  
Transport and Housing Bureau  
Ms. Ava Chiu

Deputy Director of Environmental Protection  
Dr. Michael Chiu

Assistant Director (Environmental Assessment)  
Environmental Protection Department  
Mr. Elvis Au

Director of Lands  
Miss Annie Tam

Director of Planning  
Mrs. Ava S.Y. Ng

Assistant Director(2), Home Affairs Department  
Ms. Margaret Hsia

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

Secretary

**Absent with Apologies**

Mr. Michael K.C. Lai

Ms. Carmen K.M. Chan

Professor Nora F.Y. Tam

Mr. David W.M. Chan

Professor David Dudgeon

Professor Peter R. Hills

Professor N.K. Leung

Mr. Alfred Donald Yap

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Ms. Starry W.K. Lee

**In Attendance**

Assistant Director of Planning/Board

Mr. S. Lau

Chief Town Planner/Town Planning Board

Ms. Brenda K.Y. Au (a.m.)

Mr. C.T. Ling (p.m.)

Senior Town Planner/Town Planning Board

Miss Winnie B.Y. Lau (a.m.)

Ms. Teresa L.Y. Chu (p.m.)

**Agenda Item 1**

[Open Meeting]

**Confirmation of Minutes of the 891<sup>st</sup> Meeting held on 3.8.2007**

[The meeting was conducted in Cantonese.]

1. The minutes of the 891<sup>st</sup> meeting held on 3.8.2007 was confirmed without amendments.

**Agenda Item 2**

[Open Meeting]

**Matters Arising**

**Judicial Review of Board's Decision with respect to  
the Draft Tsuen Wan Outline Zoning Plan No. S/TW/20**

[The meeting was conducted in Cantonese.]

2. A copy of the above Judgment of the Court of Appeal (CA) was sent to Members on 16.8.2007. The Secretary reported that the judicial review (JR) was related to an objection of the United Grand Limited (the Applicant) against the Board's decision of not upholding its objection to the draft Tsuen Wan Outline Zoning Plan (OZP) No. S/TW/20 gazetted under s.7 of the Town Planning Ordinance (TPO) on 17.9.2004. The objection was against the rezoning of the Applicant's lots from "Residential (Group B)" to partly "Residential (Group C)" and partly "Green Belt" ("GB"). On 22.4.2005, the Applicant filed an application for leave for JR of the Board's decision of not upholding its objection. The JR was mainly on three major grounds, namely legitimate expectation, procedural unfairness and Wednesbury unreasonableness. On 25.10.2006, the Court of First Instance (CFI) handed down the Judgment dismissing the JR application. On 21.11.2006, the Applicant filed to the CA a Notice of Appeal against the CFI's judgment.
3. The Secretary continued to say that the CA handed down the judgment on 7.8.2007, dismissing the appeal. The judges held that as a matter of planning judgment, the Board's reasons for refusing to propose amendments to the said OZP to meet the

Applicant's objection were unexceptionable and supported the re-zoning of the Objection Site to a plot ratio of 0.4 and site coverage of 20%. Prima facie, the Board's decision was rational for the following main reasons :

- (a) paragraph (2) of the Notes of the OZP showed that statutory plans constituted but one aspect of development control and that full compliance with all other aspects was necessary. Thus statutory plans interfaced or interacted with "other relevant legislation", e.g. the Buildings Ordinance, "conditions of grant", "any other Government requirements", and those constituting other levels or layers of development control. In processing the land exchange or lease modification applications, one of the Lands Department's considerations that might be taken into account would be "any development control" shown on a Layout Plan;
- (b) there was also the fact that statutory plans were subject to amendment. The Board had power to propose amendments to a draft OZP prior to its becoming an approved plan. So far as approved plans were concerned, the Chief Executive in Council (CE in C) might, inter alia, refer an approved plan to the Board for amendment as had occurred in the present case. As such, the argument that the statutory plans conferring "rights" could not be correct for it could constrain or fetter the exercise of the powers of amendment contained in the TPO;
- (c) the relevant inquiry was not whether the Layout Plan was obsolete or whether it had been "ignored" by the Board, but whether it conflicted with the statutory plans. The judges concurred that the Layout Plan and the statutory plans co-existed. The development of the Yau Kom Tau area reflected, in all material respects, the planning detail that appeared in the Layout Plan;
- (d) the judges held that the CFI's judgment was correct in making reference to standard provisions found in the Explanatory Statement accompanying statutory plans since the Explanatory Statement was a material document and could not be disregarded;

- (e) the Layout Plan dealt with approximately 3% of the area covered by the statutory plans. That it should “set out detailed development restrictions and layout for a local area” was hardly surprising. It was accepted that in general, a Layout Plan provided guidance and recommendations for government departments. The judges agreed that although a Layout Plan did not have statutory status and was not binding on the Board, it nevertheless constituted a relevant consideration that the Board might take into account when exercising its statutory functions; and
- (f) the Applicant had no right or entitlement under the statutory plans to develop with a plot ratio of 2.1 and had no right to a lease modification to build with a plot ratio of 2.1. Prior to entering into the agreement, at a meeting with the District Planning Officer for Tsuen Wan and West Kowloon, consultants representing the Applicant were made aware of the likely development restrictions given the designation of the site as R4 on the Layout Plan. In those circumstances, the legitimate expectation claimed by the Applicant could not be held.

4. The Secretary said that the CA also ordered that the costs of the JR application be borne by the Applicant.

**Agenda Item 3**

[Open Meeting (presentation and question session only)]

Draft Kai Tak Outline Zoning Plan No. S/K22/1

Consideration of Representation No. TPB/R/S/K22/1-1

(TPB Paper No. 7882)

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[The meeting was conducted in Cantonese.]

5. The Secretary reported that the following Members should declare interests in this item :

Mr. Felix W. Fong ) for being members of the Democratic Alliance  
Ms. Maggie M.K. Chan ) for the Betterment and Progress of Hong Kong  
Ms. Starry W.K. Lee ) (DAB) which submitted Representation No. 1

6. Members noted that Ms. Starry W.K. Lee and Mr. Felix W. Fong had tendered their apologies for not being able to attend the meeting. Ms. Maggie M.K. Chan left the meeting temporarily at this point.

7. The Chairman said that the draft Kai Tak Outline Zoning Plan (OZP) No. S/K22/1 was gazetted under section 5 of the Town Planning Ordinance (TPO) on 24.11.2006. In considering the representations and comments in respect of the plan on 4.5.2007, Members noted that there were some merits pertinent to the alternative conceptual layout for the Kai Tak City Centre (the City Centre) proposed in Representation No. 1 and agreed that the merits should be duly investigated in the on-going Kai Tak Development Engineering Study to fine-tune the zoning proposals for the City Centre. In collaboration with the representer, the Government had proposed some refinements to the City Centre layout for the consideration of the Board at this meeting.

8. The following representatives of the Government, the study consultants as well as the representer were invited to the meeting :

Mr. Kelvin K.W. Chan	District Planning Officer/Kowloon (DPO/K), Planning Department (PlanD)
Ms. Jessica H.F. Chu	Senior Town Planner/Kowloon (STP/K), PlanD
Mr. C.B. Mak	Chief Engineer/Kowloon, Civil Engineering Development Department (CEDD)
Mr. Eric Ma	Maunsell Consultants Asia Limited
Mr. Alan McDonald	Urbis Design Limited
Mr. Chan Kam Lam	)
Mr. Daniel T.Y. Hui	) Representatives of Representer No. 1
Mr. Philip Liao	)

[Mr. Daniel B.M. To arrived to join the meeting at this point.]

9. The Chairman extended a welcome and briefly explained the procedures of the hearing. He then invited Mr. Kelvin K.W. Chan to brief Members on the background and the proposed refinements to the City Centre layout.

10. With the aid of a Powerpoint presentation, Mr. Kelvin K.W. Chan made the following main points :

- (a) the purpose of the Paper was to present the proposed refinements to the City Centre layout, which were worked out in collaboration with Representer No. 1. The other matters pertinent to Representation No. 1 had already been dealt with at the Board's meeting on 4.5.2007; and

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

- (b) there were common goals to create a distinct and sustainable City Centre; to achieve a new focal point for this new development area/East Kwoloon; and to fine-tune the City Centre layout to highlight the following urban design concepts : introduction of water body, provision of more open vista, and strengthening the connection with the hinterland.

11. After briefing Members on the urban design concept in the current OZP as detailed in paragraphs 2.1 to 2.6 of the Paper, Mr. Kelvin K.W. Chan suggested and Members agreed to invite Mr. Chan Kam Lam to elaborate on their revised proposal. With the aid of a powerpoint presentation, Mr. Chan Kam Lam made the following main points :

- (a) in considering DAB's representation on 4.5.2007, the Board recognised the following merits in DAB's proposal and agreed to further investigate the following good ideas :

- more green space;
- continuous network of green decks and podium gardens;

- various Government, institution and community uses in a terracing built-form; and
  - integrating the old and new districts by landscaped elevated walkways;
- (b) the three main improvement principles in their original proposal, namely link to green spaces, link to community and link to Hong Kong, were retained;

[Professor Bernard V.W.F. Lim arrived to join the meeting at this point.]

- (c) the revised proposal embodied the following planning principles :
- to fully utilize the proposed landscaped elevated walkways;
  - to create a spacious civic node with open vista; and
  - to capitalize on the Station Square development;
- (d) the revised proposal contained the following key concepts :
- to connect the existing built-up areas with the new development areas by green fingers (i.e. landscaped corridors including landscaped elevated walkways with various retail, recreational, leisure and community uses) for better integration and interaction of the two;
  - to enhance the City Centre with water body, mainly through the conversion of the Kai Tak Nullah into a “river”;
  - to develop a civic node in a low-rise terracing built-form;
  - to integrate the civic node with the Station Square; and

- to site the principal commercial uses near the existing San Po Kong Business Area to trigger off the agglomerating effect;
- (e) the revised proposal would only necessitate minor changes to the OZP, including reduction of building heights and resiting of some commercial uses; and
- (f) the revised proposal would bring the following benefits :
  - the pedestrian walkway network linking up the new development area and the old districts (San Po Kong and Kowloon City) would be refined, thereby the City Centre and Kai Tak Station would be more accessible to the residents in the old districts;
  - the “Kai Tak River” would be developed as a new focal point for leisure activities in the urban areas;
  - developments with landscaped decks and green roofs and in terracing built-form on both sides of the “Kai Tak River” would be a showcase of environmentally friendly design; and
  - clusters of low-rise buildings with landscaped decks and green roofs would provide a more open vista to the old districts, improve air ventilation and preserve the view corridor to Lion Rock.

12. Mr. Kelvin K.W. Chan said that a revised urban design concept for Kai Tak City Centre had been prepared after discussion with the representer on their revised proposal. He went on to present the proposed revised urban design concept, as detailed in paragraphs 2.9 to 2.16 of the Paper, for the North Apron District Park, the riverside walk along the proposed “Kai Tak River”, the “Comprehensive Development Area” (“CDA”) sites, the continuous curvilinear landscaped elevated walkway connecting San Po Kong, Kai Tak and Kowloon City, the iconic twin-tower near Kai Tak Station, adjustment to the commercial and residential components in the “Other Specified Uses” annotated “Mixed Use (2)” site, and the western part of the City Centre where the road

network would be simplified. He further explained the corresponding changes to the domestic and non-domestic gross floor area (GFA) in the City Centre and the proposed amendments to the Kai Tak OZP as detailed in paragraphs 2.17 and 4 of the Paper respectively. He added that subject to the Board's agreement, the proposed amendments would be published for 3 weeks under section 6C(2) of the TPO for further representation.

13. Members had the following questions/comments :

- (a) the proposed revised City Centre layout was the product of the collective wisdom of the community, Government and political party. The collaboration and the extent of public engagement was unprecedented;
- (b) proposals such as the curvilinear landscaped elevated walkway and the "Kai Tak River" were innovative and appealing. The multi-functional footbridge, serving as circulation space, sitting-out areas, lookout point, etc., was a good design concept. The latter would help reduce air temperature and enliven the environment;
- (c) what was the timing for completing the investigation on water quality, and what would be the alternative proposal if the "river" concept was found infeasible;
- (d) the water quality of the nullah had already been improved recently and the odour had been reduced. However, if the environmental nuisances could not be eliminated completely, the nullah could be decked over and developed as open space for public enjoyment;
- (e) the Government should gradually upgrade the treatment of waste water;
- (f) it would be more desirable to extend the "Kai Tak River" to and beyond Prince Edward Road East;
- (g) introducing water body around Kai Tak Station would enhance the

environment;

- (h) how to maintain a suitable quantity of and an acceptable quality of water in the “Kai Tak River” at all times;
- (i) whether the curvilinear landscaped elevated walkway would be installed with automated walking system, and what would be the height and length of the footbridge;
- (j) how to connect Choi Hung with Kai Tak. Linkage between Kai Tak and the old districts such as Kowloon City and San Po Kong should be further enhanced by adding one or two more footbridges and at-grade connections;
- (k) how to take forward the proposal for green roofs and green decks;
- (l) the concrete roof of the footbridge was unsuitable for the planting of large trees, seasonal flowers were more appropriate; and
- (m) PlanD’s proposed development intensity for the “CDA(1)” site (a maximum non-domestic plot ratio of 9.5 and maximum building height of 40mPD for the western portion and 175mPD for the eastern portion) seemed not to be in line with the representer’s intention to create a spacious environment at the Station Square and around “Kai Tak River”. What was the representer’s view?

14. In response to Members’ questions, Mr. Kelvin K.W. Chan and Mr. C.B. Mak replied as follows :

- (a) the condition of Kai Tak Nullah had been improved generally as a result of concerned departments’ effort to tackle the expedient connections in the catchment area. CEDD would investigate the feasibility of turning the Kai Tak Nullah into a “river” under the on-going Kai Tak Development Engineering Study with due regard to the need of retaining the major function of the nullah for flood relief

and the objective of enhancing and beautifying the nullah;

- (b) if the “Kai Tak River” concept was found infeasible technically, alternative forms of water body could be investigated;
- (c) there was treated water draining from the Tolo Harbour to the Kai Tak Nullah throughout the year. Coupled with special engineering design to avoid the back wash effect, the water level of the “Kai Tak River” might be maintained;
- (d) the Kai Tak development was a designated project requiring an environmental impact assessment and approval under the Environmental Impact Assessment Ordinance. The water quality of the “Kai Tak River” would be assessed in that context;
- (e) the curvilinear landscaped elevated walkway would be of about 12m wide, and 18mPD high gradually dropping to 15mPD to take into account the existing highway structure in Prince Edward Road East. Appropriate pedestrian facilities for the curvilinear landscaped elevated walkway would be investigated in the detailed design stage;
- (f) enhancing the environment was one of the major objectives in planning the City Centre. Apart from the Landscape Plan attached to the Kai Tak OZP, proposals for green roof and landscaped deck were some of the landscaping proposals already highlighted in the Explanatory Statement of the OZP for further investigation in the implementation stage;
- (g) apart from the curvilinear landscaped elevated walkway, the OZP had incorporated proposal to connect San Po Kong with Kai Tak by an underground shopping street system leading from King Fuk Street to Kai Tak Station in addition to an existing pedestrian subway. For Choi Hung, two footbridges had been planned to connect locations on both sides of Rhythm Garden with Kai Tak. The detailed design of the said links was subject to further investigation. The Government

would also examine the connection between the tip of the Kai Tak runway and the Kwun Tong waterfront; and

- (h) detailed landscape proposals would be worked out on the basis of the Master Landscape Plan under the on-going Kai Tak Development Engineering Study.

15. Mr. Chan Kam Lam had the following responses :

- (a) although the Government's proposed development intensity for the "CDA(1)" site was not entirely in line with the representer's intention of achieving a spacious environment with stepped height profile outside Kai Tak Station, the merit and importance of creating a landmark at the "CDA(1)" site as proposed by the Government was recognized. Moreover, relocating the high-rise development elsewhere would likely be objected by others;
- (b) with the aid of a powerpoint slide, it was illustrated that the curvilinear footbridge could be designed as a multi-functional landscaped elevated walkway system, with retail/recreational/leisure/educational/community/cultural uses on the bridge deck level. It should be a weather-proof pedestrian passage with openings for natural sunlight penetration, noise screen to screen off noise from the vehicular layer below, and possibly solar panels to supply electricity for the kiosks on the bridge deck level; and
- (c) on the choice of vegetation on the roof of the curvilinear footbridge, bauhinia or other smaller trees could also be considered.

16. As Members had no further question to raise, the Chairman thanked the representatives of the representer, the Government and the study consultants for attending the meeting. They all left the meeting at this point.

Deliberation Session

17. After deliberation, the Board decided to propose amendments to the draft Kai Tak Outline Zoning Plan No. S/K22/1 to partially meet Representation No. 1 regarding the Kai Tak City Centre as shown at Enclosures 2 and 3 of the Paper for the zoning and Notes respectively and to propose revisions to the Explanatory Statement to the Plan as shown at Enclosure 4 of the Paper. The Board also agreed to publish the proposed amendments for 3 weeks under s.6C(2) of the Town Planning Ordinance for further representations.

**Agenda Item 4**

[Open Meeting]

Compliance with Approval Condition in relation to Provision of Fire Safety Measures for Commercial Uses in Industrial Premises

(TPB Paper No. 7883)

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[The meeting was conducted in Cantonese.]

[Ms. Maggie M.K. Chan returned and Mr. Leslie H.C. Chen arrived to join the meeting at this point.]

18. The following representatives of the Government were invited to the meeting :

Mr. C.T. Ling	Chief Town Planner/Town Planning Board, Planning Department (PlanD)
Mr. Ivan Chung	Senior Town Planner/Town Planning Board, PlanD
Mr. C.H. Yeung	Senior Divisional Officer (New Projects), Fire Services Department (FSD)
Mr. C.H. Foo	Senior Station Officer (New Projects), FSD
Mr. Simon Cheng	Senior Estate Surveyor/SD (Estate Management Section), Lands Department (LandsD)
Mr. H.Y. Hui	Senior Building Surveyor/Hong Kong West, Buildings Department (BD)

19. With the aid of a powerpoint presentation, Mr. C.T. Ling made the following main points :

### Background

- (a) to address the fire safety concerns of commercial uses on the ground floor of industrial buildings, the Board had adopted the following since January 2006 :
- as a general rule, the aggregate commercial floor areas on the ground floor of an industrial or industrial-office (I-O) building with and without sprinkler systems should not exceed 460m<sup>2</sup> and 230m<sup>2</sup> respectively. In all cases, separate means of escape (MoE) should be provided for the commercial portion; and
  - to impose a time-limited condition requiring the provision of fire safety measures before operation (in the case of a proposed use) or within 6 months from the date of approval (in the case of regularization of an existing use) in approving such applications. Permission would be revoked in case of non-compliance;

### Progress of compliance

- (b) the progress of compliance with such fire safety condition was summarized in paragraph 3.1 of the Paper;

### Current arrangement and problems relating to compliance

- (c) in general, the provision of fire safety measures covered three aspects, namely fire resisting construction (FRC) and MoE under the purview of the Building Authority and fire service installations and equipment (FSI) under the purview of FSD;
- (d) for cases requiring submission of General Building Plans (GBP), fire safety requirements were normally formulated by FSD based on the information on MoE and FRC provided in the GBP;
- (e) FSD had difficulties in formulating the FSI requirements where GBP submission was not required;

- (f) BD and FSD also required sufficient information on MoE and FRC to facilitate assessment of planning applications at an early stage;

Proposed improvement measures

- (g) to revise the existing Guidance Notes on section 16 application (Attachment I of the Paper) to set out the requirement for the submission of plans to show the location of the premises under application in the subject building and all means of exit, entry and internal passageways;
- (h) to promulgate a new Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises (Attachment II of the Paper) to advise the applicant :
- where GBP submission was required, to appoint an authorized person to make a GBP submission including information on all existing and proposed FSI, ventilation/air conditioning control systems, if any, MoE and FRC of the building, barrier free access, and removal of any unauthorized building works where applicable;
  - where GBP submission was not required, to submit to FSD via PlanD a layout plan to show the location of all existing and proposed FSI and ventilation/air conditioning control systems of the premises for FSD's endorsement;
  - to appoint a registered FSI contractor to carry out the work and submit the certificate(s) to FSD on completion; and
  - to facilitate subsequent processing of the application, BD would advise PlanD whether GBP submission was required if it had no in-principle objection to the planning application;

Commercial use on the basement floor of industrial buildings

- (i) it was also proposed to revise the Town Planning Board Guidelines No. 22C and 25C (Attachments IV and V of the Paper respectively) to explicitly set out that commercial uses on the basement floor(s) of industrial buildings would not be supported from fire safety point of view. The background to this revision was set out in paragraph 7.1 of the Paper; and
- (j) the Master Schedule of Notes and the Notes of relevant Outline Zoning Plans would be updated as appropriate to reflect the position mentioned in (i) when opportunities arose; and

Enforcement of time-limited condition relied on lease control

- (k) where temporary planning permission was granted, the District Lands Office (DLO) would specify in the temporary waiver the same time period for complying with the fire safety condition as imposed by the Board and would revoke the waiver in case the planning permission was revoked. For permanent planning approval, DLO would incorporate conditions for compliance with the Town Planning Ordinance and the fire safety requirements in the lease when processing lease modification.

20. In response to a Member's questions on whether consultation on the new/revised measures with stakeholders was necessary and on whether approval of GBP was required prior to submission of planning application, Mr. C.T. Ling made the following points :

- (a) consultation with stakeholders had not been carried out in formulating the draft revised/new Guidance Notes and revised Guidelines as this was mainly a procedural matter to set out more clearly the steps for complying with the fire safety condition and clarify the scope of applications for commercial uses in industrial buildings; and
- (b) an applicant would not be required to obtain approval of GBP prior to submitting a planning application. The applicant would only be

required to provide some extra information at the planning application stage to enable BD and FSD to make a more thorough assessment and hence offer more definitive comments. A sample plan (Plan 1) was included in the concerned Guidance Note to guide the applicant to provide the required information, such as MoE and alteration and addition works.

21. On the question of how the stakeholders including the professional institutes would have knowledge and good understanding of the new/revised Guidance Notes/Guidelines, the Secretary said that, in addition to the issue of press release and distributing the Guidance Notes/Guidelines to applicants, the relevant documents in both English and Chinese would be uploaded to the website of the Board, sent by e-mail automatically to those professional institutes/consultants/individuals who had already registered with the Board, and presented to the subcommittees of the Land and Building Advisory Committee.

22. Some Members enquired about the scope of exempted works under the Buildings Ordinance (BO), the interface of the proposed measures in the Paper with the proposed minor works control system under the BO and whether similar self-certification approach could be introduced to the mechanism for compliance with the fire safety condition. Mr. H.Y. Hui advised that what works could be exempted from submission of GBP were specified in the BO. The Chairman said that the legislative amendments for the minor works control system to be introduced to the Legislative Council would not affect the consideration of the current issue. He requested BD to follow up on the interface issue as appropriate.

23. Members asked whether commercial uses on basement floor(s) of a non-industrial building could be permitted, why a premises for commercial use with MoE leading directly to the street would make a significant difference in terms of the acceptability of the use from a fire safety point of view, and why bank use was not subject to the 460m<sup>2</sup>/230m<sup>2</sup> limits. On the first question, Mr. C.T. Ling said that the current exercise focused on commercial uses in industrial or I-O buildings. Mr. C.H. Yeung supplemented the following points :

- (a) commercial uses on basement floor(s) of a non-industrial building, such

as a commercial building, could be permitted from fire safety point of view;

- (b) commercial uses in an industrial or I-O building could only be tolerated on the ground floor as the basement floor(s) were more susceptible to fire risk and posed more serious hazards in case of fire. Bearing in mind that commercial uses would attract customers not familiar with the layout of the building and, it would be more difficult for them to find the MoE calmly and quickly; and
- (c) the 460m<sup>2</sup>/230m<sup>2</sup> limits did not apply to commercial uses ancillary to the industrial activities or for the purposes of supporting the workers in the industrial areas. These uses included bank, small electrical shop selling electrical accessories and local provisions store. This was intended to meet the practical needs of the workers and support the industries.

24. A Member said that although bank use was not subject to the 460m<sup>2</sup>/230m<sup>2</sup> limits, control over the fire safety aspect of bank use was exercised through the Fire Safety (Commercial Premises) Ordinance.

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

26. After deliberation, the Board noted the progress of approved cases on compliance with condition on provision of fire safety measures, and decided on the following :

- (a) endorsed the revisions to the Guidance Note for Section 16 Applications at Attachment I of the Paper and agreed to promulgate the revised Guidance Note to the public;
- (b) endorsed the new Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses

in Industrial Premises at Attachment II of the Paper and agreed to promulgate the Guidance Note to the public; and

- (c) endorsed the revisions to the Town Planning Board Guidelines No. 22C and 25C at Attachments IV and V of the Paper, agreed to promulgate the revised Guidelines to the public and updated the Master Schedule of Notes and the Notes of the relevant Outline Zoning Plans when opportunities arose.

[The meeting adjourned for a short break at 10:50 a.m. for 10 minutes.]

**Agenda Item 5**

[Open Meeting (presentation and question session only)]

Further Consideration of Review of Application No. A/NE-TKL/286

Proposed Temporary Concrete Batching Plant for a Period of 5 Years in “Open Storage” zone, Lot 167(Part) in DD 83 and Adjoining Government Land, Kwan Tei North, Fanling  
(TPB Paper No. 7886 and its Supplementary Paper)

[The hearing was conducted in Cantonese.]

27. The Chairman recapitulated briefly the background and the previous consideration of the case at the Board’s meeting on 20.7.2007.

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

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|--------------|---|
| Mr. W.K. Hui | District Planning Officer/Shan Tin, Tai Po and North (DPO/STN), Planning Department (PlanD)             |
| Mr. K.H. To  | Senior Environmental Protection Officer (Assessment & Noise), Environmental Protection Department (EPD) |
| Dr. S.T. Mak | Senior Environmental Protection Officer (Strategic Assessment), EPD                                     |
| Mr. K.K. So  | Senior Engineer/North, Transport Department (TD)  |

Ms. Theresa Yeung )  
Mr. Alvin Lee )  
Mr. John Lam ) Applicant's representatives  
Dr. H.F. Chan )  
Mr. K.M. Chin )

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

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

- (a) the applicant sought planning permission for development of a temporary concrete batching plant (CBT) for a period of 5 years in an area zoned "Open Storage" ("OS") on the Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP);
- (b) the Rural and New Town Planning Committee (RNTPC) rejected the application on 16.6.2006 for the reason that there was insufficient information in the submission to demonstrate that the use under application would not have adverse environmental impacts;
- (c) in considering the review application on 20.7.2007, the Board decided to defer a decision pending further advice from relevant Government departments to address the issues set out in paragraph 1.1 of the Paper;
- (d) departmental comments - the further responses from the EPD and TD were summarized in paragraphs 2.2 and 2.4 of the Paper respectively. In gist, EPD considered that the air quality impact assessment remained unsatisfactory and TD commented that the applicant had not fully addressed the traffic issues as the submission contained insufficient information on improvement to access and parking and loading/unloading spaces;

- (e) public views – as reflected in paragraph 2.3 the Paper, the District Officer/North advised that the villagers of Kwan Tei North maintained their strong objection to the application on the ground that the proposed use would worsen the environmental, noise and traffic conditions of the area;
- (f) PlanD's view – PlanD did not support the application for the reason that there was insufficient information in the submission to demonstrate that the use under application would not have adverse environmental and traffic impacts on the surrounding areas.

31. The Chairman drew the attention of Members to the Supplementary Paper issued the day before with respect of the applicant's additional submission on air quality impact assessment received on the same day, and EPD's supplementary comments tabled at the meeting. In response to the Chairman's question, Mr. K.H. To commented that the air quality impact assessment was incomplete because a number of sensitive receivers such as workshops in close proximity to the subject site were not considered and therefore the assessment had not demonstrated full compliance with the air quality objectives (AQO) at the affected air sensitive receivers.

32. The Chairman then invited the applicant's representatives to elaborate on the application. Ms. Theresa Yeung, Dr. H.F. Chan, Mr. K.M. Chin and Mr. John Lam made the following main points with the aid of a powerpoint presentation :

Air quality and environmental impacts

- (a) the proposed development would not cause any adverse air quality impact. The air quality impact assessment had been expanded to cover not only the domestic structures, but also the open storage, workshop and warehouse sites in the vicinity. After reducing the scale of and resiting the proposed CBP, the total suspended particulates (TSP) and the respirable suspended particulates (RSP) concentrations at the nearby air sensitive receivers would be well below the AQO;
- (b) since the proposed CBP would not operate throughout the whole year

but would only operate from 7a.m. to 7p.m. on Mondays to Saturdays, it was inappropriate to use the full year meteorological data (8760 hours) for the air quality impact assessment as commented by EPD. Moreover, due regard had already been given to the wind direction and wind speed in carrying out the assessment;

[Dr. Lily Chiang arrived to join the meeting at this point.]

- (c) the surveyed air quality data in relation to an existing CBP operation in Hong Kong with output larger than the proposed CBP demonstrated that the selected reference plant had no adverse air quality impact assessment. There were currently about 100 CBPs in operation in Hong Kong. All CBPs were subject to the stringent control under the Air Pollution Control (Specified Processes) Regulations and they complied with the AQO;
- (d) while some open storage uses under Column 1 of the “OS” zone (which were not subject to any planning control) would generate odour, noise, dust, safety risk and adverse visual impact, the fully enclosed CBP and the fully wetted concrete mix would not. The proposed CBP should be more desirable from environmental point of view;
- (e) the proposed CBP would require a Specified Process Licence under the Air Pollution Control Ordinance, thus subject to the strict licensing conditions to ensure no adverse air quality impact. In addition, high volume samplers would be placed on the site to monitor compliance with the AQO. As a further safeguard, the Board could impose conditions in approving the application;

Traffic impact and transport proposals

- (f) the Kwan Tei North Village had their own access. Most villagers gained access to the village from the bus stop at Sha Tau Kok Road via a 540m long footpath, instead of using the 740m long track passing by the application site;

- (g) there would be good vehicular access to the application site. The Government was currently improving and widening the track to a 7.3m- wide road which would be wide enough to accommodate two vehicles passing at the same time. The applicant would formalize the footpath along the road;
- (h) there would be 17 parking spaces for cement trucks and 4 loading/unloading bays on the site;
- (i) the proposed layout of the site would enable fire appliances to manoeuvre easily within the site;
- (j) the applicant was willing to comply with the traffic-related conditions upon the Board's approval as proposed in paragraphs 3.2(h) and (i) of the Paper;

#### Local objections

- (k) local objections had been largely cleared after the applicant employed more environmentally friendly design for the CBP and gave more explanations to the locals;
- (l) all the objectors were actually located outside the environmentally sensitive zone (i.e. more than 100m away) and using access separate from that of the CBP;
- (m) the applicant was willing to install a 24-hour hotline to facilitate the manager to collect local views on the operation of the CBP; and to hold regular meetings with the villagers with a view to monitoring the environmental and traffic conditions;
- (n) the applicant had further dialogue with some villagers in the last few days. They considered that a CBP would produce more economic benefits than open storage uses. They had no objection to the proposed CBP if it could meet all the relevant legislation and standards;

Suitable site for CBP

- (o) compared with the locations where existing CBPs were found intermixed with residential uses (such as in Tai Po and Aberdeen), the application site, in the midst of open storage and industrial uses and zoned “OS”, was more suitable for CBP use,
- (p) only 4 zonings would permit CBP use, i.e. the “Other Specified Uses” annotated “Aggregate/Cement Handling and Concrete Batching Area” zone covering the existing CBP near Wah Kwai Estate (under which no permission was required for CBP use), and the “Industrial” (“I”), “Industrial (Group D)” (“I(D)”) and “OS” zones (under which planning permission was required). The “OS” zone was more suitable for CBP use than the “I” and “I(D)” zones as fewer residents and workers were found in the “OS” zone. The implications of adverse impacts from CBP use, if any, would hence be smaller;
- (q) as concrete had to be delivered from the production plant to the construction sites within two hours, the proposed CBP was to meet the need of concrete for the construction industry in the vicinity; and

Temporary approval

- (r) only temporary permission of 5 years was sought. A fresh application with full justifications including demonstrating no adverse impacts would be required thereafter should the applicant wished to continue the operation of the CBP.

33. A Member commented that the major consideration was whether the traffic, environmental and local concerns had been fully addressed. In this regard, Mr. W.K. Hui replied that the District Officer/North had advised that the local villagers objected to the application mainly on environmental and traffic grounds. Mr. K.H. To had the following comments on the environmental aspect :

- (a) although CBP use was subject to control under the Specified Process Licence, the applicant’s present air quality impact assessment had not demonstrated that the air quality impact at all nearby sensitive receivers

would fully meet the AQO;

- (b) CBP was regarded as a dusty use in the Hong Kong Planning Standards and Guidelines (HKPSG), according to which explicitly set out that siting of dusty uses in main urban areas or near to residential developments should be avoided as far as possible. It was desirable to site temporary CBP either in new reclamation areas sufficiently far away from urban areas or in areas which were not yet fully developed. A buffer distance of at least 100m was required. The transportation routes to and from these uses should be designed, and necessary protective measures taken, to minimise dust nuisances. For the subject application, there was a number of sensitive receivers in close proximity to the subject site including a 2-storey dwelling located immediately adjacent to the entrance of the site and they would be subject to environmental impacts from the CBP;
- (c) the Air Pollution Control Ordinance concerned on-site nuisances, but could not control adverse off-site impacts. It was difficult for the Government to handle complaints about off-site nuisances; and
- (d) on the Chairman's question on the feasibility of fully enclosing the CBP, it would depend on the engineering design, construction and running cost of the CBP. Engineering solutions would be available.

34. Dr. S.T. Mak supplemented the following points on air quality impact assessment :

- (a) the applicant had used 72-hour hypothetical meteorological data assuming wind would continuously blow towards a sensitive receiver for only 1 hour in a day and averaged out the 24-hour data to derive the daily average impact in the assessment. This would underestimate the air quality impact of the proposed development since same wind direction might persist for several hours in a day;
- (b) the submitted air dispersion model files were incomplete for

verification since they only covered 10 discrete air sensitive receivers but not all the affected area;

- (c) on the Chairman's question on whether full year meteorological data was required given the applicant's advice on the operation hours of the CBP, it was considered that 12-hour data per day (i.e. 4380 hours) would be required if the CBP was only in operation for 12 hours per day; and
- (d) not all CBPs were located at least 100m away from residential developments.

35. Ms. Theresa Yeung said that different experts might hold different opinions on the appropriate methodology for an air quality impact assessment, and the disagreement could be resolved at a later stage as the applicant would have to obtain the Specified Process Licence and fulfil the relevant approval conditions to EPD's satisfaction before the CBP commenced operation. She added that the present "OS" site was chosen as it was mainly surrounded by open storage uses and far from residential developments.

36. Dr. H.F. Chan said that Chapter 9 of the HKPSG which classified CBP as a dusty use and set out the environmental guidelines and standards for CBP was formulated back in 1985. With technological improvements over the years and the current operations of CBPs taking place mainly under cover, all existing CBPs only generated little dust and met the conditions for obtaining a Specified Process Licence. Open storage uses which could be very dusty were, on the other hand, always permitted under Column 1 of the Notes for the "OS" zone.

37. Mr. K.K. So made the following comments on traffic aspects :

- (a) the construction of a new bridge of 7.3m wide by the Highways Department would address the public concerns regarding the capacity of the existing bridge and traffic congestion as detailed in paragraph 2.4 of the Paper; and

- (b) prior to this meeting, the applicant had not provided sufficient information on access improvement to address the local concern that the increased traffic would cause danger to the villagers as the existing track was substandard. The traffic improvement measures presented by the applicant at the meeting were acceptable in principle.

38. The Chairman and Members raised the following questions/comments :

Environmental impacts

- (a) whether the air quality impact assessment had covered the worst case scenario;
- (b) whether there was any settlement within 100m of the application site;
- (c) whether the domestic structure near the application site shown on Plan R-2 and within the “OS” zone was treated as a sensitive receiver that needed to be considered in the air quality impact assessment;
- (d) it would not be appropriate to assume that the applicant would not comply with the environmental standards in considering the application;
- (e) whether wind condition and wind speed remained a concern if the CBP was fully enclosed;
- (f) whether the environmental guidelines and standards pertinent to CBP laid down in Chapter 9 of the HKPSG remained valid in light of technological advancement over the years;
- (g) whether there could be any landscape or design measures to mitigate the visual impact of the proposed CBP;

Open storage v. CBP

- (h) whether open storage uses were always permitted in the “OS” zone and the Board would have little control over the possible impacts;

- (i) whether the application site within the “OS” zone was more suitable than other sites within the “I” and “I(D)” zones for CBP use, and whether open storage uses were environmentally less desirable than CBP use;

Traffic impacts

- (j) whether there would be about 280 vehicles leaving/entering the site per day given that there would be 24 vehicles per hour for the proposed 12-hour operation per day;
- (k) it was noted that the Treasure Truth Transpiring Temptum had objected to the application on the ground that the traffic induced by the heavy vehicles entering/leaving the site would pose hazards to the cyclists. In this connection, it was asked whether there were many villagers using bicycles;

Surrounding land uses and other CBP

- (l) whether the surrounding uses were as chaotic as shown in the applicant’s powerpoint presentation;
- (m) what was the scale and operation of the CBP in the On Lok Tsuen Industrial Estate;

Local support

- (n) whether the applicant had obtained written support from the village representatives other than the three villagers;

Duration of planning permission

- (o) what was the applicant’s justification for applying for a permission of 5 years which would be rather long;

Specified Process Licence

- (p) whether the vehicular traffic generated by a proposed use and its environmental impacts on the surrounding areas would be taken into

account in processing an application for a Specified Process Licence;  
and

- (q) whether there was any case that a Specified Process Licence for CBP use was not granted after obtaining planning permission.

39. In response to the above questions, Mr. W.K. Hui, Mr. K.H. To, and Dr. S.T. Mak made the following main points :

Environmental impacts

- (a) EPD had not yet received all the data and assumption used for the air quality impact assessment from the applicant to ascertain if the worst case scenario had been covered in the air quality impact assessment;
- (b) EPD's recent site inspection revealed that the two-storey dwelling located immediately adjacent to the entrance of the site was occupied. This should be taken into account in the air quality impact assessment;
- (c) the applicant had already assumed full enclosure of the CBP in undertaking the air quality impact assessment;
- (d) in general, more technical solutions to alleviate environmental impacts from CBP were available with technological improvement. Whether any technical solution was feasible had to be assessed on a case-by-case basis;

Open storage v. CBP

- (e) only those open storage uses not causing adverse environmental and traffic impacts were always permitted under Column 1 of the Notes for the "OS" zone, and they would still have to comply with other regulations and Government requirements;
- (f) the impacts from an open storage yard and a CBP would depend very much on the scale, type and nature of the operation, site location, wind direction, buffer distance, etc.. In the absence of the specific

operational and site characteristics, it would be difficult to compare the extent of the impacts of the two uses;

Traffic impacts

- (g) apart from walking, there were villagers relying on bicycles and cars as means of transportation;
- (h) according to the applicant's traffic impact assessment, the operation of the CBP would involve a total of 137 vehicles per day, including 16 cement delivery trucks, 120 aggregates delivery trucks and 1 admixture delivery truck;

CBP in the On Lok Tsuen Industrial Estate

- (i) the CBP in the On Lok Tsuen Industrial Estate was in Fanling, far away from the application site. Its scale was also not comparable to that under application;

Local support

- (j) the only one public comment supporting the application was from the villagers residing at No. 19, Kwan Tei North. They indicated that the applicant had agreed to assume the responsibility to improve the living condition of their present residence, including the replacement and thickening of the outer walls, sealing the windows and provision of air-conditioning. Moreover, they would go out to work during the operation hours of the CBP;

Specified Process Licence

- (k) there was no information at hand on whether there had been any CBP with planning permission obtained but not a Specified Process Licence; and
- (l) Specified Process Licence was granted under the Air Pollution Control Ordinance and hence only air quality impacts would be considered in processing an application for such licence. The applicant for a Specified Process Licence was required to submit an air pollution

control plan to demonstrate compliance with the AQO.

40. Ms. Theresa Yeung, Mr. John Lam and Mr. Alvin Lee had the following responses :

- (a) the occupants of the small domestic structure in front of the site supported the application as a fully enclosed CBP was more desirable than open storage uses;
- (b) it was confirmed that the written support for the application was from 3 individual villagers, but not any village representative;
- (c) residential use was in fact not permitted within the “OS” zone;
- (d) the proposed CBP, using the wetted production method and adopting dust reduction measures (e.g. cleaning the surface of silos and the tyres of trucks with water), would generate little dust;
- (e) landscape and/or design measures could be employed to minimize the visual impact of the CBP;
- (f) the majority of cyclists used the short footpath of 540m long to the further east of the site instead of the longer access passing by the site;
- (g) the pictures showing the unsightly open storage uses were taken last month near the application site. Plan R-2 of the Paper also revealed that the site was surrounded by various types of open storage uses; and
- (h) since about 2 years would be required to obtain the Specified Process Licence, Short Term Waiver, building plans approval and Occupation Permit, the applicant sought a planning permission of 5 years so as to allow the CBP to operate for about 3 years.

41. As the applicant’s representatives had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing

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

[Mr. Stanley Y.F. Wong left the meeting at this point.]

#### Deliberation Session

42. Dr. Michael Chiu advised that the major nuisances of CBPs tended to come from the frequent movements of heavy vehicles rather than the CBPs themselves, and not all the operations of CBPs could be undertaken in a fully enclosed environment. The frequent public complaints on the CBP in Ap Lei Chau illustrated that modern technology could not eliminate all the environmental nuisances. He further commented that the methodology adopted in the air quality impact assessment undertaken by the applicant was over-simplified. The sensitive receivers should include not only residents but also the workers in the area. Moreover, the Specified Process Licence could not control the number of vehicles and the number might increase substantially when the demand for concrete increased. Hence, the off-site environmental nuisances would increase.

43. Some Members sympathized with the application and had the following views :

- (a) there was a genuine need for the facility to support the construction industry;
- (b) the applicant had demonstrated effort to communicate directly with the villagers;
- (c) on the traffic concerns, TD no longer objected to the application after hearing the applicant's presentation on the proposed traffic improvement measures. Cyclists were more likely to use the shorter footpath rather than the longer access road passing by the site. The Board had little control over the vehicular traffic if the site was used for

open storage use, which was always permitted;

- (d) the applicant had undertaken to set up a 24-hour complaint/enquiry hotline, implement landscape and traffic improvement measures and fulfil the approval conditions;
- (e) the application site was in the “OS” zone, and the environmental impacts generated by the CBP might not be worse than those from open storage uses; and
- (f) the CBP use would still have to meet the requirements of other legislation and Government requirements after planning permission was secured.

[Mr. Tony C.N. Kan arrived to join the meeting at this point.]

44. Some other Members did not support the application and held the following views :

- (a) residents and workers were found in the vicinity of the site. The residents in the area already suffered from the nuisances caused by some open storage uses in the area;
- (b) there were grave concerns over the adverse environmental impacts (particularly dust and noise nuisances) caused by the very frequent movements of heavy trucks (about one trip in a few minutes on average) moving between Sha Tau Kok Road and the site;
- (c) the hazards posed to cyclists had not been satisfactorily addressed;
- (d) the air quality impact assessment was not acceptable to the EPD;
- (e) vehicular traffic could not be regulated through the Specified Process Licence and the amount of traffic would increase when the construction industry boomed;

- (f) it was more effective to avoid or reduce adverse environmental impacts at the planning stage by siting polluting uses away from sensitive receivers as far as possible;
- (g) if the Board had reservation on the applicant's submission that the proposed CBP would not induce unacceptable environmental impacts, it would be inappropriate for the Board to approve the application and leave the matters to another authority (i.e. the EPD) to deal with the impacts at a later stage;
- (h) the latest view from the District Officer/North was that there were still local objections; and
- (i) the application site was not the only location available for the CBP use.

45. In response to a Members' comment on the uses marked with "Λ" on Plan R-2, the Secretary clarified that those uses might not necessarily be unauthorized developments as open storage uses not inducing adverse environmental and traffic impacts (excluding CBP, container vehicle park, container storage yard, vehicle stripping/breaking yard, etc.) and warehouses (excluding dangerous goods godown) were always permitted in the "OS" zone. She also reminded Members that, according to previous legal advice, it was not appropriate to give regard to the added control under other legislation/authorities in the Board's consideration of a case as the Board's functions and duties under the Town Planning Ordinance were independent of those of other authorities. The crux of the subject case was whether the Board was satisfied with the applicant's submission that the proposed CBP would not cause any adverse impacts.

46. Having regard to Members' views, the Chairman summed up that while the application had the sympathy of some Members, majority of the Members still had grave concerns over the adverse environmental impacts from the operation of the CBP on the nearby sensitive receivers. In the light of EPD's advice and the strong local objections conveyed by District Officer/North, the Board should adopt a prudent approach in deciding on the application.

47. After further deliberation, the Board decided to reject the application on review and the reason was that there was insufficient information in the submission to demonstrate that the use under application would not have adverse environmental impacts on the surrounding areas.

[Mr. Daniel B.M. To, Mr. Walter K.L. Chan, Professor Paul K.S. Lam and Ms. Maggie M.K. Chan left the meeting at this point. Dr. Peter K.K. Wong, Mr. Edmund K.H. Leung, Professor Bernard V.W.F. Lim and Mr. Raymond Y.M. Chan left the meeting temporarily at this point.]

### **Agenda Item 6**

[Open Meeting (presentation and question session only)]

Review of Application No. A/NE-KLH/349

Proposed Eight Houses (New Territories Exempted Houses) (NTEHs) in “Agriculture” zone, Lot 1891 and Extension in DD 7, Wai Tau Tsuen, Tai Po  
(TPB Paper No. 7887)

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[The hearing was conducted in Cantonese.]

48. Dr. James C.W. Lau declared an interest in this item as he had current business dealings with ATAL Engineering Ltd., one of the consultants of the applicant. Members noted that Dr. Lau had tendered apologies for not being able to attend the meeting.

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

Mr. W.K. Hui	District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), Planning Department (PlanD)
Mr. K.L. Wong	Senior Electrical & Mechanical Engineer/New Territories East, Water Supplies Department (WSD)
Mr. Kwong Wing Kie	Applicant’s representative

50. The Chairman extended a welcome and explained briefly the procedures of

the review hearing. The Chairman then invited Mr. W.K. Hui to brief Members on the background to the application.

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

- (a) the applicant sought planning permission for the development of 8 New Territories Exempted House (NTEH) on a site zoned "Agriculture" ("AGR") within the Water Gathering Ground (WGG);
- (b) the houses under application were not Small Houses for indigenous villagers;
- (c) the Rural and New Town Planning Committee (RNTPC) rejected the application on 17.8.2007 for the reasons set out in paragraph 1.2 of the Paper;
- (d) both WSD and the Environmental Protection Department raised concerns over the applicant's proposal to use a Sewage Treatment Plant (STP) to treat the waste water generated by the proposed development;

[Mr. Raymond Y.M. Chan returned to join the meeting at this point.]

- (e) other departmental comments – the Chief Town Planner/Urban Design and Landscape, PlanD did not support the application from the landscape point of view; and the Transport Department considered that the proposed development should be confined to the "Village Type Development" ("V") zone and approving the subject application would set an undesirable precedent resulting in cumulative adverse traffic impact;

[Professor Bernard V.W.F. Lim returned to join the meeting at this point.]

- (f) public views – the District Officer/Tai Po had relayed the strong local objection from the villagers of Wai Tau Tsuen on the ground of fung

shui; and

- (g) PlanD's view – PlanD did not support the application for the reasons that the proposed development was located within WGG but was unable to be connected to the existing and planned public sewers in the area; there was insufficient information to demonstrate that the proposed STP was technically feasible and the proposed development would not have adverse impacts on the water quality in the area and the existing large trees on the site; and approving the application would set an undesirable precedent resulting in cumulative adverse environmental, traffic and landscape impacts.

52. The Chairman then invited the applicant's representative to elaborate on the application. Mr. Kwong Wing Kie made the following main points :

- (a) in view of the fact that the application site was close to Lam Tsuen River and within the WGG, it was proposed to use the Membrane Bioreactor (MBR) technology to treat the waste water generated by the proposed development;
- (b) the lease for the subject site permitted the development of houses. As such, the applicant had written to the Drainage Services Department, requesting for the extension of the Government sewer system to cover the application site, not just the nearby Wai Tau Tsuen zoned "V";
- (c) 4 Government projects were using the MBR technology, which was a proven technology. ATAL Engineering Ltd., the applicant's consultant, was also the consultants for these projects;
- (d) the prison in Lo Wu under construction would also employ the MBR technology to treat the waste water generated by about 1,500 persons. The proposed development under application would only house about 40 persons;
- (e) the proposed STP would bring about improvement to the environment

by also serving the 3 existing buildings in the vicinity, i.e. King's Lodge. Currently, the waste water from King's Lodge was untreated;

- (f) ATAL Engineering Ltd. had confirmed that the proposed STP was technically feasible. The Board could approve the application with conditions, and the NTEHs under application still required approval from the District Lands Office. The applicant could build the STP prior to constructing the houses;
- (g) the applicant's survey revealed that the traffic noise at the site was generally low, in the region of 56dB(A) to 58dB(A);
- (h) the traffic flow during traffic peak hours would not be more than 132 vehicles per hour (two-way total flow). The 8 additional vehicles from the proposed development would not cause adverse traffic impact. It was also noted that the Government would further widen the Tolo Highway;
- (i) the existing King's Lodge would also have adversely affected the fung shui of Wai Tau Tsuen if the local villagers considered that the proposed development would impact on fung shui; and
- (j) discounting the 8 trees outside the site and the 2 dying trees, there were 34 trees on the site. These trees would be preserved as far as practicable and the fruit trees would be transplanted. The trees would at least be 1m away from the houses.

53. A Member asked whether Hong Kong was relying on the water from the WGG or Dongjiang. Mr. K.L. Wong responded that while about 70% to 80% of the water consumed in the territory was Dongjiang water, the Government was actively protecting and preserving the existing WGG as a source of water supply. Mr. Kwong Wing Kie said that he shared the Government's effort in protecting the WGGs, and the proposed use of the STP and MBR technology was in line with the Government's objective.

54. In response to the Chairman's question, Mr. K.L. Wong replied that the applicant had not demonstrated satisfactorily that the proposed development would not have adverse impact on the water quality of the WGG. The submission lacked sufficient information to ensure the proper maintenance and management of the proposed STP and had not covered whether the STP would be replaced after its life span came to an end, which might be in 10 years' time.

55. Mr. Kwong Wing Kie said that there were a few thousands similar installations in the world and the fifth Government project employing this installation was in the pipeline. He would like the WSD to specify the deficiencies in the currently proposed STP. In response, Mr. K.L. Wong said that the EPD had already provided detailed comments on the STP and had strong reservation on the proposal. It was unclear from the applicant's submissions whether the proposed STP could filter out bacteria.

56. Dr. Michael Chiu asked the applicant's representative whether he had knowledge that the areas within WGGs were subject to a much higher discharge standard than that for non-WGGs, and that the MBR technology could not treat nitrogen and phosphorous. Mr. Kwong Wing Kie replied in the affirmative and supplemented that, notwithstanding that the MBR technology could filter out materials up to 0.4 micrometre, ultra violet rays or chlorination would be used as a further safeguard.

57. Ms. Ava Chiu asked who would manage the STP after the houses were sold. Mr. Kwong Wing Kie replied that there was no intention to sell the houses and the STP would be managed by the applicant.

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

Deliberation Session

59. Dr. Michael Chiu advised Members that the site being within a WGG, the discharge standard was particularly high (near drinking water level), and the waste water should be subject to tertiary treatment. However, the applicant only proposed a secondary treatment method. Members agreed that the proposed development would cause adverse impact on the water quality within the WGGs.

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

- (a) the proposed development was located within the water gathering grounds (WGG) but was unable to be connected to the existing or planned public sewers in the area. There were reservation on technical and practicality aspects of the local application of the proposed communal sewage treatment plant as a permanent facility for treating the sewage generated from the proposed development in WGG to meet the required discharge standards. The proposed Deed of Mutual Covenant arrangement was also considered not a viable legal entity to ensure proper long term operation and maintenance of the sewage treatment plant nor did it guarantee continuous funding by the future house owners. There was insufficient information in the submission to demonstrate that the proposed development would not cause adverse impact on the water quality in the area;
- (b) the approval of the application would set an undesirable precedent for similar applications in the future, resulting in substantial cumulative environmental and traffic impacts; and
- (c) there was insufficient information in the submission to demonstrate that the proposed development would not cause adverse impact on the existing large trees. The approval of the application might set an undesirable precedent, leading to gradual destruction of the remaining woodland in the vicinity which was an important landscape resource to

the area.

61. The meeting adjourned for lunch at 1:30 p.m..

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

63. The following Members were present in the afternoon session:

Mr. Raymond Young

Dr. Peter K.K. Wong

Dr. Greg C.Y. Wong

Mr. Nelson W.Y. Chan

Dr. Lily Chiang

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor Bernard Vincent W.F. Lim

Dr. C.N. Ng

Ms. Sylvia S.F. Yau

Mr. Raymond Y.M. Chan

Dr. James C.W. Lau

Mr. K.Y. Leung

Ms. Margaret Hsia

Mr. Elvis Au

Miss Annie Tam

Mrs. Ava Ng

[Dr. James C.W. Lau, Ms. Margaret Hsia and Mr. Elvis Au arrived to join the meeting at this point.]

### **Agenda Item 7**

(Open Meeting)

Review of Application No. A/H3/376

Proposed Hotel in “Residential (Group A)” zone, 110, 112 and 114 Second Street, Sai Ying Pun

<u>(TPB</u>	<u>Paper</u>	<u>No.</u>	<u>7885)</u>
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[The hearing was conducted in Cantonese]

Presentation and Question Session

64. Ms. Christine Tse, District Planning Officer/Hong Kong (DPO/HK) and Ms. Lily Yam, Senior Town Planner/HK (STP/HK) of Planning Department (PlanD) and the following applicant's representatives were invited to the meeting at this point:

Mr. C.K. Chan                    )  
Miss Florence Ma                ) Applicant's Representatives  
Miss Jacqueline Cheuk         )  
Mr. Clement Cheng             )

[Mr. Tony C.N. Kan arrived to join the meeting at this point.]

65. The Chairman extended a welcome and explained briefly the procedures of the review hearing. The Chairman then invited Ms. Christine Tse to brief Members on the background to the application. With the aid of some plans, Ms. Tse did so as detailed in the Paper and made the following main points:

- (a) the reasons of the Metro Planning Committee (MPC) to reject the proposed application for a hotel on a site zoned "Residential (Group A)" ("R(A)") on 11.5.2007;
- (b) the applicant had not submitted any written representation in support of the review application;
- (c) departmental comments – Commissioner for Tourism generally supported the provision of new hotels to cater for growth in visitors while opportunities for different classes of hotel developments in Sai Ying Pun could be further explored, subject to feasibility and compatibility in environmental and technical aspects. District Lands Officer/Hong Kong West & South, Lands Department advised that the application site was under unrestricted lease but lease modification was required for hotel development which was not permissible under the offensive trade clause. Lease modification for such purpose had been received and was being

processed. Assistant Commissioner for Transport/Urban, Transport Department (TD) had no in-principle objection on the provision of one loading/ unloading bay to be shared by coaches and goods vehicles. However, Commissioner of Police (C of P) raised concern on inadequate parking provision which would likely cause road obstruction due to queuing of coaches thus aggravating the already congested road networks in the surroundings and adequate loading/unloading facilities should be provided within the site to minimize traffic impact. Chief Engineer/ Hong Kong & Islands, Drainage Services Department advised that as the drainage and sewerage issues were unresolved, the applicant was required to submit a sewerage impact assessment and implement improvement measures to his satisfaction. Director of Environmental Protection had no objection;

- (d) 1 public comment was received during public inspection period from a member of the Eastern District Council (EDC) with no objection if the traffic impact was acceptable. 9 objections were received from tenants/ residents and district councilors during the s16 stage on grounds set out in paragraph 9.3 of Annex A of the TPB Paper No. 7885, including social and financial impact on existing tenants/residents affected, suitability of the site, basis for more hotels in the area, environmental impacts and traffic congestion, possible wall effect and poor ventilation, lack of open space for the hotel. District Officer (Central & Western) expressed reservation as the site was located in an area with narrow roads and steep gradient, the hotel might adversely affect traffic condition in the area while the construction work might bring environmental problems to the surroundings; and
- (e) PlanD's view – not supporting the application as the proposed development was not in line with the planning intention of the “R(A)” zone and there was no strong justification for a departure. The proposed 32-storey hotel with a plot ratio of 15, located in a predominantly residential neighbourhood with 6-storey buildings and limited ground floor commercial activities, was considered excessive and not compatible

with the character of the area. The approval would set an undesirable precedent for similar hotel developments within the same residential neighbourhood with cumulative effect adversely affecting the general amenity in the area

[Mr. Greg C.Y. Wong and Dr. Lily Chiang arrived to join the meeting at this point.]

66. The Chairman then invited the applicant's representatives to elaborate on the application. Mr. C.K. Chan tabled some information for Members' reference. With the aid of powerpoint presentation, Mr. Chan made the following main points:

Planning Context and Lease Restriction

- (a) areas to the north of Queen's Road West were primarily zoned "Commercial/Residential" ("C/R") while areas along the south were mainly zoned "R(A)". "Hotel" use was a Column 2 use in the "R(A)" zone. While the application site was under unrestricted lease except for the standard non-offensive trade clause, lease modification application for waiver of such clause had been applied for;

Existing and Future Conditions

- (b) despite the presence of 3 existing 6-storey vacant tenement blocks with G/F commercial use at and adjoining site, the proposal should be considered in the light of future planning context rather than the existing circumstances. With rapid changes in the area due to planned development, including a number of URA projects nearby and planned Sai Ying Pun MTR station within walking distance, the application site was ready for redevelopment ;

Hotel Facilities and Target Customers

- (c) the hotel, although small in scale with only 49 hotel rooms, had incorporated loading/unloading bay, parking space and a range of supporting facilities;
- (d) the proposal was intended to target Mainland visitors of the Individual Visit

Scheme (IVS) who favoured affordable accommodation in convenient locations, as well as tourists with interests in cultural/heritage visits, medium-stay visitors for academic purposes and family-based tourists;

Justifications for the Proposal

- (e) given the high occupancy hotel rates especially the 3-star hotels, there was strong demand for budget hotels in accessible and urban fringe locations;
- (f) the subject site was in close proximity to a range of tourist attractions, including historical and heritage features in the Central and Western districts;
- (g) the location was particularly suited for hotels targeting at Mainland visitors who preferred to be in close contact with relatives/acquaintances in residential areas as well as the academics/students with ties to the university close by. Attractiveness of the location would be further enhanced by the accessibility to MTR station;
- (h) low tariff hotels were only appropriate in non-core areas such as the subject site but not financially viable in more expensive “C/R” or “C” zones;
- (i) incompatibility would not be an issue as there were already substantial commercial facilities, including hotels, in the residential neighbourhood. There would be increasing redevelopment for commercial uses in the area, including active cases amounting to a GFA of 28,000m<sup>2</sup> and other ongoing potential acquisition activities;
- (j) the application site was small and the design was in harmony with the adjoining residential buildings on future redevelopment, hence would not create a wall effect;
- (k) existing hotels in mixed residential areas had proved to be popular to tourists, including the 3 nearby hotels, i.e. Novotel Century Harbour along

Queen's Road West, Ramanda Hotel along Des Voeux Road West and Island Pacific Hotel along Connaught Road West;

- (l) as there were previous approvals for hotel use in the "R(A)" zone, the subject case would unlikely set an undesirable precedent;
- (m) while there was no departmental objection except for PlanD, the application was also supported by the Central and Western District Council and Hong Kong Tourism Board; and
- (n) with the market trend for increasing visitors under the IVS, more proactive measures should be adopted to provide a broader choice of affordable hotels to meet the foreseeable demand, and the subject application was particularly suitable given its locational attributes.

67. Members sought clarification from the applicant's representatives on the following:

- (a) any measures to resolve the transport issues raised by C of P; and
- (b) the photos in the presentation seemed to suggest that the existing 6-storey adjoining buildings would also be redeveloped to commercial uses with the same building height as the proposed hotel. What could be the visual relationship of the proposed hotel with its adjoining buildings be if the latter was to be redeveloped to "R(A)" residential development with lower plot ratio. The rationale for assuming redevelopment of adjoining building to commercial uses with similar height and intensity would need to be further elaborated.

68. Mr. C.K. Chan replied as follows:

- (a) the traffic impact assessment (TIA) was acceptable to TD. C of P's comment on obstruction due to queuing onto the street was only a

cautionary concern. As the proposed hotel was small in scale with only 49 rooms and the trip generation of the hotel would be different from that for residential development, the traffic impact would be minimal; and

- (b) the plot ratio for residential development within the “R(A)” zone would be about 9 whereas that of the proposed hotel would be 15. Even with different plot ratios, the building height of the adjoining buildings would unlikely to be significantly different from the proposed hotel. As the built-form of individual building would be subject to detailed design, a lower plot ratio might not necessarily imply a lower building height. The design of the proposed hotel would be considered at a later stage.

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

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

#### Deliberation Session

70. The Chairman noted that the residential neighbourhood was currently low-rise in nature and the proposed hotel would be developed to a plot ratio of 15 which was much higher than what was allowed for residential building within the “R(A)” zone.

71. Members generally considered that the proposed site was not totally unsuitable for hotel development but was concerned about the excessive development intensity of the proposed hotel. Their views were summarized as follows:

- (a) given the popularity of small hotels in European cities due to their unique locations amidst residential areas and a sense of local flavour, it might not

be totally inappropriate to have such hotels in the established residential urban neighbourhood in Hong Kong;

- (b) low-tariff hotels at fringe areas of the city would provide a greater choice to attract Mainland visitors and budget travellers;
- (c) the departmental concern on traffic impact was genuine as the surrounding roads, although 2-lane in configuration, were both narrow and on steep slopes;
- (d) the crux of the issue was very much the excessive development intensity, at a plot ratio of 15, as compared with the lower plot ratio allowed for residential development under the “R(A)” zone as well as the incompatible built-form of a 32-storey pencil block in contrast with the local character, particularly the adjoining 6-storey tenement buildings;
- (e) the purpose of allowing a plot ratio of 15 with building concession and back-of-house facilities was to enable development of large-scale high-end hotels. It might not be appropriate to allow for such development intensity and concession to small local hotels which were intended to be in keeping with the general character of their residential counterparts;
- (f) out of the 32 floors, hotel rooms were provided only from 8/F to 30/F. The other floors were for back-of-house and ancillary facilities which to a certain extent contribute to the bulk of the development;
- (g) opportunity should be taken to improve the landscaping and visual attributes of the subject proposal to upgrade the amenity of the residential neighbourhood rather than developing a tower block not in harmony with the surroundings; and
- (h) it was noted that most of the hotels in the vicinity quoted by the applicant’s representative were either fronting the main road and not within the “R(A)”



[The hearing was conducted in English.]

74. Mr. Louis Kau, Senior Town Planner/Tsuen Wan and West Kowloon of the Planning Department (PlanD) and the following applicant and her representative were invited to the meeting at this point:

Ms. Siliphet-Chan Vilaphon Mou	Applicant
Mr. Samuel Chan Keung	Applicant's Representative

75. The Chairman extended a welcome and explained briefly the procedures of the review hearing. The Chairman then invited Mr. Louis Kau to brief Members on the background to the application. With the aid of some plans, Mr. Kau did so as detailed in the Paper and made the following main points:

- (a) the reasons of the Metro Planning Committee (MPC) to reject the proposed application for permission to operate a tutorial school on the 3/F of a 14-storey composition commercial/office/residential building at 148 Prince Edward Road West on a site zoned "Residential (Group A)" ("R(A)") on 11.5.2007;
- (b) the justifications put forth by the applicant in support of the review application was set out in paragraph 3 of the Paper;
- (c) departmental comments – Secretary of Education (S for E) had no objection from school registration point of view. Director of Fire Services indicated no in-principle objection subject to provision of fire services installations and detailed safety requirements at the building plan stage;
- (d) 1 public comment was received from a member of Yau Tsim Mong District Council during public inspection period who agreed to the tutorial use; and
- (e) PlanD's view – not supporting the application as the proposed use was

considered incompatible with the approved domestic uses on 2/F to 12/F in the Occupation Permit. The building was equipped with a lift and a staircase, with no separate access from the domestic portion. As there was only one set of staircase to serve both the tutorial school and the domestic uses, its operation might create nuisance to the residents of the building. Although most of the current uses above the lowest three floors were non-domestic in nature, they had not obtained planning permission. There was no previous approval for non-domestic uses at the same premises.

[Dr. Lily Chiang left the meeting temporarily and Mr. Edmund K.H. Leung returned to join the meeting at this point.]

76. The Chairman then invited the applicant to elaborate on the application. Ms. Siliphet-Chan Vilaphon Mou tabled a letter from a real estate consultant for Members' reference. She made the following main points:

- (a) she had made her best endeavour to accommodate the requirements of various Government departments. There was no departmental objection while PlanD's concern was only on possible nuisance to residents in the building;
- (b) according to the letter from a real estate consultant tabled for Members' reference, there was no unit for residential uses within the building and the landlord did not intend to use any unit of the building for residential purposes currently and in the foreseeable future;
- (c) each application should be considered on a case by case basis; and
- (d) she had made substantial investment in the subject operation and wished to get the return back.

[Dr. Lily Chiang returned to join the meeting at this point.]

77. Members sought clarification from Mr. Louis Kau on the following:

- (a) whether there were examples of approving tutorial schools in residential neighbourhood;
- (b) there were other non-domestic uses without planning permission in the same building; and
- (c) whether there was any residential unit in the same building.

78. Mr. Louis Kau replied with the following main points:

- (a) there was no previous approval at the same building and he was not aware of approval for tutorial school in the domestic portion of composite buildings without separate access in this area. Similar approvals for school use in areas covered by the same OZP were either in commercial/office buildings or in the non-domestic portion of the building with separate access;
- (b) some of the non-domestic uses in the same building might be subject to different requirements under individual licensing authorities which were outside the ambit of statutory planning; and
- (c) as revealed from his site visit on 15.8.2007, the 11<sup>th</sup> and 12<sup>th</sup> floor were still for residential use, but it was not possible to gain access to each unit to verify the actual current usage. However, it should be stressed that since 2/F to 12/F of the building was approved for residential uses under the Occupation Permit issued by the Building Department, residential use was always allowed although the units might not be currently occupied by the approved use.

79. The Secretary supplemented that there were precedents of planning approvals for tutorial schools in the residential neighbourhood, but they were located in buildings with

separate access and subject to no local objections. In this context, the subject application did not warrant the same consideration.

80. Ms. Siliphet-Chan Vilaphon Mou explained that the tabled letter indicated that there was no unit for residential uses in the building and the landlord had no intention to use any unit of the building for residential purposes currently and in the foreseeable future. She understood that the owner staying overseas had recently passed away and his successors had initiated actions to convert the whole building to non-domestic uses.

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

#### Deliberation Session

82. The Chairman noted the concern on safety of students due to lack of dedicated access to the tutorial school and the requirement for planning permission for other non-domestic uses within the same building.

83. Mrs. Ava Ng explained that there were different technical and licensing requirements governing non-domestic uses in residential buildings. Whilst some departments, as licensing authorities, did require the applicant to obtain planning permission, others did not.

84. Members expressed the following views:

- (a) planning permission might not be required for tutorial schools with fewer students and of a special nature. However, as planning permission was specifically required by Secretary for Education for tutorial schools, the application should be considered on planning grounds with reference to the

technical acceptability;

- (b) it was inappropriate not to follow the Board's established practice in respect of the requirements for separate access;
- (c) the consultant's letter could not be regarded as a justification for the subject case. It was inappropriate to take the 'intention' of the landlord as a relevant planning consideration and there was no guarantee that the upper floors could be allowed by relevant authorities to change to non-domestic purposes, which was not in line with the approved building plan; and
- (d) as a general issue, licensing authorities should provide clear advice at an early stage to potential operators on the need for planning permission, should such application be required under the OZP. There should be better departmental co-ordination on the application and licensing procedures.

85. Mrs. Ava Ng remarked that non-domestic uses in residential units in existence before the publication of the first statutory plan or a change of zoning on the relevant OZP could be tolerated as existing uses. The Secretary supplemented that regulations under different licences would vary to suit the operational requirements for that specific purpose. Some might require a simple registration or fulfilment of some non-planning related criteria. This would render it difficult to stipulate planning permission as a general prerequisite for all licences. Mrs. Ava Ng supplemented that PlanD was mindful of this point and had recently reached consensus with some licensing authorities, one being the then Secretary for Education and Manpower who had promulgated the practice of advising potential operators of tutorial schools to obtain prior planning permission.

[Ms. Margaret Hsia left the meeting temporarily at this point.]

86. In response to Miss Annie Tam's suggestion to reply to the issues contained in the letter of the consultant tabled by the applicant, the Secretary explained that since the consultant was not the applicant nor the authorized agent, a separate reply would be issued

requesting him to relay the Board's views to the landlord for reference.

87. The Chairman noted that as planning permission was required by Secretary for Education, the subject application should be considered in the light of the planning intention of the "R(A)" zone and the relevant planning considerations, including the provision of separate access from the domestic portion of the building. The presence of other non-domestic uses in the same building might be due to different reasons that would need to be resolved separately. Members agreed that there was no strong justification to support this case.

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

- (a) the tutorial school was incompatible with the approved domestic uses within the subject building; and
- (b) approval of the review application would set an undesirable precedent for other similar applications which would lead to intrusion of commercial uses into the domestic portion of commercial/residential buildings in "Residential (Group A)" zone.

[Dr. Lily Chiang left the meeting at this point.]

### **Agenda Item 9**

(Open Meeting)

Review of Application No. A/YL-PH/538

Temporary Open Storage of Private Cars for Re-export for a Period of 3 Years in "Village Type Development" zone, Lots 95(Part), 96A, 96B(Part), 96RP(Part), 97A, 97B, 97RP, 98A, 98B, 98C, 98D and 98RP in DD 111 and Adjoining Government Land, Shui Kan Shek, Fan Kam Road, Pat Heung, Yuen Long

(TPB Paper No. 7888)

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[The hearing was conducted in Cantonese.]

89. Mr. Wilson So, District Planning Officer/Tuen Mun and Yuen Long of the Planning Department (PlanD) and the following applicant and her representatives were invited to the meeting at this point:

Ms. Chow Pik-chun	Applicant
Mr. Yau Chin-kwok	) Applicant's Representatives
Mr. Jimmy Yuen	)

[Ms. Margaret Hsia returned to join the meeting at this point.]

90. The Chairman extended a welcome and explained briefly the procedures of the review hearing. The Chairman then invited Mr. Wilson So to brief Members on the background to the application. With the aid of some plans, Mr. So did so as detailed in the Paper and made the following main points:

- (a) the reasons of the Rural and New Town Planning Committee (RNTPC) to reject the proposed applicant for permission for temporary open storage of private cars for re-export for a period of 3 years on a site zoned "Village Type Development" ("V") on 13.4.2007;
- (b) the justifications put forth by the applicant in support of the review application were set out in paragraph 3 of the Paper;
- (c) departmental comments – Director of Environmental Protection (DEP) did not support the case due to presence of sensitive uses located immediately to the north-east, east and south-east of the site where environmental nuisance was expected. Two recent environmental complaints on air and waste pollution received during January to April 2007. Chief Engineer/Mainland North, Drainage Services Department advised that given the lack of information to demonstrate the drainage impacts, drainage

proposal should be submitted in support of the application;

- (d) no public comment was received during public inspection period. 1 local objection from a Tso Tong of Shui Kan Shek village was received at the s.16 stage on grounds of environmental pollution to the surrounding areas;
- (e) PlanD's view – not supporting the application as the proposal was not in line with the planning intention of the “V” zone which was primarily intended for Small Houses by indigenous villagers. Despite the exclusion of 15m<sup>2</sup> of Government land (0.7% of site area) and shortening of duration from 3 years to 12 months, there was no change in planning circumstances and no strong justifications for a departure from the planning intention. The application site was within Category 4 areas of the TPB Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-13D) where such application would normally be rejected except under exceptional circumstances. All the 4 previous applications were rejected, the latest one being in end 2006, and the site was a subject of previous prosecution. There was no information to demonstrate why a suitable site could not be identified in the nearby “Open Storage” (“OS”) zone to the west across Fan Kam Road designated for such purpose.

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

91. The Chairman then invited the applicant and her representatives to elaborate on the application. With the aid of some site photos, Mr. Jimmy Yuen made the following main points:

- (a) as they would need time to identify alternative site, a shorter approval period of 12 months was sought to allow time for relocation;
- (b) regarding DEP's concern on air and waste pollution, the applicant had made arrangements with a recycling contractor for waste collection;

- (c) given the environmental improvement measures proposed, the Tso Tong of Shui Kan Shek village had not lodged objection during the s17 stage; and
- (d) the applicant undertook to implement all the approval conditions as set out in paragraph 6.4 of the Paper upon approval.

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

92. Ms. Chow Pik-chun, the applicant, supplemented with the following main points:

- (a) there were very few local residents in the vicinity and the environmental impact would be insignificant;
- (b) she had maintained communication with the Tso Tong representatives with a view to resolving their concerns; and
- (c) the restriction on night time operation after 7p.m. was acceptable as their work would finish at 6p.m.

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

94. The Chairman noted that the applicant had not provided submission to address the departmental concerns and demonstrated the technical acceptability of the subject application. Members agreed that there was no justification to deviate from the Committee's decision.

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

- (a) the development was not in line with the planning intention of the “V” zone on the OZP, 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. No strong justification had been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the development did not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ in that there was no previous approval on the site, the applied use was not compatible with the adjoining area which was generally rural in character with both active/fallow agricultural land and village settlements, there were local objection and adverse comments received from relevant Government departments, and there were no exceptional circumstances to merit approval;
- (c) there was no information in the submission to demonstrate that the development would not have adverse environmental and drainage impacts on the surrounding areas; and
- (d) approval of the application would set an undesirable precedent for other similar uses to proliferate into the area. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

**Agenda Item 10**

(Open Meeting)

Draft Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan No. S/SK-TMT/3  
Information Note and Hearing Arrangement for Consideration of Representations  
(TPB Paper No. 7889)

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[The hearing was conducted in Cantonese.]

96. The Secretary to brief Members on the paper that the draft Tai Mong Tsai and Tsam Chuk Wan OZP No. S/SK-TMT/3 was exhibited on 4.5.2007 for public inspection under s.5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period which ended on 4.7.2007, a total of 12 representations were received. On 13.7.2007, the 12 representations were published for 3 weeks for public comments. At the end of the publication period on 3.8.2007, no comment was received.

97. As there were only 12 representations in the form of standard letters, which were all in support of the amendment, i.e. rezoning of the subject site from “Green Belt” (“GB”) to “Government, Institution or Community (1)” (“G/IC(1)”) to facilitate reprovisioning of a drug rehabilitation centre for youth gospel treatment and rehabilitation training, it was considered more efficient for the Board to hear the representations collectively without resorting to the appointment of a RHC. Members agreed that the hearing could be accommodated in the Board’s regular meeting and a separate hearing session would not be necessary. Consideration of the representations by the Board under section 6B was scheduled for 21.9.2007.

### **Agenda Item 12**

(Open Meeting)

#### Any Other Business

[The hearing was conducted in Cantonese.]

99. There being no other business, the meeting was closed at 4.30p.m.