

**Minutes of 920<sup>th</sup> Meeting of the  
Town Planning Board held on 26.9.2008**

**Present**

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

Chairman

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Mr. Edmund K.H. Leung

Professor N.K. Leung

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Mr. Stanley Wong

Mr. Y.K. Cheng

Mr. Maurice W.M. Lee

Dr. Winnie S.M. Tang

Mr. K.Y. Leung

Mr. B.W. Chan

Ms. Maggie M.K. Chan

Ms. Anna S.K. Kwong

Mr Donald Yap

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

Deputy Director of Environmental Protection  
Dr. Michael Chiu

Director of Planning  
Mrs. Ava S.Y. Ng

Deputy Director of Planning/District (Acting)  
Mr. Anthony Kwan

Secretary

**Absent with Apologies**

Professor David Dudgeon

Ms Sylvia S.F. Yau

Mr Felix F. Fong

Professor Paul K.S. Lam

Dr. James C.W. Lau

Professor Edwin H.W. Chan

Mr. Tony C.N. Kan

Professor Bernard V.W.F. Lim

Dr. Ellen Y.Y. Lau

Ms. Starry Lee

Director of Lands  
Miss Annie Tam

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

**In Attendance**

Assistant Director of Planning/Board  
Mr. S. Lau

Chief Town Planner/Town Planning Board  
Mr. C.T. Ling (a.m.)  
Ms. Christine K.C. Tse (p.m.)

Senior Town Planner/Town Planning Board  
Ms. Maggie M.Y. Chin (a.m.)

Town Planner/Town Planning Board  
Mr Tony Wu (p.m.)

**Agenda Item 1**

[Open Meeting]

Confirmation of Minutes of the 919<sup>th</sup> Meeting held on 26.9.2008

[The meeting was conducted in Cantonese.]

1. The Chairman said that proposed amendments were received from the Department of Justice on paragraph 6(e) of the confidential minutes of the 919<sup>th</sup> meeting and a copy of the proposed amendments had been tabled for Members' consideration. As Members had no comments on the proposed amendments, the minutes of the 919<sup>th</sup> meeting held on 12.9.2008 were confirmed subject to the said amendments.

**Agenda Item 2**

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

2. The Chairman said that the Court of Final Appeal (CFA) had turned down the application for leave against the decision of the Court of Appeal in relation to a judicial review (JR) of the Board's decision with respect to the draft Quarry Bay Outline Zoning Plan (OZP) No. S/H21/18. He invited the Secretary to brief Members on the background of the case and the decision of the CFA.

(i) Judicial Review of the Board's Decision with respect to  
the Draft Quarry Bay OZP No. S/H21/18

3. The Secretary said that the appeal was lodged by Fine Tower Associates Limited (Fine Tower), the proponent of the proposed Old Hong Kong Scheme on the waterfront of Quarry Bay. In 2003, Fine Tower objected to the draft Quarry Bay OZP No. S/H21/18 for rezoning its two lots from "Industrial" and "Government, Institution or Community" ("G/IC") to "Other Specified Uses" ("OU") annotated "Cultural and/or

Commercial, Leisure and Tourism Related Uses(1)” with a building height restriction of 35mPD and “Open Space”. The objector proposed to relax the building height restriction from 35 to 85mPD. In 2004, the objector instituted a JR of the Board’s decision of not proposing any amendment to the OZP to meet the objection. The JR was mainly on the grounds of de facto expropriation of property; and the hearing of the objection was marred by procedural unfairness. The JR was successful because of infringement of procedural fairness and the matter was remitted to the Board for a re-hearing.

4. The Secretary continued to say that in February 2006, the Board re-heard the objection and maintained its previous decision of not upholding the objection. In May 2006, Fine Tower challenged the decision afresh by way of another JR mainly on the ground of de facto deprivation of property rights. The Court of First Instance in September 2006 dismissed the JR and Fine Tower subsequently lodged a civil appeal. The Court of Appeal heard the appeal on 10.7.2007 and handed down the judgment on 27.7.2007, unanimously dismissing the appeal on the ground that imposition of planning restrictions was not de facto deprivation of property rights ensured under Basic Law Article 105.

5. Fine Tower applied for leave to appeal to the CFA. The application was heard by the Court of Appeal and dismissed on 8.4.2008. The Applicant had made a further application to the CFA for leave to appeal. The CFA heard the application on 8.9.2008 and dismissed the application on the ground that the questions posed by Fine Tower did not involve great or general public importance.

(ii) Town Planning Appeal Decision Received

Town Planning Appeal No. 16 of 2005

Proposed Harbourside Tourism, Entertainment and Commercial Facilities and  
Minor Relaxation of Building Height Restrictions

in “Other Specified Uses (1)” and “Other Specified Uses (2)” annotated “Cultural and/or  
Commercial, Leisure and Tourism Related Uses” Hoi Yu Street, Quarry Bay

(Application No. A/H21/122)

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6. The Secretary reported that the appeal was also related to the proposed Old Hong Kong Scheme at Hoi Yu Street, Quarry Bay. The appeal was lodged by the Fine Tower (the Appellant) against the Board's decision on 20.5.2008 to reject its planning application for harbourside tourism, entertainment and commercial facilities at the waterfront. The appeal had been heard by the Town Planning Appeal Board (TPAB) and was dismissed on 8.9.2008 based mainly on the following considerations:

- (a) the scale and intensity of the proposed development had been considered by the Town Planning Board (the Board) to be excessive in view of the prominent waterfront location of the sites. The TPAB considered that this could be a reason for rejection;
- (b) the TPAB agreed with the decision of the Board that there had not been any innovative design employed to minimize the wall effect, this could be a reason for refusal of planning permission;
- (c) the Board doubted the implementability of the proposed development having regard to the uncertainty in the Appellant's acquisition of the high proportion of Government land involved. TPAB agreed that implementability was a factor to be considered; and
- (d) the Board considered that the submission had not demonstrated that the spacious environment was provided for the pedestrian. The TPAB, however, did not agree with this reason and considered that whether the environment was spacious was subjective, a matter of degree and the narrow shape of the appeal sites made it difficult to enlarge pedestrian walkways.

7. In conclusion, the TPAB considered that there were sufficient good reasons for the Board to refuse the planning permission.

[Dr. Winnie S.M. Tang, Mr. Leslie H.C. Chen, Ms. Maggie M.K. Chan arrive the meeting at

this point.]

**Agenda Item 3**

[Open Meeting ]

Report on the Consultation on the Review of the Town Planning Board Guidelines No. 13D for Application for Open Storage and Port Back-Up Uses under Section 16 of the Town Planning Ordinance

(TPB Paper No. 8185)

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[The meeting was conducted in Cantonese]

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

Mr. Wilson Y.L. So	District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), PlanD
Mr. W.K. Hui	District Planning Officer/Shatin, Tai Po and North District (DPO/STN), PlanD
Ms. S.H. Lam	Senior Town Planner/Tuen Mun and Yuen Long, (STP/TMYL), PlanD

9. The Chairman extended a welcome and invited the representatives of PlanD to brief Members on the Paper.

10. With the aid of a Powerpoint presentation, Ms S.H. Lam made the following main points as detailed in the Paper:

**Background**

(a) On 29.2.2008, the Board agreed that the reclassification proposals

and the proposed refinements to the Town Planning Board Guidelines 13D (the Guidelines) were suitable for consultation with the stakeholders; and

- (b) the 15 reclassification proposals (with 12 sites in North West New Territories and 3 sites in North East New Territories) had been put forth for public consultation.

#### Consultation

- (c) from March to July 2008, PlanD had consulted the local community, trade associations, concerned Green Groups, relevant District Councils and Rural Committees as well as Heung Yee Kuk, Planning Sub-committee of Land and Building Advisory Committee;
- (d) apart comments received from the consultation sessions, eight written submissions relating to site specific reclassification proposals were also received.

#### Major Views Received and PlanD's Responses

- (e) the major concerns expressed by relevant stakeholders and PlanD's responses were detailed in paragraphs 4.2 to 4.9;
- (f) the key views and responses were summarized as follows:
  - (i) there should be a long-term strategy for the provision of OS/PBU land close to the container port or near cross-border control points
    - according to the Hong Kong 2030 Study, there would be adequate supply of PBU land to meet the demand up to year 2030;
    - sufficient OS/PBU land would be provided in planning for

future container port and cross-boundary facilities; and

- a pragmatic approach had along been adopted by allowing temporary OS/PBU uses to meet fluctuating demand.
- (ii) there was not much increase in OS/PBU land upon review
- under the latest reclassification proposals, there would be about 36 ha increase in Category 1 areas;
- (iii) the local infrastructure for OS/PBU uses should be improved
- concerted effort had been and would be put on local infrastructure improvement;
- (iv) the approval period for the temporary OS/PBU uses should be extended to 5 or 10 years
- the maximum approval period for temporary uses within rural OZPs area had been extended from 12 months to 3 years since 1999. The 3-year approval was considered to be a better balance between control and flexibility;
- (v) the Town Planning and Development Committee of the Yuen Long District Council had passed a motion requesting for deletion of the control under the Guidelines
- the Guidelines enhanced the transparency of the planning system and provided guidance for the trade;
- (vi) there were concerns on the possible adverse traffic, drainage, environmental impacts and fire safety
- an action plan was being formulated on the provision of local infrastructure at appropriate areas;
- (vii) the development rights of some land in rural area would be frozen

and could not be used for OS/PBU uses

- the majority of land in the rural New Territories was demised for agricultural use. Since agricultural use was always permitted for most of the land zones on the rural statutory plans, landowners' right to use the land for such purpose had not been deprived of;

(viii) more land in San Tin should be allowed for OS/PBU uses due to the opening of Kong Sham Western Highway

- the opening of the Kong Sham Western Highway has provided the opportunity for deploying Ha Tusen as a logistics hub. About 35 ha of land in Ha Tsuen was rezoned to "OS";

#### Comments on Site-specific Proposals

- (g) Apart from the general comments on the Guidelines, comments on 5 site-specific reclassification proposals, namely, YL-LFS-4, YL-NSW-1, YL-KTN-2, YL-HT-5 and NE-TKL-1 were received. The comments and PlanD's responses were detailed in paragraphs 5.2 to 5.6;

#### Proposed Revision to the Guidelines

- (h) of the 15 reclassification put forth for public consultation, it was proposed that Site No. YL-LFS-4 be retained as Category 2 area and Site No. NE-TLK-1 be retained as Category 3 area. The remaining 13 reclassification proposals were proposed for incorporation into the revised Guidelines;
- (i) no major revision to the principles for classification and criteria for assessing applications except some refinements to the Guidelines.

### Discussion Session

11. During the discussion session, Members had the following questions/comments:

### General Issues

12. In response to a Member's enquiry on the take-up rate, Mr Wilson Y.L. So replied that although he did not have the actual figures in hand, most of the land under Categories 1 and 2 had been taken up for OS/PBU uses. For Category 3 land, the usage rate was relatively low. Such land mainly covered areas under "Agriculture", "Recreation" or "Residential (Group D)" zones where there was yet to be any firm development programme. Applications falling within Category 3 areas would normally not be favourably considered unless the applications were on sites with previous planning approvals. In processing the renewal of the planning permission in that area, PlanD would examine whether there were any changes to the planning circumstances and adverse environmental impacts, amongst others, on the surrounding areas. For Category 4, the usage was even lower as the land in Category 4 was generally a "no-go area" and even for sites with previous planning approval, the intention was to encourage the operator to relocate to other appropriate area. As the general principle had been duly taken into consideration by the Board in processing planning applications of such nature, the situation in Categories 3 and 4 areas had not worsened.

13. Another Member enquired about the impact of the planned Liangtang/Heung Yuen Wai Control Point that would have on Ta Kwu Ling area. Mr W.K. Hui informed Members that the strategic road link of the planned Liangtang/Heung Yuen Wai Control Point would not pass through Ta Kwu Ling area. From Liantang, the road access would pass through the existing frontier closed area and link up with Tolo Highway via sections of tunnel and viaduct. In fact, an integrated planning and engineering feasibility study for Ping Che was being undertaken by the Department and Civil Engineering and Development Department. The integrated study would review the land uses of the area.

14. Regarding the approval period for temporary OS/PBU uses, a Member agreed with PlanD's recommendation at para. 4.5(d) that a 3-year approval was appropriate. He further commented that the repeated renewals of the temporary uses had in effect allowed long-term occupation of such uses on the site. Similar concerns had been raised by the Green Groups. Moreover, the ease of renewal of temporary approvals had lowered the incentive of applicants to relocate their trade to other appropriate locations. He opined that the Board should take a more stringent approach in considering the renewal applications.

Site-specific proposals:

Site No. NE-TKL-1

15. Noting that there was not much greenery in the area, the Chairman asked whether AFCD had provided any detailed justification for its latest advice on the high agricultural rehabilitation potential of the site. A Member also asked whether AFCD had any policy on agricultural rehabilitation. Instead of adopting a piecemeal approach of preserving individual site on an isolated manner, the Member opined that AFCD should have an overall planning on agricultural rehabilitation, say designating larger area suitable for such purposes. Mr W.K. Hui stated that apart from farming, plant nursery and green houses were also considered as agricultural uses. According to his understanding, AFCD had taken into account a number of factors, such as road access, irrigation system, water source, local infrastructure, etc in assessing the potential of the site for agricultural rehabilitation. Whilst there was no information in hand on any large-scale rehabilitation programme, Mr Hui said that AFCD maintained the view of keeping arable agricultural land. They considered that agricultural activities in the area were still active and the potential for agricultural rehabilitation of the area was high. Another Member supplemented that by making reference to Plan Q of the Paper, some cultivated agricultural land and orchards were found to the west of the site. There was still active cultivation along two sides of Ng Tung River. The site was actually at the boundary of two uses, namely, OS uses to its south-east and agricultural uses to its west. After some discussion, the meeting agreed with PlanD's recommendation of retaining the site as Category 3.

YL-LFS-4

16. A Member raised concern about the interface problem of retaining the subject site under Category 2 and the way that the long-term planning intention of the site for “Residential (Group E)” (“R(E)”) development could be materialized. Mr. Wilson Y.L. So stated that the site covered an area of about 12 ha, most of which had already been used for industrial and OS/PBU uses for some years. The site was rezoned from “Comprehensive Development Area” to “R(E)” in 2000, with the planning intention to phase out industrial and OS/PBU uses through redevelopment to residential use. Planning permissions had been granted for restaurant use on a small part of the site. Although the applicant had submitted another planning application for residential use, he indicated that his intention was to develop a restaurant on the site. The approved scheme for the restaurant use, however, was not able to proceed due to lack of sewerage in the area (letter attached at Appendix IVg refer). According to the Drainage Services Department, the implementation of the sewerage network would only commence by 2009 the earliest. In view of the strong local objection and there was no immediate programme for residential development, PlanD proposed to revert the site to Category 2. Besides, action plan was being formulated by Government on the provision of local infrastructures at appropriate areas with a view to enhancing the usage of those properly planned sites. This would provide incentive for moving existing OS/PBU sites to such areas. PlanD would closely monitor the situation of the site and its classification would be reviewed should there be a change in circumstances. The Chairman remarked that the Guidelines would be reviewed regularly. Since promulgation in 1994, the Guidelines had been revised three times to meet the changing circumstances. PlanD would keep the situation under review. With the provision of infrastructure and more definite programme for residential development in the area, the site would be reclassified to a more appropriate category.

17. Members had no further question to raise. The meeting agreed to the revised Guidelines, in particular, the proposed retention of Site No. YL-LFS-4 as Category 2 area and Site No. NE-TKL-1 as Category 3 area and the set of revised Guidelines (to be renumbered as 13E) was suitable for promulgation. The Chairman thanked Mr. Wilson Y.L. So, Mr. W.K. Hui and Ms. S.H. Lam for attending the meeting. They all left the

meeting at this point.

**Agenda Item 4**

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations

in respect of the Draft The Peak Outline Zoning Plan No.S/H14/8

(TPB Paper No. 8186)

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[The meeting was conducted in Cantonese and English.]

18. The following Member had declared interests in this item :

Mr. Y.K. Cheng - Owning a property at Stubbs Road which was immediately opposite King Yin Lei

19. Members noted that Mr. Y.K. Cheng had not arrived to join the meeting

Presentation and Question Session

20. The Chairman said that Representers No. R1 to R5, R7 and C2 had either indicated not to attend the hearing or made no reply. As sufficient notice had been given to the representers and commenter, Members agreed to proceed with the hearing in the absence of the said representers and commenter.

21. The following representatives from the PlanD, the representer, commenter and their representatives were invited to the meeting at this point:

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

Ms. Donna Tam - Senior Town Planner/Hong Kong, PlanD

**R6**

Ms. Lai Wai Bing, Sylvia ) Representer

**C1**

Mr. Ian Brownlee ) Commenter's representatives

Mr. Christopher Foot )

Mr. Renbert Lai )

Mr. K.C. Lee )

22. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited Ms. Brenda Au to brief Members on the background to the representations. Members noted that a replacement page of Annex VI had been tabled at the meeting.

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

- (a) the background of the proposed amendments was set out in paragraph 1 of the Paper;
- (b) on 25.4.2008, the draft The Peak OZP No. S/H14/8, incorporating amendments to rezone (i) a site at the Peak School from "Open Space" to "Government, Institution or Community" ("G/IC") and designated as a non-building area (amendment item A); (ii) a site at Peak Road from "Commercial/Residential" ("C/R") to "Commercial (3)" (Amendment Item B); (iii) a site at Stubbs Road from "Residential (Group 1)" ("R(C)1") to "OU" annotated "Historical Building Preserved for Cultural, Community and Commercial Uses" (Amendment Item C1); and (iv) a site at Stubbs Road from "Green Belt" ("GB") to "R(C)1" (Amendment Item C2) was gazetted;
- (c) during the exhibition of the draft The Peak OZP No.S/H14/8, 7

representations and 2 comments were received;

- (d) representation R1 to R5:
- R1 to R3, submitted by three Central and Western District Council members Cheng Lai King, Yuen Bun Keung and Kam Nai Wai, were in support of all proposed amendment items; and
  - R4 and R5, submitted by Democratic Party and Yim Ka Wing, were in support of Amendment Items C1 and C2.
- (e) the main grounds of the representations were summarized in paragraphs 2.1.1 to 2.1.3 of the Paper and highlighted below:
- King Yin Lei was an important heritage building of Chinese architecture. It should be preserved and open to the public; and
  - King Yin Lei should be preserved for cultural and conservation activities to promote the community understanding and memory of the history of Hong Kong;
  - the former state of King Yin Lei should be restored as far as possible;
  - the height of the new residential development on the “R(C)” site should not exceed that of King Yin Lei;
  - the nearby buildings should be subject to height control so as not to affect the visual quality of King Yin Lei; and
  - a heritage preservation fund should be set up to monitor the heritage preservation works and promote heritage education.
- (f) Representation R6 and R7:

R6 and R7, submitted by Lai Wai Bing, Sylvia (Wan Chai South Area Committee member) and Incorporated Owners of Villa Monte Rosa opposing Amendment Item C2, objected to Amendment Item C2, i.e. rezone a site adjoining King Yin Lei from “GB” to “R(C)1”;

(g) The grounds of representation:

- new residential development at the site would generate traffic and overload the already very busy traffic in lower Stubbs Road to Queen’s Road East;
- view to the north of the site towards Victoria Harbour would be blocked; and adversely affected the natural ridgeline and scenery. The site was one of the remaining few spots along Stubbs Road allowing drop-off point to enjoy the harbour view; and
- green belt must be protected

(h) the proposals put forward by R6 and R7 were set out in paragraph 2.2 of the Paper and summarized as follows:

- the absolute main roof/upper roof level of the “R(C)1” site must be lower than the existing road level of Stubbs Road. Design, disposition and height (DDH) clause should be included to ensure the building design would blend in with the natural setting; and;
- thorough traffic study should be conducted;
- compensation/reinstatement of vegetation cover due to loss of green belt had to be addressed.

(i) Comments-

- C1, submitted by owner of King Yin Lei, supported R1 to R5, but against R6 and R7;

- C2, submitted by a Central and Western District Council member and related to R1, stating that she had no comment on the amendment items.
- (j) C1 opposed R6 and R7 on the following grounds:
- the proposed residential development on the man-made slope would have insignificant visual, traffic and landscape impacts;
  - the building would be only 3 storeys in height and mainly below the level of Stubbs Road;
  - no need for a traffic impact assessment as the level of development was the same as former restrictions on the King Yin Lei and 5 residential houses were unlikely to result in material traffic impact;
  - there would be landscaping along the roadside perimeter of the site. Compensatory planting would also be provided and the landscape provisions were more than compensate for the previous vegetation existing on the site.
- (k) PlanD's responses to grounds of representations and representers' proposals as detailed in paragraphs 4.4 to 4.5 of the Paper including:

*Supportive Representation (R1 to R5)*

- the support on the proposed amendments was noted;

*Adverse Representation (R6 and R7)*

Traffic Impact

- the level of development on the "R(C)" site was the same as that previously permitted for the King Yin Lei site. There was no increase in development intensity in the area;

- the additional vehicular trips would not make a significant traffic impact to the local roads since the proposed development would consist of five houses only. A traffic study was considered not necessary.

#### Landscape Impact

- the site was largely a man-made slope. The impact of the proposed residential development on existing natural vegetation would not be significant. Compensatory tree planting would be provided.

#### Visual Impact

- the development intensity (a maximum building height of 3 storeys including carports and a maximum plot ratio of 0.5) would unlikely have adverse visual impact;
- the levels of the section of Stubbs Road abutting the site was from about 156 mPD to 168 mPD, the houses in the future development might not be completely below the level of Stubbs Road due to the steep topography and other constraints of the sites;
- the land owner proposed a maximum building height of 170mPD at main roof;
- to reinforce the planning control on future development so as to better preserve the character of King Yin Lei and the general amenity of the area, PlanD had no objection to amend the Plan to partially meet R6 and R7 by rezoning the representation site from “R(C)1” to “R(C)5” with a maximum plot ratio of 0.5, and in addition to the 3-storey restriction, to impose a maximum

building restriction of 170mPD;

- propose to revise the Explanatory Statement to state that the residential development on the site should pay due regard to the level of Stubbs Road to maintain the open view along Stubbs Road as far as possible and to ensure that the amenity of the area would not be adversely affected;
- DDH clause was usually for incorporation in the land lease. Regarding detailed design and disposition matters, flexibility should be allowed in view of the constraints of the site.

24. The Chairman then invited the representer, commenter and their representatives to elaborate on their representation.

Representation No. R6 - Ms. Lai Wai Bing, Sylvia

25. Ms. Lai stated that she also represented R7, the Incorporated Owners of Villa Monte Rosa, at the representation hearing. In response to the Chairman's enquiry, Ms Lai said that she had not obtained written authorization from R7, Dr Lee Kin Hung, Chairman of the Incorporated Owners of Villa Monte Rosa, due to late agreement received from Dr. Lee. If required, she could, however, submit the authorization letter after the meeting. In the absence of such authorization, several Members raised concerns on the legality of such representation in the hearing proceeding. The Chairman shared the concerns and said that she could not speak on behalf of R7.

26. Ms Lai stated she supported to preserve King Yin Lei as a historical building for cultural, community and commercial uses. However, she had concerns on the building height control of the residential development at the adjoining site and made the following main points:

- a) apart from the need to preserve King Yin Lei, it was equally important to

preserve the harbour view from Stubbs Road which was a famous vantage point for tourists;

- b) the Board was misled by the land owner in respect of the building height issue. Although a building height of 170mPD was proposed by PlanD to address the issue on respecting Stubbs Road at level 156-168mPD, the 170mPD still allowed a net 14 m (about 3 storeys) to 2m high structure above existing Stubbs Road level;
- c) section drawing in Annex III-I of the Paper showed that House 4 was the best scenario with least protrusion above Stubbs Road level, it only occurred at the western end of the whole site. House 4 could be lowered towards House 5, levelling at 154.15 (main roof). The proposed floor heights of the houses were generous with 3.5m for upper floors as against the norm in the market at 3.3m;
- d) if a section was cut at House 1 (refer to the compensatory planting proposal drawing in same Annex), the roof level was at 161.668mPD compared with level of Stubbs Road at about 158mPD. That provided a 3.668m high structure and would block all the open view from Stubbs Road;
- e) the proposals in Annex III-I of the Paper were not binding and if the Board allowed a straight line height limit of 170mPD, the developer could produce houses, through submission later on, up to 170mPD, resulting in structures with net height from 14m to 2 m above Stubbs Road;
- f) PlanD should amend the maximum building height limit as “no building structure should be higher than the mPD level of adjoining/directly abutting Stubbs Road at that point”;
- g) PlanD should limit the boundary wall/fencing to a maximum height of

1.1m above ground.

Commenter No. 1 – Ice Wisdom Limited, Owner of King Yin Lei

27. Mr Ian Brownlee informed members that Mr Renbert Lai, Mr K.C. Lee and Mr Christopher Foot, the architect, engineer and landscape architect of the project who had also attended the meeting were prepared to answer Members' questions. He, then, made the following key points:

- a) the proposed amendments gazetted by the Board and the proposed 170mPD maximum building height limit were supported;
- b) development on site was significantly constrained by the steep topography, a drainage reserve passing through the site, the need to locate the road access, the need to minimize site formation and cutting of slope to provide two platforms for the residential development;
- c) due to the site constraints, in particular the location of the road access and the need to meet the EVA requirements, it would be very difficult to keep the building structures completely below the Stubbs Road level. The lower building (i.e. House 1) would protrude the Stubbs Road by about 5 to 8m;
- d) the concerns on the visual impact was noted and effort had been made in designing the layout in order to reduce the amount of protrusion above Stubbs Road;
- e) with spaces between buildings, there would be scope to provide open view from Stubbs Road;
- f) landscaping and planting along the roadside as indicated on the compensatory planting proposal would help to hide the development. The request of limiting the height of the boundary wall/fencing to 1.1m

might be a way of screening the development from protruding the Stubbs Road, but also maintaining an opportunity for an open view;

- g) no comments on PlanD's proposed amendments to the Notes and the 170mPD was a reasonable height limit;
- h) the last two lines of Para. 7.3.3 of the replacement page tabled at the meeting, i.e. ".....to maintain the open view along Stubbs Road as far as possible and to ensure that the amenity of the area would not be adversely affected" were considered subjective and should be deleted. It was not possible to completely retain an open view, in particularly from the lower part of Stubbs Road and there would be tree planting along the lot boundary. Keeping the principle of "pay regard to the Stubbs Road" in Para. 7.3.3 should be sufficient;
- i) for Members' information, a DDH clause was included in the proposed lease of the new site;
- j) for Members' information, restoration works of King Yin Lei was in progress. Renovation and restoration works undertaken by the owner was part of the proposal and under the supervision of the AMO.

28. By referring to the proposed amendments of Para. 7.3.3., a Member was of the view that except for the highest building which would be at about 170mD, the height of other four houses would be lowered and corresponded with the gently sloping Stubbs Road which would retain the open view along Stubbs Road as far as possible and to ensure that the amenity of the area would not be adversely affected.

29. DPO/HK agreed with the observation and supplemented that apart from the current approach to specify the overall height limit of 170mPD, consideration had also been given to stipulating the maximum height in mPD on different parts of the site. That approach, however, was considered inappropriate in view of the small size of the site and other site constraints, lest it would affect design flexibility. Whilst the roof-top

of the highest building on the site would be about 170mPD, the heights of other houses should by and large follow the level of Stubbs Road which was sloping downwards towards King Yin Lei. The second part of para. 7.3.3, i.e. “to maintain the open view along Stubbs Road as far as possible and to ensure the amenity of the area would not be adversely affected” was to explain what was meant by “due regard to the level of Stubbs Road”. Due to the site constraints, it was not feasible to have all the residential blocks below or at the levels of Stubbs Road.

30. Mr Brownlee commented that the extent to which an open view could be achieved was very subjective. He suggested to cross-out the words “as far as possible” from the paragraph as it was impossible to have all the buildings below Stubbs Road.

31. Upon the Chairman’s enquiry, Mr Brownlee responded that only the top building would reach the building height of 170mPD. By referring to two photos showing the study model of the proposed development, Mr Renbert Lai clarified that the houses on the site had been stepped down as far as possible. As Stubbs Road was gently sloping down to King Yin Lei, the vehicular access would have to be located at the lowest point of the site. This would significantly constrain the layout of the proposed development. In the design stage, different options for locating the access road had been explored, even via the adjoining King Yin Lei site. In response to a Member’s question, Mr Brownlee stated that no photomontage or photos for the proposed development as viewed from street level was available.

32. Mr Foot added that the existing slope was covered with tree planting which was part of the landslide preventive measures undertaken about six to seven years ago. When these trees matured, they would in any case block the view from the Stubbs Road towards Happy Valley and beyond. It would be similar to the views currently along Stubbs Road east where there was mature woodland along the road.

33. As indicated in the section drawing, not all the houses on the site would reach the 170mPD limit and the buildings would be sloping down along Stubbs Road. The Chairman enquired how such scheme could be realised. DPO/HK responded that apart

from the Notes of the OZP that had specified the maximum 170mPD height limit, para. 7.3.3 of the Explanatory Statement would be revised as proposed to set out the planning intention. That would enable PlanD and relevant Government departments to ensure the planning intention would be followed closely. Although that might not be the most effective way, it could strike a balance between the need to control building height and to maintain flexibility for refinement of the design of the proposed development. Besides, there was difficulty in stipulating the building height control for individual building plot in such a small area on the OZP. Different approaches had in fact been examined, such as by using the level of Stubbs Road as the reference point. On balance, the current approach and the proposed amendments were considered appropriate.

34. Ms. Lai invited Members to make reference to Plan H-5 which could help to illustrate the worst case scenario. By drawing a straight line across the Stubbs Road from the roof-top of ESF school, one could image how the view along Stubbs Road would be blocked if the current height restriction was imposed. She continued to state that it was a common practice in the trade to amend and re-submit building plans. The plan shown by the owner might not be the final scheme. The Chairman responded that as advised by DPO/HK, apart from stipulating the maximum building height, Para. 7.3.3 of the Explanatory Statement would also specify that the development should pay due regard to the level of Stubbs Road. That would be taken into consideration in processing the building plans by relevant Government departments as explained by DPO/HK earlier.

35. A Member stated that King Yin Lei itself was already above the level of Stubbs Road and blocked some views from Stubbs Road. In the future, there would also be plantings along the lot boundary which would further block the open view. The Member doubted the rationale of restricting the building height of the “R(C)” site to be lower than that of King Yin Lei. Ms Lai clarified that the height of the proposed development would exceed Stubbs Road as illustrated by the example she quoted above. It was important to lay down the building height control at the planning stage in order to avoid the worst case scenario. For King Yin Lei, she understood that the building would be opened to public and visitors. They could have access to the sea view not only from Stubbs Road, but also from King Yin Lei.

36. A Member enquired if the owner or the architect could provide more information on the levels of Stubbs Road around houses 1 to 4. Mr Renbert Lai informed Members that the section of Stubbs Road adjoining the site ranged from 155.66 to 168.47mPD. In response to the Member's further enquiry on the level of Stubbs Road around House 2 and House 3, Mr Brownlee presented a detailed layout showing that the main roof of House 4 was at the level of 170mPD and then stepped down along Stubbs Road.

37. In response to a Member's enquiry, DPO/HK stated that the subject site was not a tourist look-out point. The slope had been densely vegetated before with no open view to the harbour. The trees were removed as part of the slope stabilization works and that created an open view of the Victoria Harbour at this section of Stubbs Road. To the west of the site, the view towards Victoria Harbour was also blocked by vegetation on the natural slope.

38. As the representer, commenter and their representatives had finished their presentation and Members had no further question to raise, the Chairman informed the representer, commenter and their representatives that the hearing procedures had been completed, and the Board would deliberate on the representations and comments in their absence and would inform them of the Board's decision in due course. The Chairman thanked the representer, commenter and their representatives and PlanD for attending the meeting. They all left the meeting at this point.

[Mr. David W.M. Chan left the meeting at this point]

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

#### Deliberation Session

39. Members expressed their views on the following aspects:

#### Preservation of Vantage Point

- (a) the representation site was not an important look-out point and the view towards the Harbour at this point was not a significant vantage point which must be protected;
- (b) the site was at a higher ground overlooking the Victoria Harbour further down. Judging from the view angle, such open view could not be preserved even if the height of the proposed residential development were limited to the level of Stubbs Road;
- (c) the proposed landscaping and planting along the lot boundary would in any case block the open view;
- (d) the proposed residential development should not be intrusive to cause adverse visual impacts on Stubbs Road;

#### Proposed Building Height Control

- (e) it might not be feasible to have all the residential development on the site below the level of Stubbs Road due to the site constraints;
- (f) the developer should be encouraged to further reduce the height of the proposed development to address the concerns of the R6 and R7;
- (g) it was difficult to specify the maximum building height for each individual house on the site at this stage;
- (h) the imposition of an overall height limit of 170mPD was considered appropriate and would be able to strike a balance between development control and flexibility for further refinement of the design of the proposed residential development;
- (i) the proposed amendments to the Notes and Explanatory Statement were supported. Apart from specifying the building height restriction, it also set out the planning intention and rationale for interpreting the maximum

building height control. These would provide the principle for the downstream processing of the residential development, such as processing of the building plans by relevant Government departments;

Preservation of King Yin Lei

- (j) the flexible approach adopted by the Government for reaching a preservation cum development option to preserve King Yin Lei was commendable; and
- (k) such arrangement achieved a balance between public interest and private development right.

40. After further deliberation, the Board agreed to amend the Plan to partially meet the Representations No. 6 and 7 by rezoning the “R(C)1” site adjoining King Yin Lei to “R(C)5” and amending the Notes of the “R(C)” zone by adding the Remarks for the “R(C)5” sub-zone to subject the site to a maximum plot ratio of 0.5 and maximum building height of 3 storeys including carports and 170mPD. In tandem with the proposed amendment to the Plan, the Explanatory Statement should also be revised as proposed by PlanD.

41. The Board did not support the remaining part of the representations for the following reasons:

- (a) the residential development at the representation site would not result in any adverse traffic impact on the local roads; and
- (b) the representation site adjoining King Yin Lei, although previously zoned “GB”, was a man-made slope with thin vegetation cover. The proposed residential development on the site would not result in any adverse landscape impact in the area.

[The meeting was adjourned for a break of five minutes.]

[Dr. Michael Chiu, Mr Y.K. Cheng, Mr. W.Y. Nelson Chan and Mr. Edmund K.H. Leung

arrived the meeting at this point]

[Mr Walter K.L. Chan, Mr Stanley Wong, Dr. Daniel B.M. To and Mr Leslie H.C. Chen left the meeting at this point]

**Agenda Item 5**

[Open Meeting (Presentation and Question Session only)]

Consideration of Further Representation

in respect of the Draft Tai Po Outline Zoning Plan No.S/TP/20

(TPB Paper No. 8187)

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[The meeting was conducted in Cantonese and English.]

42. The following Members had declared interests in this item :

- |                       |   |   |
|-----------------------|---|---|
| Mr. Stanley Y.F. Wong | - | Being the Chairperson of Friends of the Earth which was one of the Commenters (C2) and owns a property on Deerhill Bay              |
| Mr. Donald Yap        | - | Being the Executive Councillor of Heung Yee Kuk where one of its member, Tai Po Rural Committee has submitted a representation (R4) |
| Mr Tony Kan           | - | Owns a property on Grand Palisades and his company owns a property in Tai Po  |

43. Members noted that Mr Tony Kan had tendered apologies for not attending the meeting, Mr Stanley Wong had left the meeting and Mr Donald Yap had not joined the meeting.

**Presentation and Question Session**

44. The following representatives from the Government departments, further representer, representers, commenters and their representatives were nvited to the meeting:

Mr. W. K. Hui	- DPO/STN, PlanD
Ms. Lisa Cheng	- Senior Town Planner/Tai Po (STP/TP), PlanD
Mr. Patrick C.C. Lai	- Senior Nature Conservation Officer, Agriculture, Fisheries and Conservation Department (AFCD)
<u>F1</u> Mr Andrew Hardacre	Further Representer
<u>R5</u> Mr Kong Mau Kiu	Representer
<u>R6</u> Mr Wan Man Kit	Representer
<u>R7</u> Mr. Kong Gap Hing	Representer
<u>R9</u> Mr Lee Wong Shing	Representer
<u>R10</u> Mr Lee Siu Man	Representer
<u>R11</u> Mr. Lee Wing Keung	Representer
<u>R12</u> Mr. Ruy Baretto	) Representer and Representative of C21, Mr Hodgkiss
Dr. Roger Kendrick	) Representer's representatives
Mr. Ian Brownlee	)
<u>C1</u> Mr Chan Siu Kuen	Commenter

45. The Chairman extended a welcome and briefly explained the hearing procedures. Sufficient notice had been given to all the representers and commenters, but some of them had not given any reply or indicated that they would not attend or be represented at the hearing. Members agreed to proceed with the hearing in the absence of

these representers and commenters. Members also noted that a letter dated 12.9.2008 from F1 to the Board had been tabled at the meeting.

46. With the aid of a powerpoint presentation, Ms Lisa Cheng briefed Members on the Paper and made the following main points:

- (a) the background of the proposed amendments was set out in para. 1 of the Paper. During the exhibition of the draft Tai Po OZP No. S/TP/20, 13 representation and 46 comments were received. After hearing of representations and comments, the Board decided to propose amendments to partially meet the representations, namely, (i) rezoning the inter-tidal ponds (to the north and east of Tai Po Kau) from “Recreation Priority Area” (“RPA”) and “GB” to “Conservation Area” (“CA”) (Amendment Items A & B); and (ii) rezoning three designated burial grounds (TP/S19, TP/S20 and TP/S24) from “CA” to “GB” (Amendment Item C);
- (b) on 4.7.2008, the proposed amendments were published under section 6C(2) of the Ordinance. One further representation was received;
- (c) subject of further representaion:
  - no in-principle disagreement to the proposed “CA” zoning for the two inter-tidal ponds (Amendments A and B);
  - to rezone the areas west (the “green area”) and east (the “blue area”) of Tai Po Kau Headland from “RPA” and “GB” to “CA” (Plan FH-1 of the Paper) to provide a buffer and ecological linkage with the inter-tidal ponds;
  - to delete para. 6 of the covering Notes regarding temporary uses in “CA” zone;

- to rezone the Tai Po Kau Headland from “CA” to “SSSI”;
  - to delete “Private Club” under Column 2 of the “OU” annotated “Historical Building Preserved for Cultural and Community Uses” zone;
  - to withdraw Amendment Item C1, burial ground TP/S19 which was densely wooded should be remained as “CA”. The surrounding areas of burial grounds TP/S20 (Amendment Item C2) and TP/S24 (Amendment Item C3) should be rezoned from “CA” to “GB”;
- (d) the main grounds of the further representations were summarized in para. 2.2 of the Paper;
- (e) PlanD’s responses to the further representations as detailed in para. 3 of the Paper include:

Rezone the Areas East and West of Tai Po Kau Headland to “CA”

- not related to any Amendment Items published under s.6C(2) of the Ordinance;
- DAFC did not consider the need for “CA” zoning on conservation ground;
- the same proposal had been raised by R12 during the hearing on 30.5.2008, but was not accepted by the Board;

To Delete the Provision of Temporary Uses in “CA” zone

- not related to any Amendment Items published under s.6C(2) of the Ordinance;
- the same proposal had been raised by R12 during the hearing on 30.5.2008. The Board considered there might be broader implications on development control and enforcement actions in other new town OZPs;
- to be taken up as a separate issue for further examination;

To Rezone Tai Po Kau Headland from “CA” to “SSSI”

- not related to any Amendment Items published under s.6C(2) of the Ordinance;
- DAFC considered the current “CA” zoning for the Headland appropriate and sufficient to reflect the ecological attributes of the area and to provide protection to the area;
- the same proposal had been raised by R12 during the hearing on 30.5.2008, but was not accepted by the Board;

To Remove ‘Private Club’ use in the Notes of the “OU(Historical Building Preserved for Cultural and Community Use” zone

- not related to any Amendment Items published under s.6C(2) of the Ordinance;
- sufficient control had been provided as any proposal of its kind required planning permission from the Board;
- the same proposal had been raised by R12 during the hearing on

30.5.2008, but was not accepted by the Board;

Proposed Zonings for 3 Burial Grounds and Surrounding Areas

- related to Amendment Items C1, C2 and C3;
  - “GB” zoning of the 3 burial grounds followed their designated boundary after consultation by HAD with the locals in 1980s. “GB” zoning was considered appropriate for protection of the natural environment and at the same time reflecting the local villagers’ traditional rights;
  - “CA” zoning for areas outside the burial grounds was necessary for protection of the inherent landscape value. The graves outside the burial grounds were old graves regarded as existing use not affected by the “CA” zoning;
  - the same proposal had been raised by R12 during the hearing on 30.5.2008, but was not accepted by the Board;
  - DO/TP advised that the proposal was not supported by the local villagers, Tai Po District Council and Tai Po Rural Committee.
- (f) PlanD’s view – only those related to proposed Amendment Items C1, C2 and C3 were valid further representation. PlanD did not support the further representation for reasons as detailed in para. 5 of the Paper. PlanD considered that the Plan should be amended by all the proposed amendments.

47. The Chairman then invited the further representer, representer, commenter and their representatives to elaborate on their representation.

Further Representation No. 1 – Mr Andrew Hardacre

48. With the aid of a powerpoint presentation, Mr Hardacre made the following main points:

- (a) “A Summary of Biota at Tai Po Kau” (slide 4) and “Top Ranked Sites in Hong Kong for Endangered Moth Species” (slide 5) illustrated the high conservation value of the Headland;
- (b) the core “CA” area remained vulnerable and needed buffer zones and buffer corridors;
- (c) it had been widely recognized in China that sensitive sites needed buffer zones to protect them and Hong Kong should follow the model;
- (d) to preserve the integrity of the Headland, the “green and blue” areas as shown on Plan FH-1 of the Paper should be rezoned from “GB” and “RPA” to “CA”;
- (e) Chief Town Planner/Urban Design and Landscape, PlanD had advised that “CA” was a better zoning alternative for the “green area” from the current “RPA”;
- (f) the ditch in the “blue area” as described in para. 3.11 of the Paper was a tributary of the main stream course between Villa Castell/Yau King Lane and the hill surmounted by Villa Costa;
- (g) no objection to the “GB” zoning of C2 and C3;
- (h) the surrounding areas of C2 and C3 should be rezoned from “CA” to “GB”. The existing areas should be preserved and new burials should take place in the proposed extension area. The local villagers would be benefited by the provision of safer and easier access to the new burial grounds and help to reduce fire hazard ;

- (i) AFCD had previously supported the “CA” zoning for C1 as the area was densely wooded. The extension of the lower site demonstrated that C1 had not been used for new burials;
- (j) the Headland merited SSSI status. DAFC had not yet taken into account the internationally recognized criteria, the Ratcliff criteria, or considered whether that might be a better approach; and
- (k) the Board was urged to rezone the buffer areas (i.e. the “green and blue areas”) as “CA”, and recognize the core area merited “SSSI” status.

Representation No. 7 – Mr. Kong Kap Hing

49. Mr K.H. Kong, the village representative of Cheung Shue Tan Village, made the following main points:

- (a) the Board had rightly agreed at the hearing of 30.5.2008 to keep the zoning of the burial grounds unchanged and the decision was welcome by the villagers;
- (b) the rights of the indigenous villagers to safeguard a burial place should be protected and there should be simple administrative means for applying burial grounds;
- (c) the three burial grounds should remain under “GB” zoning ;
- (d) the proposed “CA” zone for the burial ground was not justified;
- (e) the proposed extended areas of C2 and C3 was not suitable to be used for burial ground in view of the steep topography and fruit trees planted there; and
- (f) the Board was requested to respect the traditional rights of the indigenous village.

Representation No. 11 – Mr Lee Wing Keung

50. Mr. W.K. Lee, representative of indigenous villagers of Tai Po Mei Village, made the following main points:

- (a) the rezoning of the three burial grounds to “GB” had been fully considered at the hearing on 30.5.2008 and the Board should adhere to that decision;
- (b) PlanD’s comments on the rezoning, i.e. the need to strike a balance between respecting local traditions and preserving the natural attributes, were reasonable;
- (c) F1 had not put forth strong argument for his proposal;
- (d) the local villagers were positive in protecting the natural environment;
- (e) Cheung Shue Tan was the oldest burial ground. There was no ground for F1’s submission that the burial ground was not in use. It was the choice of the local villagers;
- (f) F1 proposed to extend C2 and C3 was intended to compensate the rezoning of C1 from “GB” to “CA”. However, F1 did not know the local area well and his proposal was unacceptable;
- (g) a proposal to rezone the surrounding areas of the burial grounds from “CA” to “GB” had also been made by the villagers. The areas, as marked-up in Plan FH-7 of Paper, was less densely wooded and connected with the existing burial grounds. The submission was, however, considered as invalid by the Board as they were made by the original representers and commenters of the proposed amendments.

Comment No. 1- Mr Chan Siu Kuen

51. Mr. S.K. Chan, Chairman of Environment, Housing and Works Committee of the Tai Po District Council and Member of the Tai Po Rural Committee, made the following main points:

- (a) the zoning proposal of the three burial grounds had been fully deliberated at the hearing meeting on 30.5.2008 and the Board decided to revert the zoning back to “GB”;
- (b) the proposal of F1 to rezone C1 from “GB” to “CA” was not acceptable;
- (c) the proposed rezoning of the inter-tidal ponds to “CA” was acceptable;
- (d) with a huge buffer zone between C1 and the “CA” zone, there was no need to rezone C1 to “CA” for preservation of the moths;
- (e) at the Tai Po District Council and Tai Po Rural Committee meetings, members unanimously objected the proposed “CA” zoning of the burial grounds;
- (f) views of the local community and the traditions/customs of the indigenous villagers should be respected; and
- (g) the suggestion of F1 to designate the Tai Po Au Headland as SSSI was supported.

Representation No. 12 – Mr. Ruy Barretto

52. In response to Mr Barretto’s enquiry, Mr S.K. Chan confirmed his support to rezone the “green and blue areas” as “CA”. Mr Barretto informed Members that he had discussed with Mr. W.K. Lee, Mr. S.K. Chan and Mr Partick Lai of AFCD on the proposals of F1 just before the hearing. He then made the following main points:

- (a) Mr. W.K. Lee and Mr. S.K. Chan agreed to rezone the “green and blue

areas' to "CA" to fully buffer and protect the central core which was an area of exceptional bio-diversity;

- (b) no objection for C1 to remain zoned as "GB" if the "green and blue areas" were rezoned as "CA";
- (c) para. 7.12.2 of the Explanatory Statement of the draft Tai Po OZP stated that "the Tai Po Kau Headland..... is a significant area of highly diverse woodland habitat with mature and rich lowland forest. A high degree of protection is required to retain their inherent value." It supported FI's proposal that the core area must be protected;
- (d) para. 7.12.4 of the Explanatory Statement stated that "There is another "CA" in Pai Mun Shan ...Its role as buffer zone and ecological linkage to other natural habitats should be well retained." That was the same argument forwarded by F1. To rezone the "green and blue areas" to "CA" would provide an ecological linkage from Pai Mun Shan to the core headland;
- (e) the stream in the "blue area" had been in existence since 1902. The ditch described in Para. 3.11 of the Paper was a tributary of the main stream which was important for wildlife in the area. When Yau King Lane was constructed, there was a specific condition that the stream should be retained to be wildlife friendly; and
- (f) the "green area" that was proposed for rezoning to "CA" was covered with woodland of good visual quality. The area had been considered to be of high landscape value by Chief Town Planner/Urban Design and the "RPA" column one uses such as holiday camp and visitor centre were potential undesirable uses and "CA" was considered a better zoning alternative than the current RPA.

53. Upon the request of Mr. Barretto, Dr. Kendrick informed Members the rare

butterfly species found in the Headland as shown on the first and last slides of Mr Hardacre's Powerpoint presentation. He commented that the area merited the highest level of protection and preservation.

54. Members noted that R5, R6, R9 and R10 also attended the meeting but would not make oral presentation to the Board.

55. By referring to Enclosure 4 of the Paper, DPO/STN drew Members attention to s.6D(2) of the Town Planning Ordinance (the Ordinance) that the further representation should be related to the proposed amendments. In the case of F1, he suggested that only the proposal in relation to the burial grounds should be considered. He continued to state that in accordance with section 6D(1) of the Ordinance, any person, other than that who had made any representation or comment after the consideration of which the proposed amendments were proposed under s. 6B(8), might make further representation to the Board in respect of the proposed amendments.

56. Mr Brownlee argued that the proposal of the further representation to rezone the "green and blue areas" to "CA" was related to Amendment Items A and B. In relation to Amendment Item A, i.e. to re-zone the inter-tidal pond north of Tai Po Kau from "RPC" to "CA", F1 argued that the area of Amendment Item A was too small and should cover also the "green area". For Amendment Item B, the coverage was also small, the amended area should also be extended to cover the "blue area". He further stated that it was valid to consider the extent of amendments, in particular as the areas had similar zonings and characteristics.

57. In response to the Chairman's enquiry, Mr Brownlee said that the proposed SSSI was not related to one of the amendment items. However, the high conservation value of the Headland and criteria for determining an SSSI were worthy to be considered.

58. In response to a Member's query, DPO/STN considered that the validity of the further representation was not solely based on the geographical demarcation, but whether the further representation was related to the substance of the proposed amendment items.

He pointed out that Amendment Items A and B covered two inter-tidal ponds whereas the “green and blue” areas were sloping areas. For Members’ information, DPO/STN stated that F1’s proposal to rezone the “green and blue” area from “RPA” and “GB” to “CA” had been submitted by R12 on similar grounds and discussed at the representation hearing on 30.5.2008. Upon deliberation, the Board decided to propose amendments to partially meet the representation and the Amendment Items A, B and C were published under s.6C(2) of the Ordinance for public inspection. As such, it had not made known to the public and the persons affected that the zonings of the “green and blue areas” would be discussed at this meeting.

59. In response to a Member’s question, Mr S.K. Chan stated that the Tai Po Mei burial grounds had a very long history of over 300 years. He said that Mr. Barretto had just tendered his support to retain C1 under “GB” zoning and he also supported the proposed “CA” zoning for the “green and blue areas”.

60. A Member enquired about the authority of the SSSI designation and whether any SSSI proposal submitted by the public had to be endorsed by the authority. Mr Patrick Lai stated that under the current practice, the public could put forward any SSSI proposal to AFCD for consideration. If agreed, the proposal would then be circulated for departmental comments, including EPD and HAD. With departmental consensus, it would then be submitted to the Committee on Planning and Land Development for endorsement and entered into the SSSI register. If the site was covered by a statutory town plan, the Board could consider amending the zoning of the site to reflect its SSSI status.

61. Mr W.K. Lee enquired whether his proposal to rezone the surrounding areas of C2 and C3 from “CA” to “GB” could be considered. DPO/STN replied that the proposal had been considered as invalid at the Board’s meeting on 22.8.2008 as they were made by the original representers and commenter of the proposed amendments.

62. Mr S.K. Chan stated that the burial grounds had all along been zoned “GB” under the Tai Po OZP. The local villagers had not asked for any changes of land use. The burial grounds should remain under “GB” zoning.

63. As the further representer, representers, commenter and their representatives had finished their presentation and Members had no further questions, the Chairman said that the hearing procedures had been completed and the Board would deliberate on the further representation in their absence and would inform them of the Board's decision in due course. The Chairman thanked them and the Government's representatives for attending the hearing. They all left the meeting at this point.

#### Deliberation Session

64. In considering the subject of the further representation, Members noted F1's support of the Amendment Items A and B. In response to the Chairman's enquiry on the validity of proposals to (a) delete para. 6 of the covering Notes regarding temporary uses in "CA" zones; (b) rezone the Headland from "CA" to "SSSI"; and (c) delete "Private Club" under Column 2 of the "OU" annotated "Historical Building Preserved for Cultural and Community Uses" zone, Members considered that the proposals were clearly not related to any amendment items and hence should be treated as invalid as set out in paras. 3.13 to 3.15 of the Paper. For the proposal on (a) above, Members also noted that the issue was being examined by PlanD as a separate issue.

65. Regarding the proposal to include the "green and blue" areas in the "CA" zoning, Mrs Ava Ng, Director of Planning said that according to the s.6D(2) of the Ordinance, the subject of the further representation should be related to the proposed amendments (i.e. Amendment Items A, B and C) which had been exhibited for public inspection. However, instead of debating on the relevance of the further representation which touched on the geographical extent of the Amendment Items A and B, it might be more meaningful to consider the merits of the case based on the advice of DAFC and the information presented before the Board. Given the "green and blue" areas were physically separated from the inter-tidal ponds by railway lines, the argument put forth by F1 to extend the physical boundary of the inter-ponds to link up with the "green and blue" might not be appropriate. Another Member pointed out that the "green and blue" areas covered a huge area, if taken as an extension seemed to be stretching too far and out of proportion to the

original amendments which were fully deliberated at the representation meeting. The Chairman stated that the proposals submitted by F1 had previously been raised by R12 and discussed at the hearing on 30.5.2008. The justifications put forward by F1 were similar to those raised by R12. A Member added that at the hearing meeting on 30.5.2008, the request was to rezone the inter-tidal ponds to “CA” to provide a peripheral buffer for the Headland. There was no mention of the ecological importance of the “green and blue” area to the Headland. Members also noted that AFCD did not consider the need for “CA” zoning for the “green and blue” areas was justified on conservation ground.

66. A Member raised concern on the possible impacts on third party interests. If the Board agreed to amend the Plan to meet the further representation, the proposed amendment would be incorporated into the Plan and be submitted to Chief Executive in Council for approval. In this regard, the public including the parties having an interest in and affected by the rezoning of the “green and blue areas” would not have had an opportunity to give their opinions/views in respect of the amendments. Members shared the concerns and noted that the proposed preservation of the relevant areas could be further pursued through application for zoning amendment under s.12A of the Ordinance later.

67. Having regard to the discussion set out in paras. 65 and 66 and taking into account the justification advanced by F1, departmental comments and the Board’s views in considering R12 at the representation hearing meeting on 30.5.2008, the Members considered that the “green and blue” areas should not be rezoned from “RPA” and “GB” to “CA”.

68. After further deliberation, the Board decided that the Plan should be amended by the proposed amendments as set out in para. 1.1 of the Paper. The Board also decided not to uphold the Further Representation for the following reasons :

- (a) the proposed “GB” zoning for burial grounds TP/S19 was to reflect the traditional rights of local villagers, and taken into account the natural attributes of the area. It would not be appropriate to rezone it to “CA”. For the area outside the designated burial grounds TP/S20 and TP/S24,

the current “CA” zoning was considered necessary for conservation and protection of the general topographical setting and inherent landscape value;

- (b) there was insufficient justification to rezone the area west (i.e. the “green area”) and east (i.e. the “blue area”) of the Tai Po Headland from “RPA” and “GB” to “CA” as the areas had already been fragmented to various extents by residential development, roads, railway lines and associated cut slopes and fell within the ‘village environs’ boundary of Tai Po Village. The “blue area” consisted of shrubs and trees and some cut slopes associated with the adjacent railway and residential projects. The “green” area, consisting mainly tall grass and common fruit trees on slopes, formed part of a large “RPA” zone in Tai Po Kau for active and/passive recreation and tourism/eco-tourism. The existing “GB” and “RPA” zoning were appropriate as it provided flexibility for future use of the area; and
- (c) it would not be appropriate to amend the plan in respect of the “green and blue” areas because persons having an interest or being affected would not have an opportunity to express their views to the Board.

69. The Board also decided not to support the remaining part of the further representation as they were not related to the Amendment Items exhibited under s.6C(2) of the Ordinance.

70. The meeting was adjourned for lunch at 12:45 p.m.

71. The meeting resumed at 2:15 p.m.
72. The following Members and the Secretary were present after the lunch break:

Mr. Raymond Young	Chairman
Dr. Greg C.Y. Wong	Vice-Chairman
Mr. Nelson W.Y. Chan	
Mr. Edmund K.H. Leung	
Professor N.K. Leung	
Mr. Alfred Donald Yap	
Mr. Raymond Y.M. Chan	
Ms. Anna S.Y. Kwong	
Mr. Timothy K.W. Ma	
Deputy Director of Environmental Protection Dr. Michael Chiu	
Principal Assistant Secretary (Transport) Transport and Housing Bureau Ms. Ava Chiu	
Director of Planning Mrs. Ava Ng	

**Agenda Item 6**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-KTS/260

Proposed House with Ancillary Swimming Pool in “Green Belt” zone,

Lots 760B & C in DD 98, Kwu Tung South, Sheung Shui

(TPB Paper No. 8189)

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[The meeting was conducted in Cantonese.]

Presentation and Question Session

73. The following representatives of the Government, the applicant and his representatives were invited to the meeting:

Mr. W.K. Hui	- District Planning Officer/Shatin, Tai Po and North District (DPO/STN), Planning Department (PlanD)
Mrs. Narelle Hamey Yiu	- Senior Landscape Architect, PlanD
Mr. Lau Yuen Wah	- Applicant
Mr. Brian K.P. Law	)
Ms. Lau Chi Yan	)
Mr. Michael Lee	) Applicant's representatives
Mr. K.C. Lee	)

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

75. With the aid of some plans and photographs, Mr. W.K. Hui presented the application and covered the following aspects as detailed in the Paper:

- (a) the Rural and New Town Planning Committee rejected the application on 28.3.2008 for the reasons that the proposed development was not in line with the planning intention of the "Green Belt" ("GB") zone and the Town Planning Board (TPB) Guidelines No. 10 for Application for Development within "GB" Zone, and the approval of the application would set an undesirable precedent for similar applications;
- (b) the details of the applicant's proposal as set out in paragraph 1 of Annex A of the Paper and the further written representation submitted by the

applicant in support of the review application as summarized in paragraph 3 of the Paper;

- (c) departmental comments – the relevant Government departments maintained their previous views on the application. The Assistant Commissioner for Transport/New Territories (AC for T/NT) had reservation on the application since the approval of it would set an undesirable precedent for similar applications which would result in substantial cumulative traffic impact. The Head of Geotechnical Engineering Office (GEO), Civil Engineering and Development Department advised that the site was located on and adjacent to two slopes which were under Dangerous Hillside Orders (DHO) and the applicant was required to submit site formation details to the Building Authority to demonstrate the stability of the slopes. The SLA, PlanD objected to the application since the proposed development would lead to deterioration of the landscape quality of the area;
- (d) one public comment was received during the statutory publication period which indicated ‘no comment’ on the application. The District Officer (North) advised that the concerned North District Councillor and the Village Representative and Residents’ Representative of Kwu Tung (South) objected to the application for concerns mainly on the geotechnical, hygiene and environmental aspects. The Chairman of Sheung Shui District Rural Committee supported the application as the proposed development would help improve the environment by clearing the wild weeds and mosquitoes; and
- (e) PlanD’s view – PlanD did not support the application for reasons as detailed in paragraph 8 of the Paper. The proposed development was not in line with the planning intention of the “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive

recreational outlets. According to the TPB Guidelines No. 10, applications within the “GB” zone would only be considered in exceptional circumstances and had to be justified with very strong planning grounds. There were no exceptional circumstances nor strong planning grounds to warrant the approval of the application. The approval of the application would set an undesirable precedent for other similar applications. The cumulative impacts of approving such similar applications would result in a general degradation to the environment of the area and adverse traffic impact on the adjacent road network.

76. The Chairman then invited the applicant to elaborate on the application.
77. Mr. Lau Yuen Wah showed a photograph of his family and made the following points:
- (a) the proposed development was to meet the housing need of his family. He had lived in a house to the immediate north of the application site for more than ten years. He had ten children and his house was not large enough for his family;
  - (b) should the application be approved, he would undertake the necessary remedial works for the slope within the site as required under the DHO. If necessary, he would also undertake the works for the slope adjacent to the site, although it was outside his landholding; and
  - (c) the site had been used for open storage before it was zoned as “GB”. There was all along no tree within the site.
78. Mr. Brian K.P. Law elaborated on the application and made the following points:
- (a) the applicant respected the general presumption against development in the “GB” zone. However, the housing need of the applicant’s family

should be taken as an exceptional circumstance for favourable consideration by the Board. The Board had all along given favourable consideration to applications for meeting housing need, such as the Small House developments by the indigenous villagers; and

- (b) the “GB” zoning was broad-brush in nature and each application should be considered on its individual circumstances. For the current application, it should be noted that the site had been used for open storage for many years and the proposed house development would lead to significant improvement to the local environment.

79. Mr. K.C. Lee made the following points on the traffic and geotechnical aspects:

- (a) the traffic to be generated by the proposed development would be marginal as compared with the existing open storage use on the site. Regarding the concern on setting precedent effect, there were not many sites with similar characteristics as the application site. Therefore, approving the proposed development would not set an undesirable planning precedent nor result in adverse traffic impact; and
- (b) it was a legal obligation of the concerned landowner to undertake remedial works to slopes under DHO and the concern of the Head of GEO on the stability of the slopes both within and adjacent to the site would be duly resolved by the applicant. No insurmountable problem was expected in this regard.

[Dr. C.N. Ng arrived to join the meeting at this point.]

80. Members had the following questions:

- (a) whether the application site was a building lot, or whether any approval for house development on the site had been given;

- (b) what was the use on the site when the relevant Interim Development Permission Area (IDPA) Plan was published;
- (c) whether the concern of AC for T/NT was on the cumulative traffic impact arising from similar developments in the “GB” zone or the traffic impact of the proposed development alone; and
- (d) whether the current open storage use on the site was run by the applicant or other people.

81. In response to Members’ questions, Mr. W.K. Hui made the following points:

- (a) the application site comprised two agricultural lots held under Block Government lease, with a short term waiver granted for covered storage of engineering instruments with ancillary office. No approval for house development had been given for the site;
- (b) the site was currently used for open storage yard which had been in existence when the relevant IDPA Plan was gazetted; and
- (c) AC for T/NT advised that although the traffic associated with the proposed development was not significant, the approval of the application would set an undesirable precedent for similar applications for house development in the “GB” zone which would lead to substantial cumulative traffic impact.

82. Mr. Brian K.P. Law said that the applicant’s house to the north of the application site was located on a building lot. He asked whether planning approval would be required for the applicant to redevelop this house. Mr. W.K. Hui replied that planning approval would be necessary for house development in the “GB” zone and the application for such approval would be considered by the Board with regard to the TPB Guidelines No. 10 for

Application for Development within “GB” zone and other relevant planning considerations.

83. In response to the question in paragraph 80(c) above, Mr. K.C. Lee said that each application should be considered on its own circumstances. For the subject application, the site was currently used for open storage involving trips of heavy vehicles. By replacing the existing open storage use, the proposed house development, which would only involve the use of private cars, would improve the traffic situation in the area. It should not be considered as an undesirable precedent.

84. In response to the question in paragraph 80(d) above, Mr. Lau Yuen Wah said that the existing open storage yard on the site was run by him to support his business in Shenzhen. He was prepared to terminate the open storage use and use the site to meet the housing need of his family.

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

#### Deliberation Session

86. A Member said that since the application site comprised only agricultural lots, the applicant had no building right under lease and the application should not be supported. Mrs. Ava Ng also said that according to the TPB Guidelines No. 10, application for new development in the “GB” zone would only be approved in exceptional circumstances and had to be justified with very strong planning ground. In general and based on past experiences, applications for New Territories Exempted Houses (NTEH) to meet housing demand from a indigenous villager and developments on a lot with building entitlement up to a maximum plot ratio of 0.4 might be approved. The justifications put up by the

applicant could not demonstrate any special circumstances.

[Ms. Ava Chiu left the meeting temporarily at this point.]

87. A Member said that the site had been used for open storage for a long time and was unlikely to be reverted back to a green area. Approving the application would have the benefit of removing the open storage use. Another Member said that the open storage use was an ‘existing use’ tolerated under the Outline Zoning Plan (OZP). Approving the application would set a precedent for replacing existing uses with developments not compatible with the planning intention of the “GB” zone. To warrant a departure from the planning intention, there should be strong justifications. A Member also said that the site was largely an open area and residential development would affect the landscape setting of the site. The Chairman added that the approval of the development might encourage further encroachment of development onto “GB” zone. He considered that the precedent effect should be carefully taken into account.

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

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

- (a) the proposed residential development was not in line with the planning intention of the “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong justification in the submission for a departure from the planning intention;
- (b) the proposed residential development did not meet the TPB Guidelines for Application for Development within “GB” Zone (TPB-PG No. 10) in that application would only be considered in exceptional circumstances and

had to be justified with very strong planning grounds. There were no exceptional circumstances to warrant the approval of this application; and

- (c) the approval of the application would set an undesirable precedent for other similar applications within the “GB” zone. The cumulative impacts of approving such similar applications would result in a general degradation to the environment of the area and adverse traffic impact on the adjacent road network.

[Dr. C.N. Ng left the meeting temporarily at this point.]

### **Agenda Item 7**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/SK-HC/161

Proposed Religious Institution (Buddhist Hall) in “Agriculture” zone,

Lot 199 in DD 244, Ho Chung, Sai Kung

(TPB Paper 8190)

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[The meeting was conducted in Cantonese.]

### **Presentation and Question Session**

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

Mr. Alfred Lau - District Planning Officer/Sai Kung & Islands  
(DPO/SKIs), Planning Department (PlanD)

Mr. Fong Man Sang - Applicant

Mr. Yeung Siu Fung - Applicant’s representative

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

review hearing. He then invited Mr. Alfred Lau to brief Members on the background to the application.

[Ms. Ava Chiu and Mr. Edmund K.H. Leung returned to the meeting at this point.]

91. With the aid of a Powerpoint presentation, Mr. Alfred Lau presented the application and covered the following aspects as detailed in the Paper:

- (a) the details of the applicant's proposal as set out in Annex D of the Paper. Compared with the proposal submitted in the s.16 application, the height of the proposed Buddhist hall had been reduced from 7m to about 6.1m;
- (b) departmental comments – the Director of Agriculture, Fisheries and Conservation did not support the application as the application site was located within Ho Chung Valley which was one of the major high quality agricultural land in Sai Kung. The Chief Town Planner/Urban Design and Landscape, PlanD had reservation on the application from urban design and landscape points of view. The Director of Fire Services maintained its view that the application was not acceptable without the provision of an emergency vehicular access (EVA) to the application site;
- (c) 12 public comments were received during the statutory publication period, raising objections to the application on the grounds of the conservation, environmental, landscape, visual, fire safety, traffic, infrastructural and fung shui aspects and possible illegal columbarium use; and
- (d) PlanD's view – PlanD did not support the application for reasons as detailed in paragraph 8 of the Paper. The proposed development was not in line with the planning intention of "Agriculture" ("AGR") zone which was to retain and safeguard good quality agricultural land for agricultural

purposes and to retain fallow arable land with good potential for rehabilitation for cultivation. There was insufficient information in the submission to demonstrate that the proposed development would not have any adverse impact on the visual quality and the rural landscape character of the area. Furthermore, the lack of EVA for the proposed development was unacceptable and approving the application would set an undesirable precedent for similar applications in the area.

92. The Chairman then invited the applicant to elaborate on the application.
93. With the aid of some drawings of the applicant's proposal, Mr. Yeung Siu Fong made the following points:
- (a) as religious institution use might be permitted in the "AGR" zone upon planning application, it could not be said that such use was not in line with the planning intention of "AGR" zone;
  - (b) the comments of Government departments were diverse and conflicting. For instance, while Transport Department (TD) advised that no vehicular ingress/egress point should be allowed for the application site, Fire Services Department (FSD) insisted that an EVA to the site should be provided;
  - (c) landscape proposals for the proposed development would be formulated at the detailed design stage. Submissions to fulfil the requirements of the concerned departments would also be made after the approval of the application;
  - (d) the applicant had no intention to use the proposed Buddhist hall as columbarium. The worry of some local villagers that the proposed Buddhist hall would be used as columbarium was not justified;

- (e) the comments raised by a Sai Kung District Councillor as shown at Annex E of the Paper, i.e. the proposed development would affect the ecology of the surrounding area, the closure of the access road had caused significant inconvenience to the villagers and the land use at the site had been changed without the permission of the relevant departments, were factually incorrect; and
- (f) the proposed Buddhist hall would be used by the applicant to pray for his off-springs and parents and conducting retreat. Favourable consideration should be given to his application.

94. Members had the following questions:

- (a) whether the comments of TD and FSD were conflicting as claimed by the applicant;
- (b) whether FSD's concern on the lack of EVA for the site could be resolved if the applicant agreed to provide such EVA;
- (c) whether there would be storage of urns in the proposed Buddhist hall;
- (d) whether the proposed Buddhist hall would be open for public use, noting the applicant's submission that there would be 5-6 visitors on weekdays and a dozen on holidays;
- (e) whether the applicant had submitted any floor plan of the proposed Buddhist hall and drawings to show the proposed building height; and
- (f) if the proposed Buddhist hall was for private use, whether it would be the same as having a Buddha statute inside a house.

95. In response to Members' questions, Mr. Alfred Lau made the following points:

- (a) the comments of TD and FSD regarding the need of vehicular access to the application site were not conflicting. TD considered that no vehicular access should be provided to the application site in order not to attract additional traffic in the area. However, TD did not object to the provision of an access only for emergency purposes;
- (b) FSD's concern on the lack of EVA for the site could be resolved if the applicant agreed to provide such EVA. The requirement to provide an EVA could be incorporated as a planning condition, if the Board decided to approve the application. However, the other concerns on the application, including the incompatibility of the proposed development with the planning intention of the "AGR" zone, the lack of development details for assessment, possible landscape impact and the setting of an undesirable precedent, remained outstanding; and
- (c) Buddhist hall was a kind of 'religious institution'. Both 'religious institution' and 'house' were Column 2 uses in the "AGR" zone. Any applications for such uses should be assessed on individual merits having regard to the relevant planning considerations.

96. Mr. Yeung Siu Fong made the following points:

- (a) the applicant would be willing to provide an EVA as required by FSD;
- (b) the proposed Buddhist hall would be used by the applicant's family for the worship of Buddha, praying and conducting retreat, and there would be no storage of urns. It was intended for private use and was not related to any religious organisations open to the public. Visitors to the Buddhist hall on weekdays were all the members of the applicant's family. More visitors were expected in holidays, which would include the friends of the applicant's family;

- (c) the proposed Buddhist hall would comprise two storeys with a total building height of about 20ft. The lower floor would be used as a worship hall with a height of 13 ft. The upper floor would be a resting place with a height of 7 ft. Details of the internal layout and connection between the two floors would be included in the building plans to be submitted after the application was approved; and
- (d) a Buddhist hall should preferably be located in a remote area in order to avoid causing any nuisances to other people.

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

#### Deliberation Session

98. A Member said that although the proposed Buddhist hall was located in a remote area, it would still cause nuisances to the nearby residents. Some Members had doubt if the proposed Buddhist hall would only be used for private purpose.

99. Members generally agreed that there was no strong justification for the proposed Buddhist hall, though purportedly for private use, at the application site. However, the lack of EVA for the site should not be a reason for rejection of the application since the applicant had agreed to provide the EVA and such requirement could be incorporated as a planning condition.

100. After further deliberation, the Board decided to reject the application and the reasons were:

- (a) the proposed development was not in line with the planning intention of “AGR” zone for the area which was to retain and safeguard good quality agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation. There were no strong justifications in the submission to merit a change in the planning intention;
- (b) there was insufficient information in the submission to demonstrate that the proposed development would not have any adverse visual impact on the surrounding areas;
- (c) there was insufficient information in the submission to justify the form and scale of the proposed structure which would adversely affect the rural landscape character of the area; and
- (d) approving the proposed use would set an undesirable precedent for other similar applications in the area.

[Professor N.K. Leung left the meeting at this point.]

### **Agenda Item 8**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-KTN/295

Temporary Waste Tires Recycling Manufactory for a Period of 3 Years

in “Undetermined” zone, Lots 1866ARP(Part), 1866BRP, 1876B(Part) and 1905RP(Part) in DD 107 and Adjoining Government Land, Cheung Chun San Tsuen, Yuen Long

(TPB Paper 8191)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

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

Mr. Wilson So - District Planning Officer/Tuen Mun & Yuen Long  
(DPO/TMYL), Planning Department (PlanD)

Mr. Kwan Chun Kong )  
Mr. Ho Kin Tung ) Representatives of the Applicant

102. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited Mr. Wilson So to brief Members on the background to the application.

103. Mr. Wilson So said that the applicant had submitted a letter to the Board on 24.9.2008, which was tabled at the meeting. In the letter, the applicant stated that should the application be approved, he would undertake the necessary measures to address the various concerns of the relevant Government departments. However, the applicant had not submitted the details of the proposed measures or any technical assessment in this regard. With the aid of some plans and photographs, Mr. Wilson So then presented the application and covered the following aspects as detailed in the Paper:

- (a) the Rural and New Town Planning Committee rejected the application on 6.6.2008 for the reasons that the development was not compatible with the surrounding land uses and would generate adverse environmental, traffic, drainage and landscape impacts, and the approval of the application would set an undesirable precedent for similar applications;
- (b) the details of the applicant's proposal as set out in paragraph 1 of Annex A of the Paper;

- (c) departmental comments – the relevant Government departments maintained their previous views on the application. The Chief Town Planner/Urban Design and Landscape, PlanD objected to the application as the development would be detrimental to the existing landscape character. The Director of Environmental Protection (DEP) did not support the application as the development would cause environmental nuisances to the residents in the vicinity of the site. The Assistant Commissioner for Transport/New Territories advised that part of the existing track leading to the site might not be wide enough for two-way traffic of goods vehicles. The Chief Engineer/Project Management, Drainage Services Department strongly objected to the application as the site would encroach on the works limit of the Yuen Long, Kam Tin, Ngau Tam Mei and Tin Shui Wan Drainage Improvements Project;
- (d) 17 public comments were received during the statutory publication period, raising objections/concerns on the application in the environmental, ecological, drainage, traffic, visual and fire safety aspects; and
- (e) PlanD's view – PlanD did not support the application for reasons as detailed in paragraph 7 of the Paper. The development was not compatible with the surrounding residential uses and there was insufficient information in the submission to demonstrate that no adverse impacts on the area would be caused. The approval of the application would set an undesirable precedent for similar applications. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

104. The Chairman then invited the representatives of the applicant to elaborate on the application.

105. Mr. Kwan Chun Kong made the following points:

- (a) the application was in fact for the assembling of the machinery for recycling of waste tyres rather than for carrying out the recycling operation itself. The machinery involved bulky parts and required an open area for assembling. After the machinery was assembled, it would be moved to other place to operate. The applicant had no intention to undertake the recycling activities on site since it would incur a high cost for transportation of the waste tyres; and

[Dr. Greg C.Y. Wong left the meeting temporarily at this point.]

- (b) the grounds of objections from the public to the application were unfounded since the assembling of the machinery would not involve significant environmental nuisances nor traffic flow. Should the application be approved, the applicant would undertake detailed assessment to ensure no adverse impacts would be generated on the surrounding areas.

106. Members had the following questions:

- (a) how much time would be required for assembling the machinery for the waste tires recycling;
- (b) why the applicant did not assemble the machinery at the venue where the actual recycling activity would take place;

[Dr. Greg C.Y. Wong returned to the meeting at this point.]

- (c) noting that the EPD had invited the interested parties to tender for waste tyres recycling operation at a temporary site three years ago and there was readily available technology for such operation in Hong Kong, why the applicant did not tender for such operation at that time;

[Dr. C.N. Ng returned to the meeting at this point.]

- (d) if the applicant's intention was to use the site only for the assembling of machinery, why had he indicated in the application form that the proposed use/development was 'waste tires recycling manufactory';
- (e) whether the applicant had identified any site for the operation of the waste tyres recycling activity after the machinery was assembled;
- (f) noting that there was an overhead electricity line in the vicinity of the site and the existing road connecting with the site was substandard, whether there would be any difficulties for the transportation of the assembled machinery;

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

- (g) whether the process in the assembling of the machinery would generate any noise;
- (h) referring to a photograph on Plan R-5 of the Paper, why there were waste tyres in the application site if there was no on-site recycling operation; and
- (i) whether additional time would be required for the testing of the assembled machinery and further fine-tuning/adjustment.

107. In response to Members' questions, Mr. Kwan Chun Kong made the following points:

- (a) the assembling of the machinery was in response to the EPD's initiatives launched three years ago to develop recycling industries for the recycling

of waste tyres. The machinery was designed by the applicant at its own cost without the Government's subsidies. The assembling process took a long time as it involved new technology and some of the parts had to be imported from Mainland China or overseas cities. It was estimated that a period of six months would be adequate;

- (b) the machinery comprised six bulky components and could only be assembled in an open area. Upon the successful assembling and testing of the machinery and acceptance by EPD, the applicant would request EPD to help find a suitable venue for the actual recycling operation. However, no such site had been identified at this stage;
- (c) the applicant did not have much knowledge on the waste tyres recycling industry three years ago. Furthermore, the technology available in Hong Kong for such operation was not cost-effective and did not work well. Therefore, the applicant had to design his own machinery;
- (d) there was currently no waste tyres recycling operation on-site and no environmental nuisances had been caused to the local residents. As the Government would be the key supplier of waste tyres in future, EPD would unlikely allow such operation in the subject application site, taking into account the possible environmental nuisances generated by waste tyres recycling. The applicant would certainly need to move out of the site after the machinery was assembled;
- (e) regarding the applied use as indicated in the application form, the applicant was not familiar with the planning application process and had thought that the type of business rather than the specific use should be indicated in the application form. He apologized if it had caused any misunderstanding of Members;
- (f) the machinery was bulky in terms of the weight rather than the

dimension. If necessary, it could be divided into smaller parts to facilitate transportation;

- (g) many parts of the machinery would be made in Mainland China. The activities to be undertaken on-site involved mainly the assembling of machinery and provision of electricity and water supply. As no metal grinding and polishing would be involved, the noise to be generated would be minimal;
- (h) the tyres found in the site were only for testing of the machinery. The quantity of tyres stored in the site was not sufficient to maintain a recycling business; and
- (i) the testing of the assembled machinery would be straightforward and would not incur much time. If the assembled machinery was found not to be working well, the applicant would cease its activities in the site.

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

#### Deliberation Session

109. Dr. Michael Chiu said that while the recycling of waste tyres in general should be encouraged, such use at the application site would generate significant noise nuisance to the nearby residents and should not be supported. A Member agreed and said that even though no actual recycling operation would be carried out on-site, the testing of the assembled machinery would also involve cutting and grinding of waste tyres, which would inevitably cause environmental nuisances to the residents nearby. Another Member said

that the proposed use would inevitably involve some industrial operation processes and hence, should not be treated as only the assembling of machinery. He considered that the application should not be approved in view of the possible environmental impact.

110. A Member said that in order to encourage the recycling industries, consideration could be given to approving the application on a temporary basis for one year, if it could be ensured that the operation of the machinery would be confined to the testing process only. The Chairman said that Members needed to consider carefully the environmental impact as even the testing process might cause significant nuisances to the nearby residents. A Member agreed and said that the testing of the machinery could be a long process and it would be difficult to ensure that the environmental nuisance generated throughout the process was manageable.

111. After deliberation, the Board decided to reject the application and the reasons were:

- (a) the development was not compatible with the surrounding land uses which were predominated by residential structures/village houses and vacant lands;
- (b) there was insufficient information in the submission to demonstrate that the development would not generate adverse environmental, traffic, drainage and landscape impacts on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “Undetermined” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

[Mr. Raymond Y.M. Chan left the meeting and Ms. Anna S.Y. Kwong left temporarily at this point.]

**Agenda Item 9**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-KTS/423

Temporary Open Storage of Vehicles (Including New/Used Left Hand or Right Hand Vehicles) for Sale for a Period of 3 Years in “Agriculture” zone,

Lots 512RP(Part) and 515(Part) in DD 103 and Adjoining Government Land,

Ko Po Tsuen, Kam Tin, Yuen Long

(TPB Paper 8192)

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[The meeting was conducted in Cantonese.]

**Presentation and Question Session**

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

Mr. Wilson So - District Planning Officer/Tuen Mun & Yuen Long  
(DPO/TMYL), Planning Department (PlanD)

Mr. Yiu Yau Wah )  
Ms. Poon Ming Yun ) Representatives of the Applicant

113. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited Mr. Wilson So to brief Members on the background to the application.

114. With the aid of some plans and photographs, Mr. Wilson So presented the application and covered the following aspects as detailed in the Paper:

- (a) the Rural and New Town Planning Committee rejected the application on 6.6.2008 for the reasons that the continuous occupation of the site for the applied use was not in line with the planning intention of the

“Agriculture” (“AGR”) zone, and the development was not compatible with the adjacent residential uses and the rural character of the area and did not comply with the Town Planning Board (TPB) Guidelines No. 13D for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13D);

- (b) the details of the applicant’s proposal as set out in paragraph 1 of Annex A of the Paper and the applicant’s written representation in support of the review application as summarized in paragraph 3 of the Paper;
- (c) departmental comments – the relevant Government departments maintained their previous views on the application. The District Lands Officer/Yuen Long advised that the application site was located outside the resumption limits of the three public projects mentioned by the applicant in paragraph 3(a) of the Paper. The Director of Environmental Protection (DEP) did not support the application as the applied use would cause environmental nuisances to the residents located to the immediate north and east of the site. The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advised that should the application be approved, conditions requiring the submission of drainage proposal and implementation of drainage facilities should be incorporated. In response to the applicant’s comment mentioned in paragraph 3(c)(i) of the Paper, the Chief Engineer/Sewerage Projects, DSD clarified that the working hours of the concerned drainage project were restricted between 7:00am and 7:00pm to minimize nuisance to the nearby residents. The Chief Town Planner/Urban Design and Landscape, Planning Department advised that should the application be approved, conditions requiring the submission and implementation of landscape and tree preservation proposal should be imposed;
- (d) no public comment was received during the statutory publication period and the District Officer (Yuern Long) did not receive any comment from

the concern Village Representatives on the application; and

- (e) PlanD's view – PlanD did not support the application for reasons as detailed in paragraph 8 of the Paper. The application did not comply with the TPB Guidelines No. 13D in that there were adverse comments from the relevant departments on the environmental, drainage and landscape aspects but no technical assessments/proposals had been submitted by the applicant to address the concerns. The development was not in line with the planning intention of the “AGR” zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The development was also not compatible with the residential structures located to its immediate north and east and the rural character of the area.

115. The Chairman then invited the representatives of the applicant to elaborate on the application.

116. Mr. Yiu Yau Wah made the following points:

- (a) the comment of the DEP that the applied use would cause environmental nuisances to the nearby residents was not justified. For the past few years, the applicant had maintained a good relationship with the residents living nearby and had undertaken many measures to improve the local environment;
- (b) the DEP had adopted a double standard in objecting to the application on the one hand but on the other hand allowing DSD to carry out piling, excavation and demolition works which had caused noise nuisances beside the application site;

- (c) no flooding had occurred at the site during the past incidents of adverse weather. It showed that the drainage facilities for the site were operating well; and
- (d) the applicant's business had been affected on three occasions due to the land resumption for the construction of Tai Lam Tunnel, West Rail and a sewage pumping station. Sympathetic consideration should be given to the application so that the applicant could maintain his business and his employees' livelihood.

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

117. Members had the following comments and questions:

- (a) a Member noted that the major departmental concern on the application was from DEP on the noise aspect having regard to the presence of three existing residential dwellings adjacent to the application site. As the three houses were located in an area sandwiched between Tsing Long Highway and Kam Tin Road, this Member asked whether there was any information of the background noise level generated by the traffic on these two roads;
- (b) the number of workers the applicant employed for the applied use and the types of vehicles stored at the site;
- (c) should the application be approved, whether the Planning Authority could undertake enforcement action against vehicle repairing and open storage of vehicle parts on the site, which were not included in the use under the application; and
- (d) noting the applicant's comment that the existing drainage facilities of the site were working well, whether the applicant would accept a condition

requiring the implementation of drainage facilities should the application be approved.

118. In response to questions (a) and (c) above, Mr. Wilson So made the following points:

- (a) the noise impact generated from Tsing Long Highway and Kam Tin Road on the three houses was expected to be high. The DEP's objection to the application was based on the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in that there were sensitive receivers nearby and environmental nuisance was expected; and
- (b) PlanD had recommended in paragraph 8.2(c) of the Paper that should the application be approved, the Board might impose a condition prohibiting repairing, dismantling, cleansing, paint-spraying and workshop activities on the site. The Board could consider including the storage of vehicle parts as a use to be prohibited under the planning condition. If the condition was not complied with, the approval would be revoked and the Planning Authority could undertake enforcement actions.

119. In response to questions (b) and (d) above, Mr. Yiu Yau Wah and Ms. Poon Ming Yun made the following points:

- (a) the applicant employed 43 workers for the applied use. The vehicles stored at the site were mainly brand new left-hand vehicles to be sold to the Mainland China. The site was used only for open storage without any car repairing activities. The traffic generated from the use was minimal and no heavy vehicle trips would be incurred;
- (b) the vehicle parts as shown in the photographs on Plan A-4 of the Paper had already been removed upon the enforcement action taken by the

PlanD in April 2008. The applicant had confined the storage of vehicle parts to the adjacent site in which open storage of vehicle parts was an 'existing use' tolerated under the Outline Zoning Plan; and

- (c) should the application be approved, he would accept a condition requiring the implementation of drainage facilities for the site.

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

#### Deliberation Session

121. A Member said that as the major concern on the applied use was on the environmental aspect and there had been no complaint from the local residents in this regard, favourable consideration could be given to the application. Another Member said that the area was sandwiched between two roads and there were open storage uses nearby with heavy vehicles moving around. It was unlikely that the applied use, which involved the storage of some 40 vehicles, would have significant environmental and traffic implications. The activities which would have adverse environmental and traffic impacts, such as car repairing and storage/sales of vehicle parts, could be prohibited by imposing a planning condition. Enforcement action could be taken if the condition was not complied with. Another Member said that as the site was unlikely to be reverted to agricultural use, allowing the applied use would be an acceptable means to put the land use under proper control.

122. Dr. Michael Chiu said that the background noise level in the area had been taken into consideration in assessing the application. According to the relevant guidelines, it was undesirable to allow temporary uses with environmental nuisances within 100m of

sensitive receivers. Noise nuisance was all along a concern of the residents in the area and the Environmental Protection Department had received some complaints on noise nuisance.

123. To conclude, the Chairman said that although DEP had some concern on noise impact, the background noise level in the area was already very high given the proximity of two main roads and the existence of open storage uses nearby. It was unlikely that the applied use alone would significantly aggravate the situation.

124. After further deliberation, the Board decided to approve the application on review on a temporary basis for a period of three years until 26.9.2011, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions:

- (a) no night-time operation between 6:00 p.m. and 9:00 a.m, as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, was allowed during the planning approval period;
- (c) no storage/sales of vehicle parts and no repairing, dismantling, cleansing, paint-spraying and workshop activities, as proposed by the applicant, should be carried out on the application site at any time during the planning approval period;
- (d) the submission of landscape and tree preservation proposal within six months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.3.2009;
- (e) in relation to (d) above, the implementation of landscape and tree preservation proposal within nine months from the date of planning

approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.6.2009;

- (f) the submission of drainage proposal within six months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.3.2009;
- (g) in relation to (f) above, the implementation of drainage facilities within nine months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.6.2009;
- (h) if any of the above planning conditions (a), (b) or (c) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (i) if any of the above planning conditions (d), (e), (f) or (g) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (j) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

125. Members also agreed to advise the applicant to:

- (a) resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (b) note the comments of the District Lands Officer/Yuen Long, Lands

Department that his office reserved the right to take control action against the occupation of Government land on the site and the applicant should apply for Short Term Tenancy (STT) to regularise the unlawful occupation of Government land. Should no STT application be received/approved, his office on review of the situation would take action as appropriate according to the established district land control programme;

- (c) note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the existing trees of common species could be found within or at close proximity to the site. However, the screening effect was still considered inadequate. Periphery tree planting was required for screening the site;
- (d) note the comments of the Chief Highway Engineer/New Territories West, Highway Department that his department was not/should not be responsible for the maintenance of any existing vehicular access connecting the site and Kam Tin Road;
- (e) follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Environmental Protection Department; and
- (f) note the comments of the Director of Electrical and Mechanical Services that based on the information provided by CLP Power Hong Kong Limited (CLPP), there were low voltage overhead lines and low voltage underground cables in the vicinity of the site. Prior to establishing any structure within the site, the applicant and/or his contractors should liaise with CLPP and, if necessary, ask CLPP to divert the low voltage overhead lines as well as the low voltage underground cables away from the vicinity of the proposed structure. The 'Code of Practice on Working near Electricity Supply Lines'

established under the Electricity Supply Lines (Protection) Regulation should be observed by the applicant and his contractors when carrying out works in the vicinity of electricity supply lines.

[Dr. Greg C.Y. Wong, Mr. Timothy K.W. Ma and Mr. Nelson W.Y. Chan left the meeting temporarily at this point.]

**Agenda Item 10**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-KTS/424

Temporary Open Storage of Construction Materials for a Period of 3 Years in “Agriculture” zone, Lots 1012(Part), 1014(Part), 1015A(Part), 1015RP(Part), 1035(Part) and 1038(Part) in DD 113, Kam Tin South, Yuen Long  
(TPB Paper 8193)

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[The meeting was conducted in Cantonese.]

**Agenda Item 11**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-KTS/425

Temporary Open Storage of Construction Machinery (Excavators) for a Period of 3 Years in “Agriculture” zone, Lots 1012(Part), 1013(Part), 1014(Part), 1015A(Part), 1015RP(Part), 1016(Part) in DD 113, Kam Tin South, Yuen Long  
(TPB Paper 8194)

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[The meeting was conducted in Cantonese.]

126. Applications No. A/YL-KTN/424 and 425 were submitted by the same applicant for similar use at two adjoining sites in the same zone. Members agreed that the two applications could be considered together.

127. Members noted that Dr. James C.W. Lau had declared an interest in these two item for having current business dealings with the Top Bright Consultants Limited, which was the consultant for the applicant. Dr. Lau had tendered apologies for not attending the meeting.

Presentation and Question Session

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

Mr. Wilson So	- District Planning Officer/Tuen Mun & Yuen Long (DPO/TMYL), Planning Department (PlanD)
Mr. Raymond Leung	)
Ms. Li Yee Ting	) Representatives of the Applicant
Mr. Lam Tim Kit	)

129. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited Mr. Wilson So to brief Members on the background to the application.

130. With the aid of some plans and photographs, Mr. Wilson So presented the applications and covered the following aspects as detailed in the Papers:

- (a) the Rural and New Town Planning Committee rejected the applications on 6.6.2008 for the reasons that the developments were not in line with the planning intention of the “Agriculture” (“AGR”) zone and would generate adverse traffic, environmental, landscape and drainage impacts in the area, the applications did not comply with the Town Planning Board (TPB) Guidelines No. 13D for Application for Open Storage and Port Back-up Uses, and the approval of the applications would set an undesirable precedent for similar applications;

- (b) the details of the applicant's proposals as set out in paragraph 1 of Annex A of the Papers. The applicant had not submitted further written representation in support of the review applications;

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

- (c) departmental comments – the relevant Government departments maintained their previous views on the application. The Director of Agriculture, Fisheries and Conservation (DAFC) was not in favour of the application as the agricultural uses in the vicinity of the site was still active and the site could be rehabilitated for agricultural purposes such as nursery gardening or greenhouse farming. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD did not support the application as the proposed uses were not compatible with the existing rural landscape character of the area. The Director of Environmental Protection (DEP) did not support the application as the proposed uses would cause environmental nuisances to the existing residents in the vicinity of the sites. The Assistant Commissioner for Transport/New Territories (AC for T/NT) had reservation on the application since vehicles exceeding 7m long were prohibited to enter Kam Ho Road and there was no proper access from Kam Ho Road to the site;
- (d) during the statutory publication period, one public comment was received from a Yuen Long District Councillor on both applications, raising concerns about the unauthorized change of land uses in the villages and the adverse impacts of the applied uses on the environmental and traffic aspects; and
- (e) PlanD's view – PlanD did not support the applications for reasons as detailed in paragraph 7 of the Papers. The developments were not in line with the planning intention of the "AGR" zone which was to

retain and safeguard good agricultural land for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation. The applications also did not comply with the TPB Guidelines No. 13D in that the developments were not compatible with the surrounding land uses which are predominantly rural in character; there was no previous approval for the sites and there were adverse comments from the relevant departments. Besides, the sites were close to a large woodland zoned “Conservation Area” and the Tai Lam Country Park to its further south.

131. The Chairman then invited the representatives of the applicant to elaborate on the application.

132. With the aid of a powerpoint presentation, Mr. Raymond Leung made the following points:

- (a) given the changing character of the sites and the surrounding areas since the development of the West Rail, the current “AGR” zone might no longer be appropriate;
- (b) the sites had been used for open storage for a long time and could not be rehabilitated to agricultural uses other than nursery gardening or greenhouse farming. Pending the review of the long term land use, it was reasonable to allow temporary uses on the sites;

[Dr. Greg C.Y. Wong and Mr. Timothy K.W. Ma returned to the meeting at this point.]

- (c) the application was in line with the TPB Guidelines No. 13D since the applied uses were not incompatible with the surrounding land uses. Part of the sites had been used as a works area of West Rail project between 1999 and 2003 and most of the areas in the vicinity of the sites had either been vacated or converted to other land uses, including

temporary open storage. Furthermore, the existing agricultural uses to the west of the sites could act as a buffer between the sites and the residential dwellings to the further west;

- (d) no environmental complaints had been received in the past three years in the area. There was only one public objection to the applications;
- (e) the landscape and drainage proposals as required by the relevant Government departments could be submitted upon the approval of the applications;
- (f) based on the experience in the West Rail project, there was no problem to allow vehicles longer than 7m to use Kam Ho Road. The reservation of the AC for T/NT on the applications was not justified; and
- (g) approval of the applications would not set an undesirable precedent since the applied uses would not have significant environmental and traffic impacts in the area. A similar application (Application No. A/YL-KTS/414) in the vicinity of the site had also been approved by the Board recently.

133. Members had the following questions:

- (a) given that Application No. A/YL-KTS/414 which involved a site previously within the works area of the West Rail project was approved by the Board and the applicant claimed that the two sites in the subject applications were also part of the said works area, whether there was any material difference in the planning circumstances between Application No. A/YL-KTN/414 and the two subject applications; and

- (b) noting the applicant's claim that no environmental complaints had been received in the past three years, how long the applied uses had been operating at the sites.

134. In response to question (a) above, Mr. Wilson So said that the works area of the West Rail project mainly covered an area to the northeast of the application sites and only a small portion of the application sites fell within the works area. Application No. A/YL-KTS/414 was for the temporary open storage of private vehicles and it involved a smaller site area than that of the two subject applications. Unlike the two subject applications, the temporary use under Application No. A/YL-KTS/414 would not involve the parking of medium or heavy vehicles and would be served by a proper local access. For the two subject applications, the applied use was for the open storage of construction materials and machinery which would involve the use of heavy vehicles without proper local access.

135. In response to question (b) above, Mr. Raymond Leung said that the applied uses had been operating in the sites for about one year.

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

#### Deliberation Session

137. Members generally considered that there were no strong grounds for approving the applications. A Member considered that it was unlikely to change the "AGR" zoning of the sites in the short term and the planning circumstances of Application No. A/YL-KTS/414 approved by the Board were different from that of the subject applications.

138. After further deliberation, the Board decided to reject the applications and the reasons were:

- (a) the developments were not in line with the planning intention of the “AGR” zone which was to retain and safeguard good agricultural land for agricultural purposes. This zone was also intended to retain fallow arable land with good potential for rehabilitation. No strong justification had been given in the submissions for a departure from the planning intention, even on a temporary basis;
- (b) the applications did not comply with the TPB Guidelines No. 13D in that the developments were not compatible with the surrounding land uses which were predominantly rural in character; there was no previous approval granted at the sites and there were adverse departmental comments on the applications;
- (c) there was insufficient information in the submissions to demonstrate that the development would not generate adverse traffic, environmental, landscape and drainage impacts on the surrounding areas; and
- (d) the approval of the applications, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

**Agenda Item 12**

[Open Meeting (Presentation and Question session only)]

Review of Application No. A/YL-PH/563

Temporary Car Trading for a Period of 2 Years in “Village Type Development” zone,

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

Fan Kam Road, Pat Heung, Yuen Long

(TPB Paper 8195)

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[The meeting was conducted in Cantonese.]

139. Members noted that Dr. James C.W. Lau had declared an interest in this item for having current business dealings with the Top Bright Consultants Limited, which was the consultant for the applicant. Dr. Lau had tendered apologies for not attending the meeting.

**Presentation and Question Session**

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

Mr. Wilson So - District Planning Officer/Tuen Mun & Yuen Long  
(DPO/TMYL), Planning Department (PlanD)

Mr. Wong Kwok Wah - Applicant

Mr. Raymond Leung )  
Ms. Li Yee Ting ) Representatives of the Applicant  
Mr. Lam Tim Kit )

141. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited Mr. Wilson So to brief Members on the background to the application.

142. With the aid of a powerpoint presentation, Mr. Wilson So presented the application and covered the following aspects as detailed in the Paper:

- (a) the Rural and New Town Planning Committee rejected the application on 20.6.2008 for the reasons that the continuous occupation of the site for temporary open storage use was not in line with the planning intention of the “Village Tye Development” (“V”) zone, the development was not in line with the Town Planning Board (TPB) Guidelines No. 13D for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13D), and approval of the application would set an undesirable precedent for other similar uses;
- (b) the details of the applicant’s proposal as set out in paragraph 1 of Annex A of the Paper. The applicant had not submitted further written representation in support of the review application;

[Dr. Greg C.Y. Wong left the meeting temporarily at this point.]

- (c) departmental comments - the relevant Government departments maintained their previous views on the application. The Director of Environmental Protection (DEP) did not support the application as the proposed use would cause environmental nuisances to the sensitive uses in the vicinity. In a previous application No. A/YL-PH/488 for temporary open storage of vehicles in the site, the DEP had already advised that interface problem might exist and the open storage use should be phased out as early as possible;
- (d) no public comment was received on the application during the statutory publication period and the District Officer/Yuen Long received no comment from the local residents; and
- (e) PlanD’s views - PlanD did not support the application for reasons as detailed in paragraph 7 of the Paper. The applied use was not in line with the planning intention of the “V” zone. Having considered the

nature of the application and the definition of open storage use under the TPB Guidelines No. 13D, i.e. activities carried out on a site for which the greater part (generally assumed to be more than 50%) was uncovered and used for storage, repair or breaking other than container-related uses (which included open storage use with on-site commercial activities), the applied use was akin to an open storage use and the TPB Guidelines No. 13D were relevant. The applied use was not in line with the said Guidelines in that the site fell within the Category 4 areas which was to encourage the phasing out of such non-conforming uses as early as possible. Sufficient time had already been given to relocate the use and there was no information in the submission to demonstrate why suitable sites could not be made available. Approval of the application would set an undesirable precedent for other similar uses.

143. The Chairman then invited the applicant and his representatives to elaborate on the application.

144. With the aid of a powerpoint presentation, Mr. Raymond Leung made the following points:

- (a) before the promulgation of TPB Guidelines No. 13D, storage of second-hand vehicles for sale was not covered under the definition of open storage use. The change made in the said Guidelines was mainly to prevent open storage use in the disguise of commercial activities. For the subject application, the applied use was genuinely a commercial use and the TPB Guidelines No. 13D should not be applied;

[Dr. Greg C.Y. Wong returned to the meeting at this point.]

- (b) although the site was zoned “V”, it was too small for Small House

development. The District Lands Officer/Yuen Long had not received any Small House application in respect of the site. Commercial uses which were compatible with the surrounding uses without causing adverse impact in the area should be allowed in the “V” zone;

- (c) only seven parking spaces were provided in the site, five of which were for the display of vehicles for sale and the remaining two were for the use of the staff and customers. The applicant had got another site for the storage of vehicles;
- (d) the part of Kam Tin South area in the vicinity of the site was in fact a major place for second-hand vehicle trading. For the application site, vehicle trading activities had been carried out under the previous approvals for open storage of vehicles. No public objections or environmental complaints had been received in this regard. The approval of the application would not set an undesirable precedent; and
- (e) the concern of DEP on possible environmental nuisances was applicable only to open storage use. There were no strong views from other departments on the application.

145. Mr. Wong Kwok Wah said that the site would only be used for vehicle trading and the stock of vehicles would be stored in other places. Due to the small scale of his business, he needed only a small site which was not readily available in the area. The Government should give more support to the operation of small/medium-size enterprises.

146. Members had the following questions:

- (a) whether it was the intention of the TPB Guidelines No. 13D to impose a more stringent control on open storage use for the Category 4 areas, which covered the application site, than that for the other three

categories;

- (b) whether the site was large enough to accommodate more than seven parking spaces as proposed by the applicant; and
- (c) assuming that the applied use could be considered as a commercial use rather than open storage, whether the PlanD would have a different view on the application.

147. In response to Members' questions, Mr. Wilson So made the following points:

- (a) under the TPB Guidelines No. 13D, the criteria for approving open storage uses in the Categories 4 areas were more stringent than the other three categories. Applications for such uses in the Category 4 areas would normally be rejected except under exceptional circumstances. For sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration might be given if the applicants had demonstrated genuine efforts in compliance with approval conditions of the previous approvals and submitted relevant technical assessments/proposals to demonstrate no adverse impacts on the surrounding areas. The intention was however to encourage the phasing out of such non-conforming uses as early as possible. For the subject site, approvals for temporary open storage of vehicles had been granted previously (Applications No. A/YL-PH/349, 455, 488 and 514) for a total period of six years. Sufficient time had been allowed for the relocation of the use. In the last approval, the Board had already advised the applicant that no further renewal of approval would be given;
- (b) the Board had rejected an application (No. A/YL-PH/541) for temporary open storage of private cars prior to sale at the site on

9.11.2007. The current application was similar to that rejected application in terms of the nature and scale of the applied uses and there was no change in the planning circumstances since the Board's rejection of the application;

- (c) based on the layout plan submitted by the applicant, it seemed that more than seven car parking spaces could be accommodated in the site. However, the applicant would be in a better position to confirm this point. During the consideration of the previous applications in respect of the site, the Board had clearly indicated its intention that the use for open storage of vehicles should be phased out from the site as early as possible; and
- (d) the land within the "V" land was intended primarily for Small House developments by indigenous villagers. 'Shop and services' and 'eating place' uses serving the needs of the villagers or in support of the village development were always permitted on the ground floor of a New Territories Exempted House. Other commercial uses might be permitted upon planning application. The vehicle trading use under the subject application was not to serve the needs of the villagers nor in support of the village development. Furthermore, it was the intention of the Board that open storage of vehicles at the site should be phased out as soon as possible. In this regard, the proposed use was not supported at the application which was within the "V" zone. To address the demand for such use in the area, the Board had agreed to reclassify a "Residential (Group D)" site on Fan Kam Road from Category 4 to Category 2 in the review of the TPB Guidelines No. 13D under an earlier agenda item in the same meeting.

148. In response to Members' questions and Mr. Wilson So's responses, Mr. Raymond Leung and Mr. Wong Kwok Wah made the following points:

- (a) the purpose of the TPB Guidelines No. 13D was to control the open storage and port back-up uses. The applied use under the current application was commercial in nature, which should not be subject to the control under the said Guidelines. Under the Outline Zoning Plan, the applied use might be allowed under the “V” zone by planning application to the Board. The applicant would confine the use at the site to that approved by the Board; and
- (b) the local villagers no longer carried out agriculture activities in the area. The applied use would provide job opportunities for the villagers.

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

#### Deliberation Session

150. Noting the applicant’s claim that the applied use should be considered as a commercial use, a Member said that uses such as ‘shop and services’ under Column 2 should not be allowed in the “V” zone if such uses would contravene the planning intention of the zone, which was primarily for Small House developments by indigenous villagers. Should there be a need to use the site for permanent car trading purpose, the applicant should apply to rezone the site to an appropriate zoning.

151. Another Member asked whether the use of the ground floor of a Small House for car trading was permitted. Mrs. Ava Ng said that the use under the current application was not confined to the ground floor of a Small House but involved using a “V” site for display of vehicles as part of the car trading business. Such use would require planning

permission. Another Member said that as the application site was not unsuitable for Small House development, the application should not be allowed.

152. After further deliberation, the Board decided to reject the application and the reasons were:

- (a) the continuous occupation of the site for temporary open storage use 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. There was insufficient justification in the submission for continuous departure from such planning intention, even on a temporary basis;
- (b) the development was also not in line with the TPB Guidelines No. 13D in that the site fell within Category 4 areas, the intention of which was to encourage the phasing out of such non-conforming uses as early as possible. Sufficient time had already been given to provide time to relocate the use to other location and there was no information in the submission to demonstrate why suitable sites within “Open Storage” zones could not be made available for the applied use; and
- (c) approval of the application would set an undesirable precedent for other similar uses to proliferate into this part of the “V” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

[Dr. Michael Chiu, Ms. Ava Chiu and Mr. Walter K.L. Chan left the meeting temporarily and Mr. Timothy K.W. Ma left the meeting at this point.]

**Agenda Item 13**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-PS/283

Temporary Warehouse for Storage of Metalware for a Period of 3 Years

in “Residential (Group C)” zone, Lots 1096(Part), 1841A, 1843A(Part), 1843RP, 1844A, 1845A(Part) and 1845B(Part) and Adjoining Government Land in DD 124,

Hung Shui Kiu Main Street, Ping Shan, Yuen Long

(TPB Paper 8196)

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[The meeting was conducted in Cantonese.]

153. Members noted that Dr. James C.W. Lau had declared an interest in this item for having current business dealings with the Top Bright Consultants Limited, which was the consultant for the applicant. Dr. Lau had tendered apologies for not attending the meeting.

**Presentation and Question Session**

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

Mr. Wilson So - District Planning Officer/Tuen Mun & Yuen Long  
(DPO/TMYL), Planning Department (PlanD)

Mr. Raymond Leung )  
Ms. Li Yee Ting ) Representatives of the Applicant  
Mr. Lam Tim Kit )

155. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited Mr. Wilson So to brief Members on the background to the application.

156. With the aid of a powerpoint presentation, Mr. Wilson So presented the application and covered the following aspects as detailed in the Paper:

- (a) the Rural and New Town Planning Committee rejected the application on 20.6.2008 for the reasons that the development was not in line with the planning intention of the “Residential (Group C)” (“R(C)”) zone and would generate adverse environmental, drainage and traffic impacts, there was no information to support why the proposed storage of metalware could not be accommodated in industrial buildings, and approval of the application would set an undesirable precedent for other similar uses;
- (b) the details of the applicant’s proposals as set out in paragraph 1 of Annex A of the Papers. The applicant had not submitted further written representation in support of the review application;
- (c) departmental comments – the relevant Government departments maintained their previous views on the application. The Director of Environmental Protection (DEP) did not support the application as the applied use would cause environmental nuisances to the sensitive receivers in the vicinity of the application site. The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advised that the applicant should propose, provide and maintain a proper drainage system for the development. The Assistant Commissioner for Transport/New Territories (AC for T/NT) advised that the land status and the management and maintenance responsibilities of the road/path/track leading to the site should be sorted out before the application was further processed;
- (d) no public comment was received during the statutory publication period and the District Officer/Yuen Long received no local comments on the application; and

[Dr. Michael Chiu, Ms. Ava Chiu and Mr. Walter K.L. Chan returned to the meeting at this

point.]

- (e) PlanD's view – PlanD did not support the application for reasons as detailed in paragraph 7 of the Paper. The development was not in line with the planning intention of the “R(C)” zone which was primarily for low-rise, low-density residential developments. It was also incompatible with the adjoining residential development, i.e. the Bellevue Court, and the village houses to the east. The plot ratio (PR) of the warehouse structure was about 0.63, which was much higher than the PR of 0.4 as permitted under the “R(C)” zone and was not in keeping with the surroundings. There was insufficient information to demonstrate that the proposed development would not pose adverse impacts on the surrounding areas and why it could not be accommodated in industrial buildings. Approval of the application would set an undesirable planning precedent.

157. The Chairman then invited the representatives of the applicant to elaborate on the application.

158. With aid of a powerpoint presentation, Mr. Raymond Leung made the following points:

- (a) there was no fixed programme for residential development on the application site and hence, temporary use which had no adverse impact in the area should be allowed;
- (b) the site was previously used for open storage which had caused much nuisances to the surrounding area. By replacing it with a warehouse use with the storage materials enclosed and the site fenced off, the local environment was greatly improved. As shown in the photographs in Plan R-4a, the warehouse use did not cause any environmental and visual impact in the area nor any interface problem

with the surrounding residential developments. No complaints had been received from the residents;

- (c) adequate drainage facilities had been provided for the site. Upon approval of the application, the applicant would formally submit the details to the DSD for approval;
- (d) the applicant was unable to identify suitable accommodation in industrial buildings for warehouse use since the supply of such accommodation in Yuen Long was limited. Furthermore, the size and the restrictions imposed by the owners of such accommodation often could not meet the operation need of the applied use. The unloading/unloading of metalwares would also cause significant inconvenience and safety problem to other users of an industrial buildings; and
- (e) each application should be considered on its individual merits. As the subject development would not cause any adverse impacts in the area, the approval of the application would not set an undesirable planning precedent.

159. Members had the following questions:

- (a) whether the vehicular ingress/egress point to the warehouse was located near to Bellevue Court; and
- (b) whether the current warehouse was an unauthorized use.

160. In response to question (a), Mr. Raymond Leung said that the vehicular ingress/egress point to the warehouse was located near the northern periphery of Bellevue Court. Since the main entrance of Bellevue Court was at the southern periphery, there was no potential conflict of vehicular movements between the two sites.

161. In response to question (b), Mr. Wilson So said that the site was not the subject of any enforcement action. Although buildings works had been found in 2007, no unauthorized development under the Town Planning Ordinance was identified at that time and the case was referred to Buildings Department for follow-up action.

162. In response to the Chairman's query on whether building plans would be submitted to the Building Authority should the application be approved, Mr. Raymond Leung said that it was a long and expensive process to satisfy all the requirements set by all relevant departments, in particular the Director of Fire Services (D of FS), in obtaining building plan approval for temporary uses in the rural area. Therefore, the applicant, like many other operators of temporary uses, had not submitted building plans to the Building Authority for approval. Should the application be approved, the applicant would endeavour to satisfy the requirements of the relevant departments including the D of FS. If necessary, the applicant would also reduce the scale of the warehouse to a level acceptable to the Board.

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

#### Deliberation Session

164. A Member said that it might not be appropriate to approve the application as the site was located adjacent to a residential development. Although the application was for a temporary warehouse use, it was anticipated that the applicant would apply for a renewal of the approval upon its expiry. The Chairman said that any application for renewal of the approval would be considered on individual merits taking into account the prevailing circumstances at that time. Another Member also commented that the warehouse which had provided an enclosure for the stored materials was an improvement to the environment

as compared with the previous open storage use and hence, sympathetic consideration could be given to the application. Another Member shared the same view.

165. Relating to PlanD's concern on the scale of the warehouse, Mrs. Ava Ng said that residential development in the "R(C)" zone was subject to a maximum PR of 0.4. The Chairman said that should the application be approved, such PR should also be applied to the warehouse use and an approval condition should be included to that effect. Members also agreed that in order to monitor the operation of the warehouse, a temporary approval of 12 months instead of three years was considered appropriate.

166. After further deliberation, the Board decided to approve the application on review on a temporary basis for a period of 12 months until 26.9.2009, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions:

- (a) the development intensity of the site should not exceed a plot ratio of 0.4;
- (b) no night-time operation between 6:00 p.m. to 9:00 a.m. on Monday to Friday and from 1:00 p.m. to 9:00 a.m. on Saturday, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no operation on Sundays and public holidays was allowed on the site during the planning approval period;
- (d) no dismantling, packing, open storage or workshop activities were allowed on site at any time during the planning approval period;
- (e) no heavy vehicles (i.e. exceeding 24 tonnes), as proposed by the applicant, were allowed to be parked on the site at any time during the planning approval period;

- (f) the submission of landscape proposal within three months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.12.2008;
- (g) in relation to (f) above, the implementation of the landscape proposal within six months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.3.2009;
- (h) the submission of a drainage proposal within three months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.12.2008;
- (i) in relation to (h) above, the provision of drainage facilities as proposed within six months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.3.2009;
- (j) the submission of fire service installations proposals within three months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.12.2008;
- (k) in relation to (j) above, the provision of fire service installations proposed within six months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.3.2009;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (e) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked

immediately without further notice;

- (m) if any of the above planning conditions (f), (g), (h), (i), (j) or (k) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (n) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

167. Members also agreed to advise the applicant to:

- (a) note that a shorter approval period of 12 months was imposed so as to monitor the situation of the site;
- (b) note that prior planning permission should have been obtained before commencing the applied use at the application site;
- (c) resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (d) note the comments of the District Lands Officer/Yuen Long that Short Term Waiver and Short Term Tenancy to regularise the irregularities on the site should be applied;
- (e) note the comments of the Director of Fire Services that reference should be made to the requirements as stipulated in paragraph 4.29, “Industrial/godown building-Low Rise” of the ‘Code of Practice for Minimum Fire Service Installations and Equipment’, the building plans should be drawn to scale and depicted with dimensions, and the location of the proposed fire services installations should be marked

clearly;

- (f) note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the unauthorized structures within the site which were liable to action under section 24 of the Buildings Ordinance (BO) should be removed. The granting of the planning approval should not be construed as condoning to any unauthorized structures existing on the site under the BO and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structure for approval under the BO was required;
- (g) adopt the environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise any possible environmental nuisances;
- (h) note the comments of the Chief Engineer/Development(2), Water Supplies Department that the existing water mains would be affected and the applicant should bear the cost of any necessary diversion works affected by the development. A waterworks reserve within 1.5m from the centreline of the water main should be provided to his department’s satisfaction. No structure should be erected over this waterworks reserve and such area should not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority might require or authorize; and
- (i) note the comment of the Assistant Commissioner for Transport/New

Territories that the land status of the road/path/track leading to the site should be checked with the lands authority and that the management and maintenance responsibilities of this road/path/track should be clarified and the relevant lands and maintenance authorities should be consulted accordingly.

#### **Agenda Item 14**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments in respect of the Draft Mid-levels West Outline Zoning Plan No. S/H11/14 (TPB Paper No. 8197)

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[The meeting was conducted in Cantonese.]

168. The Secretary said that Dr. Greg C.Y. Wong, Professor N.K. Leung, Dr. Ellen Y.Y. Lau and Messrs. Walter K.L. Chan, Rock C.N. Chen and Felix W. Fong had declared interests in this item for owning properties in the Mid-levels West area (the Area). The Chairman also declared an interest for living in the Area. Dr. Lau, Mr. Chen and Mr. Fong had tendered apologies for not attending the meeting and Professor Leung had left the meeting. The remaining Members were allowed to stay at the meeting since the item was for information and hearing arrangement of representations and comments, and the interests of the Members were considered indirect.

169. The Secretary briefly introduced the Paper. He said that the draft Mid-levels West Outline Zoning Plan (OZP) No. S/H11/14 was exhibited for public inspection on 20.3.2008, and a total of 263 representations and 467 comments were received. The amendments incorporated in the OZP were mainly for the imposition of building height restrictions in the Area. As the amendments had attracted wide public concerns, it was considered more appropriate for the Board to hear the representations and comments itself without resorting to the appointment of a Representation Hearing Committee. The hearing could be accommodated in the Board's meeting scheduled for 31.10.2008 and conducted collectively under three groups, including:

- Group 1: 210 representations and 177 related comments, mainly on the imposition of building height restrictions in general;
- Group 2: 51 representations and 297 related comments, mainly on specific sites in the Caine Road, Seymour Road, Castle Road and Castle Steps area; and
- Group 3: three representations on specific “Government, Institution or Community” sites.

170. After deliberation, the Board agreed to consider the representations and comments in the manner as proposed in paragraph 2.2 of the Paper.

### **Agenda Item 15**

[Open Meeting]

Submission of the Draft Hung Hom Outline Zoning Plan No. S/K9/21A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8200)

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[The meeting was conducted in Cantonese.]

171. The Secretary briefly introduced the Paper.

172. After deliberation, the Board agreed that:

- (a) the draft Hung Hom Outline Zoning Plan (OZP) No. S/K9/21A and its Notes at Annexes I and II respectively of the Paper were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;

- (b) the updated Explanatory Statement (ES) for the draft Hung Hom OZP No. S/K9/21A at Annex III of the Paper should be endorsed as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) the updated ES was suitable for submission to the CE in C together with the draft OZP.

### **Agenda Item 16**

[Open Meeting]

Draft Ho Man Tin Outline Zoning Plan No. S/K7/19 –  
Confirmation of Proposed Amendment  
(TPB Paper No. 8202)

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[The meeting was conducted in Cantonese.]

173. Mr. Alfred Donald Yap and Mr. Raymond Y.M. Chan had declared interests in this item for owning properties in the Ho Man Tin area. Members noted that Mr. Chan had left the meeting and agreed that Mr. Yap could stay at the meeting since the item was procedural.

174. The Secretary then briefly introduced the Paper. He said that on 18.1.2008, the draft Ho Man Tin Outline Zoning Plan (OZP) No. S/K7/19 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, 17 representations were received. On 28.3.2008, the representations were published for three weeks for public comments. 189 comments were received. On 11.7.2008, after considering Representations No. 9 and 10 to 13 and 15, the Board decided to propose amendments to the OZP to partially meet the representations. On 22.8.2008, the proposed amendments were published for further representations. No further representation was received.

175. Members noted that no further representation was received and in accordance with section 6G of the Ordinance, the OZP should be amended by the proposed amendments as shown at Annex I of the Paper. In accordance with section 6H of the Ordinance, the OZP should be read as including the amendments. The amendments should be made available for public inspection until the Chief Executive in Council had made a decision in respect of the draft plan in question under section 9 of the Ordinance. The Building Authority and relevant Government departments would be informed of the decision of the Board and would be provided with a copy/copies of the amendments.

### **Agenda Items 17 and 18**

[Closed Meeting]

176. These two items were recorded under confidential cover.

### **Agenda Item 19**

Any Other Business

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

### **Vote of Thanks**

177. Members noted that it was the last meeting for Dr. Michael Chiu who would soon proceed to retirement and Ms. Ava Chiu who would be transferred to a new post. On behalf of Members, the Chairman thanked Dr. Chiu and Ms. Chiu for their contribution to the Board and wished Dr. Chiu all the best after retirement and Ms Chiu every success in the new posting.

178. There being no other business, the meeting was closed at 5:45 p.m.