

**Minutes of 936th Meeting of the
Town Planning Board held on 29.5.2009**

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

Professor David Dudgeon

Mr. Tony C.N. Kan

Professor N.K. Leung

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Mr. B.W. Chan

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Mr. K.Y. Leung

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Mr. Fletch Chan

Deputy Director of Environmental Protection

Mr. Benny Wong

Assistant Director (2), Home Affairs Department

Mr. Andrew Tsang

Director of Lands

Miss Annie Tam

Director of Planning

Mrs. Ava Ng

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Mr. Edmund K.H. Leung

Professor Bernard V.W.F. Lim

Mr. Alfred Donald Yap

Ms. Sylvia S.F. Yau

Ms. Maggie M.K. Chan

Mr. Y.K. Cheng

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Professor Edwin H.W. Chan

Dr. Ellen Y.Y. Lau

Mr. Maurice W.M. Lee

Dr. Winnie S.M. Tang

In Attendance

Assistant Director of Planning/Board

Mr. Lau Sing

Chief Town Planner/Town Planning Board

Mr. W.S. Lau

Senior Town Planner/Town Planning Board

Miss Vivian M.F. Lai

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 935th Meeting held on 15.5.2009

[The meeting was conducted in Cantonese.]

1. The minutes of the 935th meeting held on 15.5.2009 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

- (i) New Town Planning Appeal Received

Town Planning Appeal No. 5 of 2009

Proposed Petrol Filling Station

in “Undetermined” zone and Area Shown as ‘Road’,

Lots 999E, 1001ARP, 1002ARP and 1327RP in DD 115 and Adjoining Government Land,

Au Tau, Nam Sang Wai, Yuen Long

(Application No. A/YL-NSW/182)

2. The Secretary reported that an appeal dated 15.5.2009 against the decision of the Town Planning Board (the Board) on 6.3.2009 in relation to a section 17 review on Application No. A/YL-NSW/182 for a proposed petrol filling station at a site zoned “Undetermined” (“U”) and area shown as ‘Road’ on the approved Nam Sang Wai Outline Zoning Plan No. S/YL-NSW/8 was received by the Appeal Board Panel (Town Planning).

3. The Appellant sought planning permission for the proposed petrol filling station on a permanent basis under section 16 of the Town Planning Ordinance. On 6.3.2009, the Board approved the subject application on review on a temporary basis for a period of 10 years until 6.3.2019. In the Notice of Appeal, the Appellant indicated that the permission should be on a permanent basis as in the Board’s previous decision made on

27.6.1997 (i.e. in respect of the previous application (No. A/YL-NSW/17) for a proposed petrol filling station on a larger site submitted by the Appellant which was approved by the Board on review on a permanent basis).

4. The hearing date of the appeal was yet to be fixed. The Secretariat would represent the Board to handle the appeal in the usual manner.

(ii) Town Planning Appeal Statistics

5. The Secretary said that as at 29.5.2009, a total of 25 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows :

Allowed	:	24
Dismissed	:	109
Abandoned/Withdrawn/Invalid	:	130
Yet to be Heard	:	25
Decision Outstanding	:	0
Total		288

Agenda Item 3

[Open Meeting (Presentation and Question Session Only)]

Consideration of Representations and Comments in Respect of the Draft Shau Kei Wan Outline Zoning Plan No. S/H9/15
(TPB Paper No. 8338)

[The hearing was conducted in Cantonese and English.]

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

Dr. Daniel B.M. To - Owning a property at Shau Kei Wan Main Street East and being a Eastern District

	Councillor
Dr. Greg C.Y. Wong	Having business dealings with Hong Kong
Professor Bernard V.W.F. Lim	Housing Society (HKHS) (Representer No 10)
Mr. Y.K. Cheng)
Mr. B.W. Chan)
Mr. Walter K.L. Chan)
Mr. Timothy K.W. Ma) Being a member of the HKHS
Mrs. Ava Ng)
	as the Director of Planning
Miss Annie Tam)
	as the Director of Lands

7. Members noted that Professor Bernard V.W.F. Lim, Messrs. Y.K. Cheng and B.W. Chan had tendered apologies for not attending the meeting. Messrs. Walter K.L. Chan and Timothy K.W. Ma left the meeting and Mrs. Ava Ng left the meeting temporarily at this point. Members noted that Dr. Daniel B.M. To, Dr. Greg Wong and Miss Annie Tam had not yet arrived to join the meeting.

8. Members noted that sufficient notice had been given to invite the representatives and commenters to attend the hearing. Other than the representatives and commenter to be invited to the meeting below, the rest had either indicated not to attend the hearing or made no reply. The Board agreed to proceed with the hearing in their absence.

9. Members also noted that a replacement page 34 of the Paper was tabled at the meeting.

Presentation and Question Session

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

PlanD

Ms. Brenda Au	District Planning Officer/Hong Kong (DPO/HK)
Ms. Judy Kwok	Town Planner/Hong Kong (TP/HK)

Representer No. 3 (R3) (Designing Hong Kong) and

Commenter No. 3 (C3) (Mr. Paul Zimmerman)

Mr. Paul Zimmerman

R4 (The Civic Party)

Mr. Joey Cheung

Mr. Paul Zimmerman

R7 (Mr. Leung Siu-sun, Patrick, Eastern District Councillor)

Mr. Leung Siu-sun, Patrick

R8 (The Real Estate Developers Association of Hong Kong) (REDA)

Mr. Ian Brownlee

Ms. Anna Wong

R10 (HKHS represented by Urbis Ltd.)

Dr. Peter Cookson Smith Urbis Ltd.

Mr. Pang Chuck Hang HKHS

Mr. David T.W. Hung Urbis Ltd.

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

11. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited Ms. Brenda Au, DPO/HK, to brief Members on the background to the representations and comments.

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

(a) the proposed amendments were set out in paragraph 1 of the Paper. A total of 10 representations and 3 comments were received;

- (b) the grounds of representations, representers' proposals and comments were summarised in paragraph 2 whereas PlanD's responses were set out in paragraphs 4.5 and 4.6 of the Paper. They were highlighted below:

Representations in support of the proposed development restrictions, and representations against Item E (rezoning of land from “Open Space” (“O”) to “Residential (Group A)” (“R(A”))) and Item C4 (rezoning of land from “Government, Institution or Community” (“G/IC”) and “Green Belt” (“GB”) to “R(A)1”) – R1, R2 and R9

- i. R1, R2 and R9 supported the imposition of development restrictions in Shau Kei Wan area. R1 and R2 opposed rezoning of a site at Shau Kei Wan Main Street East from “O” to “R(A)” under Item E, and R2 also opposed rezoning a strip of land within Hing Tung Estate from “G/IC” and “GB” to “R(A)1” under Item C4. They considered that supply of residential developments was more than the demand;
- ii. PlanD's responses – The support was noted. Item E was to reflect the as-built residential development thereon, and there was no intention to resume the private lots for open space development. Item C4 was for minor boundary adjustment for the estate;

[Mr. Rock C.N. Chen arrived to join the meeting at this point.]

Representations in respect of building height (BH) restrictions and asked for more stringent control – R3 to R7 and R9

- iii. R3 to R5 opined that BH restrictions required corresponding reduction in plot ratio (PR) to avoid walled or screen type buildings. They suggested a presumption against amalgamation of plots, and that there should be zoning of land for streets, lanes and open space to improve air ventilation and visual corridors. The street level

experience should be maintained which matched the current ‘village’ atmosphere. To compensate for the loss in development potential in the centre of Shau Kei Wan, the BH of surrounding properties, like those adjoining A Kung Ngam Road, should be increased. The BH of properties adjoining Shau Kei Wan Road, Shau Kei Wan Main Street East, Factory Street, Kam Wa Street, Po Man Street and Mong Lung Street should be restricted to current BHs;

- iv. R6 opined that the stepped BH principle descending towards the waterfront was not maintained in the western part of the area, thus appropriate BH restrictions should be imposed to rectify the imbalance. Considering that a stepped BH design was needed, R7 proposed to lower the BH for waterfront area to 80-90mPD, maintain the existing BHs (90-100mPD) for areas in Shau Kei Wan Road, Sai Wan Ho Street, Mong Lung Street and Shau Kei Wan Main Street East, and relax the BH for hillside areas to 120-130mPD. R9 opposed relaxation of BH to encourage site amalgamation, and the separation distance requirement between buildings was not incorporated, and therefore proposed to add building separation requirement. R9 was also concerned that more high rise development in the inland would induce wall effect, given the tall buildings at the waterfront. C3 supported R4 to R7 and C2 supported R9;

[Mr. David W.M. Chan arrived to join the meeting at this point.]

v. PlanD’s responses –

- the BH restrictions were drawn up based on factors like urban design principles, planning intention, local characteristics, topography, development potential and the air ventilation assessment (AVA) findings;

- on the waterfront area, 100-120mPD was appropriate to contain the BH of existing properties and more stringent control would pose undue development constraints. The two-tier BH restriction for inland sites was to encourage site amalgamation to provide opportunities for parking and loading/unloading, better floor plate design, and more variations within height bands. The height bands would not preclude renovation or regeneration of existing developments. The height bands in the foothill area had allowed scope for redevelopment without compromising the ridgeline;
- reduction in PR had been made to sites where Government could exercise influence and to areas which warranted special and stringent control. Site amalgamation brought benefits and opportunities to address site constraints. Road use was always permitted and it was not the practice to indicate minor streets on OZP. Nevertheless, major streets and roads, some serving as air/visual corridors, had already been shown as ‘Road’, and the “O” sites also facilitated provision of air paths;
- regarding the proposal to preserve the so-called ‘low-rise village’ atmosphere, it was not the planning intention to retain existing tenement buildings which were not of heritage significance. Maintaining existing BH would unduly dampen redevelopment incentives. The proposal to increase the BH for properties adjoining A Kung Ngam to compensate the loss in the centre involved transfer of development potential among different landowners, which was neither feasible nor reasonable;
- it was considered not necessary to incorporate building gaps requirement as detailed AVAs were required for redevelopments of major sites;

Adverse representation in respect of BH, PR and non-building area (NBA) control and for relaxation of control – R8

- vi. R8 considered that the BH and NBA were inappropriate detailed development control in the broad-brush planning system without legal and technical basis. The BH for some residential, business and godown zones were unreasonably low, leading to wall effect. There was a lack of prior public consultation. The setting of the control took no consideration of building economics and implications on redevelopment. The presumption against minor relaxation for buildings exceeding the BH restriction was harsh and unnecessary. As such, R8 proposed to review the BH bands to be commensurate with the proposal under the Urban Design Guidelines Study (UDGS), undertake suitable public consultation and technical assessments, delete PR/gross floor area (GFA) restrictions of various residential, business and godown zones, delete NBA and the minor relaxation presumption against existing developments with BH exceeding the height restrictions. C1 supported R8;

[Mr. Leslie H.C. Chen arrived to join the meeting at this point.]

vii. PlanD's responses –

- BH restrictions and NBA were to prevent proliferation of excessively tall or out-of-context tall buildings and to improve air ventilation. Development proposals with special site constraints, design or planning merits could be catered for by the provision for minor relaxation of BH restrictions. Under exceptional circumstances, minor relaxation of NBA requirement might also be allowed;
- premature release of information before exhibition of the OZP amendments might prompt a surge of submission of building plans for redevelopment on the affected sites to establish ‘faits accomplis’ nullifying the effect of BH restrictions. The building plans, once

approved, would remain valid irrespective of subsequent zoning change, unless substantially revised. The provisions for representations and comments on representations under the Town Planning Ordinance (the Ordinance) were part and parcel of the statutory public consultation process. This provided a statutory channel for the public to present their views and had a dialogue with the Town Planning Board on the various planning proposals. For the A Kung Ngam Business Area (AKNBA) which only formed a part in the entire OZP review exercise, it was inappropriate to adopt the consultation approach similar to that for the Wong Chuk Hang Business Area, particularly considering the consequence of premature release of information of AKNBA might prompt a surge of submission of building plans to establish ‘faits accomplis’ as explained above;

- the BH profile on the OZP was based on reasonable assumptions including those on site coverage, floor-to-floor height, car parking requirements and GFA concessions. The BH control would not result in more massive building or wall effect. PlanD did not agree with the representer’s claim that the public concern was only about those 60-storey or taller buildings in prominent locations. The representer’s claim that the UDGS proposed a height profile of 30-40 storeys on waterfront and 60 storeys on inland was also not entirely correct. The proposal was not included in the final recommendations of the UDGS. Apart from preserving the ridgeline, other considerations such as local characteristics and setting for historic sites were equally important in formulating the BH restrictions;
- legal advice obtained by the Board confirmed that with sufficient planning justifications, the Board had the powers to control development under the Ordinance. The designation of NBA served a positive planning purpose. The NBA designation in the “Comprehensive Development Area” (“CDA”) zone for Ming Wah

Dai Ha was to ensure an air path along Chai Wan Road and for tree preservation;

- a PR of 12 was appropriate and provided sufficient incentives for redevelopment in the AKNBA. The rezoning to “Other Specified Uses” annotated “Business” (“OU(B)”) was an ‘upzoning’ to encourage redevelopment and to facilitate transformation of the industrial area into a business area. The PR and BH restrictions were devised after detailed assessment, with due regard to the permissible development intensity under leases;
- the presumption on minor relaxation for sites with existing BH exceeding the height restrictions was to prevent those buildings which had already exceeded the BH profile to further jeopardise the overall BH concept. R8’s request to review and relax BH restriction and delete PR restrictions was not supported;

Representations in respect of Ming Wah Dai Ha – R8 to R10

- viii. R10 opposed the “CDA” zoning of the site and the PR restriction. R10 proposed to revert to the “Residential (Group A)” (“R(A)”) zone to achieve a PR more than 6. R10 considered that planning control could be met as the lease of the site contained a Design, Disposition and Height (DDH) clause and general layout plan submission requirement. It was difficult to formulate a pre-determined master layout plan under the “CDA” zone, and full traffic analysis could not be undertaken until the redevelopment scheme was determined. R10 submitted conceptual layouts for redevelopment at PR of 6, 7 and 7.5 within the BH restriction of 100 and 120mPD;
- ix. R8 opposed the vantage points, the BH profile and reduction in development intensity on the ground that the public viewpoint was arbitrarily chosen and there was no justification for the

preservation of views from the Barracks. Further BH control around A Kung Ngam area and the area to its west was unreasonable and unnecessary as there was visual buffer to the east of the Barracks. R8 proposed to delete the PR and NBA restrictions for the site;

- x. R9 supported the BH restriction for the Ming Wah Dai Ha and proposed to lower the PR restriction to 4 because redevelopment of the site might result in screen effect in view of its large site area and rectangular shape;

xi. PlanD's responses –

- in formulating the development restrictions for Ming Wah Dai Ha site, a balance had been struck among the considerations of scarce land resource in the urban area, the need for affordable housing, and a better living environment. Its future redevelopment should respect the low-rise character of the historic site. The selected vantage point was not arbitrary as it (Block 10) was the main recreation building of Lei Yue Mun Holiday Village. The “CDA” zone provided a more open and effective measure to control its future redevelopment than the control under the lease. R10's conceptual layouts were unacceptable in terms of urban design. As such, R8 to R10's proposals were not supported; and

- (c) PlanD's views – the supportive representations of R1, R2 and R9 were noted. PlanD proposed to partially uphold R8 by including a provision in the Notes of the “CDA” zone to allow for minor relaxation of NBA, and not to uphold R3 to R7, R10 and the remaining parts of R1, R2, R8 and R9 for reasons stated in paragraph 6 of the Paper. PlanD's proposed amendments to the Notes and Explanatory Statement were set out in Annexes VI-1 and VI-2 of the Paper.

- 13. The Chairman then invited the representatives of representers and commenter

to elaborate on their representations and comment.

R3 (Designing Hong Kong) and C3 (Mr. Paul Zimmerman)

R4 (The Civic Party)

R6 (Mr. Chan Kai Yuen, Eastern District Councillor)

14. Mr. Paul Zimmerman, representative of R3, C3 and R4, said that his presentation would be after Mr. Joey Cheung, representatives of R4 and R6. Mr. Joey Cheung made the following main points :

- (a) suggested principles to be adopted for amending the OZP :
 - i. BH restrictions required corresponding reduction in PRs to avoid aggravating the negative impact of walled or screen type buildings;
 - ii. a presumption against amalgamation of plots together with the zoning of land for streets, lanes and open space was required to improve air ventilation and visual corridors, and to maintain a street level experience which matched with the current street level ‘village’ atmosphere;
 - iii. to maintain and further enhance the general urban development pattern in Shau Kei Wan, which included large developments along the waterfront and the mountain sides with a vibrant low rise community in the centre by restricting the heights of the properties adjoining Shau Kei Wan Road, Shau Kei Wan Main Street East, Factory Street, Kam Wa Street, Po Man Street and Mong Lung Street similar to their current height, and increasing the permitted height for properties adjoining A Kung Ngam Road;
 - iv. a stepped arrangement with lower building height at the waterfront ascending gradually towards the mountain. It was noted that this principle had not been maintained on the western part of the area near Tai On Street and Oi Tak Street. Appropriate height restrictions

should be imposed to rectify this upon redevelopment of these excessively tall buildings in the long run;

- (b) the suggested principles would have such benefits as enhancement of local character, social network and infrastructure; incentive for renovation and gradual gentrification of the ‘village’; promoting competition, diversity, vibrancy and safeguard of jobs and businesses of the small and medium enterprises (SMEs);
- (c) it would avoid converting Shau Kei Wan Road and Shau Kei Wan Main Street East into narrow ‘canyons’ resulting in loss of character; and
- (d) increasing BHs of the surrounding properties would compensate in part for a loss in development potential within the centre. It would also add to the patronage of the ‘village’ and enhance the property values of the ‘village’.

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

15. Mr. Paul Zimmerman then supplemented the following main points:

- (a) on PlanD’s argument of balancing the development needs and public aspiration for a better living environment in formulation of development restrictions for the area, it was not clear what development needs the Government had considered and whether they were the needs of the city, individuals or landowners/developers;
- (b) the OZP amendment had not made a proper balance of important factors. While he supported that ridgeline protection, heritage value of the Barracks, and air ventilation were important considerations in the OZP amendments, other key factors, such as traffic, quality of pedestrian experiences, public realm and the impact on business and job opportunities, had been left out in setting the development restrictions;

- (c) amalgamation of sites would result in large podiums with 100% site coverage. Such new developments would expel the small shops on the streets and other SME business. R3, R4 and R6's proposal of maintaining the BH by presumption against amalgamation of sites fared better in promoting diversity and vibrancy of the local area and safeguarding the SME business and employment; and
- (d) exemption of BH restrictions was objected unless there was an overriding public need or 'force majeure'.

R7 (Mr. Leung Siu-sun, Patrick, Eastern District Councillor)

16. Mr. Leung Siu-sun, Patrick said that apart from the above, he had concern on traffic impact arising from BH restrictions of to the 120-130mPD along narrow streets such as Sai Wan Ho Street. Redevelopment of the sites would allow for provision of more parking spaces, thus generating more car trips congesting the local roads.

R8 (REDA)

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

- (a) REDA considered that the development restrictions were unnecessarily restrictive and they limited innovative design to respond to community's call for sustainable development. REDA had made submissions to several OZPs where BH restrictions were imposed as the Board had not carried out its statutory duties well by introducing controls at a detailed level which were not permitted under the Ordinance;
- (b) REDA was so concerned with the change and the process being introduced by the Board that a petition had been lodged to the Chief Executive in Council (CE in C) in April 2009 in relation to Board's decisions on REDA's representations on the Mid-Levels West OZP. The petition was made because (i) the methodology and procedures were flawed, (ii) there were public concerns about the independence of the

Board and the undue influence of Planning Department, (iii) in the interest of land owners, investors and residents in HK affected by such change, (iv) in the interest of economic progress and (v) in defence of the rule of law. REDA had asked the CE in C not to approve the Mid-Levels West OZP and to refer it back to the Board for further consideration. In doing so, it had proposed that the Board should undertake a fully open and extensive public consultation on imposing BH restriction throughout HK, and strike a balance between the deprivation of property rights, urban design considerations and other factors outlined in the petition before imposing any more BH restrictions;

- (c) REDA's representation on the Shau Kei Wan OZP was a further expression of the same concerns. REDA opposed the introduction of BH and NBA on the OZP, and BH and PR/GFA restrictions for residential, business and godown zones. The main points were highlighted below :
- i. broad brush planning – the amendments, particularly on the imposition of NBA, went beyond the broad brush approach which the statutory planning system was based on;
 - ii. no public consultation – there was no public consensus on how the height limits should be applied to Shau Kei Wan area and there was no alternative presented for discussion. There was also no presentation of the impact of these restrictions. The public could understand the proposal only if they knew how to access the planning information kept in Planning Enquiry Counters. PlanD's response in the Paper was not a valid reason for not having public consultation. The BH profile resulted from the OZP amendment, as shown in Plan H-10b, provided no evidence of public consensus on the following :
 - the usual stepped height profile for the harbour to the hills should be abandoned such that a canyon of lower heights over the inland old areas should be imposed;

- the views to the west from the Barrack site was so significant that the development rights of the landowners should be severely impacted;
 - A Kung Ngam area was really an eastern entry to HK and therefore needed to be so severely restricted;
 - the general height limits should be so low for only 30-storey residential buildings and around 17-storey buildings for the “OU(B)” zone;
 - a stepped height along the harbour from east to west should apply. In this connection, at the harbourfront, Les Saison was not out-of-context when compared with the Grand Promenade to its west, but it could not claim existing building height upon redevelopment ;
- iii. no comprehensive urban design study – an improved environment should be looked at comprehensively through an urban design study, and implemented by means like landscaping the public areas, control through leases and changes to buildings regulations, all of which were not matters that the Board was currently attempting to address through OZP amendments;
- iv. general height restrictions – as mentioned in paragraph 3.3 of REDA’s submission (Annex IV-6 of the Paper), all the objectives for better environment could be achieved with a reasonably higher height limit. REDA questioned the reason for the two-tier system for inland sites zoned “R(A)2” and “R(A)3”, and considered that if some buildings could be 20m taller, all other buildings could be 20m taller. A general increase in BH by 20m would have no visual impact but allow greater variation in BH;
- v. recognition of existing heights – buildings should be able to rebuild to their existing height and bulk was a standard principle. Unless

there was a definition, there was no way to consider a building out-of-context;

- vi. the eastern area – the approach taken to the eastern area had a devastating effect on private property rights. REDA objected the height limits on “OU(B)” and the “CDA” zone for the Ming Wah Dai Ha based on the consideration of the Barracks and the eastern entry to Victoria Harbour. The Barrack site was a large area and the Barrack blocks oriented generally to the east and north (Plan H-6b of the Paper). Instead of a higher point with best views, the lowest points at Blocks 7 and 10 were arbitrarily chosen for visual assessments of building profile in the eastern area. As shown in Plan H-11b of the Paper, there was a ridge between the Barracks and the “OU(B)” area, and the ridge together with the adjoining “GB” slopes were buffer to the Barracks. In addition, the “OU(B)” sites were not the entry to the harbour as the ridgeline in its front provided the visual protection. From the photomontage in Plan H-11b, there was no apparent justification for the 80m restriction compared with the 100m restriction which would permit a PR of 15. Similar arguments applied to the Ming Wah Dai Ha site;
- vii. reduction in PR for “OU(B)” zone – the reduction in PR from 15 to 12 took away property rights without adequate justifications. The PR of 12 for “OU(B)” zones in the Kowloon area was the result of a detailed study of traffic and infrastructure which had not been undertaken for the area. A comparable example was that in Wong Chuk Hang where the height limits allowed for PR of 15. For the 10 sites within “OU(B)” zone at A Kung Ngam, 6 sites, not 3 sites, were not subject to any BH or PR restrictions under leases. There were adverse impact on redevelopment incentive as the value decreased with the new OZP restrictions;
- viii. NBA - there was no legal basis for NBA. It was not a zone for a use, and not a broad brush approach. It did not define a type or form of

buildings. It was initially based on AVA but the one on Chai Wan Road was to conserve existing trees without further information on the trees. REDA considered that AVA requirements should be achieved by other ways such as identification of air ventilation corridors but not by the establishment of NBAs in the OZP. Furthermore, the consideration of minor relaxation of NBA ‘under exceptional circumstances’ in the Notes of the OZP was not desirable and should be refined to be considered based on individual merits as in the case of other minor relaxation clause for development restrictions; and

- (d) the Board should respect the development rights and should (i) remove the PR/GFA restrictions for various residential, business and godown zones, or replace the PR restriction for the “OU(B)” zone by PR of 15 and BH limit of 100mPD, (ii) relax the heights for the old areas by 20m, (iii) remove NBA from the OZP, (iv), remove presumption against minor relaxation for existing building with BH exceeding the height restrictions, and (v) recognise the existing height and bulk of all buildings upon redevelopment.

R10 (HKHS)

18. With the aid of a Powerpoint presentation, Dr. Peter Cookson Smith, made the following main points:

- (a) the Ming Wah Dai Ha site, elongated in configuration, was developed by the HKHS in the early 1960s with two new blocks built in 1978. The existing rental estate blocks, with heights about 6 to 20 storeys, provided a total of 3169 flats with flat size ranging from 13m² to 53.3m². On a net site area of about 3.14ha, the current PR was about 3.88;
- (b) the representation site was once zoned “R(A)” subject to a PR of 8 to 10 under the Building (Planning) Regulations and no BH restriction. It would be extremely difficult to formulate a pre-determined MLP as the

southern part of the site was unlikely to be redeveloped even in long-term. HKHS opposed the zoning amendment to “CDA” with a PR of 6 on the following grounds :

i. HKHS was a non-profit housing organisation to provide affordable housing for the community. The PR reduction affected redevelopment potential of the site and hence the financial viability for redevelopment by HKHS. Furthermore, the capacity to provide humane accommodations by improving the average flat size / provision for improved facilities was impaired;

[Mr. Stanley Y.F. Wong left the meeting and Ms. Anna S.Y. Kwong returned to join the meeting at this point.]

ii. the “R(A)” zone allowed a development with a PR higher than 6. HKHS could achieve a significantly higher PR adopting a redevelopment and part-rehabilitation scenario, while also meeting the environmental, air ventilation, traffic and infrastructure requirements. The lease also provided control over design, disposition and height and required submission of General Layout Plan. The intention for planning control over scale, height and massing could be substantially met under the “R(A)” zone;

iii. as demonstrated in the conceptual plans, at various PR scenarios of 6, 7, 7.5 or even 8, the heights of the buildings could conform with the stipulated BH restrictions of 100mPD in the northern part and 120mPD in the southern part of the site. Two 10m wide air corridor (NBA) could be accommodated in the layouts to comply with the requirement of the “CDA” zone. In addition, breezeways were provided in the layouts;

iv. HKHS planned to rehabilitate/redevelop the site in stages. However, it would be extremely difficult to formulate a pre-determined MLP as long term redevelopment programme was unlikely to be made in

the near future;

- v. any redevelopment to a PR of 6 or more would result in tall buildings, and the height limits proposed under the “CDA” zoning would result in block heights well in excess of the Lei Yue Mun Barracks. The aesthetic appropriateness of any proposal would inevitably be extremely subjective;
- vi. the development profile under the current height restrictions constrained design and building form, view corridors or viewshed through the area from western viewpoints. Views from the harbour towards the Area would remain undisturbed by any redevelopment of Ming Wah Dai Ha. There was no difference in general visual terms when compared development at PR6 or PR7.5, as illustrated in Plans H-12a and H-12b of the Paper, assuming that the massing would be subject to detailed design;
- vii. the restrictions had introduced inappropriate detailed development control in broad statutory planning system. In respect of ridgeline protection, Shau Kei Wan had more than 20% of the mountain backdrop seen from the Kowloon side;
- viii. the rezoning to “CDA” with PR of 6 amounted to a reduction in development rights; and

- (c) HKHS objected that the redevelopment of the site required planning control over the mix, scale design and layout through “CDA” zone and therefore asked for reverting the site to “R(A)” zone and delete the PR restrictions on OZP.

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

20. In response to a Member’s query on the legitimacy for NBA, Ms. Brenda Au

said that according to Department of Justice's advice, sections 3 and 4 of the Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. The NBA could be a part of the planning control provided that the Board had necessary and sufficient planning justification. Designation of NBA on the OZP was a positive control to improve air ventilation and pedestrian environment. The NBA designated at the southernmost corner of the "CDA" zone was a mitigation measure recommended in the AVA study to enhance penetration of the prevailing winds. Tree preservation was only a secondary consideration.

21. In response to the Chairman's query on whether a PR of 6 was insufficient to improve the average flat size for the Ming Wah Dai Ha site upon redevelopment, Mr. Pang Chuck Hang, representative of HKHS, replied that a PR higher than 6 could entail more flexibility in the design.

22. The Chairman went on to raise the following questions :

- (a) the reasons for not allowing Les Saisons to claim existing BH upon redevelopment although it was not out-of-context as mentioned by R8;
- (b) the feasibility and need to set a presumption against amalgamation of lots as proposed by R3; and
- (c) the traffic impact to inland streets due to higher BH restrictions as raised by R7.

23. Ms. Brenda Au made the following responses:

- (a) in general, buildings could be redeveloped to its existing BH. It was under special circumstances, e.g. the excessively tall buildings at the waterfront, that claiming of existing BH upon redevelopment was not allowed. There was a variation of BH along the waterfront. Under the OZP, the waterfront site to the east of Les Saisons was subject to 120mPD, Les Saisons was subject to 140mPD and the waterfront site to the west of Les Saisons (i.e. the Grand Promenade under the Quarry Bay OZP) was subject to 160mPD.

However, as the existing BH of Les Saisons and the Grand Promenade exceeded the restrictions, they were not allowed to claim existing BH in order to achieve the planning intention in the long term;

- (b) site amalgamation was a process determined by the market to facilitate urban redevelopment and provided opportunities for local improvement to address issues including provision of on-site parking and loading/unloading facilities, avoidance of pencil-like buildings, facilitating better floor plan design and mitigating site constraints. There was no good reason to make a presumption against site amalgamation, and the reason provided by R3 to R6 to maintain the character of the tenement buildings was not justified; and
- (c) the BH restriction would not result in any increase in PR, thus would not result in additional traffic. On the contrary, some sites in the A Kung Ngam area were now subject to reduced PR and the resultant traffic situation should be improved.

24. Mr. Paul Zimmerman, representatives of R3, C3 and R4 had a different view on the impact on roads. He said that there would be more flats as a result of full redevelopment to the permitted PR on the OZP. He was concerned about a worsening impact on the street level experience. He asked DPO/HK to present a fly-through to illustrate the images of the Shau Kei Wan upon full developments.

25. With the aid of a fly-through simulation, Ms. Brenda Au briefly explained the proposed BH profile for Shau Kei Wan. Dr. Peter Cookson Smith, representative of R10, commented that the trident blocks used in the fly-through for the Ming Wah Dai Ha site were not realistic. Mr. Ian Brownlee, representative of R8, added that the fly-through did not illustrate the alternative BH profiles which the presenters had proposed. While Mr. Brownlee acknowledged that they had not prepared photomontages to support their proposal, he maintained that the information presented to the Board by PlanD was inadequate.

26. Mr. Ian Brownlee further questioned the availability of the fly-through to the

public. Ms. Brenda Au explained that the fly-through was one of the ways to present the proposed BH profile, and the relevant key shots had been captured and presented in the photomontages in the Paper (Plans H-10a to H-12b) which was sent to all the representers and available for public inspection. A fly-through simulation was also shown to the Sub-committee on Harbour Plan Review of Harbour-front Enhancement Committee on 19.11.2008 during consultation of the proposed amendments.

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

Deliberation Session

28. The Chairman invited Members to consider the representations and comments and reminded Members to take into consideration all the written submissions, the oral presentations made at the meeting and questioning session and all the materials presented by the representers/commenter at the meeting.

Representations in respect of BH restrictions and asked for more stringent control – R3 to R7 and R9 and

Representations against the rezoning of land from “O”, “GB” or “G/IC” to residential uses – R1 and R2

29. On representers' proposals to preserve the village character in Shau Kei Wan, against amalgamation of sites and to keep the streets and sidewalks, some Members did not agree that any 'village character' still existed in the area, and considered that the presumption against amalgamation would perpetuate the existence of old tenement buildings which was not desirable. The proposal to keep the streets and sidewalks was too restrictive for urban renewal purpose. In these respects, they agreed to PlanD's responses.

30. Members noted the other grounds of representations and proposals raised by

R3 to R7 and R9 in respect of other zoning amendments to residential uses and the overall building profile including a corresponding reduction in PR and that BH should be restricted to the current building height with relaxation of BH for properties adjoining A Kung Ngam as summarised in paragraphs 2.3.2 to 2.3.8 of the Paper, and agreed to PlanD's responses in paragraphs 4.5.2 to 4.5.4, 4.5.9(d) and 4.5.11 to 4.5.14 of the Paper.

Adverse representation in respect of BH, PR and non-building area (NBA) control and for relaxation of control – R8

31. A Member asked the reasons and implications of the wordings ‘exceptional circumstances’ used in constructing the minor relaxation clause for NBA vis-à-vis ‘individual merits’ used for minor relaxation clause for PR/BH. The Secretary explained that application for minor relaxation, regardless for PR/BH or NBA, had to be assessed based on individual merits. However, like road widening, the purpose of NBA would be defeated if one of the lots therein failed to comply with the requirement. The wordings ‘exceptional circumstances’ was included in the minor relaxation clause of NBA to cater for the situation that only in some special cases, NBA could not be provided due to site constraints but the planning objectives would be achieved in other forms, then the restriction on NBA could be relaxed. Members considered the consideration of such application under ‘exceptional circumstances’ appropriate and agreed to keep these wordings in the Notes.

32. A Member pointed out that the building blocks within the Barracks were oriented to the west, not to the east. Therefore the Ming Wah Dai Ha site was a relevant vista from the Barrack blocks. This Member opined that REDA’s suggestion to choose the viewing point at the hill top was unreasonable as it was not a popular public viewing point.

33. Members noted that a fly-through had been presented to the Metro Planning Committee (MPC) of the Board on 25.10.2008 in the consideration of the proposed amendments to the OZP for illustration of the BH profile of the area, and the information presented to the Board was adequate. The key shots were produced as photomontages at Plans H-10a to H-12b of the Paper available to the representers, commenters and the public.

34. Members noted the grounds of objection and proposals raised by REDA including lack of prior public consultation, proposed deletion of the PR/GFA restrictions of various residential and business/godown zones and proposed deletion of the requirement of NBA as summarised in paragraphs 2.3.9 and 2.3.10 of the Paper, and agreed to PlanD's responses in paragraphs 4.5.3, 4.5.5, 4.5.6 and 4.5.9 of the Paper.

Representations in respect of Ming Wah Dai Ha – R8 to R10

35. The Chairman referred Members to the grounds of representations and proposals put forward by R8 to R10 in respect of Ming Wah Dai Ha site and PlanD's responses as stated in paragraphs 2.3.11 to 2.3.14 and 4.5.7 to 4.5.9 of the Paper, and asked Members if they had any further questions or comment. Members agreed to PlanD's responses and had no further question or comment.

36. The Chairman then asked Members to go through whether the reasons for not upholding R1 to R7, R9 and R10 and part of R8 to see if they were appropriate and whether any amendments to the suggested reasons was necessary. After deliberation, Members considered that amendment was not necessary and agreed to adopt the reasons as stated in paragraph 6 of the Paper.

Representations No. R1 and R2

37. After further deliberation, the Board noted the support of Representations No. R1(part) and R2(part) on the imposition of development restrictions in the Shau Kei Wan Area in general.

38. The Board decided not to uphold the remaining part of the Representations No. R1 and R2 in respect of the relevant rezoning proposals for the following reasons :

R1 and R2

- (a) The rezoning of the site at Shau Kei Wan Main Street East from “Open Space” to “Residential (Group A)” was to reflect the existing use of the residential developments thereon, given that there was no intention to

resume the private lots for open space development even in the long term.

R2 Only

- (b) The rezoning of the small strip of land within Hing Tung Estate was for minor boundary adjustment of the estate. The rezoning would not have any implication on the loss of greenery or housing provision in the Area.

Representations No. R3 to R7 and R9

39. After further deliberation, the Board noted the support of Representation No. R9(part) on the imposition of development restrictions in the Shau Kei Wan Area in general.

40. The Board decided not to uphold the Representations No. R3 to R7 and the remaining part of the Representation No. R9 in respect of the request for more stringent control for the following reasons :

- (a) The imposition of BH and development restrictions in the Area was to provide better planning control in guiding future development /redevelopment, to prevent excessively tall or out-of-context buildings, to preserve the character and some key urban design attributes of the Area as well as to meet public aspirations for a better living environment (**R3 to R7 and R9**).
- (b) The formulation of the building height profile had taken into account a number of factors including topography, existing BH profile, development potential permitted on the OZP, private development rights, protection of ridgeline, urban design context, appropriate setting for the historic site, visual permeability and vistas, the BH restrictions imposed on the Quarry Bay OZP in a wider context, as well as the wind performance of the existing conditions and the recommendations of the AVA as appropriate (**R3 to R7 and R9**).

- (c) The BH restrictions on the OZP had struck a balance between development needs and the aspirations of the public for a better living environment. More stringent control would induce unnecessary constraints that unduly affect private development rights (**R3 to R7 and R9**).
- (d) In addition to BH restrictions, a corresponding reduction in plot ratio had been imposed on the OZP for specific large-scale residential sites under single ownership where the Government was able to exercise influence and for sites at prominent locations deserving special planning control (**R3 to R6 and R9**).
- (e) BH restrictions had already been imposed on the OZPs covering various parts of Hong Kong Island, particularly along the waterfront areas. BH review for the remaining areas was being undertaken progressively according to priorities such as areas which were subject to development/redevelopment pressure and areas requiring special urban design considerations (**R3 to R7**).
- (f) It would not be desirable to adopt a presumption against site amalgamation in the development/redevelopment process. Site amalgamation had its own merits in optimizing land resources and providing opportunities for local improvement to address issues including provision of on-site parking and loading/unloading facilities, avoidance of pencil-like buildings, facilitating better floor plate design, mitigating site constraints and improving air ventilation through suitable building design (**R3 to R7**).
- (g) Mitigation measures to create breezeways in the form of non-building area, retention of open space and low-rise GIC developments had been adopted to improve air ventilation for the Area. The suggested rezoning of roads and streets to form air paths or the incorporation of building gaps between buildings would not be necessary for the OZP (**R3 to R6**).

Representation No. R8

41. After further deliberation, the Board decided to partially uphold the R8 by including a minor relaxation clause to allow for application for minor relaxation of NBA under “CDA” zone, and that the proposed amendment to the Notes and Explanatory Statement of the Plan at Annexes VI-I and VI-2 of the Paper were suitable for gazetted under section 6(C)2 of the Town Planning Ordinance.

42. The Board decided not to uphold the remaining part of the Representation No. R8 opposing the BH and development restrictions for the following reasons :

- (a) The purpose of imposing BH restrictions in the Area was to provide better planning control on the overall building height profile of the Area, to prevent excessively tall or out-of-context buildings upon redevelopment, to meet public aspirations for a better living environment and for greater certainty and transparency in the statutory planning system.
- (b) The formulation of the building height profile had taken into account a number of factors including, topography, existing BH profile, development potential permitted on the OZP, private development rights, protection of ridgeline, urban design context, appropriate setting for the historic site, visual permeability and vistas, the building height restrictions imposed on the Quarry Bay OZP in a wider context, as well as the wind performance of the existing conditions and the recommendations of the AVA as appropriate.
- (c) The BH restrictions had struck a balance between meeting public aspirations for a better living environment and private development interests. There was no intention to create a canyon effect and the BH profile was not unreasonably low. While the overall BH concept suggesting that the Eastern Area could serve as a transition/buffer area and should be restricted to lower height bands to ensure compatibility with the setting of the historic site, the residential sites there could still be redeveloped to the maximum PR permitted under the B(P)R or the OZP

within the stipulated BH restrictions.

- (d) The BH restrictions had been formulated based on reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. A minor relaxation clause of BH restriction in the Notes of the OZP could cater for individual circumstances and development/redevelopments with design merits/planning gains. As the BH restrictions would generally not affect the maximum permissible PR under the OZP, except for sites within the “R(A)1”, “CDA” and “OU(Business)” zones which were subject to lower PR due to specific planning considerations and objectives, there should not be any significant adverse impact on redevelopment incentive.
- (e) The proposed review of BH bands for various residential zones and “OU(Business)” zone by making reference to the heights of out-of-context existing/committed buildings was inappropriate for it would lead to proliferation of excessively high-rise buildings in the Area, which would result in a substantial change in the character of the locality and have adverse visual impact on the Area.
- (f) The argument that Shau Kei Wan was outside the viewfans of the seven public vantage points identified on both sides of Victoria Harbour in the Urban Design Guidelines for Hong Kong Study (UDGS) and thus not requiring BH restrictions had misinterpreted the UDGS and the purpose of BH restrictions. The possible city profile in the UDGS only presented a broad building height profile that could preserve views to ridgelines and Victoria Harbour based on the seven strategic vantage points, with no consideration of individual site context. Specifically, the proposal of a height profile of above 60-storeys on inland was only one of the recommendations made by the consultant in the study process, which had not been included in the HKPSG. Apart from protecting the views to the ridgelines and the Harbour, other urban design attributes and planning considerations were equally important in the formulation of BH restrictions for the Area.

- (g) The selected viewing points to present the possible building and development profile in an area context for Shau Kei Wan were not arbitrarily chosen. The public lookout point at Devil's Peak above Yau Tong area across the Harbour, a section of Tai Tam Country Park offering an overview to the Area, and places of attraction within the historic site of the Lei Yue Mun Park and Holiday Village were all public places that currently presented an open view to the Shau Kei Wan area, the mountain backdrop and/or the Harbour.
- (h) Sections 3 and 4 of the Town Planning Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. Designation of NBA and building gaps on the OZP could serve a positive planning purpose and bring positive planning benefits by improving air ventilation and pedestrian environment. It had a legal basis for it would form part of the planning control of the Board, which had the necessary and sufficient justifications.
- (i) The planning intention of designating NBA was to improve air ventilation and permeability, especially within the redevelopment site of Ming Wah Dai Ha where blockage of the prevailing winds could be possible if without special control. The proposed deletion of NBA would defeat the above planning intention. However, a mechanism to allow application for minor relaxation of the NBA requirement under exceptional circumstances would be incorporated into the OZP.
- (j) The purpose of indicating in the Explanatory Statement of the OZP that there was a presumption against minor relaxation of BH restrictions for existing buildings which had already exceeded BH restrictions stipulated on the OZP was to contain the heights of the excessively tall buildings and avoid further aggregate increase in the BH profile. Such applications were generally not supported unless there were very strong justifications and each case would be considered on individual merits.

- (k) It was announced Government policy to progressively review various OZPs to stipulate development restrictions where justified to improve the environment. The reduction in plot ratio together with the revised BH restriction for the “OU(Business)” area and the stipulation of GFA for the “OU(Godown)” were justified in relation to the overall BH profile, with due consideration given to the entitlements under the industrial leases and the incentive for redevelopment.
- (l) Any premature release of information before exhibition of the amendments to the OZP might prompt a surge of submission of building plans for development/redevelopment on the affected sites to establish “faits accomplis” and thereby nullifying the effectiveness of imposing the BH restrictions. The MPC Paper setting out the rationales of the BH and NBA restrictions on the OZP, together with the AVA Report, were available for public inspection at the Planning Enquiry Counters of the Planning Department and in Planning Department’s website respectively. In any event, the exhibition of OZP for public inspection and the provisions for submission of representations and comments on representations formed parts of the statutory public consultation process under the Town Planning Ordinance.

Representation No. R10

43. After further deliberation, the Board decided not to uphold Representation No. R10 on the rezoning of Ming Wah Dai Ha site for the following reasons:

- (a) The imposition of BH and development restrictions in the Area was to provide better planning control in guiding future development /redevelopment, to prevent excessively tall or out-of-context buildings, to preserve the character and some key urban design attributes of the Area as well as to meet public aspirations for a better living environment.
- (b) The formulation of the building height profile had taken into account a

number of factors including, topography, existing BH profile, development potential permitted on the OZP, private development rights, protection of ridgeline, urban design context, appropriate setting for the historic site, visual permeability and vistas, the BH restrictions imposed on the Quarry Bay OZP in a wider context, as well as the wind performance of the existing conditions and the recommendations of the AVA as appropriate.

- (c) The subject site was at a sensitive location in close proximity to the historic site of the former Lyuemun Barracks Compound, overlooking the eastern gateway of the Harbour and fronting the prevailing easterly wind. The “CDA” zoning with the stipulated development restrictions and the requirement for Master Layout Plan submission and the relevant technical assessments, provided a better mechanism for control over the development scale, layout and disposition of future redevelopment at such a prominent site that warrants special control.
- (d) It was not sufficient to solely rely on administrative measures or lease conditions to achieve desirable urban form. Stipulating the development restrictions on the OZP was an effective way to regulate the development profile.
- (e) The development restrictions were formulated after striking a balance of relevant factors including development rights, housing provision, visual implications of redevelopment on the historic sites and on the overall townscape, air ventilation, urban design context and planning considerations.
- (f) Redevelopment to a PR higher than 6 on the Ming Wa Dai Ha site would likely result in a more congested layout, creating wall effect with reduced visual permeability and air ventilation, and thus have adverse impacts on the surroundings especially the historic site.

44. The meeting was adjourned at 11:20 am for a 5-minute break.

[Messrs. Leslie H.C. Chen and Benny Wong left the meeting while Dr. Greg C.Y. Wong, Mr. B.W. Chan, Dr. Daniel B.M. To and Miss Annie Tam arrived to join the meeting at this point.]

Agenda Item 4

[Open Meeting (Presentation and Question Session Only)]

Consideration of Representations in Respect of the Draft Wo Keng Shan Outline Zoning Plan
No. S/NE-WKS/9
(TPB Paper No. 8339)

[The hearing was conducted in Cantonese.]

45. Mr. Alfred Donald Yap, being an Honorary Chairman of Lin Ma Hang Village Office, had declared an interest in this item for his close relationship with Lin Ma Hang Village. Mr. Tony C.N. Kan, being the advisor of Heung Yee Kuk, also declared an interest in this item. Members noted that Mr. Yap had tendered apologies for not attending the meeting and considered that Mr. Kan's interest was indirect and he could stay at the meeting.

46. Members noted that sufficient notice had been given to invite the representers to attend the hearing. Other than the representers to be invited to the meeting below, the rest had either indicated not to attend the hearing or made no reply. The Board agreed to proceed with the hearing in their absence.

47. Members also noted that a petition letter submitted by R3 received on 29.5.2009 was tabled at the meeting.

Presentation and Question Session

48. The following representatives of Planning Department (PlanD), Environmental Protection Department (EPD) and representers and their representatives were invited to the meeting at this point:

PlanD

Mr. W.K. Hui District Planning Officer/Shatin, Tai Po and North (DPO/STN)

Mr. Kris Leung Town Planner/North (TP/N)

EPD

Mr. Lawrence M.C. Lau Principal Environmental Protection Officer
(Waste Facilities) (PEPO)

Mr. Gary C.W. Pun Senior Environmental Protection Officer (Waste Facilities) (SEPO)

Representer No. 1 (R1) (General Wide Ltd., Global Sound Ltd., Hero Star (HK) Ltd. and Poly-Style Ltd. represented by PlanArch Consultants Ltd. (PlanArch))

Ms. Betty Ho

Miss Gloria Sze

Ms. Jess Luk

Ms. Bonnie Cheung

Mr. Simon Lee

R3 (Mr. Yip Wah Ching, Representative of Indigenous Villagers of Lin Ma Hang Village)

Mr. Yip Wah Ching

R4 (District Minor Works and Environmental Improvement Committee of the North District Council)

Mr. Law Sai Yan

Mr. Lau Yung Sau

R4 & R8 (Mr. Tang Kun Nin, North District Councillor)

Mr. Tang Kun Nin

R5 (Ta Kwu Ling District Rural Committee)

Mr. Wong Wai Yim

Mr. Lam Kam Kwai

Mr. Man Sun Choi

Mr. To Shu Hoi

R5 & R6 (Ping Yeung Sam Heung Village Committee)

Mr. Chan Shung Fai

Mr. Chan Wah Fu

49. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited Mr. W.K. Hui, DPO/STN, to brief Members on the background to the amendments and the representations.

50. With the aid of a Powerpoint presentation, Mr. W.K. Hui made the following main points as detailed in the Paper:

- (a) the background of the proposed amendment was set out in paragraph 2 of the Paper. A total of 11 representations objecting to the rezoning of several land parcels adjoining the North East New Territories (NENT) Landfill from “Green Belt” (“GB”) to “Other Specified Uses” (“OU”) annotated “Landfill” were received;
- (b) grounds of representations and representers’ proposals as detailed in paragraph 3 of the Paper –
 - i. R1 opposed the amendment in respect of the southwestern parcel of land for the leachate treatment plant mainly on the grounds that such facility was in conflict with the surrounding villages and agricultural uses, and there was a lack of transparency in consultation. R1 proposed to retain the “GB” zoning of the representation site and relocate the treatment plant northwards to the other side of Wong Mau Hang Shan;

ii. R2 to R11 opposed the amendment for NENT Landfill Extension for the fear that it had adverse impact on environment, landscape, ecology and fung shui and it was incompatible with land uses and contrary to public opinions. They opined that other methods including scientific treatment of waste should be adopted. R3 to R6 requested to stop the NENT Landfill Extension plan immediately, and relocate the landfill to other more remote areas;

(c) PlanD's responses to grounds of representations

- i. environmental issue – the project was subject to Environmental Impact Assessment Ordinance (EIAO). The EIA had assessed the impact on different phases of the project including construction, operation and restoration and concluded that it would be environmentally acceptable with the implementation of proposed mitigation measures. The environmental concerns raised by the representers had been addressed;
- ii. living environment and ecology issues – the location of the Landfill Extension site was a valley to the south of the existing landfill site. The valley was encircled by ridgelines. The layout and boundary of the Landfill Extension had undergone extensive consultation with various stakeholders and the locals;
- iii. new leachate treatment facility – leachate treatment facility was an integral part of landfill design, and was crucial to environmental performance of the Landfill Extension. The site was selected in view of the topographical advantage for a gravity leachate collection system. The leachate storage lagoons and tanks would be covered up, with odourous air extracted and passed to odour removal filters. Buffer distance between leachate treatment plant and the agricultural activities in the area was not a material consideration because the treatment plant would be an impermeable liner and capping system to isolate leachate and

wastewater;

- iv. conflict with surrounding land uses – the project was considered a minor extension of the existing landfill. Sufficient distance from the “Village Type Development” zone has been reserved;
- v. contrary to public opinion – with extensive local consultation during the preliminary formulation and during the EIA process for the project, the location, layout options and boundary of the extension site had been selected with full consideration of local views and comments;

(d) PlanD’s responses to representers’ proposals

- i. stop and relocate the Landfill Extension – Landfill Extension was an essential facility integral to territorial waste management. It is environmentally acceptable and its EIA report was endorsed. The extension site was already in a remote area with sparse population nearby. The ridges of Wo Keng Shan formed a natural visual and noise barrier;
- ii. relocate the new leachate treatment plant – the site had been carefully selected with minimum impacts. Relocation to other side of Wong Mau Hang Shan was technically not feasible; and

(e) PlanD’s views – the representations should not be upheld on grounds as set out in paragraph 6 of the Paper.

51. With the aid of a Powerpoint presentation, Mr. Lawrence M.C. Lau, PEPO, made the following main points :

- (a) waste reduction and recycling were accorded with top priority in waste management in Hong Kong. ‘A Policy Framework for the Management of Municipal Solid Waste (2005-2014) was published in 2005 to set out

the comprehensive strategy on waste management for the next 10 years. Of the measures and targets set out in the policy, implementation of those measures was in progress and some targets had already been met. A feasibility study with EIA on Integrated Waste Management Facilities (IWMF), which was to substantially reduce the bulk size of waste requiring for land disposal, was in progress;

(b) the NENT Landfill Extension

- i. the Landfill Extension was situated within the valley, covering the stockpile and borrow area of the existing NENT Landfill. It had been carefully selected as it was located in a sparsely populated area;
- ii. the site had avoided the Lin Ma Hang Stream, its catchment area and the Tong To Shan archaeological site. The ground water level could fall by 0.6m at Ping Yuen River over the operational lifetime of the Landfill Extension. However, the groundwater table downstream would be recharged by adjacent catchments. Therefore the impact would be insignificant. In addition, the proposed extension site had avoided tree felling, and would be restored after end of landfilling operation;
- iii. to mitigate the odour impact, the active tipping area would be minimised whereas the inactive tipping areas would be covered with impermeable plastic sheet. In addition, the operation of the landfill gas extraction system would be maintained, and the leachate storage lagoons/tanks would be fully covered with odour removal filters;
- iv. the public had been engaged during the EIA and engineering feasibility studies. Presentations on the integrated waste management strategy, the Landfill Extension project proposal and measures to address public concerns were also conducted. Site visits to the landfill were organised for the North District Council Members and local community to inspect the environmental

performance of the landfill operation;

- v. the EIA concluded that the project would have no adverse environmental impacts on the surrounding areas with the implementation of proposed mitigation measures;

- (c) environmental management measures of the existing NENT Landfill –

a layout plan showing modern landfill design and photos of various landfill gas and leachate management systems were shown. A number of monitoring stations for various environmental parameters were set up around the existing landfill site to ensure that there were no adverse impacts to the surrounding environment. To prevent nuisances, measures on regular dust suppression, pest control and soil cover over waste were adopted; and

- (d) restored landfill sites could be used for recreational uses - such as golf driving range at Shuen Wan, and there were several other recreational grounds being constructed at restored landfill sites at Ngau Chi Wan, Jordan Valley and Gin Drinkers Bay.

52. The Chairman then invited the representatives of representers to elaborate on their representations.

R1 (General Wide Ltd., Global Sound Ltd., Hero Star (HK) Ltd. and Poly-Style Ltd.)

53. With the aid of a Powerpoint presentation, Ms. Betty Ho made the following main points on the opposition to the proposed leachate treatment plant,:

- (a) site selection

- i. it was said that the Landfill Extension was surrounded by ridges, but the proposed leachate treatment plant was on the wooded slope facing the Wo Keng Shan Tsuen. The wooded slope served as an

important buffer to the agricultural land and Wo Keng Shan Tsuen in the lowland;

- ii. it was stated in the Paper that relocation of the proposed leachate treatment plant to the other side of Wong Mau Hang Shan was neither practical nor feasible, but there were no details to elaborate on this claim;

(b) reasons of objection

- i. incompatibility – to the immediate south of the proposed leachate treatment plan, the “AGR” zone was 50-130m away and the Wo Keng Shan Tsuen was about 220m away. Although the proposal was to put in an impermeable line and capping system, there would be risks of contamination of agricultural land and its products. It would be difficult for the farmers to convince the customers that their products were not affected by the treatment plant;
- ii. lack of transparency – the proposed leachate treatment plant was not shown in the paper on preliminary findings of the EIA Study of the Landfill Extension during consultation with the North District Council (NDC) in April 2007. The representer noticed the inclusion of the representation site as part of the project in the EIA report published in May 2007;
- iii. strong local objections – there were strong objections from the NDC, Rural Committees and residents on the Landfill Extension project;
- iv. there were several potential development areas in the proximity to the proposed leachate treatment plan; and

- (c) R1 proposed to revert the zoning of the representation site to “GB”, and relocate the project northwards to the other side of Wong Mau Hang Shan.

R3 (Mr. Yip Wah Ching, Representative of Indigenous Villagers of Lin Ma Hang Village)

54. Mr. Yip Wah Ching tabled a statement summarising his representation for Members' information. He presented to the Board a TV episode produced by RTHK, named 'Hong Kong Guide' which was featured on Lin Ma Hang. The TV episode briefly introduced the village setting, history, ecology, plants and wildlife of Lin Ma Hang. After the TV episode, he made the following main points:

- (a) he strongly objected to the NENT Landfill Extension for the fear of diseases and virus breeding in the landfill site and adverse environmental impact which would affect the health of the villagers, their 'fung shui' and the ecology. The Government should preserve the existing setting of Lin Ma Hang;
- (b) the local consultation was insufficient, unfair and lack of transparency. There was insufficient channel for the local to express their views. They were not provided with information on environmental impact of the proposal. The villagers' right to seek independent expert advice was deprived;
- (c) sites next to the existing landfill seemed to be a convenient option for Landfill Extension, but the choice was made without due regard to the well-being of local villagers. The Government (the then District Officer) had pledged that the lifetime of the existing landfill was 15 years (i.e. 1993 to 2008) but the operation time had been extended as the existing landfill site was still active. With the Landfill Extension project, the Lin Ma Hang villagers, who had been suffering from the existing landfill, had to live with the nuisances for another decade or more. To keep the promise, the Government should not extend the landfill site and restore the existing landfill at this juncture;
- (d) in terms of location, Lin Ma Hang could serve as an excellent connection between Shenzhen and Hong Kong. However, being within the Closed Area, the development of Lin Ma Hang village had been limited. With

the opening up of the Closed Area, and its proximity to the proposed Heung Yuen Wai boundary crossing point, villagers would expect development and growth opportunities in Lin Ma Hang. The area should play a more important role in land use instead of being a dumping site. The villagers had grave concern that the Landfill Extension would adversely affecting the environment and the land value of Lin Ma Hang, and deter tourists from visiting the area;

- (e) Government's policies were conflicting as on one hand, there was an intention to preserve Lin Ma Hang village and its environs while on the other hand, a Landfill Extension was designated in the neighbourhood; and
- (f) the locals had all along objected to the proposal. The NDC at its meeting in April 2007 unanimously objected to the NENT landfill. The Policy Framework for the Management of Municipal Solid Waste published in 2005 had little progress in achieving the objectives like source separation of domestic waste, recycling of waste, building of incinerators, and treatment of organic waste. The Government should make reference to international experience to adopt new technologies to resolve the waste management problem instead of relying on landfilling.

[Professor Paul K.S. Lam left the meeting temporarily at this point.]

R4 (District Minor Works and Environmental Improvement Committee of the NDC)

55. Mr. Law Sai Yan said that there were odour and flies and mosquitoes problems in the area due to the existing landfill. The landfill was also on the route of the migratory birds, and thus extending the landfill would pose grave problem on ecology. In addition, the proposed extension would increase traffic flow adversely affecting the local residents.

56. Mr. Lau Yung Sau supplemented the following main points :

- (a) it was impossible for a landfill site to generate no pollution, odour nor

seepage of leachate at all. The existing landfill had affected lives of people in the area, and it was intolerable. It should not be extended to affect their next generation;

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

- (b) landfill was a kind of not-in-my-backyard facility. People could not realise the suffering of the locals from the nuisances of a landfill unless they had such experience. Members should put themselves into the shoes of the local villagers instead of assessing the case from an academic perspective; and
- (c) the fact that NDC objected unanimously to the Landfill Extension was not reflected in the Paper. It appeared that the series of consultation were not genuine as views were collected but not followed up.

[Professor Paul K.S. Lam returned to join the meeting and Mr. Felix W. Fong left the meeting temporarily at this point.]

R4 (District Minor Works and Environmental Improvement Committee of the NDC)

R8 (Mr. Tang Kun-nin, District Councillor)

57. Mr. Tang Kun-nin, representative of R4 & R8, made the following main points :

- (a) he was elected as a District Councillor since 1988. He recalled that the NDC objected to the NENT Landfill early in 1993. The Government convinced them that the facility was necessary and promised that it would only operate for 15 years, and there would be improvement works to widen Sha Tau Kok Road from Luen Wo Hui to Sha Tau Kok. However, the NENT Landfill had been operating for more than 15 years and only about one third of the Sha Tau Kok Road was widened; and
- (b) the area had been ‘frozen’ in the Closed Area for 50 years and all the

unwanted facilities like slaughterhouse, sewage treatment plant and landfill were also located there. The Government should consider to relocate the landfill to other remote areas like Lantau. Alternatively, other waste management measures like incinerator should be adopted.

R5 (Ta Kwu Ling District Rural Committee)

58. Mr. Wong Wai Yim, representative of R5, said that the EPD had no alternative landfill extension site if the proposal was not accepted by the Board. This implied that the Board would accept and endorse EPD's proposal. He reiterated that the villagers had already fulfilled their social responsibility by co-habiting with the landfill for 15 years, and any extension of the landfill should be stopped.

[Mr. Felix W. Fong returned to join the meeting at this point.]

59. Mr. Lam Kam Kwai, representative of R5, added that the villagers had high expectation on the future growth of the area driven by the opening up of the Closed Area and various development studies of the area. However, they were disappointed by the little benefits in that the area was recommended for conservation and agricultural use under the Closed Area planning study. The access road to the Liantang/Heung Yuen Wai Boundary Control Point (BCP) was elevated without an exit to the area, which was not beneficial to local economic development. The proposed Landfill Extension increased the resentment of the local villagers.

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

60. Mr. Man Sun Choi, representative of R5, supplemented that the EIA report for the Landfill Extension project did not cover the potential avian influenza pandemic or other diseases due to the birds feeding at the landfill site. In addition, with the opening up of the Closed Area and the development of New Development Areas (NDAs), the population in the area and its neighbours in Shenzhen and the north New Territories would grow significantly, resulting in more people being affected by the Landfill Extension.

R5 (Ta Kwu Ling District Rural Committee) and

R6 (Ping Yeung Sam Heung Village Committee)

61. Mr. Chan Shung Fai, representative of R5 & R6, made the following main points :

- (a) the proposed Landfill Extension site was not remote at all. It was about 30-minute walking distance from Shenzhen which was a financial centre with large population. The site selection resembled designating a landfill adjacent to Central on Hong Kong Island. The economy of both Shenzhen and the North NT would be impaired by the Landfill Extension;
- (b) the potential risk on health caused by the proposed Landfill Extension would increase and its consequence could be appalling as thousands of people on both sides of the boundary would be affected; and
- (c) there were strong local objections to the Landfill Extension. The Board should pay due regard and attention to the local views.

62. As the presentations from the representatives of the representers had been completed, the Chairman invited questions from Members.

63. The Chairman and Members raised the following questions :

- (a) whether the Landfill Extension were outside the valley area;
- (b) whether the EIA had covered assessments of the impact of the Landfill Extension to the local ecology like the bats in the abandoned mines, fishes in the fresh water stream mentioned in RTHK's TV programme,
- (c) the impacts generated from the landfill operation like odour, seepage, groundwater pollution and their mitigation; and
- (d) whether the EIA had evaluated the risk of birds transmitting virus and bacteria from the landfill and the possibility of consequential outbreak of

diseases.

64. Mr. Lawrence M.C. Lau, PEPO, replied as follows :

- (a) the Landfill Extension was situated in the valley and would not be visible to the villagers in most of the operational life of the landfill;
- (b) the selected Landfill Extension site had avoided the ecologically sensitive areas including the Lin Ma Hang Stream and the lead mine caves. The EIA report concluded that there would be no ecological impact from the Landfill Extension;
- (c) to minimise the odour impact, leachate storage lagoons/ tanks would be fully covered and equipped with odour removal filters. The Landfill Extension site would be equipped with landfill gas extraction system and impermeable liner to ensure no leakage of gas nor contaminated water. The performance of these measures would be closely monitored via monitoring stations; and
- (d) on disease control, apart from the regular pest control, the operation of landfill was subject to Food and Environmental Hygiene Department's regular patrol and there were liaison with the Department of Health on treatment and disposal of potentially contaminated waste at landfills. The active tipping area would be minimised and waste would be covered up with soil at the end of each day. Special treatment was adopted to treat special waste. There was no evidence indicating that birds had been spreading virus and bacteria from landfill sites.

65. The Chairman referred Members to the findings of the relevant EIA Executive Summary at Annex IV of the Paper. He went on to ask about the odour problem from the existing landfill site as claimed by the representers.

66. Mr. Lawrence M.C. Lau said that daily inspections by EPD and independent consultants revealed that there was no adverse odour impact from the existing landfill. In

the EIA, modelling results showed that the gaseous emissions would have no adverse impact on the air sensitive receivers throughout the operational period of the Landfill Extension.

67. Another Member raised the following questions :

- (a) whether there was seepage of contaminated water from the existing landfill to the local area, as claimed by some of the representers;
- (b) whether there was a promise from the Government that the NENT landfill would operate for 15 years only; and
- (c) whether R1's proposal of alternative site for leachate treatment plant was feasible and what were the views of other representers to R1's proposal.

68. Mr. Lawrence M.C. Lau clarified that :

- (a) local complaints on contaminated water were received and the incident was investigated. Samples were collected and analysed. The results showed that the amount of E. coli. (*Escherichia coli*) was exceptionally high which indicated that the contaminated water was associated with agricultural activities, such as livestock farming. The source of the contaminated water was not from the landfill site; and
- (b) according to their file records, there was no undertaking that the existing landfill would operate for 15 years only.

69. Mr. Chan Chung Fai, representative of R5 & R6, interrupted at this point and said that as the Government had not kept its promise that the landfill would only operate for 15 years, the locals had nothing to add at the meeting. The representatives of R3 to R6 and R8 left the meeting to show their discontent.

70. The Chairman said that the question session should continue.

71. In respect of the site selection for leachate treatment plan, Mr. Gary C.W. Pun, SEPO, said that among the assessment criteria, land with lower elevation that would facilitate gravity flow and land in close proximity to connect to the existing sewerage were two essential considerations for the proposed leachate treatment plant. Wong Mau Hang Shan had a site level higher than that of the proposed new leachate treatment plant site, and leachate collected there would need to be pumped to the nearby sewerage. The proposed leachate treatment plant location fared better than other alternatives.

72. Ms. Betty Ho, representative of R1, questioned why the Landfill Extension would not make use of the existing leachate treatment facility to the NENT Landfill. The Chairman followed up to ask whether in Government's plan, efforts would first be made to make use of the existing treatment facility and whether the proposed leachate treatment plant site was a reserve site only.

73. Mr. Gary C.W. Pun explained that there were two considerations in relation to using the existing treatment plant. First, there would be another contract for the Landfill Extension and the contractor might not be the same as the current NENT Landfill contractor, which might create contractual issues. Also, there might be new treatment technology available and the upgrade of the existing leachate treatment plant which was built some 15 years ago might be difficult. Therefore a new plant on a new site was required. Nevertheless, EPD would review the situation and might include in the tender document for the Landfill Extension project an option to upgrade the existing plant for leachate treatment.

74. Some Members further asked the following questions:

- (a) whether there were any local complaints received on smell and other pollution in the area and how they were followed up, and whether there were complaints from the Mainland;
- (b) to where would the leachate flow should the landfill lining was damaged;
- (c) whether there were stray animals found in the landfill site;

- (d) the number of truck-trip to the existing landfill site; and
- (e) whether the Landfill Extension would defeat the planning intention for the area.

[Dr. Daniel B.M. To left the meeting at this point.]

75. Mr. Lawrence M.C. Lau responded that :

- (a) according to records, there were no complaints from the Mainland. As regards local pollution complaints, no complaint was received in 2004 and 2005, 3 in 2006, 4 in 2007 and 1 in 2008. Most of the local complaints related to odour or groundwater pollution. Once a complaint was received, investigation would be carried out to ascertain the source of pollution. The complainant would be informed of the findings of the investigation. It was found that the pollution sources of the environmental nuisances were either related to the septic tanks or the livestock farms nearby;
- (b) in the event that the lining was damaged, the leachate would flow to Ping Yuen River and its catchment. The Lin Ma Hang Stream and its catchment would not be affected;
- (c) except stray dogs, no other animals were found in the landfill site. The contractor would liaise with Agriculture, Fisheries and Conservation Department should stray dogs were found; and
- (d) there were about 360 truck-trips daily using the access from Wo Keng Shan Road to the landfill.

[Mr. Tony C.N. Kan left the meeting at this point.]

76. Mr. W.K. Hui supplemented that according to the planning study for the Closed Area, the area would be proposed for conservation and recreational uses. The

Landfill Extension would have minimal impact on the planned land use. After its restoration, it would be compatible with the proposed Country Park extension in Hung Fa Leng, the ridges to the east of the landfill site.

77. On making use of the existing leachate treatment plant, Ms. Betty Ho, representative of R1, remarked that it would be cost-effective to upgrade the existing plant for leachate treatment. Furthermore, it should be pointed out that there were agricultural activities in the lowland of Ping Yuen River and the seepage of leachate due to failure of the lining was of grave concern to R1. If the proposed new treatment plant could be located further away, the farmland nearby could be safeguarded from any possible seepage.

78. A Member pointed out that a landfill required soil from a nearby borrow area to cover the active tipping area, and the borrow area would likely be used for the extension of the landfill. This Member asked for a long-term plan in relation to landfill in the area, and the restoration programme of the existing landfill.

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

79. Mr. Lawrence M.C. Lau replied that there would be three phases within the Landfill Extension. The cut-and-fill within the Landfill Extension was balanced, i.e. there would not be any import or export of materials. The existing landfill would undergo restoration immediately when the final profile was reached. Therefore, the operation of the Landfill Extension would overlap with the restoration of the existing landfill.

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

Deliberation Session

81. While acknowledging the need for landfilling, Members expressed sympathy with the local concerns on the existing landfill and its proposed extension. The Chairman

asked whether Members were satisfied with EPD's responses on Members' questions on the operation of the current landfill, complaints received, and the remedial actions, as well as the future operation of the landfill extension and its potential risk, alternative site for the leachate treatment facility, and the restoration of the current landfill site. Members generally considered that EPD had provided the required explanations and adequate responses to Members' questions.

82. A Member remarked that the EIA report had addressed the environmental impacts of the proposed Landfill Extension project, and opined that the visual impact of the proposed leachate treatment plant could be alleviated by mitigation measures. In this connection, Members noted that there was a possibility to upgrade the existing leachate treatment facility. Members also considered that restoration of the existing landfill site should commence as soon as it ceased operation.

Representations No. R1 to R11

83. After further deliberation, the Board decided not to uphold Representations No. R1 to R11 for the following reasons:

- (a) the proposed NENT Landfill Extension with the new leachate treatment plant was a necessary facility for waste management in Hong Kong and could not be replaced by other methods of waste management. The location, layout and site boundary of the proposed extension site had undergone a comprehensive selection process in consultation with the relevant stakeholders and adequate mitigation measures on possible impacts to the surrounding areas had been proposed. The "OU (Landfill)" zoning for the Landfill Extension was justified; and
- (b) it had been demonstrated in the EIA report that the proposed NENT Landfill Extension would not cause unacceptable environmental impacts to the surrounding areas. Hence, the proposed relocation of the landfill to other remote areas and relocation of the new leachate treatment plant to other side of Wong Mau Hang Shan were not necessary.

84. The Board also agreed to advise EPD to :
- (a) commence restoration of the current landfill as soon as it ceased operation;
 - (b) in respect of leachate treatment, the priority should be on upgrading of the existing plant which should be specified in the future tender document; and
 - (c) to fully mitigate the visual impact if the proposed new leachate treatment plant had to proceed.

[Professor N.K. Leung, Dr. C.N. Ng, Ms. Anna S.Y. Kwong, Professor Paul K.S. Lam and Mr. Rock C.N. Chen left the meeting at this point.]

Agenda Item 5

[Open Meeting]

Request for Deferral of Review of Application No. A/YL-KTS/453

Proposed Filling of Pond for Permitted Agricultural Use in "Agriculture" zone, Lots 502 RP (Part) and 507 S.A RP (Part) in D.D. 103, Ko Po, Kam Tin , Yuen Long
(TPB Paper No. 8340)

[The meeting was conducted in Cantonese.]

85. The Secretary briefly introduced the Paper. The review application was originally scheduled for consideration by the Board on 29.5.2009. On 13.5.2009, the applicant wrote to the Secretary requesting to defer the consideration of the review application for two months to allow time for preparation of supplementary information to address the comments raised by Drainage Services Department. The request was in compliance with the criteria for deferment as set out in the TPB Guidelines No. 33.

86. The Board agreed to defer consideration of the review application as requested

by the applicant pending the submission of further information from the applicant. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicant. The Board also agreed to advise the applicant that two months were allowed for preparation of submission of further information, and no further deferment would be granted unless under very special circumstances.

Remarks

87. The Chairman said that Agenda Item 6 would not be open for public viewing since it was in respect of review of a section 16 planning application submitted before the commencement of the Town Planning (Amendment) Ordinance 2004.

[Dr. Greg C.Y. Wong, Messrs. Raymond Y.M. Chan and Felix W. Fong left the meeting at this point.]

Agenda Item 7

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations to the Draft
Sham Chung Outline Zoning Plan No. S/NE-SC/1
(TPB Paper No. 8342)

[The meeting was conducted in Cantonese.]

90. One of the representations (R45) was submitted by a subsidiary of Sun Hung Kai Properties Ltd. (SHK). Dr. Greg C.Y. Wong, Messrs. Alfred Donald Yap, Y. K. Cheng, Raymond Y.M. Chan and Felix W. Fong had declared interests on this item for having business dealings with SHK. Members noted that Messrs. Alfred Donald Yap and Y. K. Cheng had tendered apologies for not attending the meeting, and Dr. Greg C.Y. Wong, Messrs. Raymond Y.M. Chan and Felix W. Fong had already left the meeting.

91. The Secretary briefly introduced the Paper. The draft OZP was exhibited for public inspection under section 5 of the Town Planning Ordinance on 23.1.2009. A total of

45 representations and no comment were received. Given the significant conservation interests of Sham Chung area and that the subject of representations were closely inter-related, it was considered more appropriate for the full Board to hear the representations collectively and in one group.

92. After deliberation, the Board agreed that the representations should be heard collectively by the Board in the manner as proposed in paragraphs 2.1 and 2.2 of the Paper.

Agenda Item 8

[Open Meeting]

Draft Tsz Wan Shan, Diamond Hill and San Po Kong Outline Zoning Plan No. S/K11/23 - Confirmation of Proposed Amendments
(TPB Paper No. 8345)

[The meeting was conducted in Cantonese.]

93. Mr. Felix W. Fong and Ms. Starry W.K. Lee had declared interests on this item for being members of a representer (R1 - Democratic Alliance for the Betterment and Progress of Hong Kong). Ms. Maggie M.K. Chan had also declared an interest on this item for being the representer (R2). Members noted that Ms. Starry W.K. Lee and Ms. Maggie M.K. Chan had tendered apologies for not attending the meeting, and Mr. Felix W. Fong had already left the meeting.

94. The Secretary briefly introduced the Paper. The Board considered 29 representations and 3 comments under section 6B(1) of the Town Planning Ordinance (the Ordinance) on 20.3.2009 and decided to proposed amendments to the Notes of the Plan to partially meet 2 representations, and to proposed amendment to the Plan to meet 1 representation. The proposed amendments were published under section 6(C)2 of the Ordinance on 17.4.2009 and no further representation was received.

95. Members noted that no further representation to the proposed amendments to the Plan was received and that the Plan should be amended by the proposed amendments in accordance with section 6G of the Ordinance. After deliberation, the Board agreed that the amendments made by the Board as shown at Annex I of the Paper should form part of the

draft Tsz Wan Shan, Diamond Hill and San Po Kong Outline Zoning Plan No. S/K11/23. In accordance with section 6H of the Ordinance, the Plan should thereafter be read as including the amendment. The amendment 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 provided with a copy of the amendments.

Agenda Item 9

[Open Meeting]

Draft Shouson Hill and Repulse Bay Outline Zoning Plan No. S/H17/10A - Confirmation of Proposed Amendments
(TPB Paper No. 8346)

[The meeting was conducted in Cantonese.]

96. Mr. Felix W. Fong had declared an interest on this item for owning a property at Repulse Bay Road, being a representer (R400) and a member of a commenter (C681 - Democratic Alliance for the Betterment and Progress of Hong Kong). Ms. Starry W.K. Lee and Ms. Maggie M.K. Chan had also declared interests on this item for being members of the commenter (C681). Members noted that Ms. Starry W.K. Lee and Ms. Maggie M.K. Chan had tendered apologies for not attending the meeting, and Mr. Felix W. Fong had already left the meeting.

97. The Secretary briefly introduced the Paper. The Board considered 1022 representations and 683 comments under section 6B(1) of the Town Planning Ordinance (the Ordinance) on 20.3.2009 and decided to proposed amendments to the Plan to meet 77 representations and partially meet 945 representations. The proposed amendments were published under section 6(C)2 of the Ordinance on 17.4.2009 and no further representation was received.

98. Members noted that no further representation was received and in accordance with section 6G of the Ordinance, the Plan should be amended by the proposed amendments. After deliberation, the Board:

- (a) agreed that the draft Shouson Hill and Repulse Bay Outline Zoning Plan No. S/H17/10A and its Notes at Annexes II and III of the Paper respectively were suitable for submission under section 8 of the Ordinance to the Chief Executive in Council (CE in C) for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Shouson Hill and Repulse Bay Outline Zoning Plan No. S/H17/10A at Annex IV of the Paper as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and to be issued under the name of the Board; and
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Items 10 and 11

99. These items were reported under confidential cover.

Agenda Item 12

Any Other Business

[The meeting was conducted in Cantonese.]

100. There being no other business, the meeting was closed at 2:20pm..