

**Minutes of 979th Meeting of the
Town Planning Board held on 8.4.2011**

Present

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

Chairman

Mr. Stanley Y.F. Wong

Vice-chairman

Mr. K.Y. Leung

Mr. Walter K.L. Chan

Mr. B.W. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Dr. James C.W. Lau

Professor Edwin H.W. Chan

Mr. Maurice W.M. Lee

Professor Eddie C.M. Hui

Dr. C.P. Lau

Mr. Roger K.H. Luk

Ms. Anita W.T. Ma

Professor S.C. Wong

Ms. Pansy L.P. Yau

Dr. W.K. Yau

Mr. Stephen M.W. Yip

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

Assistant Director (Environmental Assessment)
Environmental Protection Department
Mr. C.W. Tse

Director of Lands
Miss Annie Tam

Director of Planning
Mr. Jimmy Leung

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

Secretary

Absent with Apologies

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Professor Paul K.S. Lam

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Professor P.P. Ho

Ms. Julia M.K. Lau

Professor Joseph H.W. Lee

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Dr. W.K. Lo

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

In Attendance

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

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

Senior Town Planner/Town Planning Board
Ms. Amy M.Y. Wu (a.m.)
Ms. Vivian M.F. Lai (p.m.)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 978th Meeting held on 25.3.2011

[The meeting was conducted in Cantonese.]

1. The minutes of the 978th Meeting held on 25.3.2011 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

Abandonment of Town Planning Appeal

Town Planning Appeal No. 4 of 2008

Proposed Office Development (Amendments to an Approved Master Layout Plan) in “Comprehensive Development Area” zone,

Taikoo Place, 979 King’s Road, Quarry Bay

(Application No. A/H21/130)

2. The Secretary reported that the subject appeal was received by the Appeal Board Panel (Town Planning) on 8.9.2008 against the Town Planning Board’s decision on 27.6.2008 to reject on review an application for proposed office development (amendment to an approved master layout plan) in “Comprehensive Development Area” zone on the draft Quarry Bay Outline Zoning Plan. On 25.3.2011, the appeal was abandoned by the Appellant of his own accord. On 30.3.2011, Appeal Board Panel (Town Planning) confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations.

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the Draft Wong Nai Chung Outline Zoning Plan No. S/H7/15

(TPB Paper No. 8781)

[The hearing was conducted in Cantonese and English.]

3. The following Members had declared interest on the item:

- Mr. Maurice W.M. Lee - Owned a flat at Link Road and a flat at Wun Sha Street

- Professor Joseph H.W. Lee - Owned a flat at Hawthorn Road

- Mr. Y.K. Cheng - Owned a property at Ventris Road

- Miss Ophelia Y.S. Wong (the Secretary) - Owned a property at Broadwood Road

- Professor S.C. Wong and Mr. Stephen Yip - Had business dealings with Ove Arup & Partners Hong Kong Ltd (OAP) which was a consultant of the Hong Kong Sanatorium and Hospital (HKSH). HKSH was one of the representers (R708).

- Ms. Anna S.Y. Kwong - Had business dealings with family members of the owner of HKSH. HKSH was one of the representers (R708)

4. Members noted that the above Members had not yet arrived at the meeting. Members agreed that as the role of the Secretary was to provide information and advice on procedural matters and would not take part in the decision-making, she could be allowed to

stay at the meeting

5. The Chairman drew Members' attention to a letter submitted by S.K. Lam, Alfred Chan & Co. (Solicitors & Notaries) on behalf of Elite Eternal Limited (R763) to the Chairman and Members on 7.4.2011 which was tabled at the meeting. R763 stated in the letter that the proposed amendments to the draft OZP were a result of a settlement agreement between the HKSH and the Board in relation of a Judicial Review (JR) lodged by HKSH and was agreed prior to a proper public consultation and full consideration of the public views by the Board. R763 believed that as a result of the settlement agreement, the Board had already reached a decision on the matter and the public consultation currently undertaken was not a proper one. In the light of the above, R763 was concerned whether the Board had properly discharged its statutory duties and whether the existing public consultation process was a genuine consultation on the matter. R763 requested that the Board should seek to clarify the legality of its current process before any deliberation or decision was made on the draft OZP. The Chairman said that the Board had sought Department of Justice's (DoJ) advice on the matter and invited the Secretary to explain the terms of settlement and DoJ's advice.

6. The Secretary referred to the terms of settlement for the JR as detailed in paragraph 2.4 of the Paper as follows:

- (a) subject to the Board's approval of the terms of settlement on 3.9.2010, the PlanD would prepare a Metro Planning Committee (MPC) paper for MPC meeting on 10.9.2010 proposing an amendment to the draft Wong Nai Chung OZP No. S/H7/14 (the new Draft OZP) under section 7 of the Town Planning Ordinance (the Ordinance), in a format to be determined by the PlanD, such that upon the approval of such amendments by the Board and subsequently by the Chief Executive in Council (CE in C) (and subject to necessary lease modification and the Building Authority approvals), HKSH would be permitted under the new Draft OZP to construct new Phases 3A (115mPD) and Phase 4 (89mPD) buildings as shown in Drawing H-4 of the Paper;
- (b) inclusion of a piece of Government land of approximately 38m² to the

southwest of the HKSH's lot (currently zoned "Green Belt" ("GB")) into the HKSH's lot upon which the proposed new hospital building might encroach. This could be regarded as a minor adjustment of zoning boundary permitted under the covering Notes of the OZP; and

- (c) subject to confirmation of approval by the Board of these terms of settlement on 3.9.2010 and the MPC's approval of the gazettal of the new draft OZP at its meeting on 10.9.2010, the parties should execute a Consent Summons, in terms to be agreed, for discontinuance of the JR proceedings with no order as to costs, and should file the same with the Court on or before 17.9.2010.

7. The Secretary then went on to explain DoJ's advice on the matter. DoJ was of the view that the solicitors' letter was not a representation or comment on a representation for the purposes of the statutory planning procedure. The Board might consider the letter and the solicitor's request separately but not as part of the procedure concerning the hearing of representations and comments on the draft OZP. The Board was to exercise its powers and duties to consider the representations and comments on the draft OZP duly and there were no suggestions that the planning process had been compromised in any way or that Members were biased in any way in considering the representations and comments on the draft OZP. The minds of the members of the Board on the draft OZP must not be unduly fixed.

8. For clarity, the Chairman supplemented that under the settlement agreement, once the MPC's approval of the gazettal of the new draft OZP was confirmed, the two parties would agree to the discontinuance of the JR proceedings and the Board had not undertaken to ensure that the draft OZP would finally be approved by the CE in C. The Vice-Chairman added that even the MPC had agreed to the gazettal of the draft OZP, the amendments were still subject to the Board's consideration of the representations and comments and the Board's decision on the draft OZP. The Chairman then invited Members to consider whether the hearing of the representations and comments should continue in view of the solicitors' letter and DoJ's advice.

9. A Member considered that the terms of the settlement agreement between the

HKSH and the Board were such that the Board's consideration of the representations and comments and its decision on the draft OZP would not be pre-empted. There was no reason that the hearing of the representations and comments should not proceed as scheduled. On this point, the Chairman said that the HKSH was fully aware of the fact that the MPC's agreement to gazette the draft OZP would in no way pre-empt the decision of the Board and CE in C on the draft OZP.

10. As requested by a Member, the Secretary explained the background of the JR in detail:

- (a) the HKSH comprised 4 main buildings, i.e. Phase 2 building (12 storeys above 1 basement floor), Phase 1 cum Phase 3 building (148mPD), Central Block (6 storeys) and Li Shu Fan Block (8 storeys). The site fell within an area mainly zoned "Government, Institution or Community" ("G/IC") on the draft Wong Nai Chung OZP. On 18.1.2008, the draft OZP No. S/H7/14 was exhibited under section 5 of the Ordinance and among other amendments, a Building Height Restriction (BHR) of 37 storeys (excluding basement) and 148mPD was imposed on the part of the site for the Phases 1 and 3 building, and a BHR of 12 storeys (excluding basement) on the remaining part of the site;
- (b) HKSH submitted a representation to the Board objecting to the BHR on the OZP for the HKSH site. On 8.8.2008, the Board decided not to uphold HKSH's representation for reasons that (i) there was insufficient information to demonstrate that the proposed BH of 148mPD would not have adverse visual impacts on the surrounding areas; (ii) in-situ expansion of HKSH was not the only means to provide additional hospital beds in Hong Kong; and (iii) the imposed BHR of 12 storeys in the main portion of the site was compatible with the surrounding developments;
- (c) on 6.11.2008, HKSH applied for JR against the Board's decision mainly on the grounds that the draft OZP was ultra vires in using 'spot' zoning;

the Board had taken into account irrelevant considerations and had failed to take account of relevant considerations during the consideration of HKSH's representation. On 17.12.2008, the Court granted an order of stay of the submission of the OZP to the CE in C for approval;

- (d) on 4.12.2009, HKSH's solicitors wrote a letter to the Board through DoJ (representing the Board in the JR case) proposing a framework for without prejudice settlement discussions. In line with the spirit of the Civil Justice Reform implemented in 2009 which encouraged litigants to consider mediation as a means of settlement of disputes, the Board agreed to discuss with HKSH on a possible settlement proposal. On 1.9.2010, HKSH submitted a settlement proposal with the terms as stated in paragraph 2.4 of the Paper which was agreed by the Board on 3.9.2010;
- (e) on 10.9.2010, MPC considered and agreed to the proposed amendments to the draft OZP to revise the BHRs for that part of the site proposed for Phase 3A and Phase 4 buildings from 12 storeys to 115mPD and 89mPD respectively. MPC also decided to impose a BHR of 2 storeys over the car park podium to ensure the provision of a 27m building setback from Wong Nai Chung Road as proposed by HKSH in the redevelopment scheme to mitigate the visual impacts of the proposed development as viewed from Wong Nai Chung Road. On 27.9.2010, the court granted leave to HKSH's application to discontinue the JR; and
- (f) on 30.9.2010, the draft OZP No. S/H7/15, incorporating amendments to revise the BHRs for the HKSH site, was exhibited for public inspection under section 7 of the Ordinance. Upon the expiry of the two-month exhibition period, a total of 1,068 representations were received of which 702 representations generally supported the amendments, 366 representations generally opposed or provided comments on the amendments.

11. The Secretary said that the Board should consider the representations duly and

that the minds of Members on the draft OZP must not be unduly fixed or bounded by the terms of settlement. She also added that the Board had yet to decide on the amendments and the final decision on the amendments to the OZP rested with the CE in C.

12. A Member said that the current meeting was a due process under the Ordinance to ensure that all the representations and comments were heard, duly considered before the Board made a decision on whether the OZP should be amended to meet the representations and comments. That Member noted that under the terms of settlement, it was only agreed that the JR would be discontinued subject to MPC's approval of the gazettal of the proposed amendments to the OZP and it was clear that the gazetting of the proposed amendment would not pre-empt the Board's decision on the amendments after hearing the representations and comments. This point should be made clear to the representers and commenters during the hearing process. Members agreed. The Secretary supplemented that the terms of settlement were included in the MPC paper on the proposed amendments to the Wong Nai Chung OZP which was an open document that could be inspected by the public. After deliberation, Members agreed to proceed with the hearing as scheduled.

Presentation and Question Session

13. The Chairman said that sufficient notice had been given to invite the representers and commenters to attend the hearing, but other than those that were present at the meeting, the rest had either indicated not to attend the hearing or made no reply. As sufficient notice had been given to the representers and commenters, Members agreed to proceed with the hearing in their absence.

14. Members noted a letter dated 8.4.2011 was tabled by R937 objecting to the amendments to the OZP. Members also noted that R794 and R1047 had withdrawn their representations prior to the hearing.

15. The following government representatives, representers, commenters and their representatives were invited to the meeting at this point:

R1025 – Man Lam Christian Church, Hong Kong

Ms. Helen Shih)
Mr. Taw Jin Liam)
Ms. Ng Shui Lai)
Ms. Helen Lung) Representers' representatives
Ms. Henry Shih)
Mr. Hudson Soo)

R1042 – Cheung Pui Ying

Ms. Cheung Pui Ying	Representer
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R1046 – Owners Committee of the Leighton Hill

Ms. Verna Lee	Representer's representative
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R1061 – Wong Wang Tai

Mr. Wong Wang Tai	Representer
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R1067 – Mak Kwok Fung

Mr. Mak Kwok Fung, Michael	Representer
Mr. Tsui Tsz Chun	Representer's representative

C2 – Amy Fung

Dr. Amy Fung	Commenter
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C3 – Rose Allender

Ms. Rose Allender	Commenter
Mr. Robert Allender	Commenter's representative

C6 – Raymond Ma

Mr. Raymond Ma	Commenter
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16. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives from the Government to brief Members on the background to the representations.

17. With the aid of a Powerpoint presentation, Mr. Tom Yip, STP/HK, made the following main points as detailed in the Paper:

I) Background of Judicial Review

- (a) the HKSH fell with an area mainly zoned “G/IC” on the Wong Nai Chung OZP. With a site area of about 9,770m², the hospital complex comprised 4 main buildings, i.e. Phase 2 building (12 storeys above 1 basement floor) in the southern part, Phase 1 cum Phase 3 building (148mPD) in the middle, and Central Block (6 storeys) and Li Shu Fan Block (8 storeys) in the northern part;
- (b) on the draft Wong Nai Chung OZP No. S/H7/14 exhibited on 18.1.2008, a BHR of 37 storeys (excluding basement) and 148mPD was imposed for the Phases 1 and 3 building of HKSH, and a BHR of 12 storeys (excluding basement) on the remaining part of the site. Two representations were submitted by HKSH and the Incorporated Owners of Evergreen Villa (IOEV) respectively against the BHRs for the site. HKSH proposed to delete all BHRs for the site, or to apply the BHR of 148mPD or the BHRs of 37 storeys and 148mPD to the whole site. IOEV proposed to impose a more stringent BHR of not more than 7 storeys on that part of the site occupied by Central Block and Li Shu Fan Block. On 8.8.2008, the Board decided not to uphold the two representations;
- (c) on 6.11.2008, HKSH applied for JR against the Board’s decision mainly on the grounds that the draft Wong Nai Chung OZP was ultra vires in using ‘spot’ zoning; the Board had taken into account irrelevant considerations and had failed to take account of relevant considerations during the consideration of HKSH’s representation;
- (d) on 1.9.2010, HKSH submitted a settlement proposal with the proposed terms to the Board as detailed in paragraph 2.4 of the Paper, which was agreed by the Board on 3.9.2010 and as follows:
 - (i) subject to the Board’s approval of the terms of settlement on

3.9.2010, the PlanD would prepare a MPC paper for MPC meeting on 10.9.2010 proposing an amendment to the draft Wong Nai Chung OZP No. S/H7/14 under section 7 of the Ordinance (the new Draft OZP), in a format to be determined by the PlanD, such that upon the approval of such amendments by the Board and subsequently by the CE in C (and subject to necessary lease modification and the Building Authority approvals), HKSH would be permitted under the new Draft OZP to construct the new Phase 3A (115mPD) and Phase 4 (89mPD) buildings;

- (ii) inclusion of a piece of government land of approximately 38m² to the southwest of the HKSH's lot (currently zoned "GB") into the HKSH's lot upon which the proposed new hospital building might encroach. This could be regarded as a minor adjustment of zoning boundary permitted under the covering Notes of the OZP; and
 - (iii) subject to confirmation of approval by the Board of these terms of settlement on 3.9.2010 and the MPC's approval of the gazettal of the new draft OZP at its meeting on 10.9.2010, the parties should execute a Consent Summons, in terms to be agreed, for discontinuance of the JR proceedings with no order as to costs, and should file the same with the Court on or before 17.9.2010;
- (e) together with the settlement proposal, HKSH submitted a revised development scheme to PlanD in September 2010 with the support of a visual impact appraisal, a traffic impact assessment (TIA) and a Geotechnical Planning Review Report. The major development parameters of the revised scheme and HKSH's justifications for the scheme were as follows:
- (i) the revised scheme split the originally proposed Phase 4 redevelopment with a BH of 148mPD (40 storeys) into two towers, i.e. Phases 3A and 4 buildings, with BHs of 115mPD (21 storeys) and 89mPD (21 storeys) respectively. The Phase 3A building mainly accommodated clinics and the proton therapy

facility on lower floors, whereas Phase 4 building accommodated operating theatres, wards, clinics and a roof garden. The two buildings had a total GFA of 66,994m²;

- (ii) a stepped BH profile would be formed with the lower Phase 4 building fronting Wong Nai Chung Road and the taller Phase 3A building in the inner part of the site. The Phase 3A building would be constructed over a non-building area (NBA) under lease and included 38m² government land in “GB” zone;
- (iii) HKSH proposed to increase the setback of the hospital tower from the existing 11m to 27m over a 2-storey car park so as to enhance the visual permeability along Wong Nai Chung Road. The roof of Phase 4 would be earmarked for roof garden use;
- (iv) the Phase 3A building would require excavation and foundation works in the north-western part of the site. The Geotechnical Planning Review Report submitted by HKSH confirmed that this was feasible and the safety standards for the slope could be met;
- (v) the TIA conducted by HKSH concluded that the proposed new ingress/egress point at Wong Nai Chung Road would significantly reduce the traffic at the Shan Kwong Road/Wong Nai Chung Road junction, thereby improving the local traffic condition; and
- (vi) regarding the 4 private hospital sites put forward by the Food and Health Bureau for invitation for Expression of Interests, the sites in Tai Po, Tseung Kwan O and Tung Chung were far away from HKSH. It was a great danger for doctors and patients to take such a long time to reach the new hospital site. On the Wong Chuk Hang site, the underground tunnel of the proposed MTR South Island Line running across it would impose severe constraints on the disposition and planning of the hospital, particularly on the noise and vibration sensitive equipment. A large foundation cost was required to overcome this problem and the site utilization would become very inefficient;

[Dr. W.K. Yau arrived to join the meeting at this point.]

- (f) on 10.9.2010, MPC considered the proposed amendments to the draft OZP to revise the BHRs for that part of the site for Phase 3A and 4 buildings from 12 storeys to 115mPD and 89mPD respectively. PlanD's overall assessment on HKSH's revised scheme was recapped in paragraph 2.7 of the Paper and summarised as follows:
- (i) in terms of use, the proposed redevelopment for medical facilities was in line with the planning intention of the "G/IC" zone and Secretary for Food and Health (SFH) had no objection to the proposal;
 - (ii) the revised scheme with stepped BHs was considered not incompatible with the existing BH bands of 85mPD to 115mPD for the valley floor area covered by the OZP. It would not have a major adverse impact on the view from the Happy Valley Recreation Ground towards Wong Nai Chung Gap and the view from Stubbs Road towards the Race Course;
 - (iii) with the 27m setback of hospital tower from Wong Nai Chung Road, the whole Phase 3A and a major part of the Phase 4 building would be shielded by the existing residential developments along Wong Nai Chung Road. The existing view towards Hindu Temple and the cemeteries to the north of the HKSH site would be more open, as compared with HKSH's previous scheme and the then BHR on the OZP;
 - (iv) although the view from Bowen Road would be partly affected by the revised scheme, a balanced consideration of the visual assessment and other factors, including the permissible development intensity under the Buildings Ordinance (BO) and the lease, technical constraints of the site, functional and operational needs of the hospital in terms of integrated design for the hospital blocks would be appropriate. The proposed BHs in HKSH's revised scheme were considered acceptable; and
 - (v) HKSH's proposed inclusion of 38m² government land into the lot boundary was considered acceptable and could be regarded as minor adjustment of the zoning boundary.

- (g) noting HKSH's justifications and the planning assessment above, MPC on 10.9.2010 agreed to publish the proposed amendments to the OZP for public comment. Since the 27m building setback above the 2-storey car park podium connected to Phase 4 under HKSH's scheme could mitigate the visual impacts of the proposed development as viewed from Wong Nai Chung Road, MPC decided to further impose a BHR of 2 storeys over the car park podium to ensure the provision of the setback in the redevelopment scheme as proposed by HKSH. On 27.9.2010, the court granted leave to HKSH's application to discontinue the JR;

II) Proposed OZP Amendments

- (h) on 30.9.2010, the draft Wong Nai Chung OZP No. S/H7/15, incorporating amendments to revise the BHRs for the HKSH site at Wong Nai Chung Road, was exhibited for public inspection under section 7 of the Ordinance;
- (i) the OZP amendments were presented to the Development, Planning and Transport Committee (DPTC) of the Wan Chai District Council (WCDC) and the Wan Chai South Area Committee (WCSAC) on 19.10.2010 and 19.11.2010 respectively. A local consultation forum was held at Leighton Hill Community Hall, Causeway Bay on 24.11.2010. The views expressed at these meetings and PlanD/HKSH's responses were summarised in paragraph 2.11 of the Paper;
- (j) upon the expiry of the two-month exhibition period, a total of 1,068 representations were received. On 24.12.2010, the representations were published for three weeks for public comments. A total of 9 comments were received;
- (k) amongst the 1,068 representations, 702 supportive representations submitted by members of the public and the Hong Kong Private Hospitals Association (R681) generally supported the amended BHRs (R1 to R706, except R253, R267, R294 and R325). The 362 adverse

representations (R253, R325, R707 to R1023 and R1026 to R1068) generally opposed the BHRs and asked for more stringent BHRs for the HKSH site, except R708 submitted by HKSH proposing to further relax the BHRs. The adverse representations were submitted by local residents, individual companies, members of the public, various Incorporated Owners (IO), Happy Valley Residents' Association and Wan Chai District Council Members. The remaining 4 representations (R267, R294, R1024 and R1025) providing comments on the amendments were submitted by members of the public and Man Lam Christian Church, Hong Kong (MLCC). They were in respect of BHRs of 89mPD and 115mPD or the MLCC site;

III) Grounds of Representations and Representers's Proposals

- (1) the main grounds of the representations and representers' proposals as detailed in paragraph 3.6 of the Paper were summarised as follows:

Supportive Representations

Traffic Improvement

- (i) the amendments to the OZP allowed the implementation of HKSH's redevelopment scheme to improve the traffic condition in Shan Kwong Road and Village Road through the provision of an additional ingress/egress point at Wong Nai Chung Road;

Quality Medical Services

- (ii) HKSH's redevelopment would provide more space to relieve the congested environment in the existing hospital, better medical facilities for patients and space for medical research and professional training. The redevelopment could also cope with the increasing demand for private medical services and relieve the pressure on the public health care system;

Acceptable BHRs

- (iii) the revised redevelopment scheme submitted by HKSH to

reduce the building height from 148mPD to 2 lower buildings with building heights of 115mPD and 89mPD would minimise the visual impacts to the surrounding areas;

Adverse Representations for More Stringent BHR

BHRs for “G/IC” Zone

- (iv) in order to provide visual and spatial relief in the dense built-up area, the BHRs for “G/IC” sites should mainly reflect the existing BH of the GIC developments. Allowing the HKSH redevelopment would set a precedent for future out-of-context and high-rise buildings in the area;

Visual Impact

- (v) the Phase 3 building of HKSH had resulted in adverse visual impact on the skyline of Happy Valley and the view from Stubbs Road and Wong Nai Chung Gap Road. Further redevelopment at the HKSH site would create wall effect blocking the ridgeline of Wong Nai Chung Gap, destroyed the valley setting and the low to medium-density character of the residential neighbourhood, affected the visual amenity of the area and obstructed views of individual properties;
- (vi) the visual impact assessment should include the view of local residents from their properties, apart from the selected public viewpoints at Happy Valley Recreation Ground and Bowen Road walking trail;
- (vii) the redevelopment would create overshadowing and obstruct the penetration of sunlight to the surrounding buildings e.g. Fung Fai Terrace. This would affect property value;

Air Ventilation Impact

- (viii) construction of two additional high-rise buildings would lead to

wall effect, blocking air flow and resulting in poor air ventilation in the area. HKSH's redevelopment would obstruct the 'wind entrance' of Shan Kwong Road, decrease the width of wind corridor, and slow down the air flow in the Happy Valley area;

Traffic Impact

- (ix) further redevelopment would result in an increase in the number of hospital beds, medical facilities, car parking spaces, patients, visitors and staff. Since the site was not well served by public transport, this would worsen the traffic congestion in the area;
- (x) without the construction of any new road, the traffic improvement brought about by HKSH's revised traffic arrangement was highly suspected. The additional ingress/egress point at Wong Nai Chung Road would spread the congestion problem and the proposed traffic scheme could not be implemented on horse-racing days;
- (xi) TD had advised that it approved the redevelopment of HKSH because there would be no increase in the number of beds. However, the new Phase 3 building had now a total of 460 beds, and the bed provision would increase to 800 upon completion of Phase 4;

Environmental Impact

- (xii) HKSH's redevelopment would generate noise and air pollution and bring about more traffic and patients to the area, affecting the physical, mental, and emotional health of the Happy Valley community. An EIA was required;
- (xiii) poor air ventilation within the hospital compound would threaten the health of the nearby residents by spreading bacteria. The additional facilities in HKSH's redevelopment might generate adverse odour impact on the surrounding

neighbourhood;

- (xiv) the redevelopment contravened the Blue Clear Sky recommendations and Green Building Principles promoted by the Government as all green building certification schemes around the world encouraged refurbishment of the existing building rather than redevelopment;

Medical Services Provision

- (xv) HKSH's extension did not provide benefits for the Happy Valley area as most of their patients were living outside Happy Valley. The proposed redevelopment was for making profit, instead of serving the community;
- (xvi) Happy Valley was well served by private and public hospitals in that there were at least 5 hospitals within the area. There was no need for HKSH's expansion. HKSH should consider developing a new hospital at a proper site outside Happy Valley or at the 4 sites reserved by the Government for private hospital development;
- (xvii) HKSH had not fully utilised the existing space in the hospital and hence there was no need to expand for more space;
- (xviii) the tall hospital building of HKSH did not comply with the international standards. It would be difficult to vacate patients by elevators in cases of disasters/accidents. This would cause more life hazard and deaths;
- (xix) the Government had given HKSH an unfair advantage by assisting this commercial enterprise;

Public Consultation

- (xx) the number of supportive representations received by the Board

failed to truly reflect the views and grievances of the local residents on HKSH's redevelopment. The public consultation should be arranged in the form of meetings with IOs and questionnaire survey for local residents or IO's representatives in the Happy Valley area;

(xxi) representers' proposals were as follows:

- to revert to the previous BHR, maintain the existing BHs and stop HKSH's redevelopment (R965 to R971, R989 to R991, R996, R997, R1011 to R1013, R1018, R1026, R1029, R1034, R1063 to R1065);
- to move redevelopment to other sites (R964, R969, R970, R972, R992 to R997, R1032, R1065)
- to provide compensation to the residents (R973);
- to conduct an EIA (R1003);
- to change vehicular access and provide facilities underground (R1004);

Adverse Representation for More Lenient BHR (R708 – HKSH)

(xxii) the preliminary conceptual design submitted to PlanD in September 2010 to facilitate the Board's discussion of the settlement proposal (including a Phase 3A building at 115mPD and a Phase 4 building at 89mPD, and a podium of 2 storeys between these buildings and the Wong Nai Chung frontage) were not intended to become the basis for establishing further detailed and absolute BHRs within the site;

(xxiii) the BHRs unnecessarily constrained the detailed design process and severely inhibited any innovative design;

(xxiv) a new conceptual design scheme had been prepared to modify the façade by introducing rounded features with more functional connection into the existing Phase 3 building and to avoid a

straight, continuous wall along the Wong Nai Chung Road façade. It was necessary to intrude into the portion of the site under the BHR of 2 storeys;

(xxv) R708's proposals were as follows:

- to delete the BHRs of 89mPD and 2 storeys and replacing them by 115mPD; or to adjust the boundaries between various BHRs on the site to comply with the representers' new conceptual design scheme and to change the BHR of 2 storeys to 3 storeys; and
- to delete the sentence in the 'Remark' in the "G/IC" zone that prohibited redevelopment to the height of the existing building within the part of the site subject to a BHR of 2 storeys;

Representations Providing Comments

(xxvi) R267 and R294 were in respect of BHRs of 89mPD and 115mPD but did not specify any view or ground;

(xxvii) R1024 and R1025 consider that it was unfair to relax the BHRs for the HKSH site, while maintaining the BHR of 5 storeys for MLCC site. Their proposals were to relax BHR on the MLCC site (R1024) or to relax BHR on the MLCC site to 115mPD (R1025);

IV) PlanD's Responses to Representations

(m) PlanD's responses to the grounds of representations and representers' proposals as detailed in paragraph 4.4 of the Paper were summarised as follows:

Supportive Representations

(i) the general support to the BHRs for the HKSH site from the

viewpoints of traffic improvement, medical service provision and visual impact was noted;

Adverse Representations for More Stringent BHR

BHRs for “G/IC” Zone

- (ii) the Board would give due consideration to alternative proposal for a higher BH for “G/IC” zone which was supported by a specific development scheme and relevant technical assessments, having regard to the circumstances of the site and the comments of relevant policy bureau and departments;

- (iii) HKSH had submitted a specific development scheme with relevant technical assessments to facilitate consideration of the impacts of the revised BHRs by the Board. In amending the BHRs for the HKSH site, the Board had thoroughly assessed and balanced relevant factors, including the planning intention of the “G/IC” zone, surrounding land uses, the development and operational needs of the hospital, technical constraints of the site, the permissible GFA of the site under the lease and BO, the availability of other development options, compatibility of the BHs with the general BH bands for the area and surrounding developments, visual impact of the proposed development on major local vantage points, and acceptability of the development from traffic and infrastructural viewpoints, and considered the revised BHRs generally acceptable;

Visual Impact

- (iv) Phase 3 of HKSH had been approved before the imposition of BHRs for the HKSH site on the OZP in January 2008. Since January 2008, BHRs had been imposed on the HKSH site on OZP to avoid the development of excessively tall and out-of-context developments;

- (v) HKSH's revised scheme with stepped BHs, i.e. the lower Phase 4 building fronting Wong Nai Chung Road and the taller Phase 3A in the inner part of the site, was considered not incompatible with the existing BH bands of 85mPD to 115mPD for the valley floor area covered by the OZP. One of the major design features in the HKSH's development scheme was to increase the setback of the hospital tower from Wong Nai Chung Road from 11m to 27m;
- (vi) when compared with the situation under the previous 12-storey restriction, the revised BHRs would not have a major adverse impact on the view from the Happy Valley Recreation Ground towards Wong Nai Chung Gap and the view from Stubbs Road towards the Race Course;
- (vii) for the closer view from the Wong Nai Chung Road/Sing Woo Road junction to the east of the HKSH site, the BHR of 2 storeys would ensure the provision of the 27m setback, and the whole Phase 3A and a major part of the Phase 4 building would be shielded by the existing residential developments along Wong Nai Chung Road. The existing view toward Hindu Temple and cemeteries to the north of the HKSH site would be more open after the demolition of the Li Shu Fan Block. Although the view from Bowen Road would be partly affected by the revised BHRs, a balanced consideration of the visual assessment and other factors would be appropriate;
- (viii) in the visual assessment, the view from the local vantage points at Happy Valley Recreation Ground and the Bowen Road walking trail, which were accessible to the locals and the public, as well as a closer view at the pavement near the Wong Nai Chung Road/Sing Woo Road junction were considered. In particular, the preservation of the view from the vantage point at Happy Valley Recreation Ground towards the mountain

backdrop in Wong Nap Chung Gap was a major consideration in the formulation of the BHRs for the OZP. In the highly developed context of Hong Kong, it would be difficult to protect the private view of all residential developments towards a development site. It was considered more important to protect the public viewpoint for the benefits of the public at large;

- (ix) regarding the impact on sunlight penetration, there were provisions in the BO to ensure the provision of natural lighting for buildings;

Air Ventilation Impact

- (x) according to the AVA conducted when imposing BHRs for various development zones on the OZP in 2008, the prevailing annual wind for the area was easterly and north-easterly wind and the prevailing summer wind came from between the south-west and the east. Shan Kwong Road was one of the major wind corridors for the area. As the HKSH was located in the north-western corner of the valley floor area, the 2-storey BHR would ensure the provision of a 27m setback of the hospital tower along Shan Kwong Road/Wong Nai Chung Road. This would facilitate air ventilation along Shan Kwong Road. The BHRs for the HKSH site should not have significant adverse impact on the air ventilation and heat dispersal in the area;

Traffic Impact

- (xi) the findings of the TIA submitted by HKSH were acceptable to TD. The TIA included local junction assessments with consideration of the additional ingress/egress point at Wong Nai Chung Road and concluded that all the identified key junctions in the vicinity would be operating with ample capacity by the design year of 2021 with the addition of hospital traffic arising from the redevelopment. The expansion of HKSH would not

cause unacceptable traffic impact on the surrounding areas;

- (xii) the additional ingress/egress point at Wong Nai Chung Road would divert the hospital traffic away from Happy Valley as the traffic from the north could access the hospital directly from Wong Nai Chung Road. The proposed new vehicular access would divert about 70% of hospital bound traffic using the new access and improve the congestion on Village Road, and at the same time, marshalling areas for vehicles entering into the hospital site and more car parking spaces would be provided in the redevelopment;
- (xiii) the special traffic arrangement during horse-racing days would not affect the operation of the additional ingress/egress which would be the same as other normal days;
- (xiv) the number of beds approved in Phases 1 and 2 was 460, and there was no additional beds upon completion of Phase 3 due to reshuffling of internal uses, as advised by the HKSH, and the traffic generated from the Phase 3 development would be the same as that before Phase 3. With the Phase 4 development, although the total number of beds would increase to 800, the submitted TIA had demonstrated that all the critical road junctions in the vicinity of the hospital would perform satisfactorily;

Environmental Impact

- (xv) the Director of Environmental Protection advised that 'Hospital' was not classified as polluting use. Insurmountable environmental impact from the subject hospital use was not anticipated. The environmental impacts during the construction and operation stages of HKSH's redevelopment were subject to statutory control under various pollution control ordinances. In addition, hospital was not a designated project under the

Environmental Impact Assessment Ordinance (EIAO), and therefore an EIA was not required;

(xvi) the Director of Food and Environmental Hygiene (DFEH) had advised that the Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes issued by them had set out the standards of good practice for health care institutions to adopt in the course of service delivery. Proper air ventilation and hygiene would be maintained in the hospital building. The spreading of bacteria inside or outside the hospital building and odour impact on the surrounding areas were not envisaged;

(xvii) on the compliance with the policies of promoting Blue Clear Sky and green buildings, these policies focused mainly on the improvement of air quality and the promotion of green and sustainable building design, and did not prohibit redevelopment of old buildings. The redevelopment of the Central Block and Li Shu Fan Block, which had an age of over 70 and 40 years respectively, was considered not unreasonable and should have no direct conflict with these policies. A green roof would be included in the Phase 4 building to provide more greenery;

Medical Services Provision

(xviii) SFH advised that it was the Government's policy to promote and facilitate private hospital development in order to enhance the overall capacity, service quality and standards of the health care system and to address the imbalance between the public and private sectors in hospital services. SFH therefore in general supported HKSH's redevelopment which could enhance its medical services and capacity to meet the needs of the community, subject to compliance of the hospital with relevant statutory and regulatory requirements. SFH and the Director of Health (D of Health) supported or had no objection to HKSH's in-situ redevelopment proposal;

- (xix) private hospitals served not only those residing in the district where the hospital was located, but also patients from other parts of the territory. Apart from the residents of Happy Valley, HKSH was providing services to patients outside Happy Valley. The planning intention of the “G/IC” zone was intended primarily for the provision of GIC uses to serve the needs of the local residents, as well as those of a wider district, region or the territory;
- (xx) SFH had advised that the A&E services were mainly provided by public hospitals managed by the Hospital Authority. The A&E services in Wan Chai District (including Happy Valley) were mainly provided by Ruttonjee Hospital at Queen’s Road East. There was no specific requirement on the provision of A&E services by private hospitals;
- (xxi) D of Health advised that the bed utilization of HKSH in the past years was consistently over 75 to 80% indicating a high demand for private hospital services, and had no objection to HKSH’s expansion proposal to address the needs of the community;
- (xxii) regarding the concern on fire safety of tall hospital building, the Buildings Department and the Fire Services Department (FSD) had no in-principle objection to HKSH’s redevelopment proposal. The compliance of the proposal with the relevant fire safety and means of escape requirements under the BO would be checked in detail at the building plan submission stage;
- (xxiii) the redevelopment proposal of HKSH was considered by the Board in accordance with the established procedures in a transparent manner and the relevant amendments to OZP were exhibited for public inspection in accordance with the provisions of the Ordinance;

Public Consultation

- (xxiv) the amendments to the OZP were exhibited for public inspection for a period of 2 months in accordance with the provisions of the Ordinance. The exhibition of the amendments was a statutory channel for public consultation. In addition, WCDC and WCSAC were consulted and a consultation forum was held to solicit the views of the locals;

- (xxv) the Board would duly consider the grounds and substance of the representations received, rather than just the number of representations;

Representers' Proposals

- (xxvi) regarding the proposals for reverting to the previous BHR of 12 storeys, maintaining the existing BHs at the site and stopping HKSH's redevelopment, the BHRs for the site were considered appropriate upon balanced consideration of the relevant factors;
- (xxvii) on the proposals to move the redevelopment to other sites, SFH and D of Health supported/had no objection to HKSH's in-situ redevelopment proposal;
- (xxviii) regarding the proposal to provide compensation for the residents in the Happy Valley area, the OZP amendments were confined to the HKSH site and the BHRs were considered not incompatible with the BH bands for the surrounding areas from visual viewpoint;
- (xxix) in respect of the proposal for requiring an EIA, EPD had advised it was not required for the hospital use;
- (xxx) on the proposal to change the vehicular access and provide facilities underground, the proposed ingress and egress points in the redevelopment were acceptable to TD, and FSD had advised that the provision of medical facilities lower than 3 levels of basement was undesirable from fire safety point of

view;

Adverse Representation for More Lenient BHRs (R708 – HKSH)

- (xxxix) the revised scheme submitted by HKSH in September 2010 comprised Phase 3A building and Phase 4 building with a BH of 115mPD and 89mPD respectively. The revised development scheme provided details of the proposed development, including GFA, BHs, floor uses, footprints and disposition of the buildings for demonstration of compliance with the plot ratio and SC restrictions under the BO, and supporting technical assessments. The BHRs of 89mPD, 115mPD and 2 storeys generally reflected the development scheme submitted by HKSH and was in line with the agreed settlement proposal;
- (xxxixii) the concerned BHRs did not preclude the articulation of building façade and good building design;
- (xxxixiii) regarding the proposal to replace the BHRs of 89mPD and 2 storeys by 115mPD, the height band of 89mPD was to allow, in conjunction with the height band of 115mPD, a gradation in BHs to mitigate the visual impacts of the building bulk and ensure compatibility with the general BH bands of 85mPD to 115mPD for the valley floor area. The BHR of 2 storeys, which reflected the proposed height of the car park podium, was imposed by the Board to ensure a 27m building setback above the podium to mitigate the visual impact of the proposed development as viewed from Wong Nai Chung Road. The stepped BH concept and the 27m building setback were in fact major design measures proposed by HKSH to minimize the visual impacts of the proposed development. Relaxation of these BHRs to 115mPD would defeat their intentions and was considered inappropriate;

- (xxxiv) regarding the new conceptual design scheme under HKSH's representation, the proposed Phase 4 building had a curved facade intruding on the portion of the site that was subject to a BHR of 2 storeys, resulting in a much reduced setback distance of less than 15m from Wong Nai Chung Road at the narrowest point. The reduction was about 26% in terms of the originally proposed setback area. The visual impact of the proposal was more significant as viewed from Wong Nai Chung Road when compared with the BHRs on OZP;

- (xxxv) HKSH's representation had not demonstrated that the curved facade would help reduce the perceived building bulk and it was essential to adjust the boundaries of the BHRs, or that it was infeasible to comply with BHRs due to the adjoining slope;

- (xxxvi) regarding the proposed increase in the BHR from 2 storeys to 3 storeys, HKSH had not provided assessment to justify the change. To cater for site-specific circumstances and schemes with planning merits, there was provision for application for minor relaxation of the said BHR;

- (xxxvii) to ensure the provision of the setback of the proposed hospital tower from Wong Nai Chung Road, there was a need to avoid redevelopment up to the existing BH in the part subject to BHR of 2 storeys;

Representations Providing Comments

- (xxxviii) the Board would give due consideration to alternative proposal for a higher BH which was supported by a specific development scheme and relevant technical assessments, having regard to the circumstances of the site and the comments of relevant policy bureau and departments. If the

proposal was well justified, demonstrated to be acceptable in planning and technical terms and supported by relevant policy bureau/departments, the Board might consider relaxing the stipulated BHR for the “G/IC” site;

- (xxxix) HKSH submitted a specific development scheme with relevant technical assessments to facilitate thorough assessment of the impacts of the revised BHR by the Board. The scheme was supported by SFH and acceptable to concerned departments. In amending the BHRs for the HKSH site, the Board had thoroughly assessed and balanced relevant factors and considered the revised BHRs generally acceptable;

- (xl) if there was an intention to amend the BHR for their “G/IC” site for redevelopment and expansion of the existing facilities, the representer might submit a specific development scheme with relevant technical assessments for consideration. Such scheme might be submitted to the Board in form of a section 12A application for amendment to the OZP. Alternatively, if the scheme was well justified and supported by the relevant government bureaux/departments, PlanD might recommend to the Board to amend the BHR under section 5 or 7 of the Ordinance;

- (xli) the BHR for the MLCC site was not the subject of the amendments incorporated in the Plan and this part of the representation should be regarded as invalid;

V) Grounds of Comments and Commenters’ Proposals

- (n) the main grounds of the comments and commenters’ proposals as detailed in paragraphs 4.5.1 to 4.5.4 of the Paper were summarised as follows:
 - (i) C1 supported R991 and R1018’s proposal to amend the BHRs for the HKSH site to 12 storeys and minimize the BH

respectively, and opposed HKSH's proposed amendments to relax the BHRs for the site and R1024 and R1025's proposed amendments to relax the BHR for the MLCC site, without specifying the grounds;

- (ii) C2 and C3 opposed HKSH's proposal to relax the BHRs and HKSH's new conceptual design scheme which would create adverse visual and traffic impact. HKSH should consider other alternative sites for expansion. The inclusion of a new ingress/egress did not depend on the height of the building;
- (iii) C4 objected to the adverse representation of R1002 and considered that the hospital expansion should be encouraged, without specifying any grounds;
- (iv) C5 and C6 objected to the relaxation of the BHRs for the HKSH site, without specifying any grounds;
- (v) C7 to C9 opposed all amendment items related to the HKSH site and considered HKSH should find alternative sites for expansion, without specifying any grounds;

VI) PlanD's Responses to Comments

- (o) PlanD's responses to grounds of the comments and commenters' proposals as detailed in paragraphs 4.5.5 to 4.5.6 of the Paper were summarised as follows:
 - (i) C2 and C3's objection to the new conceptual design scheme proposed by HKSH was noted;
 - (ii) in terms of visual impact, the stepped BHs adopted in the redevelopment were considered not incompatible with the BH bands for the surrounding areas on the OZP;
 - (iii) in respect of traffic impact, the TIA conducted had confirmed that the proposed redevelopment would not have adverse impacts on the surrounding areas and the findings were accepted by TD. While the additional ingress/egress point might still be provided in a lower building, such proposal would not be able to achieve the permissible GFA of the HKSH site under the BO and lease;
 - (iv) regarding the availability of other more suitable sites, SFH and D of

Health supported or had no objection to HKSH's proposed in-situ redevelopment from the viewpoint of provision of private medical facilities;

VII) PlanD's Views

- (p) PlanD noted the support of R1 to R706 (except R253, R267, R294 and R325) and the support of R996 to R1003 to the BHR of 2 storeys, and considered that part of R1024 and R1025 which was related to the BHR on the MLCC site was invalid. PlanD did not support R253, R325, R707 to R1068 and the remaining part of R704 to R706 for reasons as detailed in paragraphs 6.2 of the Paper; and

18. Members noted that a clarification was made to the total GFA as shown in the table under paragraph 2.5 of the Paper by PlanD. The total GFA for the existing Phases 1 to 3 and proposed 3A and 4 should be 116,166.788m² which should include 3,901m² GFA for the existing nurse hostels in Phase 2.

19. The Chairman then invited the representers, the commenters and their representatives to elaborate on their representations.

R616 – Lit Wing Yee

20. Ms. Lit Wing Yee made the following points:

- (a) she had no relationship with HKSH and she was not a local resident in Happy Valley;
- (b) she supported the expansion of the HKSH which would provide good quality medical services to patients living outside Happy Valley. There was strong demand for private hospital services in HKSH and the relocation of the HKSH to other districts would be unfair to the existing patients of HKSH;
- (c) according to her observation at the time when there were major

improvement works at Pok Fu Lam Road for Queen Mary Hospital expansion, the expansion of HKSH with the provision of a new ingress/egress would bring along long-term traffic improvement to the Happy Valley area; and

- (d) it was unreasonable to restrict redevelopment proposal as it was part of the city development process. Though the views of some of the local residents might be affected by HKSH's proposal, the revised scheme of HKSH had adopted a good design concept which had addressed the concerns of different parties and was beneficial to the community.

[Dr. C.P. Lau left the meeting at this point.]

R708 – The Hong Kong Sanatorium and Hospital (HKSH)

21. Mr. Ian Brownlee made the following points:

- (a) the imposition of 'spot' zoning or 'spot' BHR was one of the main reasons for HKSH to lodge JR against the Board's decision not to uphold its representation on the draft Wong Nai Chung OZP No. S/H7/14. While the 'spot' BHR remained an outstanding issue, the current BHRs of 89mPD, 115mPD and 2 storeys on the OZP had created an even more 'spotted' zoning than the original 12-storey BHR and had unreasonably constrained the future redevelopment of HKSH. This was not the intention of the compromise solution proposed by the HKSH for the settlement of the JR;
- (b) HKSH maintained its fundamental objection to the imposition of 'spot' BHRs on the HKSH site and the compromise scheme submitted in September 2010 was not intended for the setting of detailed 'spot' zoning on the site;
- (c) the main reasons for the compromise scheme as proposed by the HKSH were explained in paragraph 5.1.2 of the representation submission.

The following factors had been taken into account:

- (i) the prime planning intention for the site to provide hospital services serving the needs of local residents and/or a wider district, region or the territory;
 - (ii) the need for a total of 800 beds for HKSH;
 - (iii) public comments and the Board's view which objected to the height of 148mPD for the original Phase 4 building. A stepped building profile was thus included in the compromise scheme;
 - (iv) a preliminary conceptual design which indicated the possible heights of 115mPD and 89mPD and was used to illustrate the concept that could accommodate the full permissible GFA;
 - (v) the visual impact from Bowen Road and upper Stubbs Road where Phase 4 building was not really visible;
- (d) the preliminary conceptual design was however not subject to detailed design nor detailed technical assessments. Upon more design development since November 2010, it was found that a building which met the objectives of the compromise agreement could not be designed within the current BHRs on the OZP due to geotechnical constraint. This was the reason for the subject representation by HKSH. However, further submission of additional information, including drawing, revised Geotechnical Studies and BD's rejection letter on the general building plans, to clarify the points made in the representation was not allowed;
- (e) a possible resolution to the geotechnical constraint had been identified in the detailed design stage but the resultant scheme contravened the current BHRs imposed on the site. The GBP was rejected by BD taking account of DPO/HK's comment that the building had intruded into the area subject to the 2-storey BHR by 3m. A copy of the rejection letter by BD of 7.1.2011 was tabled for Members' information;
- (f) on paragraph 4.4.4(c) of the Paper, PlanD commented that HKSH's representation had not demonstrated that it was infeasible to comply with the BHR due to the adjoining slope. The investigation and design

undertaken by HKSH since November 2010 had in fact shown that it was not possible. MPC might not be aware of the significant implication of imposing the 2-storey BHR during the consideration of the proposed amendments of the OZP on 10.9.2010.

22. Mr. Menachem Hasofer, the solicitor of HKSH (R708), made the following points:

Settlement of the JR

- (a) in 2008, HKSH objected, amongst other things, to the use of the 'spot' BHRs. Though DoJ advised the Board that there was power under sections 3 and 4 of the Ordinance to impose spot BHRs and setbacks, HKSH remained of the view that there was no such statutory power. Despite this, HKSH had made efforts to facilitate a compromise solution that would allow the hospital to complete its long-term redevelopment;
- (b) the question of legality of spot BHRs was referred to the High Court for JR in 2008. If the spot BHRs were struck down, the position would be reverted to the previous OZP, under which HKSH might proceed with the proposed 42-storey Phase 4 building. If the JR was unsuccessful, the 12-storey BHR would have prevented any further redevelopment;
- (c) HKSH had at all times preferred to resolve the zoning issues in an amicable and consensual manner. Accordingly, a settlement proposal was put forward, the essence of which was to reduce the height of the Phase 4 building while maximising its floor space, by having part of the building on the slope which was a NBA under the government lease. HKSH had applied for a lease modification to remove the NBA and now required the zoning restrictions to be amended to permit the proposed development;
- (d) in the context of plan-making, any amicable settlement of a court challenge would inevitably involve further amendments to the draft OZP, which must be approved by the Board following the statutory procedures.

This necessarily required the settlement agreement to be conditional as in the subject case. If successfully implemented, this case would stand as a precedent to show that the Administration and the Board were simultaneously able to discharge both their public duties and their duties to the Court, by finding a compromise solution which avoided the heavy costs and serious risks of litigation for both sides and promoted public interest;

Terms of Settlement

- (e) there was a misunderstanding after the Board approved the conditional terms of settlement on 3.9.2010 which had the potential to destroy all the mutual progress that had been made in relation to the HKSH site. As stated in paragraph 2.4 of the Paper, the Board had agreed to the settlement proposal submitted by HKSH on 1.9.2010. The letter submitted by JSM to the DoJ on 1.9.2010 was tabled at the meeting for Members' reference. The proposed terms of settlement included the preparation of a paper by PlanD proposing an amendment to the draft OZP, in a format to be determined by PlanD, for MPC consideration, such that upon approval of such amendments by the Board and CE in C, HKSH would be permitted to construct two new buildings of 115mPD and 89mPD as per section drawing marked 'A' attached to the letter and a maximum GFA as permitted under the terms of relevant Government leases and the Building (Planning) Regulations (B(P)R);

- (f) the sectional drawing attached to the letter of 1.9.2010 was a conceptual drawing which illustrated the building heights of 115mPD and 89mPD and main uses of the proposed stepped building. It was not intended to illustrate the depth of the proposed building below ground level or the final specific alignment of the building with reference to the street frontage. The full depth and alignment of the proposed building, with reference to the sensitive slope area, had not been verified by the geotechnical engineers at that stage;

- (g) HKSH objected to the 'spot' BHRs for the site and its preference was for

a BHR of 115mPD covering the site north of the Phase 3 building;

- (h) the letter of 1.9.2010 gave PlanD the responsibility to propose any new BHRs but subject to that any such BHRs had to permit HKSH to build up to the maximum permitted GFA, in accordance with the conceptual scheme in the sectional drawing attached to the letter of 1.9.2010. In the letter, there was no mention of any 2-storey height restriction or mandatory building setback which were not part of the conditional agreement approved by the Board on 3.9.2010;

Additional Restrictions imposed by MPC

- (i) in accordance with the Board's approval of the conditional settlement on 3.9.2010, the draft amendments to the OZP were submitted to the MPC on 10.9.2010. The proposed amendments prepared by PlanD included two new BHRs of 115mPD (for the proposed Phase 3A building) and 89mPD (for the remaining north-eastern part of the site) respectively. There was no suggestion of a 2-storey BHR and mandatory building setback. Members were referred to paragraphs 59(d), (f), (h), 60 and 63(a) of the minutes of the MPC meeting as tabled at the meeting;
- (j) the 2-storey BHR, which was intended to mitigate the visual impacts of the development as viewed from Wong Nai Chung Road, had the practical effect of preventing HKSH from building the permissible GFA in full, and thereby negating one of the terms as set out in the letter of 1.9.2010. At its meeting on 10.9.2010, MPC was not aware that the scheme was only conceptual and not yet verified by geotechnical engineer. The restriction of 27m building setback above the 2-storey podium would affect the geotechnical position of the site such that it was impossible to shift the Phase 4 building back into the slope while maintaining the permissible GFA within the 89mPD height limit;
- (k) as the 2-storey BHR and setback requirement were not known until the deliberation of the MPC, there was no anticipated need to check whether the parameters illustrated in the conceptual scheme had been verified by

the geotechnical engineers, such that the alignment of the proposed building could accommodate the permissible GFA;

Remedy

- (l) the amendments to the draft OZP gazetted did not conform to what had been agreed by the Board on 3.9.2010. The Board had agreed that the amendments would permit the construction of the full permissible GFA, whereas the 2-storey BHR had prevented this from being achieved;
- (m) HKSH would prefer a BHR of 115mPD covering the site north of Phase 3 building, or to replace the 2-storey BHR with a BHR of 89mPD. Alternatively, if there was a need for the building setback and given the geotechnical constraint, HKSH was prepared to agree to a set back up to 11m from the site boundary which would permit the construction of the permissible GFA in full;
- (n) if the Board agreed with HKSH's proposal, a further amendment to the draft OZP would need to be gazetted and members of the public would have an opportunity to make further representation. All the representers and commenters who had made representations and comments would have a right to be heard at the further representation hearing; and
- (o) the Board was requested to honour its agreement made on 3.9.2010 to gazette amendments to the draft OZP which permitted the construction of the permissible GFA in full and to uphold HKSH's representation.

[Ms. Anita W. T. Ma left the meeting while Miss Annie Tam arrived to join the meeting at this point.]

23. With the aid of a Powerpoint presentation, Ms. Anna Lee made the following points:

- (a) the HKSH and the Board agreed on a compromise scheme which

comprised a Phase 3A building of 115mPD, a Phase 4 building of 89mPD, a maximum GFA as permitted under lease (without additional GFA restriction under the new draft OZP) and a minor adjustment of zoning boundary to include a piece of government land of 38m²;

- (b) the amendments to the OZP gazetted on 30.9.2010, which included the imposition of a 27m setback from Wong Nai Chung Road and a BHR of 2 storeys on the setback area, had not been agreed between the HKSH and the Board; and
- (c) under the compromise scheme, no basement was shown on the schematic diagram as it was assumed that basement had no effect on height and would be shown at detailed design stage.

24. With the aid of a Powerpoint presentation, Mr. K.K. Kwan made the following points:

- (a) the existing slope behind Li Shu Fan Block (where the proposed Phase 4 building would be located) was of steep gradient and full of vegetation. It went up to Stubbs Road at 90mPD which was 80m higher than Wong Nai Chung Road. Upgrading works with the installation of soil nails had already been undertaken to prevent possible landslide;
- (b) due to the slope constraint, the geotechnical consultants had consulted the Geotechnical Engineering Office (GEO) of the Civil Engineering and Development Department on the proposed development parameters of the hospital expansion. A Geotechnical Planning Review Report had been submitted to the GEO for consideration in June 2010 and a maximum excavation depth of 29m was agreed. This parameter was important for the development as the presence of slope would amplify the force exerted on the retaining structure; and
- (c) the original GBP submitted in November 2010 by HKSH involved a cut slope of about 43m excavation depth and a setback of 24m. In order to

achieve the maximum excavation depth of 29m required by GEO, the redevelopment scheme had been revised with a stepped basement which resulted in a reduction in GFA. Another option to attain the maximum excavation depth of 29m and a 27m setback was to build a pencil tower but that was not viable for hospital development. The only viable solution was to move the setback line from 27m to 11m which was the same as the existing building setback of Li Shun Fan Block.

25. With the aid of a Powerpoint presentation, Ms. Anna Lee made the following points:

- (a) with the 27m setback above 2-storey podium, no basement would be technically feasible, the maximum permissible GFA could not be achieved and no windows would be allowed for 10 floors of hospital wards. That would be an inefficient plan for Operation Theatres and wards. On the other hand, with a 11m setback, three levels of basement car parks could be provided. The maximum GFA of 66,993m² could be achieved and all wards would be provided with windows. There would be an efficient plan for Operation Theatres and wards;
- (b) if no basement was technically feasible, the car park would need to be provided above-ground and the GFA could not be exempted under the Sustainable Building Development (SBD) Guidelines. There would be less GFA available for hospital facilities. HKSH preferred the current proposed scheme with 11m setback and three basement levels; and
- (c) the HKSH provided the best medical care and equipment to serve the people of Hong Kong and was developed in response to patients' need. The Phase 4 building would not be operationally feasible unless the maximum permissible GFA could be achieved. The currently proposed scheme had addressed the problem of slope constraints and traffic congestion and attained the maximum compromise with the surrounding developments. There should be no more delay in the provision of the best medical care in Hong Kong.

26. Mr. Ian Brownlee made the following point:

- (a) HKSH agreed to the stepped BHRs of 89mPD and 115mPD but considered more flexibility should be allowed for the coverage of the 89mPD and the 2-storey restrictions. A plan showing an alternative preferred setback of 11m with the southern part be extended to 27m over a 2-storey podium, was tabled at the meeting. The proposed alternative setback would achieve the principal objective of the Board to achieve a setback at Wong Nai Chung Road and would also resolve the geotechnical problem of the redevelopment.

[Professor Edwin H.W. Chan arrived to join the meeting at this point.]

R763 – Elite Eternal Ltd.

27. Mr. Lam Hau Sing sought the Board's clarifications on the issue raised in the letter of 7.4.2011 submitted by his solicitors, S.K. Lam, Alfred Chan & Co. to the Board in relation to the legality of the current process. The Chairman replied that the current procedure was for the consideration of representations and comments and the Board would deal with the solicitor's letter separately.

28. Mr. Lam Hau Sing then made the following points:

- (a) he represented the residents of Fung Fai Terrace; and
- (b) there was doubt that HKSH would provide quality medical services after redevelopment as promised in its representation. HKSH did not keep its promise to fix the road in front of Fung Fai Terrace which was damaged by the construction trucks of HKSH. Besides, HKSH also did not offer any assistance to the victim suffered from a traffic accident in front of the hospital.

R764 – Lin Sau Har, Peggie

29. Mr. Ng Yin Keung made the following points:
- (a) the supportive representations were based on a misconception that if the amendments to the OZP were not approved by the Board, the medical services provided by HKSH to the public would be affected;
 - (b) the local residents and the Board had misunderstood that the HKSH's redevelopment proposal would be beneficial to the residents of Happy Valley and the people of Hong Kong. However, the increase in the hospital beds would mainly serve the patients from Mainland China, particularly the pregnant women. It was not possible for SFH or the Board to restrict HKSH from providing medical service to non-residents of Hong Kong. There was a need to ensure that the proposed hospital expansion was to enhance the medical services instead of for a commercial purpose;
 - (c) the in-situ expansion of HKSH would lead to an over-concentration of medical facilities at Happy Valley. The setting up of the expansion facilities at an alternative site in other parts of the territory would help divert patients to other areas, which was beneficial to those visiting the existing hospital in Happy Valley;
 - (d) the Government did not ensure that other rehabilitation or post-medical services would be provided in the district after the hospital expansion;
 - (e) the planning intention for "G/IC" zone was primarily to provide community facilities serving the local community. The HKSH site was zoned "G/IC" and was mainly surrounded by residential areas zoned "R(A)" and "R(B)" with permissible plot ratio in the range of 8 to 10. There was no justification to allow a development of plot ratio 15 at the HKSH site which was incompatible with the surrounding developments;
 - (f) the proposed new ingress/egress directly at Wong Nai Chung Road,

which was a main road, might further aggravate the adverse traffic condition in Happy Valley;

- (g) the BHR of the HKSH site contravened the stepped height profile adopted for the lower Happy Valley area, which were subject to BHRs of 85mPD, 100mPD and 115mPD for the areas around King Kwong Road, Village Road and south of Village Road respectively. The HKSH site which was north of King Kwong Road should therefore be subject to a BHR lower than 85mPD; and
- (h) the visual impact assessment undertaken did not properly reflect the adverse visual impact created by the HKSH redevelopment at some popular public viewing points. The existing Phase 3 building had created significant adverse visual impact when viewed from lower Stubbs Road near Tung Shan Terrace. Since Happy Valley was a popular spot for tourists and visitors, HKSH should be requested to substantiate its visual impact assessment by providing more photomontages from popular public viewing points.

R823 – Wealth Ltd.

30. Mr. Lam Hau Sing made the following points:

- (a) at the consultation forum held at the Leighton Hill Community Hall, HKSH explained that they did not anticipate the traffic congestion problem arising from the Phase 3 development as the plan was done five years ago. In this regard, he considered that HKSH was irresponsible and had doubt on the accuracy of the current assessment undertaken by HKSH for the next phase of the redevelopment; and
- (b) the reliability of the supportive representations to HKSH's expansion proposal was doubtful. The questionnaires were only completed by visitors to the hospital (who were not residents in Happy Valley) within a few minutes when they were waiting lifts at the hospital lift lobby.

R866 – New Investments Ltd.

31. With the aid of a Powerpoint presentation, Mr. Albert Lai made the following points:

- (a) PlanD had misinterpreted HKSH's redevelopment proposal in five aspects, namely (i) overriding public need for maximum development, (ii) acceptable geotechnical risk, (iii) acceptable traffic risk, (iv) acceptable air ventilation assessment, and (v) reasonable balance between adverse impact and community gain;

Overriding public need for maximum development?

- (b) PlanD had misinterpreted SFH's support in general on HKSH's redevelopment to enhance its medical services and capacity to meet the community needs. SFH did not state that private hospital expansion had to be undertaken by HKSH and in the Happy Valley site, and the Government could not offer sites other than the four proposed for private hospital expansion in future;
- (c) there was no overriding need to exploit the maximum development potential at the HKSH site eventhough its expansion might be desirable. The proposed plot ratio of 14.6 was incompatible with the environment in the local community;

Acceptable Geotechnical Risk?

- (d) while the Geotechnical Planning Review Report conducted by HKSH in June 2010 had concluded that the proposed hospital redevelopment was geotechnically feasible, the review had adopted an assumption of 1-in-10 year rainstorm which was inadequate given the recent climate change;
- (e) according to an academic research titled "Landslide Risk Assessment and Management: An Overview" by University of Hong Kong, 'planning control was one of the effective and economic ways to reduce

landslide losses. It could be accomplished by (i) removing or converting existing development, and/or (ii) discouraging or regulating new development in unstable areas. The latter option was the most economical and effective means for local governments if feasible’;

- (f) given that there were records of landslides at the HKSH site in 1959 and 2005, it was doubtful if the largest private hospital in Hong Kong should be allowed to be built on a landslide-prone site without prior risk assessment;
- (g) if HKSH’s redevelopment proposal was accepted, the Government would lose the chance to monitor geotechnical risk through planning control;

[Mr. Maurice W.M. Lee arrived to join the meeting at this point.]

Acceptable Traffic Risk?

- (h) while the TIA report prepared by HKSH in June 2010 stated that there was reserved capacity of 78% at the key junction of Broadwood Road/Link Road/Leighton Hill Road, it also admitted that traffic queues had been observed at the junction. Hence, the accuracy of the TIA report was in doubt;
- (i) the TIA had assumed an annual growth of 0.5% up to 2010 but no allowance was made for the committed development and planned redevelopments in the district. It was noted that building plans for redevelopment at Yuk Shau Street, Kwai Fong Street and Shan Kwong Road etc. had been approved;
- (j) TD had not stated that the TIA was totally acceptable. Besides, there was also no undertaking by TD that the proposed mitigation measures in the TIA were technically feasible or would be implemented by the Government;

Acceptable Air Ventilation Assessment?

- (k) only a general AVA had been undertaken by PlanD in 2008 for the whole planning scheme area. No AVA had been conducted specifically for the proposal at the HKSH site to assess the possible adverse impact on the surrounding residential developments;

Reasonable Balance between Adverse Impact and Community Gain?

- (l) under the Ordinance, the purpose of town planning was to promote the health, safety, convenience and general welfare of the community by making provision for the systematic preparation and approval of plans for the layout of the areas of Hong Kong as well as for the types of building suitable for erection therein and for preparation and approval of plans for areas within which permission was required for development;
- (m) by referring to a letter of 14.1.2011 from D of Plan to Hon. Tanya Chan, there was no obligation for the Board to facilitate HKSH to maximise its development potential at the site and the representer was not convinced that HKSH could not operate smoothly in a reduced scale. The proposed BHR of 89mPD and 115mPD represented a wrong balance based on PlanD's misinterpretation on the need of HKSH. A new balance was needed to protect community interest and maximise planning gains. The original BHR of 12 storeys under the draft OZP No.S/H7/14 represented a better balance; and
- (n) the proposed BHRs of 89mPD and 115mPD was a result of the settlement proposal between the Board and HKSH. There was no public consultation prior to the gazetting of the amendment to the OZP for the HKSH site. This indicated that the Board had already reached a decision on the matter and the representations submitted to the Board would be futile. The legality of the current process was in doubt.

[Mr. Fletch Chan and Professor Eddie C.M. Hui arrived to join the meeting at this point.]

32. With the aid of a Powerpoint presentation, Mr. Mak Kwok Fung made the following points:

- (a) being a Wan Chai District Council Member and a resident living in Broadwood Road, he objected to the HKSH's expansion plan and the relaxation of the BHR at the HKSH site;
- (b) under the Ordinance, the statutory duty of the Board was to promote the health, safety, convenience and general welfare of the community by making provision for the systematic preparation and approval of plans for the layout of the areas of Hong Kong as well as for the types of building suitable for erection therein and for preparation and approval of plans for areas within which permission was required for development. However, the current amendments to the OZP affected the traffic safety, convenience and general welfare of the community in Happy Valley;
- (c) there were various faults in relation to the expansion proposal of HKSH as follows:
 - (i) there was a lack of prior consultation with local residents since the redevelopment of the HKSH in 2005;
 - (ii) as a non-profit making institution, the HKSH had acted against the principle of serving the community by lodging JR against the Board's decision on the imposition of 12-storey BHR;
 - (iii) the proposed amendments to the OZP which based on the settlement proposal was against the Ordinance and had disregarded the objection of the WCDC and WCSAC. The local consultation forum on the proposed amendments was conducted in a rush and there was no positive responses by HKSH to the public comments at the forum;
 - (iv) HKSH's claim that the private hospital site in Wong Chuk Hang was not suitable as the sensitive medical equipment would be affected by the South Island Line running through the site was not convincing in view of the existing advanced technology. The

- HKSH should consider setting up medical facilities at other sites away from the present congested location, as other private hospitals;
- (v) the inclusion of a piece of government land zoned “GB” as part of the hospital development was not acceptable. The “GB” zone which was intended to preserve the natural environment was a public asset and should not be used for private development;
 - (vi) HKSH had collected some 254 signatures in support of its expansion. However, they were all from outsiders not affected by the redevelopment. Some were standard letters with no reason given while some reasons given were not reasonable. They did not represent the true public sentiment; and
 - (vii) HKSH acted against the views of the local residents who had been suffering from the noise and traffic impact arising from the Phase 3 development;
- (d) further expansion of the HKSH would affect the local residents in the following aspects:
- (i) the hospital expansion proposal would create wall effect, air ventilation and hygiene problem in the surrounding area;
 - (ii) the existing traffic condition in Happy Valley, particularly Wong Nai Chung Road would be further worsened. The adverse traffic impact would extend further to the Causeway Bay area, Cross-Harbour Tunnel and Aberdeen Tunnel;
 - (iii) as shown by various photos, public views from a number of vantage points would be adversely affected by the redevelopment. Those included views from the junction of Wong Nai Chung Road and Leighton Road, the public toilet of Wong Nai Chung Road, the pavement near St. Paul College, the sitting-out area at Sing Woo Road, the Tram Terminus, Crescent Garden, Hindu Temple, Happy Valley Recreation Ground and King Yin Lei at Stubbs Road;
 - (iv) it would create negative competition with public hospitals on the availability of resources and manpower. SFH and D of Health did not indicate their support of in-situ expansion of HKSH; and

- (v) the social harmony between HKSH and the local residents would be destroyed.

[Miss Annie Tam and Mr Walter K.L. Chan temporarily left the meeting at this point.]

R1022 – Ng Kam Chun

33. Mr. Ng Kam Chun made the following points:

- (a) being a Wan Chai District Council member of the Happy Valley Constituency, he appreciated the good quality medical services provided by HKSH. However, there was a lack of transparency in the implementation of the HKSH redevelopment plan. The local residents were not consulted before the Phase 3 development was built and HKSH explained that it was because there was no BHR on the site zoned “G/IC” at that time. The local residents supported the imposition of the 12-storey BHR on part of the HKSH site but they were disappointed that the Board had entered into settlement with HKSH and proposed a more relaxed BHR for the site without prior public consultation;
- (b) the in-situ expansion of HKSH was not supported by the local residents. The HKSH should consider accommodating some of its new medical facilities, staff training facilities and nurse hostels in other alternative sites e.g. the Wong Chuk Hang private hospital site, so that good quality services could be provided in other districts;
- (c) the local residents did not support the development of HKSH up to the maximum permissible PR as it would generate adverse traffic congestion within the district. The Times Square experience had already indicated the long term impact of traffic congestion as a result of maximisation of development potential of a site;
- (d) the increase in hospital beds from 460 to 800 would impose tremendous traffic impact to the surroundings. The TIA did not take into account

the additional traffic generated by other approved and planned development in Happy Valley. Happy Valley was only served by Wong Nai Chung Road and had no MTR station. Together with the traffic from Aberdeen, the local residents of Happy Valley would suffer further from serious traffic congestion as a result of HKSH redevelopment;

- (e) the HKSH redevelopment would pose geotechnical risk on the surrounding area. There were two records of landslides near Fung Fai Terrace and Village Court in 2008. The proposed building height of 89mPD and 115mPD for HKSH redevelopment proposal would affect the stability of the existing retaining walls on the concerned slope; and
- (f) the patients in a high-rise hospital building were subject to fire safety risk and life hazard. It would be difficult to evacuate patients at time of fire accidents.

R877 – Suen Chung Kwan

34. Mr. Suen Chung Kwan made the following points:

- (a) many local residents in Happy Valley strongly objected to the expansion of HKSH in Happy Valley as well as the proposed BHRs for the HKSH site under the OZP;
- (b) apart from air and traffic impacts, there was grave concern on the air pollution generated by the HKSH redevelopment on the local residents. The south-west summer wind would blow through HKSH to the surrounding areas and hence might spread bacteria and diseases from the hospital. Though DFEH had advised that the Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes had set out the standards of good practice for health care institutions, there was no guarantee that there would be no spreading of diseases from the hospital. As demonstrated by the Severe Acute Respiratory Syndrome (SARS) incident, the Government was incapable of preventing the spread of the

disease and there was no appropriate remedy for those affected victims;
and

- (c) he strongly requested the Board to undertake its statutory duty to promote and protect the health and safety of the Happy Valley residents and seriously considered the grave concern of the residents.

R958 – The Incorporated Owners of San Francisco Towers

35. Mr. Jeffrey Ho made the following points:

- (a) while he welcomed the stepped BHR imposed by the Board on the Wong Nai Chung OZP No. S/H7/14 in 2008, he had expressed his concern on the high-rise development of the HKSH during the previous representation hearing;
- (b) for the current amendments incorporated in the OZP No. S/H7/15, he noted that there were 702 supporting representations but 346 of them had not specified their grounds of support. He doubted if these supporters really understood the subject matter;
- (c) local residents did not object to the expansion of HKSH but was against its in-situ redevelopment to such a large hospital at the Happy Valley site. The hospital mainly served patients from the Mainland and the expansion of the hospital would not benefit the local residents;
- (d) the lift capacity of the Phase 3 building was already inadequate to support the existing services. The patients had been suffering from long waiting time for lift;
- (e) half a floor of hospital wards were not open in the Phase 3 building due to insufficient staff. The expansion of the private hospital would create competition with public hospitals for staff resources. This would pose risk on the overall medical services in Hong Kong;

- (f) he doubted if TD had examined the existing traffic congestion problem in Happy Valley in accepting the TIA submitted by HKSH. At the local consultation forum at the Leighton Hill Community Hall, he had asked HKSH's representative about the reason for the existing traffic congestion generated by the Phase 3 development and HKSH had admitted that there were inaccuracies in the assessment done five years ago. Hence, there was doubt on the accuracy of the current TIA for the Phase 4 development;
- (g) the HKSH redevelopment project, together with another large project in the middle of the race course for the construction of stormwater storage tank which would last for about 8 years, would impose serious traffic impact to the Happy Valley area. The new ingress/egress would not resolve the existing traffic congestion in Shan Kwong Road. Rather, it would create more pressure at the critical junction at Wong Nai Chung Road; and
- (h) it was inappropriate for the Board to enter into settlement with HKSH prior to the undertaking of a public consultation. The Board had a pre-determined position on the proposed OZP amendments and would not take into account the views of the local residents.

R960 – The Incorporated Owners of Evergreen Villa, Stubbs Road

36. With the aid of some photos, Ms. Helen Tseng made the following points:

- (a) she represented the residents of Evergreen Villa;
- (b) she had doubt on the credibility of the TIA which was conducted by HKSH, instead of an independent third party. Without the construction of any new road, the traffic improvement brought about by the provision of one additional ingress/egress was highly in doubt. Besides, the location of the new ingress/egress was not appropriate as mentioned by

other representers;

- (c) HKSH had undertaken a wrong assessment on the lift service for the Phase 3 building which led to the current insufficient provision of lift services. There was doubt as to whether the TIA conducted for the Phase 3A and Phase 4 development was accurate;
- (d) there was no justification for the need of 21 floors of clinics and the nurse hostels of 3,900m² GFA in the HKSH site. The Board was requested to ask HKSH why these facilities were needed at the subject site and not any other places;
- (e) HKSH had on the one hand claimed that its goal was to provide good quality medical services to the community but on the other hand, tried to maximise the development potential of the site for its expansion for a commercial purpose;
- (f) the existing 37-storey Phase 3 development had already created a significant visual impact on Evergreen Villa especially for the view towards the race course. The proposed Phase 3A and Phase 4 buildings would create a wall effect when viewed from both Evergreen Villa and the Bowen Road walking trail. This was unfair to the public and the Board should prevent further adverse impact to the public and local residents; and
- (g) though the Board had entered into a settlement agreement with HKSH on the JR, it seemed that HKSH was still not satisfied with the proposed OZP amendments. The local residents considered that the Board had strong reasons for not upholding HKSH's earlier representation, i.e. (i) there were insufficient information to demonstrate that the proposed BHR of 148mPD would not have adverse visual impacts on the surrounding areas; (ii) in-situ expansion of HKSH was not the only means to provide additional hospital beds in Hong Kong; and (iii) the imposed BHR of 12 storeys in the main portion of the site was

compatible with the surrounding developments. Hence, the residents would support the Board to revert the BHR to 12 storeys for the main portion of the HKSH site.

[Mr. Felix W. Fong left the meeting at this point.]

R791 – Yu Wai Yip

37. With the aid of a Powerpoint presentation, Mr. Yu Wai Yip made the following points:

- (a) he was a resident of Fung Fai Terrace. The existing view of Fung Fai Terrace was heavily blocked by the Phase 3 building of HKSH of 37 storeys high. The height of the Phase 3 building was highly incompatible with the 4-storey buildings at Fung Fai Terrace. With the future development of Phase 4 building, the views of Fung Fai Terrace and the existing wind corridor of Shan Kwong Road would be completely blocked by the new development. This would result in a serious adverse impact on the residents at Fung Fai Terrace;
- (b) for residents at Happy Valley, there was already serious traffic congestion at Wong Nai Chung Road and the condition would be further aggravated with the increase of hospital beds to 800 after HKSH's expansion, the completion of various committed and planned development in the surrounding area and the commencement of the construction of the underground storage tank at Happy Valley Recreation Ground. He did not understand why the TIA submitted by HKSH would conclude that there was no adverse traffic impact;
- (c) the public view from Bowen Road, which was a popular walking trail on Hong Kong Island would be adversely affected. There was no reason why the Government should compromise with the BHR of the HKSH site;

- (d) Happy Valley had the character of a small-scale neighbourhood and the adverse visual impact of the Phase 4 building of HKSH would affect the existing character of Happy Valley. The Government should preserve the character of Happy Valley, not only for the local residents but tourists who took tram rides to Happy Valley;
- (e) HKSH should consider other redevelopment options e.g. moving those medical facilities that would not be affected by the proposed railway tunnel to the new private hospital site at Wong Chuk Hang; and
- (f) in view of the overall shortage of manpower in medical service, the Government should consider the need of the general public for public hospital services, not just the need of the rich for private hospital services.

R971 – David John Forshaw

38. Mr. Robert Allender spoke on behalf of Mr. David Forshaw and made the following points:

- (a) Mr. David Forshaw's representation was centred on two issues, i.e. government performance and neighbourhood character;
- (b) it was not sure if the information contained in the TIA submitted by HKSH to TD was correct and TD had not initiated its own investigation. HKSH claimed in their submission that the Phase 3 building involved no additional beds and therefore the traffic impact was negligible. However, the increase in beds as a result of the Phase 4 development would surely generate more traffic. There was a need to conduct the TIA again;
- (c) under section 16(1)(g) of the Buildings Ordinance, "the Building Authority may refuse to give his approval of any plans of building works where the carrying out of the building works shown thereon would result

in a building differing in height, design, type or intended use from the buildings in the immediate neighbourhood or previously existing on the same site.” The existing Phase 3 building was totally out of context with the immediate neighbourhood and the building plans should have been rejected under section 16(1)(g). An inquiry should be carried out on this case as it appeared that the statutory procedures had not been followed;

- (d) there was also the issue on legality pertaining to the withdrawal of the JR lodged by HKSH against the Board. The public was not aware of the terms of settlement and concessions made between the HKSH and the Board and there was no public consultation before the amendments were made to the draft OZP; and
- (e) as a buildings industry professional, Mr. Forshaw considered that nothing more than 12 storeys should be allowed to replace the existing 8-storey building at the HKSH site.

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

R972 – Yeung Lam Mei

39. Ms. Yeung Lam Mei made the following points:

- (a) she was a member of the Wan Chai South Area Committee and also represented Happy Valley Residents’ Association. She said that the Board should consult the public before entering into the settlement agreement with HKSH;
- (b) she appreciated HKSH in providing good quality medical services to the community but strongly objected to its expansion in the small neighbourhood in Happy Valley;
- (c) the HKSH redevelopment proposal with additional 340 hospital beds

would aggravate the already congested traffic condition in Happy Valley. The local residents had previously proposed a new MTR station in Happy Valley but the proposal was turned down. If the expansion of the HKSH was to proceed, a new MTR station should be provided in Happy Valley to help resolve the traffic problem;

- (d) the local residents in Happy Valley were not able to object to the excessively tall Phase 3 building, which had posed significant adverse visual impact to the surrounding area, as the site was not subject to any BHR at that time. They welcomed the subsequent imposition of BHR of 12 storeys on the HKSH site by the Board but was disappointed that the BHR was relaxed again;
- (e) she supported the provision of alternative sites for the expansion of HKSH which could divert patients to other parts of the territory. In view of the geotechnical constraint of the HKSH site, she requested HKSH to consider other alternative sites for its expansion; and
- (f) she requested the Board to consider the views of the local residents who strongly opposed the expansion of the HKSH in Happy Valley.

R989 – Rose Allender

40. Ms. Rose Allender made the following points:

- (a) on 8.8.2010, during the consideration of representations to the draft Wong Nai Chung OZP No.S/H17/14, the Board supported and protected the distinctive character of Happy Valley and the Board's views were summarised as follows:
 - (i) to avoid further development of tall buildings like HKSH Phase 3 and some developments on Stubbs Road which were incompatible with the surrounding developments, the imposition of BHRs for the area was considered necessary;
 - (ii) if the Phase 3 development was required to be submitted to the

Board for consideration, they would not support the proposal as it was totally out of place with the surrounding environment and had destroyed the unique medium to low rise character of Happy Valley;

- (iii) the BHR restriction of 37 storeys for Phase 3 development was not 'planned', rather, it was in recognition of the as-built situation that such BHR was adopted by the Board. As such, they did not consider it appropriate to use the BH of Phase 3 development as the yardstick for determining the proposed BH of the Phase 4 development;
 - (iv) there was a need to safeguard the pleasant living environment and unique character in the Wong Nai Chung area;
 - (v) the BHR of 12 storeys was considered appropriate and compatible with the surrounding developments;
- (b) before the development of Phase 3 building, the buildings in Happy Valley blended in well with the surrounding area. The Phase 3 development was out-of-proportion with the surrounding developments. The proposed Phase 3A and Phase 4 buildings would further impose adverse visual impact to the surrounding area;
- (c) the major vantage points were selectively chosen by PlanD and HKSH to fit into the existing oversized building profile. There were many other view points where public could view the hospital. The proposed amendments to the OZP magnified the adverse visual impact created by Phase 3 development;
- (d) there was already complaints from residents, visitors and patients about the traffic congestion at the hospital entrance. The new development would involve an additional 400 beds, more parking spaces, more visitors and staff. It was doubtful that the proposed new ingress/egress of the HKSH's redevelopment proposal would resolve all traffic problems;

- (e) as stated under PlanD's responses to the representations in the Paper, the new ingress/egress would improve traffic flow, the findings of the TIA were acceptable to TD, and the expansion of HKSH would not cause unacceptable traffic impact on the surrounding areas. She requested PlanD to present the relevant calculations and analyses to the people who needed to travel through Happy Valley everyday;
- (f) though the intention of HKSH was to help meet the increasing demand for medical services throughout the territory, medical tourism was in fact the goal of HKSH for its expansion;
- (g) though SFH had no objection to HKSH's expansion from a health care perspective, it did not mean that SFH considered that in-situ expansion of HKSH was the best way to improve medical services in Hong Kong;
- (h) the redevelopment proposal had changed the harmonious blend of buildings with the natural surroundings, the position of the hospital in the community and the relationship between the residents and the hospital. The local residents strongly objected to the existing Phase 3 and proposed Phase 4 buildings which destroyed the uniqueness of Happy Valley. The benefits to the hospital had been at the expense of the residents and local community; and
- (i) there was a need to safeguard the pleasant living environment and unique character in the Wong Nai Chung area by maintaining the BHR of 12 storeys at the HKSH site. The Board should support and protect the distinctive character of the Happy Valley.

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

R992 – Charles Or

41. Mr. Charles Or made the following points:

- (a) he was a staff of the management company of Fung Fai Terrace and represented the views of the residents of Fung Fai Terrace;
- (b) the road network in Happy Valley was already highly congested especially during peak hours, weekends and horse racing days. Further expansion of HKSH with a large increase in hospital beds would further aggravate the traffic condition and affect the local residents;
- (c) the area surrounding HKSH was mainly occupied by small buildings. The HKSH redevelopment with excessively tall buildings would impose adverse visual impact and create wall effect to the surrounding environment;
- (d) the need for hospital expansion was appreciated but HKSH should find a more appropriate site for its expansion;
- (e) the relaxed BHRs contravened the Urban Design Guidelines in respect of air ventilation and building height;
- (f) there should be more stringent BHR to ensure that the HKSH redevelopment would be compatible with the surrounding low-rise developments. The “G/IC” zone should provide visual and spatial relief to the surrounding area;
- (g) the BHR should be in a descending profile to align with the direction of the prevailing wind;
- (h) the HKSH redevelopment would increase the temperature of Happy Valley which was already higher than average. The central air-conditioning system of HKSH would impose air ventilation problem to the adjacent low-rise developments;
- (i) Happy Valley was a small neighbourhood and not suitable for a large scale hospital development. HKSH should consider other alternative

sites provided by the Government;

- (j) HKSH was mainly serving patients from the Mainland and the rich people in Hong Kong, instead of the local residents in Happy Valley. This had led to social conflict;
- (k) the increase in construction trucks during the construction stage of the redevelopment as well as the construction of other new buildings in Happy Valley would create inconvenience to the local residents;
- (l) the new ingress/egress at Wong Nai Chung Road would not help solve the existing traffic congestion problem as there were already serious traffic congestion along Wong Nai Chung Road and Canal Road; and
- (m) the proposed HKSH redevelopment would block the view of surrounding developments, create wall effect, air ventilation and air pollution problem.

R1000 – Cheung Shu Sang

42. Mr. Cheung Shu Sang made the following points:

- (a) he had been living in Happy Valley for many years. Happy Valley was a small neighbourhood and a tourist spot promoted by the Government. However, the excessively tall buildings of Leighton Hill and Phase 3 development of HKSH had destroyed the character of the area;
- (b) he was confused by the different interpretations on the settlement agreement as presented by PlanD and the legal advisor of HKSH at this meeting;
- (c) if the HKSH site in Happy Valley was subject to geotechnical constraint as claimed by HKSH, it was not suitable for the Phase 3A and Phase 4 development. HKSH had tried to reduce the construction and

engineering cost of the redevelopment at the expense of the interest of the Hong Kong people. HKSH should explore other options for its expansion instead of in-situ redevelopment which would create further wall effect in Happy Valley;

- (d) HKSH claimed that the proposed new ingress/egress at Wong Nai Chung Road in Phase 3A and Phase 4 development would help resolve the traffic congestion problem. He had doubt why the provision of a new ingress/egress had to be part of the redevelopment. HKSH should consider making use of the existing access at Wong Nai Chung Road near Hindu Temple through some internal alteration; and
- (e) according to the government information, there were about 30,000 hospital beds in public hospitals under the management of Hospital Authority and about 4,000 hospital beds in private hospitals. About 1,000 beds (25% of the private hospital beds) were already provided by the three private hospitals within the same district, i.e. St. Paul's Hospital (400 beds), Hong Kong Adventist Hospital (150 beds) and HKSH (460 beds). Hence, there was no need for further expansion of HKSH in Happy Valley. HKSH should consider expanding its good quality medical services to other parts of the territory e.g. the Southern District and the Eastern District.

R991 – Robert Allender

43. Mr. Robert Allender made the following points:

- (a) there was no doubt as to the beneficial role the HKSH had played in the advancement of medicine in Hong Kong. However, for the expansion of the hospital, there was still a need to gain local support. The HKSH had failed to gain the support for the development of Phase 3 building and currently for the Phase 4 development;
- (b) the HKSH was only concerned with the increase in hospital beds which

generated revenue to the hospital but not the adverse impact of the redevelopment on the local residents;

- (c) the redevelopment of the HKSH was against the principle of sustainable development which involved balancing of economic, environmental and social needs;
- (d) it was unsustainable on economic grounds as Happy Valley would become a less pleasant place to live and the income of the residents would be adversely affected by the detrimental physical and mental health effects;
- (e) it was unsustainable on environmental grounds in terms of air pollution and traffic impacts. The redevelopment would create wall effect and affect air ventilation of the area. The increase in hospital beds would lead to more traffic to the area and create air pollution;
- (f) it was unsustainable on social grounds in terms of mental and emotional stress of the local residents. The redevelopment proposal had damaged the social structure and well-being of Happy Valley; and
- (g) the Board should put an end to HKSH's redevelopment proposal.

R1003 – Byron Wong

44. With the aid of a Powerpoint presentation, Mr. Byron Wong made the following points:

- (a) being a director of the Mandarin Oriental Hotel Group, he had been involving in the planning and construction of hotels for more than 15 years and was familiar with the review of TIA reports which were essential for hotel development. He had also worked with MVA transport consultant before;

- (b) the traffic in Happy Valley had increased due to increase in patients and visitors after the completion of Phase 3 building, which in turn led to increase in travel time and severe traffic noise impact on local residents;
- (c) the existing Phase 3 building and the proposed Phase 3A and Phase 4 buildings had blocked/would block the existing open view of neighbouring development e.g. Celeste Court;
- (d) the TIA report submitted by HKSH was incomplete. Its assumptions were questionable and the conclusions were flawed for the following reasons:
 - (i) there was a conflict of interest for the traffic consultant, MVA, who was hired by HKSH, to undertake the TIA. An independent traffic consultant should be asked to perform the assessment or provide a review of MVA's report;
 - (ii) MVA's 2021 traffic forecast which assumed an annual growth rate of 0.5% was misleading since it was limited to Happy Valley as if it was an isolated island. On the contrary, Happy Valley was the converging point of traffic from Causeway Bay, Wan Chai/Central and Tai Hang/Blue Pool Road. There was no information on the number of vehicles entering Happy Valley from these three sources at different times of the day, on weekdays and weekends. The growth in the number of drivers and vehicles by 2021 was also unknown;
 - (iii) the trip generation calculation was inaccurate and incomplete. The trip generation for the 800 beds were projected based on the trip generation of the existing 438 hospital beds. It did not consider the increase in number of employees, patients, visitors and service deliveries. The actual increase in trip generation should be much higher. The HKSH expansion would create additional traffic and worsen the current gridlock;
 - (iv) the traffic survey was conducted at morning and evening peak but the actual hours and whether it was conducted on weekend or weekday were not indicated. That would affect the reliability of

- the survey;
- (v) MVA stated that it was reasonable to assume that all the trips that had origins or destinations to the north would use the new access on Wong Nai Chung Road as it was far more convenient than the existing one. This assumption was not correct as vehicles from Wan Chai or Central would not be able to make a right turn into the new entrance and they would still have to drive round the streets in Happy Valley as in the current situation;
 - (vi) according to the TIA submitted by HKSH, the proposed new vehicular access would divert about 70% of hospital bound traffic. However, MVA's traffic generation survey did not identify the proportion and number of vehicles coming from Causeway Bay, Wan Chai/Central, and Tai Hang/Blue Pool Road;
 - (vii) the TIA also suggested that the traffic circulation in the surrounding area would be improved. However, vehicles leaving the new access could not make a right turn even if they needed to travel south along Shan Kwong Road. Drivers had no choice but to use the original entrance. The HKSH redevelopment would generate longer traffic queues because there were more beds and business;
 - (viii) the TIA did not take account of the number of delivery trucks. If laundry service was handled off-site, the 800 beds would generate significant delivery service;
 - (ix) the lack of car parking was a major issue which was not addressed in the TIA. There was no information on the additional car parking requirement generated by the additional doctors, employees, patients and visitors. Only 164 car parks were provided. There was also no information on the requirement of car park spaces per bed; and
- (e) to conclude the current redevelopment proposal by HKSH was based on a flawed TIA and would affect the quality of life of the residents. An independent and unbiased TIA not commissioned by HKSH should be conducted.

[Ms. Pansy L.P. Lau left the meeting at this point.]

R861 – Leung Kwok Keung, Zacky

45. With the aid of some photos, Mr. Lam Hau Sing made the following points:
- (a) during the construction of the Phase 3 building, HKSH had made use of the road next to Fung Fai Terrace and had promised the residents that they would repair the road destroyed by the construction trucks. However, HKSH did not keep its promise after the completion of Phase 3 building. Hence, the residents of Fung Fai Terrace would not trust HKSH again; and
 - (b) the residents of Fung Fai Terrace had joined up with the residents of 70 blocks of buildings in Happy Valley and they all expressed their objection against HKSH redevelopment.

R1042 – Cheung Pui Ying

46. Ms. Cheung Pui Ying made the following points:
- (a) being a resident of Fung Fai Terrace, she said that the view of Fung Tai Terrace was completely over-shadowed by the Phase 3 building of HKSH;
 - (b) the HKSH redevelopment had created serious traffic congestion in the area and the residents were suffering from long travelling time. It took half an hour to travel by tram from Fung Fai Terrace to Sogo in Causeway Bay on Saturday; and
 - (c) the residents had suffered from the serious noise nuisance generated by the air conditioning system of HKSH and the odour problem created by the hospital.

R1046 – Owners Committee of the Leighton Hill

47. Ms. Verna Lee made the following points:

- (a) she represented the Owners Committee of the Leighton Hill and residents of Leighton Hill who objected to the adverse visual, air and noise impact imposed by the HKSH redevelopment;
- (b) the expansion of HKSH would downgrade the character of high-class residential neighbourhood in Happy Valley and affect the quality of life of the local residents;
- (c) the proposed new ingress/egress would not resolve the existing traffic congestion problem in Happy Valley. The residents living in the Happy Valley and Wan Chai areas had frequently suffered from the breakage of underground water pipes which led to serious traffic jam. Hence, the areas were not suitable for the expansion of HKSH;
- (d) the expansion of medical services in HKSH would only serve the patients from the Mainland and the rich people in Hong Kong and did not benefit the local residents in Happy Valley; and
- (e) the expansion of HKSH would affect the neighbourhood of Happy Valley and was against public interest. HKSH should consider other alternative sites for its expansion.

C2 – Amy Fung

48. With the aid of a Powerpoint presentation, Dr. Amy Fung made the following points:

- (a) being a practising doctor and a resident in Happy Valley, she had examined the need, the problem and alternatives for the Phase 4 development of HKSH;

Need for Proton Therapy?

- (b) HKSH's representation stated that the new phase of the development would need to provide a large space for the only Proton Therapy machine in Hong Kong for the advanced treatment of cancer. However, the need for proton therapy and the space requirement as claimed by HKSH was questionable;
- (c) proton therapy was suitable only for certain types of tumours. It was normally applied to cases when the radiation needed to be delivered with extreme precision, e.g. for tumour located in sensitive position like the brain, the head or the spinal column;
- (d) the effectiveness of proton therapy, as compared with the traditional type of radiation treatment for cancer, was controversial;
- (e) installation of proton therapy machine was expensive (\$100 million to \$150 million in 2009) and the machine was big, i.e. about 10 to 12m in diameter and of several hundreds tonnes in weight. However, in 2009, a compact proton therapy system became available. The size of the compact system was much smaller and similar to a conventional radiation therapy machine (1.8m in diameter and of 18 tonnes) which could be accommodated in a single room. The minimum dimension of the machine e.g. Monarch 250 was 11.5m x 12.5m and 9.75m in height. Given HKSH's claim that it had always been in the forefront of providing advanced medical facilities, it should consider using the compact proton therapy system which had a much smaller space requirement;

Medical Service Provision

- (f) the Hong Kong Private Hospitals Association had recently expressed that they would not reduce their services for Mainland pregnant women but the intensive care facility for new-born babies was not expanded correspondingly. This reflected that private hospitals only aimed for

making profit;

- (g) without resolving the fundamental problems such as aging population and resources distribution between private and public hospitals, the mere expansion of one single private hospital would not resolve the problem in the overall provision of medical services. Similarly, improving the facilities of one particular hospital would not enhance the competitiveness of Hong Kong. There was a need to improve the overall medical facilities, the environment, economy and townscape of the city;

Violation of Urban Design Principles

- (h) the Phase 3 building of HKSH had already destroyed the special character of the neighbourhood in Happy Valley. The excessive building height did not respect the existing stepped height profile from Stubbs Road/Wong Nai Chung Gap to the Race Course and was incompatible with the surrounding area. Extensive wall effect would be created if relaxation of building height was allowed for the proposed Phase 3A and Phase 4 buildings;
- (i) the Phase 3 development had already blocked the view of Fung Fai Terrace and also affected the views of some popular public viewing points. The Phase 3A and Phase 4 development would further aggravate the adverse visual impact. HKSH had admitted that the redevelopment proposal would create visual impact on the surrounding;

Adverse Traffic Impact

- (j) the Phase 3A and Phase 4 development would adversely affect the traffic condition in Happy Valley. The TIA conducted by HKSH was only a desk-top assessment and might not represent the actual situation in future. The assumption of 0.5% annual traffic growth rate for the next 20 years was also too conservative;
- (k) the proposed new ingress/egress at Wong Nai Chung Road would not improve the traffic congestion problem. Wong Nai Chung Road was

connected to Aberdeen Tunnel and further to Cross-Harbour Tunnel. The two tunnels were already under severe congestion. Further increase in hospital beds, patients and doctors would generate additional car parking demand and exert more pressure on the existing road network;

Environmental Pollution

- (l) the traffic congestion would worsen the air quality within the district and affect the health of local residents in Happy Valley;

Impact on Overall Image of Hong Kong

- (m) the relaxation of BHR of the HKSH site would contravene the urban design principle and affect the overall image of Hong Kong. This would diminish the competitiveness of the city despite the fact that the medical facilities in HKSH was improved;

Alternatives

- (n) HKSH had not fully considered other sites suitable for private hospital use. The reasons given by HKSH for not bidding for the Wong Chuk Hang private hospital site put forward by the Government was not justified. Though HKSH stated that the underground tunnel of the proposed South Island Line would run across the site, the Government should have already undertaken relevant technical assessments to ensure that the site was suitable for hospital use before inviting Expression of Interests. If the site was not suitable for hospital use, the Government should have taken it back but it was noted that there were many bidders expressing interests to build a private hospital on the Wong Chuk Hang site; and
- (o) while there was no objection to the expansion of HKSH, HKSH should consider finding an alternative site for the expansion to achieve a win-win situation.

49. As the presentations from the representers, commenters and their

representatives had been completed, the Chairman invited questions from Members.

Building Setback

50. The Vice-Chairman noted that a 27m building setback from Wong Nai Chung Road over a 2-storey podium was originally included in the preliminary conceptual design prepared by HKSH in September 2010 to facilitate discussion of the settlement proposal, as stated in paragraph 5.1.3 of HKSH's representation submission. However, according to HKSH's (R708) presentation at this meeting, this setback was no longer feasible due to geotechnical constraint identified in the detailed geotechnical study. He asked HKSH (R708) to explain the reason for the reduction of the setback from 27m to 11m.

51. Mr. Ian Brownlee (R708) said that the preliminary conceptual design with the 27m building setback was found not feasible at the detailed design stage as it could not meet the maximum excavation depth of 29m as required by GEO. Hence, there was a need to move the building away from the adjoining slope which resulted in a reduction of the original setback from 27m to 11m.

52. Mr. Menachem Hasofer (R708) acknowledged that the 27m building setback was included in the preliminary conceptual design submitted by the HKSH in September 2010. However, the fundamental terms of settlement approved by the Board on 3.9.2010 was only related to the building height of 89mPD and 115mPD and the maximum GFA as permitted under the leases and B(P)R and there was no mandatory setback requirement. The proposed OZP amendments put forward for the consideration of MPC on 10.9.2010 were sought to implement these fundamental terms. At that stage, there was a misunderstanding by all parties that the maximum permissible GFA could be achieved under the BHRs of 89mPD and 115mPD and a building setback of 27m. However, it was subsequently confirmed by a geotechnical assessment that the provision of 27m setback would lead to a reduction in the achievable GFA. Against this background, Mr. Hasofer said that the fundamental terms of settlement in relation to BHR and GFA should be respected by the Board. As per a Member's request, Mr. Hasofer confirmed that JSM's letter of 1.9.2010 (representing HKSH) as tabled at the meeting represented the full terms of settlement and was approved by the Board at its meeting on 3.9.2010. He said that the conceptual plans and building setback did not form part of the terms of settlement.

53. Ms. Brenda Au, DPO/HK, referred to the revised development scheme and related technical assessments submitted by HKSH to PlanD in September 2010 to justify the proposed amendments to the OZP. It was clearly stated in HKSH's submission (paragraph 4.1.3 (c) under the section on Technical Assessments) that a building setback of 27m was proposed to enhance the visual permeability along Wong Nai Chung Road and the visual amenity of the area. Therefore, she did not consider that there was any misunderstanding by the Board. Regarding HKSH's claim that the reduction of building setback was a result of further detailed geotechnical assessment, both PlanD and GEO did not receive any information on this aspect.

54. The Chairman noted that a proposed building setback of 27m was considered feasible in the Geotechnical Planning Review Report submitted in September 2010 and asked Mr. K.K. Kwan (R708) why there was an abrupt reduction to 11m. In response, Mr. K.K. Kwan said that a geotechnical assessment report was submitted together with the set of GBP to BD and GEO in November 2010. In that GBP submission, a 29m excavation depth with stepped basement was proposed. On this point, Ms. Brenda Au, DPO/HK, clarified that the set of GBP submitted in November 2010 was rejected by BD on 7.1.2011. In that set of GBP, the proposed building only intruded into the 2-storey BHR by about 3m (i.e. a building setback of about 24m).

55. The Chairman said that a Geotechnical Planning Review Report was submitted to PlanD in September 2010, together with the proposal where the 27m building setback was included. These documents were included in the MPC Paper for Members' consideration of the proposed amendments to the OZP on 10.9.2010. He emphasised that the Board had no pre-determined position on the proposed OZP amendments which were agreed by MPC on 10.9.2010 and the settlement between the HKSH and the Board would not pre-empt the current consideration of the representations and comments by the Board.

Form of Development

56. A Member appreciated the benefits to the community to provide an additional 400 hospital beds in the new development as proposed by HKSH (R708) but asked whether HKSH had considered other alternatives, e.g. basement or cavern, to

accommodate the new hospital facilities or car parks. In response, Ms. Anna Lee (R708) said that HKSH had previously considered a 6-storey basement development for its expansion. However, the concerned GBP was rejected as FSD did not allow medical facilities to be accommodated lower than 3 levels of basement.

57. Mr. K.K. Kwan (R708) advised that a 3-storey basement was provided with an excavation depth of 43m as shown in the GBP submitted in November 2010. However, it was not feasible geotechnically to include additional basement levels which would require further excavation. He said that a Geotechnical Planning Review Report for the HKSH's redevelopment was completed in August 2010 and a maximum excavation depth of 29m was agreed with GEO. Based on a further geotechnical assessment report, the proposed development in the subsequent submission of GBP complied with this maximum excavation depth. He said that since the site abutted a steep slope, the force exerted on the retaining wall would be double and an excavation depth of more than 29m would be excessive.

58. Mr. Ian Brownlee (R708) said that the total 800 hospital beds upon HKSH's redevelopment were a balance between the need and operational efficiency for the hospital. He said that the existing Phase 3 building was originally designed to be integrated with the original Phase 4 building which was however prohibited by the 12-storey BHR. The construction of the proposed Phase 4 building would help resolve the existing functional and operational problems such as insufficient lift services of the Phase 3 building. He added that the revised Phase 3A and Phase 4 buildings were already a compromise proposal taking into account the stepped BHR on the OZP. He requested the Board to consider the need to move the building away from the slope due to the geotechnical constraint identified at the detailed design stage.

Traffic Impact

59. The Vice-Chairman noted in paragraph 4.4.3 (i) of the Paper that the findings of TIA submitted by HKSH were acceptable to TD and asked TD to elaborate their comments on the TIA in view of the local concerns on the traffic impact. Mr. Ian Brownlee (R708) said that the HKSH consultants had all along been liaising with TD and there were several rounds of TIA submissions in the past three years. The provision of a new ingress/egress at Wong Nai Chung Road was the only solution to resolve the existing

traffic problem by diverting a large proportion of traffic from the existing critical junctions. He said that the existing loading/unloading arrangement was not satisfactory and by demolishing the two existing buildings, the traffic problem could be resolved by incorporating sufficient car parking spaces, loading/unloading bays and manoeuvring areas within the new buildings. He said that the TIA was conducted in accordance with standard requirement.

[Mr. C.W. Tse arrived to join the meeting at this point.]

60. Mr. David Lee of TD elaborated their comments on the TIA submitted by HKSH as follows:

- (a) TD had carefully examined the TIA submitted by HKSH, including the methodology adopted in the survey of the existing traffic condition, projection of future traffic condition, assessment of traffic impact arising from the increase in number of hospital beds, access arrangement and other traffic management measures, and considered that the TIA submitted by HKSH acceptable;
- (b) the increase in hospital beds, patients, doctors and other services under the redevelopment proposal would certainly increase the traffic flow in Happy Valley. However, based on the findings of the TIA, TD considered that the additional traffic impact acceptable;
- (c) the TIA had projected the traffic generation of the new hospital beds based on the traffic generation of the existing hospital beds. It was estimated that the increase of about 360 beds as a result of the Phase 4 development would lead to an increase of about 150 passenger car unit (p.c.u.) per hour (during 7:45-8:45 a.m. and 5:00-6:00 p.m.). Some existing junctions were already congested and the increase in p.c.u. would not create significant impact on these junctions. With regard to the critical junction at Wong Nai Chung Road/Queen's Road East, the current reserve capacity of 8% would only be reduced to 7% after the HKSH's redevelopment and the impact was considered insignificant;

- (d) the annual traffic growth rate of 0.5% adopted in the TIA by HKSH was based on PlanD's employment and population forecasts for 2021. The assumed growth rate was acceptable to TD;
- (e) the new ingress/egress at Wong Nai Chung Road, together with areas for queuing and loading/unloading provided inside the new building, would help improve the existing congestion at Village Road and Shan Kwong Road. Future users of the hospital facilities would be encouraged by HKSH to use the new ingress/egress; and
- (f) with the new ingress/egress point, vehicles coming from Wanchai/Central could take the route from Gloucester Road, Canal Road flyover, Sports Road; or from Hennessy Road and Percival Street and then through the eastern section of Wong Nai Chung Road before they turn left into the new entrance. These vehicles would not have to pass through Village Road and Shan Kwong Road.

61. A Member considered that the new access arrangement might not help much as it would only shift the existing traffic congestion problem from the bottleneck at Village Road and Shan Kwong Road to another bottleneck at Canal Road flyover. Mr. David Lee of TD replied that the additional traffic impact on the Canal Road flyover was not significant as only a small portion of the 150 p.c.u. would take this route. Vehicles could also make use of the alternative route from Hennessy Road to Percival Street. To resolve the existing traffic congestion at Canal Road flyover, TD had already proposed some traffic improvement measures, e.g. the widening of Leighton Road.

62. The same Member was concerned that the traffic problem at Times Square might repeat here when the chain effect on the feeder roads would result in congestion not only in Happy Valley but further extend into the congested Causeway Bay area. That Member asked how the traffic situation could be improved when there was an increase in traffic flow but no increase in road capacity. Mr. David Lee replied that the TIA had assessed the additional traffic impact on a number of critical junctions along Wong Nai Chung Road, including those with Queen's Road East, Sing Woo Road and Shan Kwong

Road, as well as others road junctions such as those on Broadwood Road. Though there would be some negative traffic impact and congestion arising from the HKSH's redevelopment, the impact was considered acceptable by TD taking into account the situation in the urban area.

63. Another Member raised the following questions on the TIA:

- (a) whether the TIA submitted by HKSH had taken into account the traffic generated by the other committed and planned developments in the Happy Valley area; and
- (b) whether the estimated traffic generation for the new hospital beds, which was simply extrapolated from the existing number of hospital beds, had included the traffic generated by out-patients and other auxiliary services?

64. Mr. David Lee of TD said that the annual traffic growth rate of 0.5% adopted in the TIA was based on PlanD's employment and population figures projected from 2006 to 2021 which had already included a general forecast of increase due to potential development and redevelopment sites. On the estimated traffic generation, Mr. David Lee said that the existing traffic generation per hospital bed had included the traffic generated by patients, doctors, staff and service deliveries. Hence, when the traffic generation rate was applied to the number of new hospital beds, the total traffic generation should have taken into account all the associated increase in traffic generation in the TIA.

65. A Member asked HKSH why a large number of floors in the Phase 3A building were occupied by clinics as shown on the development scheme plan submitted by HKSH. Ms. Anna Lee (R708) said that the floor layout and distribution of facilities on the building was still subject to detailed design and would only be finalised at a later stage. At this moment, she was not able to provide information on the actual use on each floor. On the same Member's question on the difference between clinics and wards as shown on the plan, Ms. Anna Lee (R708) explained that clinics were basically for out-patients.

66. Ms. Helen Tsang (R960) pointed out that the existing 400 hospital beds in the

Phase 3 building were not yet fully occupied and half a floor of wards was closed due to the shortage of medical staff. Hence, it would not be accurate to extrapolate the increase in traffic based on the amount of traffic generated by the existing hospital beds. She also said that the proposed 21 floors of clinics would likely attract a large number of out-patients and the TIA had not taken into account the resultant traffic impact.

67. Mr. David Lee of TD explained that the TIA submitted by HKSH only included the increase in traffic generated by the new hospital beds and the corresponding services, assuming that the corresponding services would be increased in similar proportion as the number of beds. It was not mentioned in the TIA that there would be any increase of services, such as the out-patient service that was disproportionately big, nor any new services that would generate a substantial amount of traffic, such that the increase of traffic would be out of proportion of the increase in hospital beds.

68. Ms. Anna Lee (R708) said the design of a hospital was a very complicated issue. As detailed design was not yet available, she could not provide information on whether there would be 21 floors of clinics and the distribution of other medical facilities would need to be further sorted out. She further explained that about half a floor of wards in the hospital were closed because of shortage of supporting medical staff. As and when the hospital was able to recruit the required staff, these existing beds would be opened to patients. The hospital would also increase the staff-to-patient ratio (1:1 in Intensive Care Unit) to ensure the best quality medical services would be provided to patients. She added that with the proposed clinics, other ancillary facilities e.g. laboratories and dispensaries would also need to be expanded. Ms. Helen Tsang (R960) commented that there would hence be even more staff in future and that would add to the traffic burden. In response to the Chairman's question, Ms. Anna Lee said that the occupancy rate was almost 100% for the last two years.

69. Dr. Amy Fung (C2) said that with the advancement in medical technology, day surgery might become more common and hence there would be less demand on wards. She requested the Board to note that HKSH had not yet decided on the detailed design of the hospital which was crucial to the Board's decision. A Member agreed that with the modern medical technology and shorter hospital stay, the demand for hospital beds and wards should correspondingly be reduced. That Member said that it was not appropriate

for HKSH to ask the Board to agree to its proposal before the detailed plan was available.

70. Mr. Ng Yin Keung (R764) pointed out that there was deficiency in the TIA submitted by HKSH. The potential traffic generated should be more than that estimated for the 400 hospital beds, if the traffic generated by the future occupation of the unoccupied hospital beds in the Phase 3 building as well as the services relating to the proposed clinics had been taken into account.

71. To resolve the existing traffic problem, Mr. Robert Allender (R991) said that HKSH could construct the new ingress/egress at Wong Nai Chung Road right away, without having to develop the Phase 3A and Phase 4 buildings.

Visual Impact

72. In response to the Chairman's question on the visual assessment of the proposed HKSH's redevelopment, Ms. Brenda Au, DPO/HK explained that the Bowen Road walking trail and Happy Valley Recreation Ground were taken as the vantage points in the visual assessment as they were important public viewing points identified at the time when the building height review of the Wong Nai Chung area was conducted. Besides, the additional vantage point at the pavement near Wong Nai Chung Road was also prepared as requested by the Board at its meeting on 3.9.2010. She said that the visual impact created by the proposed HKSH's development under different BHR scenarios was already demonstrated in the photomontages attached to the Paper and was also presented by PlanD's representative at the meeting.

Air Ventilation Assessment

73. In response to the Chairman's question on air ventilation aspect, Ms Brenda Au, DPO/HK said that HKSH did not submitted an AVA on the proposed redevelopment scheme. However, in conducting the building height review for the Wong Nai Chung OZP in 2008, PlanD had assessed the air ventilation condition of the planning scheme area. According to the AVA conducted at that time, the prevailing annual wind for the area was easterly and north-easterly wind and the prevailing summer wind came from between the south-west and the east. While the HKSH site itself did not lie on the major air paths for

south-westerly wind, the adjoining Shan Kwong Road was one of the major wind corridors for the area. She said that the provision of a 27m setback of the hospital tower from Shan Kwong Road/Wong Nai Chung Road would facilitate air ventilation along Shan Kwong Road to the north. The BHRs for the HKSH site on the OZP should not have significant adverse impact on the air ventilation and heat dispersal in the area.

74. In view of the local concern on air ventilation particularly on Fung Fai Terrace, a Member asked if HKSH would consider undertaking an AVA for their redevelopment proposal, even though it was not regarded as a designated project under EIAO. In response, Ms. Anna Lee (R708) said that they could consider undertaking an AVA for HKSH redevelopment proposal.

Fung Fai Terrace

75. Mr. Lam Hau Sing (R763) said that HKSH had promised to undertake repair works for the road near Fung Fai Terrace and to arrange a meeting with the residents of Fung Fai Terrace. However, HKSH had not contacted the residents so far. He said that the residents had also made complaint to EPD on the air pollution problem.

Proton Therapy Machine

76. A Member asked if HKSH would consider using the compact proton therapy machine with smaller space requirement as suggested by C2. Ms. Anna Lee (R708) said that HKSH was always prepared to consider using new technology in enhancing its medical services including the compact proton therapy machine.

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

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

Deliberation Session

78. The Chairman invited Members to consider the representations and comments taking into consideration all the written submissions and the oral representations and materials presented at the meeting.

Building Setback

79. The Vice-Chairman said that the Board should consider the proposed amendments to the OZP in relation to BHR on the HKSH site. He noted that HKSH had no objection to the proposed BHR of 89mPD and 115mPD and the issue of contention was mainly on the 27m building setback. As the 27m building setback was originally proposed by HKSH and was substantiated by a Geotechnical Planning Review Report at that time, he considered that there was no strong justification to reduce the original setback requirement. As the 27m building setback was included in the MPC Paper, the MPC had taken it as a planning gain when the proposed OZP amendments with BHRs of 89mPD and 115mPD for the HKSH site were considered and agreed at its meeting on 10.9.2010.

80. A Member who attended the MPC on 10.9.2010 said that the MPC had taken the proposed BHRs of 89mPD/115mPD and the 27m building setback of the development scheme as a whole package in considering the proposed amendments to the OZP. That Member considered that the MPC's decision was proper and did not contravene the terms of settlement. The Chairman agreed that the proposed 27mPD building setback was one of the factors taken into account by the MPC in deciding on the proposed OZP amendments on 10.9.2010. He stressed that the proposed OZP amendments were still subject to the Board's due consideration of the representations and comments under the statutory planning process before the OZP would be submitted to the CE in C for approval.

81. The Chairman pointed out that according to the Geotechnical Planning Review Report submitted to PlanD in September 2010, the proposed building setback of 27m was considered feasible. He said that though the geotechnical consultant of HKSH claimed that such setback was no longer feasible due to GEO's requirement on maximum excavation depth, there was no detailed information or assessment to substantiate this

point.

82. A Member commented that the GEO's requirement for a maximum of 29m excavation depth was probably due to the concern on slope stability near Stubbs Road and the problem would unlikely be overcome by expensive geotechnical engineering works. That Member considered that should this be made known to the Board earlier, the Board could have turned down the proposal from HKSH.

83. A Member agreed that the proposed 27m building setback was part of the whole package of the development scheme submitted to MPC when it considered the proposed amendments to the OZP on 10.9.2010. The proposed setback would improve the visual permeability along Wong Nai Chung Road. Such improvement could not be achieved with the proposed building setback of 11m as submitted by HKSH at this meeting and was not supported by that Member.

84. Mr. Jimmy Leung, D of Plan, said that when MPC considered the proposed OZP amendments on 10.9.2010, Members were concerned about the visual impact of the proposed HKSH's redevelopment and the 27m building setback as proposed in the HKSH submission had been taken into account by MPC in agreeing to the proposed amendments to the BHRs of the HKSH site. The geotechnical constraint as claimed by HKSH was only presented after MPC's decision on 10.9.2010. Without any advice from GEO, the Board was not able to confirm GEO's current position on the matter.

Traffic Impact

85. A Member had no in-principle objection to the expansion of hospital facilities by HKSH but considered that the need for the additional 400 hospital beds might not be well justified in view of the increase in day surgery. Noting the already congested traffic condition at Wong Nai Chung Road, that Member was concerned about the increase in traffic generated by out-patients visiting the day clinics and other medical services.

86. The Vice-Chairman was concerned about the incremental traffic impact arising from the HKSH redevelopment and noted that there was inadequacy in the TIA conducted by HKSH. However, noting that the findings of TIA were acceptable to TD as a

professional department, he had no further comment on this aspect and considered that the adverse representations should not be upheld.

87. A Member considered that the Board should rely on the professional advice of TD on the acceptability of the TIA, though there was a concern that the traffic impact generated by the 21 floors of clinics was not included in the TIA. On the terms of settlement, that Member opined that the Board had already fulfilled the settlement agreement as the MPC had agreed to the gazettal of the proposed OZP amendments. Hence, there should be no misunderstanding on the issue as claimed by HKSH (R708). The Board was currently handling the consideration of the representations and comments under the statutory plan-making process in accordance with the Ordinance.

88. A Member agreed to TD's comment that the estimated traffic increase of 150 p.c.u. was not significant and considered that the proposed new ingress/egress at Wong Nai Chung Road would improve the existing traffic condition. That Member, however, was of the view that the TIA was inadequate in many aspects e.g. the potential traffic increase generated by the 21 floors of clinics was not taken into account.

89. Another Member considered that there were a lot of deficiencies in the TIA even though TD considered it acceptable. Hence, that Member did not support the representation of HKSH (R708).

90. As requested by the Chairman, the Secretary made the following points:

- (a) on the JR's settlement, the Board had already fulfilled the terms of settlement as set out in paragraph 2.4 of the Paper given that the MPC had already considered the proposed OZP amendments and the amendments had been gazetted. The JR had already been withdrawn by HKSH;
- (b) the main concern raised by HKSH was that the maximum permissible GFA of the site could not be achieved with the proposed 27m building setback because of the geotechnical constraint identified. Hence, Members would need to consider (i) whether there was a need for the

hospital expansion, (ii) whether HKSH's intention to maximize the development potential on the site should be met, and (iii) whether there was sufficient justification for the relaxation of the BHR and setback requirement; and

- (c) on the traffic impact, some of the representers and commenters considered that the TIA submitted by HKSH was unsatisfactory in many aspects, in particular the absence of traffic demand arising from the 21 floors of clinics and other auxiliary services, and the method of extrapolating the future traffic demand based on that of the existing number of hospital beds. The Board should consider whether the advice of TD on the findings of TIA was acceptable.

91. Two Members considered that HKSH should be responsible for providing adequate information and assessment in the TIA. In view of the inadequacy of the TIA and the relevant concerns raised by the representers and commenters and other Members of the Board, the two Members considered that HKSH should be requested to provide further information to substantiate the TIA. The Chairman said that TD should be asked to provide its assessment on the supplementary TIA to be submitted by HKSH for the Board's further consideration and the Board should defer making decision on the representations at this meeting. Members agreed.

Proton Therapy Machine

92. Members noted that the space requirement for the proton therapy machine was one of the main arguments put forth by HKSH for a higher BHR when it submitted its revised development scheme to PlanD in September 2010 and the scheme formed the basis for MPC's consideration of the proposed amendments to the OZP. Besides, the proton therapy machine was also shown in the sectional drawing attached to the letter of 1.9.2010 submitted by JSM to DoJ in relation to settlement proposal. Noting Ms. Anna Lee's (R708) response at this meeting that HKSH would consider buying the compact proton therapy machine which required significantly less space, as suggested by C2, a Member suggested that further advice should be sought from concerned government bureau/department on the space requirement of the proton therapy machine.

Man Lam Christian Church

93. The Secretary reported that Representations No. R1024 and R1025 were not directly related to the HKSH site and were submitted by a member of the public and MLCC respectively in relation to the MLCC site. The representers considered that it was unfair to relax the BHRs for the HKSH site, while maintaining the BHR for other “G/IC” sites on the Plan, particularly that for MLCC site. Regarding the concern of inconsistent treatment in setting higher BHRs for HKSH, DPO/HK had already explained that HKSH had submitted a specific development scheme with relevant technical assessments to facilitate thorough assessment of the impacts of the revised BHRs by the Board. The scheme was supported by SFH and acceptable to concerned departments. In amending the BHRs for the HKSH site, the Board had thoroughly assessed and balanced relevant factors and considered the revised BHRs generally acceptable.

94. The Secretary further explained that if MLCC needed to redevelop/expand their facilities on “G/IC” sites and to amend the BHRs to meet the requirements of their facilities, they might submit a specific development scheme with relevant technical assessments, if necessary, to the Government and the Board for consideration. If their scheme was well justified and supported by the relevant government bureaux/departments, PlanD might recommend to the Board to amend the BHR under section 5 or 7 of the Ordinance. PlanD would facilitate processing of such applications/proposals as far as possible.

Representations No. R1 to R793, R795 to R1023, R1026 to R1046 and R1048 to R1068

95. After further deliberation, the Board decided to defer a decision on Representations No. R1 to R793, R795 to R1023, R1026 to R1046 and R1048 to R1068 in relation to the HKSH site pending the following:

- (i) the submission of further information by HKSH to TD to substantiate the TIA on the proposed redevelopment scheme;
- (ii) PlanD to seek GEO’s advice on the geotechnical constraint on the

HKSH site in relation to the proposed building setback; and

- (iii) PlanD to seek the concerned government bureau/department's advice on the space requirement of the proton therapy machine.

Representations No. R1024 and R1025

96. Members noted that the part of Representations No. R1024 and R1025 which was related to the BHR on the MLCC site were invalid. Members then went through the reasons for not upholding the remaining part of R1024 and R1025 as stated in paragraph 6.2 of the Paper and considered that they were appropriate.

97. After further deliberation, the Board decided not to uphold remaining Representations No. R1024 and R1025 for the following reasons:

- (a) in amending the BHRs for the HKSH site, the Board had thoroughly assessed the specific development scheme and technical assessments submitted by HKSH and balanced relevant factors, including the planning intention of the "G/IC" zone, surrounding land uses, the development and operation needs of the hospital, technical constraints of the site, the permissible GFA of the site under the lease and BO, the availability of other development options, compatibility of the BHs with the general BH bands for the area and surrounding developments, visual impact of the proposed development on major local vantage points, and acceptability of the development from traffic and infrastructural viewpoints; and
- (b) if there was an intention to amend the BHR for their "G/IC" site for redevelopment and expansion of the existing facilities, the representer might submit a specific development scheme with relevant technical assessments, if necessary, for consideration. Such scheme might be submitted to the Board in form of an application under section 12A of the Ordinance for amendment to the OZP. Alternatively, if the scheme was well justified and supported by the relevant government bureaux/departments, PlanD might recommend to the Board to amend the

BHR under section 5 or 7 of the Ordinance.

98. The meeting was adjourned for a break at 4:40 p.m.

99. The meeting was resumed at 4:45 p.m.

100. The following Members and the Secretary were present after the break:

Mr. Thomas Chow

Mr. Stanley Y.F. Wong

Mr. K.Y. Leung

Mr. Y.K. Cheng

Dr. James C.W. Lau

Mr. Roger K.H Luk

Professor S.C. Wong

Mr. Stephen M.W. Yip

Assistant Director (Environmental Assessment)

Environmental Protection Department

Mr. C.W. Tse

Director of Planning

Mr. Jimmy C.F. Leung

101. As the representatives of representers and commenters of Item 6 had already arrived, Members agreed to consider Item 6 first. Members also agreed to reschedule Item 5, i.e. Kai Tak Development – Stage 2 Public Engagement on the Preservation of Lung Tsun Stone Bridge Remnant to another TPB meeting.

Agenda Item 6

[Open Meeting (Presentation and Question Session Only)]

Consideration of Representations and Comments to the Draft So Lo Pun Development
Permission Area Plan No. DPA/NE-SLP/1
(TPB Paper No. 8783)

[The hearing was conducted in Cantonese and English.]

Presentation and Question Session

102. As reasonable notice had been given to invite the representers and commenters to attend the hearing, Members agreed to proceed with the hearing of representations on the draft DPA Plan in the absence of the representers and commenters who had indicated that they would not attend or did not reply to the invitation of this meeting.

103. The following representatives of the Planning Department (PlanD) and the Agriculture, Fisheries and Conservation Department (AFCD) were invited to the meeting at this point:

Mr. W.K. Hui	District Planning Officer/Shu Tin, Tai Po and North (DPO/STN, PlanD)
Ms. Doris Ting	Senior Town Planner/North, PlanD
Mr. Patrick C.C Lai	Senior Nature Conservation Officer (North), AFCD
Miss Cynthia S.M. Chan	Nature Conservation Officer (North), AFCD

104. The following representatives of representers and commenters were also invited to the meeting:

R5 Mr. Paul Zimmerman
 Mr. Paul Zimmerman

R6 World Wide Fund (WWF) Hong Kong
 Miss Sandra Chow

- R9 Ms. Wong So Chun, Jane
Ms. Wong So Chun, Jane
- R11 Chairman of So Lo Pun Village Committee / Village
Representative of So Lo Pun Village, Mr. Wong Fu/Mr. Wong
Kwun Sun and Executive Director of Thomas Tsang Surveyors
Limited Mr. Tsang Ka Kau
Mr. Wong Fu
Mr. Tsang Ka Kau
Ms. Lei Ka Ying
- R12 CLP Power Hong Kong Ltd.
Mr. Kwong Chi Wai, Ryan
Mr. Tsui Ka Kit, Kenneth
Ms. Yim Wai Kuan, Ida
- C1 Mr. H.C. Wong
Mr. Wong Hing Cheung
Mr. Tsang Yuk On
- C3 Mr. Wong Chung Ling
Mr. Wong Chung Ling
Ms. Fung Oi Hing
Ms. Wong Sui Fun
Ms. Wong Sui Ping
Ms. Wong Sui Ting
Ms. Wong Sui Ching
Ms. Wong Yi Fun

105. The Chairman extended a welcome and explained the procedures of the hearing. He then invited PlanD's representative to brief Members on the representations and comments.

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

- (a) background to the So Lo Pun Development Permission Area (DPA) Plan as detailed in paragraph 3 of the Paper. The preparation of the DPA Plan for So Lo Pun provided a stopgap measure to effect planning control over the Area and to avoid further degradation of the environment since the detection of excavation activities in recent years. Owing to the urgency of preparing the Plan, the Area had been designated as “Unspecified Use”. Detailed analysis and studies were underway to establish the appropriate land use zonings to replace the DPA Plan by an Outline Zoning Plan (OZP) within three years;
- (b) the draft So Lo Pun DPA Plan was exhibited for public inspection on 30.9.2010 under section 5 of the Town Planning Ordinance (the Ordinance). A total of 14 representations were received during the two-month statutory publication period. On 10.12.2010, the representations were published for three weeks for public comment and five comments were received;
- (c) the subject of the representations and comments was summarised as follows:
 - (i) eight representations (R1 to R8) supported the preparation of the DPA Plan, a representation (R9) both supported and opposed the Explanatory Statement (ES) of the DPA Plan, and two representations (R10 to R12) opposed the statutory control of the DPA Plan. The remaining two (R13 and R14) mainly offered comments and/or proposals; and
 - (ii) four comments (C1 to C4) were made in relation to R1 to R14, whereas comment C5 had commented on R9 to R13 only;

- (d) the main grounds of the representations, the representers' proposals and the views of the commenters were summarised in paragraph 2 of the Paper and highlighted below:

Supporting representations (R1 to R8 and R9 (part))

- (i) the Area was of high ecological and conservation value. The general planning intention of the area to protect the natural environment and visual amenity to complement Plover Cove Country Park (PCCP) was agreed (R1, R6 and R7);
- (ii) the preparation of DPA plans for all rural areas to preserve scarce natural resources of Hong Kong was supported (R2 and R4);
- (iii) the Plan could provide planning guidance and allow planning enforcement to be taken against various forms of devastation to the Area (R7 and R8);
- (iv) the indigenous villagers actually shared the Board's stance that it was necessary to prepare planning guidance and development control for the Area (R9 (part));

Adverse Representations (R9 (part), R10 to R12)

Opposed to the boundary of the Plan (R10 and R11)

- (v) many villagers' private land was included into country park but not the DPA Plan. The Plan should cover all private land in So Lo Pun;

Opposed to statutory planning control (R10 and R11)

- (vi) the Plan would affect the local villagers' plan to revive and revitalize the abandoned village;

Lack of Consultation on the preparation of the Plan (R10 and R11)

- (vii) there was no consultation with the villagers in the designation of the So Lo Pun area as DPA;

Opposed to Remarks (b) of the Notes for “Unspecified Use” (R12)

- (viii) the Remark did not allow flexibility for land excavation under emergency repair situation of electricity network;

Opposed to paragraph 6 of the ES of the Plan (R9 (part))

- (ix) the villagers’ works on private lots to make the Area more accessible and inhabitable were unduly regarded as ‘excavation, suspected unauthorised tree felling and site formation works on private lot and adjoining unleased government land’;

Representers’ Proposals

- to amend paragraph 7(b) of the Covering Notes so that the provision, maintenance or repair of plant nursery, amenity planting, rain shelter, refreshment kiosks, footpath, public utility pipeline, electricity mast, lamp pole, telephone booth and shrine required planning permission in the interim before incorporation of conservation zones. Such requirement was common on the Sham Chung OZP and the Hebe Haven OZP (R6);
- to put ‘Agricultural Use’ under Column 2 of the Notes for the “Unspecified Use” to prevent abuse (R7);
- to amend Remarks (b) of the Notes for the “Unspecified Use” to exempt the works implemented by public utility companies which required diversion of stream/ filling of land/pond or excavation of land from the requirement of obtaining planning permission (R12);
- to incorporate the Area into the boundary of PCCP to better conserve the integrity of the natural setting of the Area (R6);

- to amend the boundary of the Plan to include all private land in So Lo Pun (R10 and R11);
- to rezone the land into various zones including:
 - (a) the existing So Lo Pun stream and its surrounding areas/ fung shui woodland/ secondary forests as “Conservation Area” (“CA”) (R6 to R8 and R14), the ecologically important stream and the seaward side of Kat O Hoi as “Site of Specific Scientific Interest” (“SSSI”) (R7 and R8) and the area along coastline of Kat O Hoi as “Coastal Protection Area” (“CPA”) (R6 and R14);
 - (b) the hilly area in the fringe as “Green Belt” (“GB”), the area near the ex-Kai Ming School as “Government, Institution or Community” (“G/IC”), the northeast of the village including the mangrove mudflat and freshwater marsh as “Recreation” (“REC”), the terraced agricultural land as “Agriculture” (“AGR”) and the central part of the Area as “Village Type Development” (“V”) (R11). R11 also submitted a set of Notes for his proposed uses;

Other concerns and proposals not directly related to the substance of the Plan

- (x) they included :
 - to prepare DPA plans for the 50 enclaves of ‘Country Parks’ (R2, R3, R5 and R8);
 - the need to strike a balance between environmental conservation and sustainable development of the Area (R10 and R11);
 - to assess the hidden values of So Lo Pun and constant communication with So Lo Pun Village Association and the

individuals concerned (R9);

- to retain the existing old pass and walking trails, provide pedestrian access, widen the pedestrian footpath and provide lighting and fire-fighting hose (R11);
- the details of the development control of the Plan was not clear (R13); and

Views of commenters (C1 to C5)

- (xi) C1 opposed R1 to R5's support for the preparation of the Plan and R6 to R8 and R14's proposals to introduce conservation zonings for the Area and these would affect the villagers' plan to revive the abandoned village. C1 supported R9 to R12 and R13 without stating any reasons;
 - (xii) C2 to C4 fully agreed to the comments made by C1;
 - (xiii) C5 supported R9 to R13 and clarified that So Lo Pun villagers would like to revive the abandoned village by having reasonable development not for commercial purpose, and supported the provision of other utilities for the Area;
- (e) PlanD's responses to the grounds of representations, the representers' proposals and the views of commenters were detailed in paragraphs 5.3 to 5.21 of the Paper and the key points were as follows:

Supporting representations (R1 to R8 and R9 (part))

- (i) the concerns to protect the natural environment and bring planning control to the Area were noted;

Adverse Representations (R9 (part), R10 to R12)

Opposed to the boundary of the Plan (R10 and R11)

- (ii) the surrounding areas and private lots immediately outside the boundary of the Plan were within the boundary of the PCCP subject to the Country Parks Ordinance (CPO) (Cap. 208). Any amendment to the country park boundary was outside the purview of the Board;

Opposed to statutory planning control (R10 and R11)

- (iii) The Plan would not prohibit developments nor affect the local villagers' plan to revive and revitalize the abandoned village;

Lack of consultation on the preparation of the Plan (R10 and R11)

- (iv) In view of the sensitive nature of the new Plan, prior consultations with relevant stakeholders before the gazetting of the Plan had not been made. The public was consulted during the plan exhibition period in accordance with the provision of the Ordinance;

Opposed to Remarks (b) of the Notes for "Unspecified Use" (R12)

- (v) regular / emergency maintenance and repair works for various utility services undertaken by public utility companies would have to be coordinated by government departments. They were therefore regarded as always permitted under Remarks (b) of the Notes for the "Unspecified Use" of the Plan;

Opposed to paragraph 6 of the ES of the Plan (R9 (part))

- (vi) paragraph 6 of the ES was only a general description of the situation of the Area which prompted the need to prepare a DPA plan for development control and planning guidance;

Representers' Proposals

- the designation of an area as 'Country Park' was under jurisdiction of the Country and Marine Parks Board under the CPO (Cap. 208) which was outside the purview of the Board (R6);
- paragraph 7(b) of the covering Notes of the Plan was to allow flexibility for the provision, maintenance and repair of some local minor works which were essential to local villagers and would improve the amenity and environment of the Area. In view of the small scale of such minor amenity / utility works, no significant adverse impacts on the environment were envisaged. Any diversion of stream, filling of land / pond or excavation of land would require planning permission from the Board (R6);
- to avoid any abuse of agricultural use in the Area, the Notes of the Plan had included the requirement that any diversion of streams, filling of land/pond or excavation of land should require planning permission from the Board (R7);
- it was not necessary to amend Remarks (b) of the Notes for "Unspecified Use" as proposed by R12 as the works undertaken by public utility company would have to be coordinated by government departments and they were therefore regarded as always permitted under Remarks (b) of the Notes for the "Unspecified Use" of the Plan (R12);
- on the proposal to rezone the Area to various zones (R6 to R8, R11 and R14), it was noted that the area was constrained by poor infrastructures and it had conservation interest of rare / uncommon flora and fauna and other landscape and topographical features. Any zoning within the Area should warrant detailed considerations and further assessments. On the proposed conservation zonings, appropriate zonings and boundaries would be further established in

the OZP stage after detailed studies. R11's proposal would also be further studied with reference to the analysis of 10-year Small House demand, land rights, infrastructural needs, development and tourism opportunities, impacts on the surrounding environments, geotechnical, sewerage and green belt coverage, etc. The diverse views would need to be carefully considered and balanced. The preparation of OZP to replace the DPA Plan would take account of representers' proposals and the result of various technical assessments;

Other concerns and proposals not directly related to the substance of the Plan

- according to the 2010-11 Policy Address, the Government would either include the remaining enclaves into 'Country Parks', or determine their proper uses through statutory planning in order to meet conservation and social development needs (R2, R3, R5 and R8);
- the need to strike a balance between environmental conservation and sustainable development for the Area had already been taken into account in the preparation of the DPA Plan. Care would be exercised in striking a balance between conservation and development during the preparation of OZP (R10 and R11)
- in formulating the detailed land use proposals for the Area during OZP preparation, relevant stakeholders would be engaged in the usual manner with a view to coming up with an optimal development proposal (R9);
- R11's suggestions to improve the existing old pass and walking trails and to widen the pedestrian footpath of the Area would be conveyed to relevant bureaux / departments for consideration;

- the Notes of the Plan had clearly showed the types of uses or development which were always permitted or required planning permission from the Board. The general public was always welcome to contact the PlanD for any questions/clarifications relating to the DPA Plan (R13); and
- (f) PlanD's views – PlanD noted the support of R1 to R5, R6(part), R7(part), R8(part) and R9(part), and did not support R6(part), R7(part), R8(part) and R9(part), R10 to R14 and considered that they should not be upheld for the reasons as set out in paragraph 7.2 of the Paper.

107. The Chairman then invited the representatives of the representers and commenters to elaborate on their submissions.

R5 (Mr. Paul Zimmerman)

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

- (a) he supported the DPA which brought the area under development control;
- (b) in relation to the proposals to rezone the Area to various zonings, PlanD had responded that appropriate zonings would be further established in the OZP stage after detailed studies. However, minor works such as provision of new access and widening of footpath were allowed under the DPA Plan. These works were generally coordinated by the District Lands Office or the Rural Committee and implemented by contractors. In the current practice, the quality of works was extremely poor and the construction activities were devastating to the environment;

[Dr. James C.W. Lau left the meeting at this point.]

- (c) in addition, the provision of new access or widening of footpath would bring in more people to the Area, but there was no corresponding improvement in the sewerage infrastructure to cope with the increase.

There was virtually no sewerage system in the Area;

- (d) under the DPA Plan, maintenance or repair of a building was always permitted. Given there were numerous dilapidating structures in the Area, there was concern as to what extent they could be rebuilt. If all these structures were rebuilt and inhabited, there would be an increase in population which added load to the inadequate water and sewerage infrastructure of the Area;
- (e) in view of the above, it was proposed that the above works should be prohibited until the OZP stage. All works in the rural area should be subject to a comprehensive layout showing roads, sewerage planning and amenities of the Area; and
- (f) stakeholders, including the green groups, should be engaged to oversee the planning and works in the Area as well as all applications for approval during the period between the present DPA Plan and the publication of OZP.

R6 (WWF Hong Kong)

109. Ms. Sandra Chow made the following main points:

- (a) R6 proposed to rezone various parts of the Area to “CA” and “CPA”. This was in line with the general planning intention of the DPA Plan which was to protect the high landscape value of the Area;
- (b) it was also proposed to include all private land in So Lo Pun into the DPA Plan because it was considered that the CPO could not fully deter damaging activities such as excavation and tree felling. For example, such activities were found in Tin Fu Tsai, which was within the boundaries Tam Lam Country Park. Moreover, there were cases that the private land within the Sai Kung West Country Park (SKWCP) was also covered by statutory town plans. Given that a DPA Plan could enable enforcement action

against any unauthorised development and there were precedents in SKWCP, the Board should adopt the same measure in So Lo Pun to plug the loophole of CPO in order to achieve better protection of the landscape value of the Area; and

- (c) the following zoning proposals for the Area were put forth :
- (i) to zone the areas along the whole section of So Lo Pun stream, and a 30m buffer area on both sides of the stream and its tributaries, the abandoned farmland near the stream and woodland around as “CA”. The ecological value of these area was ascertained in studies conducted by the Kadoorie Farm & Botanic Garden; and
 - (ii) to zone the coastal area including the estuaries mangrove, mudflat and blackish marsh along the coastline of Kat O Hoi as “CPA”. Such zoning had been designated on other OZPs to protect the coastal area and the Sham Chung OZP was one of the examples.

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

R11 (Chairman of So Lo Pun Village Committee / Village Representative of So Lo Pun Village, Mr. Wong Fu/Mr. Wong Kwun Sun and Executive Director of Thomas Tsang Surveyors Limited Mr. Tsang Ka Kau)

110. Mr. Wong Fu made the following main points:

- (a) he was an indigenous villager and born in So Lo Pun. He was over 80 years old and he knew the Area very well;
- (b) So Lo Pun was used to be a beautiful village. He therefore welcomed a development plan for the Area. However, he would object to the Plan if it did not have due regard to the interest of the local villagers who owned the land;

- (c) the planning of So Lo Pun should aim to open up the area by providing necessary infrastructure such as access, water and electricity supply, basic government facilities and services, and retail activities. The So Lo Pun villagers should be engaged in the planning process; and
- (d) there was a misconception that the villagers had vandalised the environment or harmed the wild lives there. The trees in the fields were removed for growing of grass for the consumption of oxen and cows. He did the dredging to clear the drainage channel only. The villagers did not add poison to the stream to harm the fish, nor fell the trees in the other areas. These vandalising activities were carried out by others with purposes. After all, the land was owned by villagers and they had no reason to do any harm to it.

111. With the aid of a powerpoint presentation, Mr. Tsang Ka Kau made the following main points:

- (a) since the designation of Sha Tau Kok area as a closed area, many villagers therein, including those of So Lo Pun left the villages in the 1960s to overseas to make a living. Nevertheless, they still cared about the development of their home village. For instance, some 200 villagers, equivalent to one half of the village population, attended the recent Lai Chi Wo ‘Ta Chiu’ activities which held once every ten years. With the economic development in Hong Kong and in the Mainland, villagers had plans to develop the village into a ‘green home’ and some expressed their interest to live there after retirement;
- (b) as an advisor to the villagers on a *pro bono* basis, he agreed to the objective of planning for a sustainable development of So Lo Pun as proposed by the green groups but had different views on how to achieve the objective. With good planning and improvement of the local infrastructure, the Area could be opened up and put into good use, rather than freezing the development potential of the land. The planning for So Lo Pun should

synchronize with the development pace of other areas in the northeast New Territories (NT);

- (c) the proposed “SSSI”, “CA” or “CPA” zonings advocated by the green groups were not appropriate for the Area. The Area comprised private lots which were for agricultural or house uses under the lease. Their development interest should not be affected. The Area was quite popular for hikers. In particular, the embankment/footpath along the coast was the major access link between the Area and Lai Chi Wo village. Therefore, “CPA” zoning for that area was not proper. Taking into account the rich fishery resources along the coast and Kat O Hoi, the coastal area of So Lo Pun had potential for recreational activities. In addition, the abandoned fields close to the mangrove area could form freshwater marsh for leisure fishing. With comprehensive planning and improvement of infrastructure like roads and sewerage system, So Lo Pun could be a place where Hong Kong people could spend their leisure time. Such eco-tourism activities could also boost the local economy and provide employment opportunities for the villagers; and

- (d) the Small House demand of So Lo Pun was about 250 in the ten-year forecast. To achieve the ‘green home’ vision and taking into account the physical location and the abundant sunlight in the Area, it might be feasible to explore more usage of solar energy in So Lo Pun for internal transport and household consumption. The villagers were willing to continue their discussion with the Government and other green groups in planning for the sustainable development of the area.

R12 (CLP Power Hong Kong Ltd.)

112. Mr. Kwong Chi Wai, Ryan and Mr. Tsui Ka Kit made the following points:

- (a) the existing electricity supply network for the Area was a single 11kV overhead line (OHL) along the coast of So Lo Pun. This line also served areas like Ap Chau, Lai Chi Wo and Kat O;

- (b) CLP Powers Ltd. received four applications for electricity supply in So Lo Pun in 2008 and 2009. Installation works had been commenced upon receipt of the permit from the District Lands Office and the consent from the village representative in 2009 and 2010. The works were of minimal scale, which comprised erection of pole-mounted transformers with wooden poles, laying of underground cable with cable ducts and stringing overhead lines. The works including the excavation of land for the erection of wooden poles and laying of cable duct underneath the existing footpath were completed before the publication of the draft DPA Plan. However, the remaining works such as laying the cable was suspended after the publication of DPA Plan;
- (c) in view of small scale excavation of land and works that required no diversion of stream or filling of land/pond, the installation works would have no adverse impact on the environment;
- (d) it should be noted that emergency restoration works of electricity supply in the area was authorised by Emergency Block Permit under section 10C of the Land (Miscellaneous Provisions) Ordinance (Cap. 28). The permit was renewed every half year. Before carrying out the emergency repair works, an Emergency Works Notice would be served to District Lands Office or the Highways Department, and the emergency repair works, from excavation to reinstatement, had to be completed within seven days from the date of serving of the Emergency Works Notice;
- (e) CLP Powers Ltd. would like to seek the following clarifications:
 - (i) paragraph 7.5.2 of the ES stated that there was no electricity supply. On the contrary, there was an existing 11kV OHL along the coast of So Lo Pun;
 - (ii) under Remarks (b) of the Notes, excavation of land required planning permission. This did not tally with the provision under

the Land (Miscellaneous Provisions) Ordinance (Cap. 28). In this regard, it was important to ascertain whether excavation of land for emergency restoration works of electricity supply was always permitted under the DPA Plan; and

- (iii) whether new installation works for electricity supply requiring the application of Excavation Permit from concerned government departments prior to excavation of land was always permitted under the DPA Plan.

C1 (Mr. H.C. Wong)

113. With the aid of some newspaper clippings, Mr. Tsang Yuk On made the following points:

- (a) he was a member of the Sha Tau Kok Rural Committee (STKRC) and also the village representative of Mui Tsz Lam Village. Mui Tsz Lam Village and So Lo Pun Village belonged to 'Hing Chuen Yeuk' (i.e. the seven villages of the Sha Tau Kok area). STKRC had grave concern about the inclusion of the concerned villages in the northeast NT under the control of DPA Plans as this would adversely affect the villagers' plan to reviving their villages;
- (b) the designation of DPA Plan was not conducive to sustainable development for the rural area. The Plan did not provide a framework to guide the long-term development of the Area. Besides, it was also crucial to have the support and participation of indigenous villagers to achieve successful implementation of development plans in the rural areas;
- (c) with improved transport infrastructure, the opening up of the Area could provide valuable land to meet the surging housing demand;
- (d) he objected to the DPA Plan if there was no corresponding policy to progressively open up the Area for sustainable development; and

- (e) in balancing the need for conservation and development rights of the villagers, the Government could consider adopting the ‘King Yin Lei’ model under which government land was offered to exchange for the privately owned land for conservation purpose.

114. With the aid of some site photographs, Mr. Wong Hing Cheung made the following main points:

- (a) he was an indigenous villager born in So Lo Pun. The descendants of So Lo Pun Village had worked hard to protect and revive the village which had a history of hundreds of years. The villagers did not sell any parcel of land to developers;
- (b) he paid visit to So Lo Pun once nearly every week since February 2008 and he knew the changes in the Area well. The villagers had paid effort to restore the terraced agricultural land, trim trees which affected their village houses and clear the wild overgrown. Their rights to restore and maintain their houses and the village setting should not be deprived of; and
- (c) instead of turning So Lo Pun into a conservation area without any human activities, the Plan should facilitate the villagers’ wish to revive the village and allow its sustainable growth. A revived rural village was compatible with the surrounding PCCP.

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

116. Two Members recapped the following questions raised by the representers in the presentation:

- (a) whether excavation of land for emergency restoration works of existing electricity supply network and new cabling installations required planning permission under the DPA Plan; and

- (b) whether the private lots surrounding So Lo Pun could be covered by DPA Plan/ OZP.

117. Mr. W.K. Hui, DPO/STN, replied that:

- (a) excavation of land for emergency restoration works of existing electricity supply network and new cabling installations (with no new above-ground structures) would usually be undertaken by CLP Powers Limited and such works required the application of excavation permit/emergency excavation permit from concerned government departments. As such, they could be considered as works coordinated by the Government which were always permitted under the DPA Plan; and
- (b) the areas surrounding So Lo Pun and private lots mentioned by the representers were within the boundary of the PCCP. Any amendment to the boundaries of the country park should go through the procedures as laid down under the CPO. Such amendment fell outside the purview of the Board.

118. A Member questioned whether R6's conservation proposals for So Lo Pun was based on an assumption that the villagers would not return to and live in the village. If the villagers moved in again or re-activated the farming activities, it would be difficult to realize the conservation proposals. In response, Ms. Sandra Chow, the representative of R6, said that its conservation proposals were worked out based on the existing ecological baseline of the Area. She said that the representation served to provide the viewpoints and concerns of the green groups to PlanD to facilitate its preparation of the OZP.

119. Mr. Tsang Ka Kau, the representative of R11, said that the new cabling works were to meet the request for electricity supply by the villagers, and the works area would be on their private lots. In this regard, Mr. W.K. Hui reiterated that new cabling works (with no new above-ground structures) together with the associated excavation activities by the CLP Powers Ltd. and coordinated by the Government were always permitted under the DPA Plan if such works required the granting of excavation permit from concerned

government departments.

120. Mr. Paul Zimmerman, R5, made the following main points:

- (a) as shown in a photo of the powerpoint presentation of R11, there were waste/ rubbish found on the sides of embankment/footpath along the coast, illustrating degradation of the environment. Any increase in human activities without good management of the Area could aggravate the problem;
- (b) in reviewing the boundary of DPA Plan, it might be appropriate to review the boundary of the adjoining Country Park. He considered it appropriate to extend the boundary of the DPA Plan to cover the private land located within the fringes of the PCCP, which could function as amenity areas of So Lo Pun.

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

Deliberation Session

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

122. The Chairman drew Member's attention that the Town Planning Board and the Country and Marine Parks Board were two statutory bodies under different regimes.

Representations No. R1 to R5, R6(part), R7(part), R8(part) and R9(part)

123. After deliberation, the Board noted the support of the representations to the DPA Plan.

Representations No R6(part), R7(part), R8(part), R9(part) and R10 to R14

124. After further deliberation, the Board decided not to uphold the representations for the following reasons:

Oppose to / Extend the boundary of the Plan (R6, R10, R11 and R13)

- (a) The preparation of the DPA Plan for So Lo Pun was to provide a stopgap measure to effect planning control over the Country Park enclaves. The areas surrounding So Lo Pun and the private lots mentioned by the representer were already within the boundary of the Plover Cove Country Park. Any amendment to the approved map of the Country Park, including the excision of any land from the approved map, should go through the procedures under the Country Parks Ordinance (Cap. 208). In this regard, amendment to the 'Country Park' boundary fell outside the purview of the Board.

Include So Lo Pun into the boundary of 'Country Park' (R6)

- (b) The designation of the So Lo Pun area as 'Country Park' was under the jurisdiction of the Country and Marine Parks Board under the Country Parks Ordinance (Cap. 208) which was outside the purview of the Board.

Oppose to statutory planning control (R10 and R11)

- (c) The Plan would not prohibit developments nor affect the local villagers' plan to revive and revitalize the abandoned village. According to the Notes of the Plan, agricultural use; maintenance / repair of a building; provision / maintenance / repair of amenity facilities, utility installations and infrastructures were always permitted. Moreover, there were provisions for application for other developments under s.16 of the Ordinance and each case would be considered by the Board on individual merits

Lack of consultation on the preparation of the Plan (R10 and R11)

- (d) In view of the sensitive nature of the new Plan, prior consultation with

relevant stakeholders before the gazetting of the Plan were not made so as to avoid establishment of 'existing use' which might lead to further disturbance to the natural environment. The statutory planning procedure which involved the making of representations and comments to the Board was itself a public consultation process. All representations and comments would be considered under the provision of the Town Planning Ordinance.

Oppose and requests for amendments to the Remarks (b) of the Notes for the "Unspecified Use" in the Plan (R12)

- (e) Maintenance and repair works which required the application of excavation permit/ emergency excavation permit from concerned government departments and involved no new above-ground structures could be regarded as public works co-ordinated by government departments which were always permitted under Remarks (b) of Notes for the "Unspecified Use" of the Plan.

Oppose to paragraph 6 (second sentence) of the Explanatory Statement of the Plan (R9 (part))

- (f) Excavation, suspected unauthorised tree felling and site formation works on private land and unleased government land were detected in So Lo Pun which had caused adverse impact to the landscape character of the Area. Paragraph 6 of the Explanatory Statement of the Plan was only a general description of the situation of the Area which prompted the need to prepare a DPA plan for development control and planning guidance for the Area.

Enhanced planning control of the Plan (R6)

- (g) Paragraph 7(b) of the covering Notes of the Plan was to allow flexibility for the provision, maintenance or repair of some minor local works for the convenience of the local residents as well as public works co-ordinated or implemented by Government. Given the small scale of these works, adverse environmental impacts were not envisaged. Any

diversion of stream, filling of land / pond or excavation of land to effect the above works also required planning permission from the Board.

Putting 'Agriculture Use' under Column 2 of the Notes (R7)

- (h) Taking account of the existing rural environment, agricultural use was a compatible use always permitted in the Area. In order to avoid abuse, any diversion of streams, filling of land / pond or excavation of land to effect agricultural use required planning permission from the Board.

Rezoning the Area to various zones (R6, R7, R8, R11 & R14)

- (i) The Plan was an interim plan which would be replaced by an OZP within three years. Detailed land use zonings would be worked out during the OZP stage taking account of the representers' proposals and the results of relevant technical assessments / studies in various aspects including ecology, conservation, landscape, sewerage and geotechnical, etc..

125. The Board agreed to provide the following responses to representers' comments related to district planning matters:

Preparing DPA plans for other enclaves of the country parks (R2, R3, R5 and R8)

- (a) To meet conservation and social development needs, the remaining enclaves should either be included into 'Country Parks', or determine their proper uses through statutory planning.

Need to strike a balance between environmental conservation and sustainable development of the Area (R10 and R11)

- (b) The representer's views on the need to strike a balance between environmental conservation and sustainable development of the Area had been taken into account in the preparation of the Plan. Apart from the 'agricultural use' which was always permitted within the "Unspecified Use" area and the uses or developments always permitted under the covering Notes, there were provisions for application for other uses to the Board under section 16 of the Ordinance which allows greater

flexibility in land-use planning and control of development and each case would be considered by the Board on individual merits. The need to strike a balance between environmental conservation and sustainable development of the Area would be taken into account in the preparation of the future OZP.

Local improvement works for the Area (R11)

- (c) Suggestions to improve the existing old pass and walking trails and to widen the pedestrian footpath of the Area were noted and would be conveyed to relevant bureaux / departments for consideration.

Maintain a close liaison with the relevant stakeholders in future development of So Lo Pun (R9)

- (d) In formulating the detailed land use proposals for the Area during the process of OZP preparation, relevant stakeholders would be engaged as appropriate with a view to coming up with an optimal development proposal.

Details on the development control of the Plan were unclear (R13)

- (e) The Notes of the Plan showed the types of uses or development which were always permitted within the Area and which might be permitted by the Board, with or without conditions, on application. In essence, agricultural use and the provision, maintenance or repair of some local minor works, amenity and utility such as footpath, amenity planting, lamp pole, etc. which were essential to local villagers and would improve the amenity and environment of the Area were always permitted. On the other hand, any diversion of stream, land filling / pond or excavation of land, including that to effect a change of use to the always permitted use or development were not allowed without planning permission from the Board under section 16 of the Ordinance. Moreover, attached to the Plan was an Explanatory Statement which intended to assist an understanding of the Plan. As such, the details of the development control of the Plan had been clearly specified. The general public was always welcome to

contact the Planning Department for any questions/clarifications relating to the Plan.

[Professor S.C. Wong left the meeting at this point.]

Agenda Item 7

[Open Meeting (Presentation and Question Session Only)]

Consideration of Representations to the Draft Hoi Ha Development Permission Area Plan No. DPA/NE-HH/1

(TPB Paper No. 8782)

[The hearing was conducted in Cantonese and English.]

126. Members noted that the following letters were tabled at the meeting for reference:

- (a) a petition letter dated 8.4.2011 submitted by the Concern Group on the Rural Planning of Sai Kung North. The Convenor of the Concern Group, Mr. Li Yiu Ban, was one of the representatives of R18;
- (b) a letter dated 8.4.2011 submitted by the Sai Kung North Rural Committee (RC). The Vice-chairmen of the RC, Mr. Leung Wo Ping and Mr. Mo Ka Hung, were two of the representatives of R18; and
- (c) a speaking notes dated 8.4.2011 submitted by Mr. Yung Yuk Ming, a representative of R18.

Presentation and Question Session

127. As reasonable notice had been given to invite the representers to attend the hearing, Members agreed to proceed with the hearing of representations on the draft DPA Plan in the absence of the representers who had indicated that they would not attend or did not reply to the invitation of this meeting.

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

Mr. W.K. Hui	District Planning Officer/Shu Tin, Tai Po and North (DPO/STN, PlanD)
Mr. William Wong	Town Planner/North, PlanD

129. The following representatives of representers were also invited to the meeting:

R5 Mr. Paul Zimmerman
Mr. Paul Zimmerman
Ms. Eva Tam

R6 Friends of Hoi Ha
Dr. John Mackay
Dr. Judith Mackay

R9 Mr. David Newbery
Mr. Dominic Powers

R10 World Wide Fund (WWF) Hong Kong
Miss Sandra Chow

R11 Designing Hong Kong Ltd.
Ms. Eva Tam

R14 A.M. Davy-Hou
Mr. Thomas Hou
Ms. Davy-Hou

R18 Mr. Yung Wong Fat, Village Representative of Hoi Ha Village
Mr. Yung Wong Fat

Mr. Li Yiu Ban
Mr. Leung Wo Ping
Mr. Mo Ka Hung
Mr. Yung Tin Sang
Mr. Yung Yuet Ming
Mr. Yung Yuk Ming
Mr. Yung Ching Wan
Mr. Yung Koon Fat
Ms. Yam Yin Ping
Mr. Poon Key Yuen
Mr. Kong Chee Cheung
Mr. Yung Yat Wo

130. The Chairman extended a welcome and explained the procedures of the hearing. He then invited PlanD's representative to brief Members on the further representations.

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

- (a) background to the Hoi Ho Development Permission Area (DPA) Plan as detailed in paragraph 3 of the Paper. The preparation of the DPA Plan for Hoi Ha (the Area) provided a stopgap measure to effect planning control over the Area and avoided further degradation of the environment since the detection of excavation activities in recent years. Owing to the urgency of preparing the Plan, the Area had been designated as "Unspecified Use". Detailed analysis and studies would be undertaken to draw up the appropriate land use zonings to replace the DPA Plan by an Outline Zoning Plan (OZP) within three years;
- (b) the draft Hoi Ha DPA Plan was exhibited for public inspection on 30.9.2010 under section 5 of the Town Planning Ordinance (the Ordinance). A total of 18 representations were received during the 2-month statutory publication period. On 10.12.2010, the

representations were published for three weeks for public comment. No comment was received;

- (c) eleven representations (R1 to R11) supported the preparation of the DPA Plan, four representations (R12 to R15) mainly offered comments and/or proposals, and the remaining three representations (R16 to R18) opposed the statutory control of the DPA Plan. ;
- (d) the main grounds of the representations and the representers' proposals were summarised in paragraph 2 of the Paper and highlighted below:

Supporting representations (R1 to R11)

- (i) the high landscape and recreational value of the Hoi Ha area should be preserved (R1 to R5, R8, R10, R11) and a long-term plan could be made to ensure that the needs of the environment, the residents of the villages and tourists were catered for and integrated into the overall planning of the area (R6 to R9);

Adverse Representations

Opposed the Designation of "Unspecified Use" in the DPA Plan (R16 to R18)

- (ii) the "Unspecified Use" ("U") designation could not fully protect the Area (R16), the Plan was not extensive enough (R17) and the indigenous villagers would be deprived of their right for Small House development would be deprived (R18);

Representers' Proposals

Extending the boundary of the DPA

- (iii) to extend the boundary of the DPA plan by including the west side of Hoi Ha Wan, Pak Sha O and Nam San Tung (R6 to R12, R15

and R17);

Designation of Hoi Ha as 'Country Park' or 'Marine Park'

- (iv) to incorporate the area between the existing village structure and the coastline into 'Country Park' or 'Marine Park' (R6 to R9 and R11) and to incorporate the Area in the Sai Kung West Country Park (SKWCP) (R16);

Enhance planning control of the draft DPA Plan

- (v) to amend paragraph 7(b) of the covering Notes of the DPA Plan so that planning permission was required for the uses mainly related to provision and upgrading of amenity and utilities. Such requirements were common in other OZPs such as Sham Chung OZP and Hebe Haven OZP (R10);

Proposed specific zones for the Area

- (vi) to rezone the land into various zones including:
 - (a) woodlands in the eastern and western portions of Hoi Ha (R10) and all the areas outside the existing Hoi Ha village (R13) as "Conservation Area" ("CA"), the coastal area as "Coastal Protection Area" ("CPA") (R6 to R11), the Hoi Ha Archaeological site and the Hoi Ha Lime Kilns as "Other Specified use" annotated "Heritage Site" (R11);
 - (b) the hillside area for small-scale development (R6, R7, R9, R14 and R15), the open areas within the village as "Open Space" (R6, R7, R9);
 - (c) 'VE' of Hoi Ha and private flat agricultural land as "Village Type Development" ("V"), the area and slope buffering the proposed "V" and the SKWCP as "Green Belt" ("GB"), the existing public toilet and refuse collection point as "Government, Institution or Community" ("G/IC"), the

northern strip of the coast as “CPA” and the existing road as ‘Road’ (R18). R18 also submitted a set of Notes for his proposed uses;

Prohibition of incompatible developments

- (vii) to prohibit developments which would pollute the Marine Park and those development without adequate sewerage facilities as well as to restrict the number of tourist coaches and the location of coach parking (R6 to R9), to have an ongoing monitoring programme to prevent destruction to the sensitive areas (R11) and Government should deploy more guards to keep a closer watch on Hoi Ha (R14), to prohibit any non-village house development/ large scale development/ or development on or near the beach (R14 and R15);

Resumption of private land and relocation of villages

- (viii) the Chief Executive in Council (CE in C) to resume the concerned area under Lands Resumption Ordinance, and relocate the indigenous villages similar to the arrangement for the construction of the Plover Cove Reservoir and Highland Reservoir (R16); and

Long-term planning and upgrading

- (ix) to consider long-term planning and upgrading of the facilities such as setting up of a self-contained biological treatment facility, preparation of an integrated tourism plan to keep the attractive village setting, providing suitable replanting or environmental rehabilitation schemes and provide large car/coach park at Pak Tam Chung (R6 to R9 and R14)

- (e) PlanD’s responses to the grounds of representations and the representers’ proposals were detailed in paragraphs 5.5 to 5.24 of the Paper and the key points were as follows:

Supporting representations (R1 to R11)

- (i) the concerns to protect the natural environment and bring planning control to the Area were noted;

Adverse Representations

Opposed the Designation of “U” in the DPA Plan (R16 to R18)

- (ii) the DPA Plan for Hoi Ha provided a stopgap measure to effect development control and planning guidance in the Area, and to make provision for enforcement action on unauthorized developments in order to prevent further degradation of the natural environment of the Area;
- (iii) under the “U” designation, any use or development, other than ‘Agricultural Use’ or developments always permitted under the covering Notes, required planning permission from the Board under section 16 of the Ordinance;

Representers’ Proposals

Extending the boundary of the DPA

- (iv) areas to the west of the Area formed part of the SKWCP and were already protected under the Country Park Ordinance (CPO). Pak Sha O and Nam Shan Tung were Country Park enclaves which would either be eventually included into Country Parks, or their proper uses would be determined through statutory planning as stated in the Policy Address 2010-11;

Designation of Hoi Ha as ‘Country Park’ or ‘Marine Park’

- (v) the designation of an area as “Country Park” or “Marine Park” was under the jurisdiction of the Country and Marine Parks Board under the CPO (Cap. 208) and the Marine Parks Ordinance (Cap. 479) which were outside the purview of the Board;

Enhance planning control of the draft DPA Plan

- (vi) paragraph 7(b) of the covering Notes was to allow flexibility for some minor local works for the convenience of the local residents and public works co-ordinated or implemented by the Government. In view of the small scale of such works, no significant adverse environmental impacts were envisaged. Moreover, should these minor works, except the maintenance and repair works for various utility services, involve any diversion of streams, filling of land/pond or excavation of land, planning permission from the Board was required;

Proposed specific zones for the Area

- (vii) the Area was adjacent to the existing Country Park, Marine Park, SSSI and vegetated slopes and constrained by poor infrastructures. Also, the area was ecologically significant in the diversity of coral species and other landscape and topographical features. Any zoning within the Area should warrant detailed considerations of the stakeholders' views and further assessments to ensure that there would be no significant adverse impacts on the environment, the landscape setting and ecological features. The preparation of an OZP to replace the DPA Plan within three years would include work on technical assessments of the above issues which would provide a proper basis for zonings in the Area;

Prohibition of incompatible developments

- (viii) publication of the DPA Plan had enabled enforcement action to be taken by the Planning Authority against any unauthorized development in the Area;

Resumption of private land and relocation of villages

- (ix) there was no provision under the Ordinance for resumption of land to be affected by planning restriction imposed by a statutory plan. Moreover, the resumption of private land from the villagers

was outside the purview of the Board;

Long-term planning and upgrading

- (x) the views and proposals by the representers were noted and would be taken into account in the detailed planning of the OZP, and conveyed to the relevant bureaux and government departments for their further considerations; and

- (f) PlanD's views – PlanD noted the support of R1 to R5, R6(part), R7(part), R8(part), R9(part), R10(part) and R11(part) and did not support R6(part), R7(part), R8(part), R9(part), R10(part) and R11(part), R12 to R18 and considered that they should not be upheld for the reasons as set out in paragraph 7.2 of the Paper.

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

R5 (Mr. Paul Zimmerman)

R11 (Designing Hong Kong Ltd)

133. Ms. Eva Tam, the representative of R11, made the following main points:

- (a) R11 supported the preparation of DPA Plan which would put Hoi Ha under planning control;

- (b) according to the Environmental Protection Department Practice Note for Professional Persons (ProPECC PN 5/93), the minimum distance of stream from soakaway system was 15m and such distance should be increased to 30m if the water from the stream was used or likely to be used for drinking or domestic purposes. To cater for existing and future development of Hoi Ha, proper sewage treatment and disposal should be provided for as there was no public sewer in the Area;

- (c) it was noted that planning application was allowed under the DPA Plan.

Nevertheless, any planning approval prior to the replacement of the DPA Plan by the OZP might jeopardize the long-term land use planning of the Area. In order not to pre-empt the preparation of the OZP, it was proposed to suspend the provision for planning application until the DPA Plan was replaced by OZP; and

- (d) R11 also requested a continual monitoring of the ecological and landscape situation of Hoi Ha before the replacement of the DPA Plan by the OZP. R11 also considered that PlanD should proceed urgently with drafting of DPA Plans for all areas which had yet to be covered.

134. With the aid of a powerpoint presentation, Mr. Paul Zimmerman made the following main points:

- (a) a recent media coverage regarding a proposed large-scale residential development project at Hoi Ha, with extracts from an investment brochure had raised public concerns on the development at Hoi Ha as well as other enclaves of Country Parks. The investment brochure for Hoi Ha included layout plans and artists' impressions drawings to attract potential investors to purchase the houses. The target investors were not indigenous villagers but overseas investors;
- (b) given the concrete proposals revealed by the media, the Board should be prudent in considering applications for house development in Hoi Ha during the interim period before the OZP was drawn up. Without a comprehensive plan for the Area, the land grant under the Small House Policy had no guarantee for proper development because the infrastructure capacity and amenity requirement of the Small Houses and the possible impact of the Small Houses on the environment were not fully considered. There were grave concern for such haphazard development in Hoi Ha as it was close to the Marine Park; and
- (c) in view of the above, there was grave concern on the provision for planning application under the DPA Plan. The Board or PlanD should make known

to the villagers and the groups who were concerned about the environment the criteria for assessing planning applications, in particular what development proposals would be allowed and what would not.

R6 (Friends of Hoi Ha)

135. Dr. John Mackay made the following main points:

- (a) he was a member of Friends of Hoi Ha (FOHH) and a resident of Sai Kung district for 40 years. FOHH were concerned about the adverse impact of development in Country or Marine Parks enclaves on the natural environment development. He made the presentation on behalf of FOHH;
- (b) FOHH had been invited to the meetings with the residents of Hoi Ha to discuss future developments at the village in response to the publication of the DPA Plan. Having met with the residents, FOHH was persuaded that there was a will within the Hoi Ha community to preserve the atmosphere of the village and to protect the local natural environment, while allowing for controlled building of a suitable number of Small Houses;

Sites for the development of Small Houses

- (c) the area favoured by the villagers for Small House development was to the southeast of the existing village. It was within the Village Environs (VE) of Hoi Ha and was situated on a wooded slope on government land. Although the Government had, in the past, favoured the use of privately owned land for Small House development rather than releasing more government land, the unique character of Hoi Ha justified a change of policy in this case;
- (d) a preliminary investigation of the sites indicated that the old farmland, in the river valley to the west of the village, was much more scientifically interesting than the wooded slopes behind the village. Development of the wooded slope would involve the cutting down of mature trees, but

provided that mitigation was carried out, the environmental damage would be acceptable and preferable to the destruction of the habitat of the old agricultural land;

- (e) mitigation could take the form of a scheme to plant indigenous trees in and around the village and to beautify the village with suitable shrubs and flowers. This mitigation would make the village more attractive for residents and villagers alike. However, before any habitat was destroyed, an independent and four-season environmental survey of the area would be necessary;

Proposals of FOHH

- (f) a “CPA” should be established to extend the environmental protection beyond the Marine Park boundary and to encompass the coastal ecosystem;
- (g) to limit the extent to which untreated domestic and commercial waste water was discharged into Hoi Ha Wan. International best practices required that human activities adjacent to a protected marine area should have a policy of zero discharge. It was time to start conforming to these standards and steps should be taken to eradicate pollution from the village before any further building was contemplated; and

Conclusion

- (h) FOHH was prepared to work with Hoi Ho residents to liaise with concerned parties to decide the best policy for the sustainable development of Hoi Ha. The Friends of Sai Kung had expressed their agreement to the proposed approach.

R9 (Mr. David Newbery)

136. Mr. Dominic Powers made the following main points:

- (a) he was a resident of Hoi Ha and he made the presentation on behalf of Mr. David Newbery;
- (b) the resident villagers of Hoi Ha which comprised both indigenous and non-indigenous villagers (the Residents of Hoi Ha) had been discussing the way ahead with the FOHH, with a view to formulating a planning solution which would meet the needs of the villagers, whilst protecting the environment as much as possible. The common goals discussed included:
 - (i) formulation of a plan which would remove uncertainties concerning future building works in the village;
 - (ii) the avoidance of building which fundamentally altered the character of the village;
 - (iii) the maintenance of the open nature of the centre of the village;
 - (iv) the formation of a “CPA” zone to protect the mangrove belt;
 - (v) the designation of specific areas which could be used for development;
 - (vi) the minimisation of adverse impacts on the environment caused by building works;
- (c) to achieve the above goals, some of the concepts incorporated in the submission of R18, Mr. Yung Wong Fat, the indigenous village representative (VR) had some merit, in particular the zoning of areas according to land uses like “CPA”, “Green Belt” (“GB”), “G/IC” and “V”. However, the number of houses to be built and the actual extent of the zoning needed to be carefully considered. In particular, the quoted figure of the requirement for 85 Small Houses appeared to be grossly excessive;
- (d) concepts explored by the Residents included :

- (i) confining future building to the VE of Hoi Ha;
 - (ii) siting new houses on the government land to the south and southeast of the present village which was within the 'VE';
 - (iii) establishing a "CPA" to the north of the village along the lines suggested by R18's submission;
 - (iv) the expansion of the "CPA" proposed by R18 on the western side of the village;
 - (v) the establishment of "GB" as suggested by R18;
- (e) the Residents of Hoi Ha would like to meet with the Government to discuss the feasibility of the various plans for the village. Once consensus was reached, the Small House applications which were submitted before the publication of the DPA Plan should be accelerated and permission to build be granted as soon as possible;
- (f) the Government should provide the necessary infrastructure to allow the development of Small Houses with the provision of the following measures:
- (i) the provision of vehicular access to the building areas and parking spaces for new residents;
 - (ii) the surveying and necessary stabilisation of slopes in the building areas;
 - (iii) the provision of suitable facilities to stop the discharge of untreated domestic and commercial waste water into Hoi Ha Wan Marine Park;
 - (iv) the designation of specific plots within the Area for building Small

Houses. This would speed up the permission process, particularly for those individuals who had their applications pending for some time; and

- (g) the Government should be creative, think long-term and listen to the voices of the local community who knew the area best.

R10 (WWF Hong Kong)

137. Miss Sandra Chow made the following main points:

- (a) Hoi Ha Wan was a designated Marine Park and a site of specific scientific interest (SSSI). It had a rich diversity of coral species, with 64 out of 84 stony coral species recorded in Hong Kong. As there were no sewerage and drainage systems in Hoi Ha and the area was under development threats, there were worries that the water quality of the coastal area and the Marine Park would be adversely affected by massive-scale development. Therefore, conservation zonings were needed to prevent any large-scale development from affecting the marine ecology and undermining the function and value of the Marine Park and SSSI. Being an integral part of the marine ecosystem, the coastal area of Hoi Ha was proposed to be zoned “CPA” so that it could serve as a buffer between the Marine Park and the “V” zone;
- (b) the woodlands in the eastern and western portions of Hoi Ha, especially where some rare butterfly species could be found, was proposed as “CA”; and
- (c) the excavation of land and tree felling in Tin Fu Tsai within Tai Lam Country Park had revealed that the CPO had limited enforcement power to control land excavation and site formation works on private land. In order to plug the loophole and avoid incompatible land use in Hoi Ha, all private land in the vicinity of Hoi Ha, including the west side of Hoi Ha Wan, should be incorporated into the DPA Plan.

R14 (A.M. Davy-Hou)

138. Mr. Thomas Hau made the following main points:
- (a) he was a resident of Hoi Ha and was concerned about the future planning of Hoi Ha;
 - (b) the planning for Hoi Ha was very different from the planning for other areas like Shatin. Apart from meeting the housing demand of villagers, there was also a need to conserve areas with high ecological value such as mangroves in Hoi Ha. In drawing up a long-term plan for the Area, advice outside the Government should be sought;
 - (c) residents of Hoi Ha, both the indigenous and non-indigenous villagers, shared the view that Small House development should be confined within the 'VE' of Hoi Ha. Developable areas in the 'VE' included the coastal area in the north where mangroves were found and wooded slopes in the southeast. In this regard, the wooded slopes would be preferred for development because the coastal area was ecologically more sensitive in that the vulnerable coral reef had taken twenty years to rehabilitate after damage;
 - (d) to make Hoi Ha a beautiful village, a proper village layout plan with vehicular access and provision of parking facilities should be drawn up for Hoi Ha for the development of eco-tourism and Small House development in the southeast of the village;
 - (e) in the past decades, the seabed of Hoi Ha Wan had been shifted. Some areas shown as agricultural land on PlanD's basemap was actually part of the seabed at present. New technologies like satellite images should be used to update the baseline information for planning of the Area; and
 - (f) some villagers had applied to the Lands Department for Small House

development some years ago and expected the approval in around October 2010. However, the publication of the draft Hoi Ha DPA Plan in September 2010 had suspended their applications. The Board was urged to exercise its discretionary power to facilitate the processing of the Small House grant of these pending cases.

R18 (Mr. Yung Wong Fat, VR of Hoi Ha Village)

139. Mr. Yung Wing Fat made the following main points:

- (a) upon the publication of the DPA Plan, the processing of pending Small House applications as well as redevelopment of houses were all frozen for three years until the DPA Plan was replaced by an OZP. The basic rights of indigenous villagers entitled for Small House development were deprived under the DPA Plan. The villagers were not consulted in the preparation of the DPA Plan; and
- (b) Small House development within 'VE' of Hoi Ha, be it a new development or redevelopment, should be regarded as always permitted uses under the DPA Plan. The Government should work with the villagers in designating specific land use zonings on the OZP.

140. Mr. Yung Yuk Ming made the following main points:

- (a) he was a village representative of Hoi Ha village;
- (b) four planning applications for Small Houses development made under section 16 of the Ordinance had been deferred on the ground that the zoning of the application sites was subject to review during the preparation of OZP. As there would be new applications for Small Houses, it was expected that the number of pending cases would increase prior to the replacement of the DPA Plan by an OZP. The indigenous villagers expressed discontent over the DPA Plan in that their Small House applications were adversely affected but they were not consulted of the

DPA Plan in advance;

- (c) the indigenous villagers had engaged consultants to study the land uses of Hoi Ha with a view to proposing a “V” zone in Hoi Ha for the Board’s consideration. The consultant recommended that the land within ‘VE’ of the village should be zoned “V” with Small House development as an always permitted uses.

141. Mr. Poon Key Yuen made the following main points:

- (a) he objected to the DPA Plan in that there was no prior consultation with the indigenous villagers nor the concerned Rural Committee and that the Plan had severely affected their private property rights;
- (b) the Small House policy had been implemented since 1977 (sic). There was established mechanism for processing Small House applications by the Lands Department. Small House development would be confined within the ‘VE’ of villages, and the applicant would be required to follow requirements including the provision of septic tanks for domestic sewerage. The corals in Hoi Ha were beautiful and should be protected. They would not be adversely affected by Small House development in the village. With the provision of septic tanks for their Small Houses, domestic sewerage would not be discharged into Hoi Ha Wan;
- (c) while there was a need to protect the natural environment, the history and culture of Hoi Ha village and the needs of the villagers should also be respected. There was a need to strike a balance between conservation and development;
- (d) the green groups asked for zero development in Hoi Ha. However, without any human activities, the Area would just become derelict. Moreover, if no Small House development was allowed, the indigenous villagers would have no place to reside. He also observed that some people deliberately deter the development of the village by planting various species or

releasing butterflies to the Area so as to claim the Area as a scientifically interesting place;

- (e) Article 40 of the Basic Law stipulated that the lawful traditional rights and interest of the indigenous inhabitants of the New Territories should be protected by the Government. One of the lawful traditional rights was to build Small House under the Small House policy without the need to wait for the designation of “V” zone in the Area in three years’ time;
- (f) villagers would not object to the DPA Plan if the land within ‘VE’ of the village were designated as “V” on the DPA Plan. There had been “V” zones designated in other DPA Plans and the Shap Sz Heung DPA Plan was one of the examples. However, the whole Hoi Ha was designated as “Unspecified Uses” and the Small House development would be pending the preparation of OZP in three years’ time. This in effect would freeze all Small House development in the Area, including those which had already obtained certificates of exemption in the construction of Small Houses. This was unfair to the indigenous villagers of Hoi Ha; and
- (g) the indigenous villagers of Hoi Ha requested to build their Small Houses on their own land within the village. If it was decided that the private land of the villagers had ecological values and should be preserved, the Government should purchase the private land for preservation purposes, or adopt the ‘King Yin Lei’ model to exchange the private land with government land for such purpose.

142. Mr. Li Yiu Ban made the following main points:

- (a) he was an indigenous villager, but not from Hoi Ha. Hence, he did not have personal interest in the planning of Hoi Ha. He was also a non-official member of the Country and Marine Parks Board;
- (b) he supported in-principle the proposal of putting the country park enclaves into statutory planning control provided that the views of all the

stakeholders would be solicited and considered for the preparation of the plans. However, the recent publication of Hoi Ha DPA Plan had adversely affected the indigenous villagers' right of Small House development in the Area;

- (c) in view of the above, the concerned rural villages in the northeast NT had formed a Concern Group on the Rural Planning of Sai Kung North (the Concern Group). The Concern Group had meeting with PlanD and the Department had agreed to assist in submitting Small House applications, including cases already approved by the Lands Department, to the Board for consideration; and
- (d) as learnt from the recent DPA Plans, the Government should strike a proper balance between conservation need and development rights of indigenous villagers. Hence, in preparing future DPA Plans, PlanD should designate suitable areas as "V" zones on the Plans and consult the public.

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

144. In response to the Chairman's question, Mr. W.K. Hui, DPO/STN, replied that Small House development required planning permission under the DPA Plan. Similar to planning applications under section 16 of the Ordinance, for applications for Small House developments, public comments and departmental views would be sought and the case would be submitted to the Rural and New Town Planning Committee (RNTPC) for consideration within two months. Mr. Hui said that at present, RNTPC had deferred consideration of the Small House applications in Hoi Ha because there were adverse representations to the "Unspecified Use" of the DPA Plan.

145. Mr. W.K. Hui continued to point out that in the preparation of the OZP, all relevant factors including the representers' views and proposals and the results of relevant technical assessments/studies on ecology, archaeological interest, traffic, sewerage, landscape and geotechnical considerations would be taken into consideration. The OZP would strike a balance between the public aspiration for conservation and the private

development right. The draft OZP would be submitted to the Board for consideration in due course.

146. A Member asked whether the Small House proposals previously approved by Lands Department would be affected by the publication of the DPA Plan. In response, Mr. W.K. Hui replied that if the Small Houses approved by the Lands Department had not been completed, be it under construction or not yet commenced construction, planning permission would be required under the DPA Plan. Works after publication of the DPA Plan without planning permission were suspected unauthorised development subject to planning enforcement and prosecution.

147. In response to a Member's follow up question on the time frame in relation to the processing the deferred planning applications for Small House, Mr. W.K. Hui replied that after a decision made by the Board on the representations at this meeting, the DPA Plan would have to be submitted to the Chief Executive in Council (CE in C) for approval. The pending planning applications would be put forward for RNTPC's decision thereafter.

148. Mr. Poon Key Yuen, the representative of R18, expressed that even with the certificates of exemption in the construction of Small House, all the construction works had to be suspended at present. This had severely affected the right of indigenous villagers. He reiterated that the DPA Plan for Shap Sz Heung had designated "V" zones and asked whether the treatment of Hoi Ha was exceptional. In response, the Chairman said that the zoning designations on DPA Plans were considered on case-by-case basis, and Hoi Ha was not the first Area covered by an "Unspecified Use" designation.

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

Deliberation Session

150. Members noted the support of R1 to R5, R6(part), R7(part), R8(part), R9(part),

R10(part) and R11(part) to the DPA Plan.

151. In response to the concern of Members over the effect of DPA Plan on Small House development, the Secretary said that owing to the urgency of preparing the DPA Plan, the Area had been designated as “Unspecified Use” under which developments including the building of Small House required planning permission from the Board. This stopgap measure would affect Small House development, particularly those with the certificates of exemption in the construction of Small House or those under construction. In view of the considerable number of cases in the pipeline affected by the recent DPA Plans, the feasibility of making en-bloc application(s) for these Small Houses under section 16 of the Ordinance was being investigated in consultation with concerned departments including Lands Department.

152. Some Members had concern on whether the consideration of the en-bloc Small House application(s) in Hoi Ha would be deferred because there were adverse representations to the “Unspecified Use” of the DPA Plan and the Plan had yet to be submitted to CE in C for approval. In response, the Secretary said that the circumstances under which the consideration of a section 16 application or section 17 review would be deferred by the Board were set out in the Town Planning Board Guidelines No. 33. One of the circumstances was when the zoning of the subject site was still subject to outstanding adverse representation yet to be submitted to CE in C for consideration and the substance of the representation was relevant to the subject application/ review. The crux of the matter was whether the Small House applications would affect the consideration of the adverse representations by the Board and CE in C.

153. Members noted that the rights of the indigenous villagers to built Small House would not be affected by the publication of DPA Plans because there was provision for planning applications for such use under the DPA Plan and the applications would be processed in accordance of the Ordinance.

154. In response to a Member’s follow up question, the Secretary said that in assessing the planning applications for Small Houses in the DPA Plan area, the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ might not be entirely applicable as the application sites were not zoned “V” at the time of

consideration, but other general planning principles therein could also serve as reference.

155. In response to another Member's question on whether structures under construction were regarded as 'existing building' and thus permitted under the DPA Plan, the Secretary said that according to the legal advice previously sought, 'existing building' meant a building which was physically existing and in compliance with relevant legislation and the conditions of the government lease concerned. As such, structures under consideration were not regarded as 'existing building'.

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

156. The Chairman summed up that the publication of the DPA Plan had enabled planning control on incompatible developments within the Area. It was an interim plan which would be replaced by an OZP within three years. Detailed land use zonings would be worked out during the OZP stage. As regards the request for resumption of private land and relocation of villagers, there was no provision under the Ordinance for resumption of land affected by planning restriction imposed by a statutory plan. The resumption of private land from the villagers was outside the purview of the Board.

Representations No. R1 to R5, R6(part), R7(part), R8(part), R9(part), R10(part) and R11(part)

157. The Board noted the support of the representations to the DPA Plan.

Representations No R6(part), R7(part), R8(part), R9(part), R10(part) and R11(part) and R12 to R18

158. After further deliberation, the Board decided not to uphold the representations for the following reasons:

Extending the boundary of the DPA Plan to include the west side of Hoi Ha Wan (R6 to R12 and R15)

- (a) The areas to the west of the DPA Plan Area form part of the Sai Kung West Country Park and were already protected under the Country Parks

Ordinance (Cap.208). Detailed land use zonings for the Area would be worked out at the OZP preparation stage.

Enhance planning control of the Draft DPA Plan (R10)

- (b) Paragraph 7(b) of the covering Notes was to allow flexibility for the provision, maintenance or repair of some minor local works for the convenience of the local residents as well as public works co-ordinated or implemented by Government. Given the small scale of these works, adverse environmental impacts were not envisaged. Any diversion of streams, filling of land/pond or excavation of land to effect the above works also required planning permission from the Board.

Proposed specific zones for the Area (R6 to R11, R13 to R15 and R18)

- (c) The DPA Plan was an interim plan which would be replaced by an OZP within three years. Detailed land use zonings would be worked out during the OZP stage taking account of the representers' proposals and the results of relevant technical assessments/studies in various aspects including ecology, archaeological interest, traffic, sewerage, landscape and geotechnical, etc.

Prohibition of incompatible developments (R6 to R9, R11, R14 and R15)

- (d) Publication of the DPA Plan had enabled planning control on incompatible developments within the Area. Enforcement action could be taken by the Planning Authority against any unauthorized development when necessary.

Designation of Hoi Ha as "Country Park" or "Marine Park" (R6 to R9, R11 and R16)

- (e) The designation of an area as "Country Park" or "Marine Park" was under jurisdiction of the Country and Marine Parks Board pursuant to the Country Parks Ordinance (Cap. 208) and the Marine Parks Ordinance (Cap. 479) which was outside the purview of the Board.

Designation of "Unspecified Use" in the DPA Plan (R16 to R18)

- (f) The preparation of DPA Plan was an effective planning tool to prevent unauthorized developments or building works carried out in the Area and protect the natural environment with high landscape values in the Area. Under the “Unspecified Use” designation, any use or development, other than ‘Agricultural Use’ or developments always permitted under the covering Notes, required planning permission from the Board under section 16 of the Ordinance.

159. The Board agreed to provide the following responses to representers’ comments not related to the DPA Plan:

Preparing DPA Plans for other enclaves of the Country Parks (R2, R4 and R11)

- (a) To meet conservation and social development needs, the Government would either include the remaining enclaves into Country Parks, or determine their proper uses through statutory planning.

Transfer of administration from Tai Po to Sai Kung District Office (R8, R9, R14 and R15)

- (b) The administrative boundaries of Tai Po District and Sai Kung District were not related to the purpose of setting up the DPA plan and were outside the purview of the Board.

Resumption of private lands and relocation of villages (R16)

- (c) There was no provision under the Ordinance for resumption of land affected by planning restriction imposed by a statutory plan.

Extending the boundary of the DPA Plan to include Pak Sha O and Nam Shan Tung (R17)

- (d) Pak Sha O and Nam Shan Tung were Country Park enclaves which would either be eventually included into Country Parks, or determined their proper uses through statutory planning as stated in the Policy Address 2010-11.

Long-term planning and upgrading of infrastructures and public facilities (R6 to R9 and R14)

- (e) Proposals on long-term planning and upgrading of infrastructure and public facilities were noted and would be conveyed to the relevant bureaux / departments for consideration.

Agenda Item 8

[Open Meeting (Presentation and Question Session Only)]

Consideration of Further Representation to the Draft Central District Outline Zoning Plan (OZP) No. S/H4/13 arising from the consideration of Representations and Comments on OZP No. S/H4/12
(TPB Paper No. 8780)

[The hearing was conducted in Cantonese.]

160. The Secretary briefed Members on the background of the further representation to the draft Central District Outline Zoning Plan (OZP) No. S/H4/13 as detailed in the Paper. The Secretary continued to point out that the IFC owned by IFC Development Ltd. was a joint venture of Sun Hung Kai Properties Ltd. (SHK), Henderson Land Development Co. Ltd (HLD) and Hong Kong & China Gas Co. Ltd. (HKCGC) and the CKC was owned by Hutchison Whampoa Property Group (HWPG). As such, the following Members had declared interests on this item:

- | | |
|-----------------------|---|
| Mr. Raymond Y.M. Chan | - had current business dealings with SHK, HLD and HKCGC. |
| Mr. Felix W. Fong | - had current business dealings with HWPG and SHK.
Turbo Top Limited, a member of HWPG, had submitted a further representation (F1). |
| Professor P.P. Ho | - had current business dealings with Cheung Kong (Holdings) Ltd. |
| Mr. Y.K. Cheng | - had current business dealings with SHK |

- Dr. C.P. Lau and
Dr. James C.W. Lau - were consultants of HLD projects

- Ms. Julia M.K. Lau - was a former employee of SHK

- Mr. Clarence W.C.
Leung - was a Director of an NGP that recently received a donation from a family member of the Chairman of HLD

- Mr. Roger K.H.Luk - was a member of the Council of the Chinese University of Hong Kong (CUHK) which received a donation from a family member of the Chairman of HLD.

161. As the further representation was related to the CKC site, the meeting agreed that the interest of Mr. Felix W. Fong and Professor P.P. Ho was direct. Members noted that Mr. Felix W. Fong had left the meeting and Professor P.P. Ho had tendered an apology for not attending the meeting. The meeting also agreed that the interests related to the IFC site were indirect for the purpose of the hearing. Members noted that Mr. Raymond Y.M. Chan, Ms. Julia M.K. Lau and Mr. Clarence W.C. Leung had tendered apologies for not attending the meeting and Dr. C.P. Lau and Dr. James C.W. Lau had left the meeting. Members agreed that Mr. Y.K. Cheng and Mr. Roger K.H. Luk could stay at the meeting.

162. Members noted that Hutchison Whampoa Property (HWP), the parent company of Turbo To Limited (i.e. Further Representer No. 1 (F1)) had submitted two letters dated 1.4.2011 and 7.4.2011 requesting for a deferment of the hearing. The letters were tabled at the meeting for Members's reference.

163. Members also noted that the representers No. R2 and R5 and commenter No. C1 had been invited to attend the hearing. They had either indicated that they would not attend or did not reply to the invitation to this meeting.

164. Before inviting F1 to present before the Board the reasons for its deferral request, Members had a discussion on F1's deferral request based on its letters dated 1.4.2011 and 7.4.2011. The Secretary highlighted the main points of the two letters submitted by HWP as follows:

- (a) on 1.4.2011, HWP submitted a letter requesting for a deferment of the hearing for two months from 8.4.2011. The major grounds given by HWP for the deferment were that insufficient time was given to allow them to seek professional advice and assistance for preparation of the hearing. HWP argued in its letter that:
- (i) the Town Planning Board Guidelines TPB PG-No. 33 set out that request for deferment should be made at least two weeks before the scheduled meeting date. HWP received the notice of meeting on 29.3.2011, which was less than two weeks before the meeting date on 8.4.2011; and
 - (ii) a copy of the document (i.e. TPB Paper No. 8780) was delivered to F1 seven days before the meeting, i.e. on 1.4.2011. Three out of the seven days were non-working day/public holiday.
- (b) on 7.4.2011, HWP submitted another letter informing the Board that, after seeking legal advice, HWP had decided to apply for judicial review (JR) against the Board's decision on 21.1.2011 not to uphold its representation No. R7 (also submitted by Turbo Top Limited). The application for leave to apply for JR would be lodged the week after. In the application, HWP would seek to quash the Board's decision. HWP would also seek an interim order upon the grant of leave that there should be a stay of the submission of the draft Central District OZP to the Chief Executive in Council (CE in C) pending final determination of the JR proceedings;

165. The Chairman said that HWP should have started the preparation for the hearing when it submitted the further representation. Nevertheless, when HWP would submit the JR and whether the court would grant leave for the JR was beyond the Board's control.

(Post meeting note : On 11.4.2011, HWP had applied for JR of the Board's decision on 21.2.2011 in respect of its representation.)

166. The Secretary said that during the representation stage, HWP had made written submission against the OZP amendments to rezone the CKC site from “Commercial” (“C”) and “Government, Institution or Community” (“G/IC”) to “C(1)” and its representatives had attended the hearing and elaborated its representation on 21.1.2011. The current proposed amendment was to set out the planning intention for the “C(1)” zone of the CKC site in the Notes and the required public car parking spaces, G/IC facilities and public open space to be provided on the site in the Explanatory Statement (ES) to reflect the approved scheme.

167. In response to a Member’s question, the Secretary said that the two-week notification to submit deferral request was laid down in the TPB PG-No. 33 whereas delivery of the TPB Papers seven days before the meeting was set out in the Town Planning Board Procedure and Practice. Calendar dates were counted in the general practice.

168. The Secretary said that upon receiving HWP’s letter of 1.4.2011 requesting for deferral, the Secretary replied on 4.4.2011 and invited F1 to present before the Board on 8.4.2011 to explain the reasons for the proposed deferment. F1 was also informed in the letter of 4.4.2011 that the Board might proceed with the hearing in its absence.

169. In response to a Member’s question on the relevant consideration and implication in considering F1’s deferral request, the Secretary said that as the draft Central District OZP was gazetted in July 2010, the statutory deadline for submission to CE in C for approval was in June 2011. There was an urgency to meet the statutory requirement. Otherwise CE’s approval had to be sought to extend the submission deadline for a further six months.

170. Members noted that it was the established practice of the Secretariat of the Board to inform applicant(s)/ representer(s)/commenter(s) to attend the TPB meeting 14 days in advance of the meeting. For the subject hearing of the further representation, F1 received the notification to attend the TPB meeting on 29.3.2011, which fell short of the 14-day notification under the practice. In this regard, Members had an initial view to defer the hearing of the further representation so as to tally with the established practice. But Members’ views as to how long the case should be deferred were diverse. At this point, the

Chairman suggested and Members agreed to invite the representatives of F1 to present before the Board the reasons for its deferral request.

Presentation and Question Session

171. The following representatives of further representer (F1) were invited to the meeting at this point:

Mr. Wong Wing Yan, Kenneth

Ms. Chan Shuk Ling, Linda

Mr. Wong Yau Cheung

172. The following representatives of the Planning Department (PlanD) were also invited to the meeting:

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

Ms. April Kun Senior Town Planner/Hong Kong

173. The Chairman extended a welcome and invited F1's representative to to explain the reasons for the proposed deferment.

174. Mr. Wong Wing Yan, Kenneth, the representative of F1, made the following main points:

- (a) F1 had been given very short notice on 29.3.2011 (i.e. about 6 working days in advance) to attend the meeting on 8.4.2011 and received the Paper on 1.4.2011 (i.e. about four working days before the meeting). This was not in line with the two-week requirement of the TPB PG-No. 33 in respect of application for deferral request. The proposed amendments to the Notes and ES of the "C(1)" zone, which specified office was the main use for the CKC site was considered critical and further representation should be made. More time was required for F1 to seek professional advice on the subject issue; and

- (b) after seeking legal advice, HWP had decided to apply for JR for the Board's decision not to uphold R7 on 21.1.2011. In the application, F1 would seek to quash the said decision and a declaration that the draft Central District OZP was *ultra vires* the Board's powers under the Town Planning Ordinance and void *ab initio*. In the event that the application for JR was successful and the said decision was quashed, the draft Central District OZP had to be reconsidered afresh in accordance with the law and the court's decision. The Board's consideration of the further representation at the current meeting would be completely wasted.

175. A Member pointed out that the Board's decision on 21.1.2011 to propose amendment to the CKC site had been conveyed to the representers including HWP (i.e. R7 and F1). Therefore, HWP should have had more than two months to follow up on the subject matter. This Member questioned why F1 claimed that there was insufficient time for them to prepare for the hearing on 8.4.2011.

176. In response, Mr. Wong Wing Yan, Kenneth said that the Board had decided on 21.1.2011 not to uphold the representation No. R7. The amendment to set out specifically the planning intention for the "C(1)" zone was proposed by the Board to partially meet R2 and R5 after giving consideration of representations and comments on the draft OZP on 21.1.2011. HWP had not studied nor commented on such proposed amendments in the representation stage. Upon the publication of the proposed amendments on 18.2.2011 for further representation, HWP submitted a further representation (F1) on 10.3.2011. On 29.3.2011, HWP received the invitation from TPB to attend the meeting on 8.4.2011.

177. As Members had no further question to raise, the Chairman said that the Board would deliberate on the request for deferment of the hearing in the absence of the further representer. F1 would be informed of the Board's decision in due course. The representatives of the further representer as well as PlanD left the meeting at this point.

Deliberation

178. Members noted that the delivery of the TPB Papers tallied with the Board's usual practice, but the notification to meeting was short of the 14-day notification. In this

regards, they generally agreed to defer the hearing of further representation.

179. In respect of the period of deferment, Members noted that according to the said Guidelines, the Board might only adjourn the meeting for a period up to a maximum of four weeks (counting from the original hearing date) taking into account all relevant considerations and circumstances of the cases. Some Members considered that as there was insufficient information given by F1 to support its requested deferral for two months, the hearing of the further representation could only be deferred for a shorter period.

180. Some Members enquired whether consent from the concerned representers (i.e. R2 and R5) and commenter (i.e. C1) would be required before making a decision on the hearing date of F1. In response, the Secretary said that as the concerned representers and commenter had been invited to the hearing of representation scheduled at this meeting but they did not attend the meeting or made no reply, the Board could consider the hearing date of F1 in their absence. However, should the Board decide to defer hearing of F1, the concerned representers and commenter would also be invited to the rescheduled hearing.

181. After further deliberation, the Board agreed to defer the hearing of the further representation to the draft Central District Outline Zoning Plan No. S/H4/13 for one week to 15.4.2011.

Notification

182. The three representatives of F1 were invited to the Board at this point. They were informed of the Board's decision to defer the hearing of the F1 for one week to 15.4.2011 and they had no further comment to make. The Chairman thanked the representatives of f1 for attending the meeting. They left the meeting at this point.

[Mr. Roger K.H. Luk left the meeting at this point.]

Agenda Items 9 to 12

[Open Meeting (Presentation and Question Sessions Only)]

Review of Application No. A/YL-LFS/206

Temporary Open Storage of Marble with Workshop for a Period of Three Years in "Recreation" zone, Lots No. 2093 (Part), 2095 (Part), 2096 RP (Part) and 2102 S.A (Part) in D.D. 129, Lau Fau Shan, Yuen Long
(TPB Paper No. 8784)

Review of Application No. A/YL-LFS/207

Temporary Open Storage of Marble with Workshop for a Period of Three Years in "Recreation" zone, Lots No. 2097 (Part), 2215 S.A RP (Part), 2216 (Part), 2217 (Part) and 2218 RP (Part) in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long
(TPB Paper No. 8785)

Review of Application No. A/YL-LFS/208

Temporary Open Storage of Marble with Workshop for a Period of Three Years in "Recreation" zone, Lots No. 2094 (Part), 2231 RP (Part), 2233 (Part), 2234 (Part), 2235 (Part) and 2237 (Part) in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long
(TPB Paper No. 8786)

Review of Application No. A/YL-LFS/209

Temporary Open Storage of Marble for a Period of Three Years in "Recreation" zone, Lots No. 2095 (Part), 2096 RP (Part), 2097 (Part), 2098 (Part), 2099 (Part), 2217 (Part), 2218 RP (Part) and 2219 RP (Part) in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long
(TPB Paper No. 8787)

[The hearing was conducted in Cantonese.]

183. As the four review applications were similar in nature and the application sites were close to each other and within the same "Recreation" ("REC") zone, Members agreed to consider the applications together.

Presentation and Question Sessions

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

Ms. Amy Cheung	- District Planning Officer/Tuen Mun and Yuen long (DPO/TMYL), PlanD
Mr. Lam Ping Ki	- Applicant
Mr. Ng Tak Leung]
Mr. Kwong Chi Wah]
Mr. Lei Kam Keong] Applicant's representatives
Ms. Ho Wai Man]
Mr. Ho Tsz Yin]
Mr. Chan Chi Kei]
Mr. Chan Chi To]
Mr. Yuen Pui Kei]
Mr. Lam Kwong Shing]
Mr. Ho Suet Fung]
Mr. Ha Tak Ming]
Ms. Cheuk Miu Fun]
Mr. Lam Kam Chung]
Mr. Wong Yat Shing]

185. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TMYL to brief Members on the background to the applications on review.

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

186. With the aid of a Powerpoint presentation, Ms. Amy Cheung presented the applications on review and covered the following main points as detailed in the Papers:

- (a) the applicant sought planning permission to use the application sites for

open storage of marble with workshop (Applications No. A/YL-LFS/206 to 208) and open storage of marble (Application No. A/YL-LFS/209). The application sites were zoned “REC” on the approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP);

- (b) on 12.11.2010, the Rural and New Town Planning Committee (RNTPC) rejected the applications for the following reasons:
 - (i) continuous occupation of the sites for the applied uses was not in line with the planning intention of the “REC” zone, which was primarily for recreational developments for the use of the general public. There was no strong planning justification in the submissions for a departure from such planning intention, even on a temporary basis;
 - (ii) the development was not in line with the Town Planning Board Guidelines (TPB PG) No. 13E for Application for Open Storage and Port Back-up Uses in that there was no exceptional circumstance to justify the development, there were adverse departmental comments on the environmental aspect and the development would generate environmental nuisance on the surrounding areas, and that it was not in line with the intention of Category 4 areas which was to encourage the phasing out of non-conforming uses; and
 - (iii) the last previous applications for same/similar uses were approved by the RNTPC for a period of two years to allow time for relocation. Sufficient time had been allowed for, but the applicant had not demonstrated effort or provided information on why relocation to an alternative site could not be made;
- (c) the justifications from the applicant in support of the review applications were summarised in paragraph 3 of the Papers;
- (d) departmental comments on the review applications were summarised in paragraph 5 of the Paper and highlighted as follows:

- (i) government departments consulted had no further comment on the review applications and maintained their previous views on the s.16 applications;
 - (ii) the Director of Environmental Protection (DEP) advised that no environmental complaint pertaining to the application sites had been received in the past three years. DEP did not support the applications as there were sensitive uses (residential dwellings) in the vicinity of the sites and along the access road, Deep Bay Road, and environmental nuisance was expected;
- (e) during the statutory publication periods of the review applications and further information submitted by the applicant, three public comments objecting to Applications No. A/YL-LFS/206, 208 and 209 and two public comments objecting to Application No. A/YL-LFS/207 were received. Their views were summarised below:
- (i) Designing Hong Kong Ltd. considered that the applied uses were not in line with the planning intention of the “REC” zone of the area and there was blight on the environment. As the sites fell within Category 4 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E), they were not suitable for open storage use. Conditions requiring a quality landscape plan and well designed perimeter fencing should be imposed should the applications be approved;
 - (ii) a member of the public noted that through a series of temporary applications, the temporary uses had been made permanent. This commenter concerned about the air quality impact and traffic safety impact generated by the applied uses, and the cumulative effect of the impacts of the four applications;
- (f) PlanD’s views - PlanD did not support the review applications based on

the assessments set out in paragraph 7 of the Papers, which were summarised below:

- (i) the applied uses were not in line with the planning intention of the “REC” zone which was primarily for recreational developments for the use of the general public. Open storage and workshop uses were incompatible with recreation uses, and continual approval of the sites for such uses would frustrate the planning intention of the “REC” zone at the subject sites and their immediate surroundings. The applicant argued that there was no plan/programme to implement the “REC” zone and comprehensive supporting facilities should be provided by the Government to implement its planning intention. In this regard, as the majority of the land in the “REC” zone was under private ownership, its implementation had to rely on private sector initiative. However, the Study on the Enhancement of the Lau Fau Shan Rural Township and Surrounding Areas (Lau Fau Shan Study) had identified a number of enhancements to the supporting facilities to promote the Lau Fau Shan area as an eco-cultural tourism destination;

- (ii) the applicant claimed that the site had been used for storage purpose before 1990. While it was beyond the Board’s jurisdiction to determine any existing use (EU) claims, PlanD’s landuse record revealed that when the Lau Fau Shan and Tsim Bei Tsui Interim Development Permission Area Plan No. IDPA/YL-LFS/1 was gazetted on 17.8.1990, the sites were:
 - for residential purposes (A/YL-LFS/206);
 - partly as fallow agricultural land and partly for car repairing (A/YL-LFS/207);
 - fallow/ cultivated agricultural land (A/YL-LFS/208); and
 - partly as an open storage yard for marble (eastern part) and partly for residential (southern part) and a pigsty (western part) (A/YL-LFS/209)

No strong justification had been given in the submission of the applications for a departure from the planning intention of the “REC” zone, even on a temporary basis. Although there were open storage uses and workshops in the vicinity of the sites in the subject “REC” zone, many of these developments were suspected UDs which would be subject to enforcement action;

- (iii) the sites were the subject of previous approvals for similar uses when they were classified as Category 3 areas under the TPB PG-No. 13C. They had been re-classified to Category 4 areas since TPB PG-No. 13D to reflect the Board’s intention to phase out non-conforming uses in the less disturbed areas near the coast to the northwest of Deep Bay Road. The last previous applications for the same/similar use by the same applicant for the subject sites were approved by the RNTPC on 14.9.2007 for a period of two years to allow time for relocation upon reclassification of the sites to Category 4 areas. Other than claiming that the low profit margin of the marble storage/workshop business was insufficient to cover the high cost of relocation, the applicant had not demonstrated effort or provided information on why relocation to an alternative site could not be made. The review applications did not meet the TPB PG-No. 13E in that there was no exceptional circumstance to justify the applied uses, there were adverse comments from the public and DEP, and that it was not in line with the intention of Category 4 areas which was to encourage the phasing out of non-conforming uses; and
- (iv) the sites gained access from the single-lane-two-way Deep Bay Road and DEP considered that the applied uses would cause environmental nuisance on sensitive receivers (residential dwellings) in the vicinity of the sites and along the access road.

187. The Chairman then invited the applicant to elaborate on the applications.

188. Ms. Cheuk Miu Fun made the following main points:

- (a) the application sites had been used for storage and workshop of marble for over 20 years and no local objection from the residents of the surrounding dwellings had been received. It should be noted that the public comments objecting to the applications were not from the local residents;
- (b) Mr. Lam Ping Kei, the applicant had complied with the Board's approval conditions in implementing and maintaining the environmental facilities on the sites, and the trees and drainage channels thereon were well maintained;
- (c) the marble industry was a dying industry with a low profit margin. The applicant was the landowner of the application sites. He had rented the sites to three tenants for open storage of marble with workshop uses at half of the market rent. As the marble pieces stored on the application sites were large in size, it would be very costly to relocate them to other alternative sites. In addition, the operators would not be able to pay for the high market rents of alternative sites. As such, the existing operators would be forced to close their business if they had to move out from the application sites;
- (d) the sites were zoned "REC" on the OZP. However, until now, there was no programme for its implementation. As such, the existing marble storage and workshop uses should be allowed to stay. Otherwise, the sites would be left vacant which was a waste of land resource. Moreover, the owner would not have any income from renting out the sites, nor any compensation from the Government;
- (e) the applicant would like to know whether the Government or the private sector would implement the planning intention of the "REC" zone; and
- (f) it would take only six months to relocate the marble storage yards elsewhere. Nevertheless, to avoid a waste of land resources, the Board

was asked to give sympathetic consideration to allow the temporary uses to stay until the sites were required for development to the zoned use.

189. Mr. Lam Ping Ki showed a demand note in relation to Short Term Waiver of the application sites issued by the Lands Department, and said that he had paid relevant fees for the marble storage uses on the application sites and observed all the relevant legislation. He said that the storage use existed before the designation of the “REC” zone on the OZP, and asked for the Board’s sympathetic consideration to allow the temporary uses.

190. A Member asked about the official land use records on the application sites and the location of sensitive receivers in the surrounding areas.

191. In response, by referring to a drawing showing the land use record of the area, Ms. Amy Cheung, DPO/TMYL said that only the eastern part of application site under application No. A/YL-LFS/209 was used for marble storage when the Lau Fau Shan and Tsim Bei Tsui Interim Development Permission Area Plan No. IDPA/YL-LFS/1 was gazetted on 17.8.1990. The rest of the application sites were used for residential purposes, pigsty, and fallow/cultivated agricultural land.

192. In response to another Member’s question, Ms. Amy Cheung said that as far as environmental nuisances were concerned, the operation of the marble storage activities and the workshop might generate air, noise, as well as water pollution impact. As the operation involved the use of heavy vehicles for transporting marbles, thus would also induce air and noise impact along the access road.

193. Mr. Lam Ping Ki, the applicant, pointed out that the structure to the northeast of the application sites was no longer a residential dwelling as it had been changed to a warehouse. He also pointed out that to the east of the application sites was a metal workshop. Hence, there was no sensitive receiver in the vicinity of the sites.

194. Ms. Cheuk Miu Fun said that although there was a residential dwelling less than 15m away from one of the application sites, the local residents had not raised any objection against the applications. She also pointed out that the existing trees along the boundary of the sites were well maintained and they served to alleviate the dust impacts of

the open storage of marble and workshop uses on the sites. Moreover, there was no report on any pollution on the nearby farmland because of the operation on sites. The above had demonstrated that the concern of EPD about the environmental nuisance from the applied uses was not substantiated.

195. Mr. Lam Ping Ki supplemented that no local objection against the applications was received by the District Office (Yuen Long). All concerned government departments, except EPD, had no adverse comments on the applications. He also said that the employees of the marble business, who had also attended the meeting, would be out of jobs if the marble storage yards were not allowed to continue to operate.

196. Ms. Cheuk Miu Fun said that the applicant was aware of the Board's intention of phasing out non-conforming uses in the less disturbed areas near the coast to the northwest of Deep Bay Road by reclassifying the application sites from Category 3 to Category 4 areas. However, given the low profit margin of the marble industry, it was difficult for the operators to find alternative sites with comparable low rent. The workers would lose their jobs once the marble storage and workshop on the application sites were closed. The landowner would also suffer from the loss of rental income. Moreover, it was a waste of the land resources if no temporary uses were allowed on sites. As such, she appealed to the Board for sympathetic consideration to allow the temporary uses to stay until there was concrete plan for the implementation of the "REC" intention of the sites.

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

Deliberation Session

198. Mr. C.W. Tse, Assistant Director (Environmental Assessment), Environmental Protection Department (EPD), said that the residential dwellings in the vicinity of the

application sites could be subject to potential environmental nuisance. However, having considered that in real life situation that there was no environmental complaint pertaining to the application sites received in the past three years, EPD would have no objection if the Board decided to approve the applications subject to adding an advisory clause to advise the applicant that the operation on the application sites would be subject to the control of environmental legislation.

199. Noting that the majority of the land in the “REC” zone was under private ownership and implementation of the “REC” zone had to rely on the initiative of the private sector, Miss Annie Tam, the Director of Lands, was of the view that it might take very long time to realise the planning intention and it would be a waste of land resources if no temporary uses were allowed in the interim.

200. Some Members opined that it would be difficult to implement the planning intention of the “REC” zone of the application sites as they were under private ownership. Hence sympathetic consideration could be given to the applications.

201. In response to a Member’s question, the Secretary said that the sites were the subject of previous approvals for similar uses when they were classified as Category 3 areas under the TPB PG-No. 13C. The sites were re-classified to Category 4 under TPB PG-No. 13D promulgated in November 2005 to reflect the Board’s intention of phasing out non-conforming uses in the less disturbed areas near the coast to the northwest of Deep Bay Road. The applicant was advised in the previous approvals in 2007 that the approval period of two years were to allow time for the applicant to relocate the uses on sites to other suitable locations.

202. In response to a Member’s enquiry, the Secretary said that the TPB PG-No. 13 (i.e. for applications for open storage and port back-up uses) had been reviewed every two to three years to take account of changes in planning circumstances. The current version of the guidelines, i.e. TPB PG-No. 13E had been in force for more than two years since its promulgation in October 2008.

203. After some discussion, Members agreed that there was a need to review the classification of the application sites under the TPB PG-No. 13E. Taking into account that

the current guidelines had been in force for more than two years, the Secretary proposed for an overall review of the guidelines, and the review would be conducted in conjunction with EPD. Members agreed.

204. Members then had a discussion on the duration of the temporary approval that could be granted. Noting that the applicant claimed that the marble storage could be relocated in six months, a Member considered that a temporary approval of one year would suffice. However, some Members opined that the applied use on the sites could be tolerated pending the findings on the review of the TPB PG-No. 13E. Taking into account of the above considerations, Members considered that a temporary approval for a period of two years was appropriate. In addition, Members also agreed to add an advisory clause stating that the operation on the application sites would be subject to the control of environmental legislation.

A/YL-LFS/206

205. After further deliberation, the Board decided to approve the application on review on a temporary basis for a period of two years until 8.4.2013, on the terms of the application as submitted to the Board and subject to the following conditions:

- (a) no night-time operation between 7:00 pm to 7:00 am, as proposed by the applicant, was allowed on the site during the approval period;
- (b) no operation on Sundays or public holidays was allowed on the site during the planning approval period;
- (c) no medium or heavy vehicle (i.e. over 5.5 tonnes) as defined in the Road Traffic Ordinance, or container trailer/tractor was allowed for the operation of the site during the planning approval period;
- (d) no material was allowed to be stored/dumped within 1m of any tree on the site during the planning approval period;
- (e) the landscape planting on the application site should be protected and

maintained at all times during the planning approval period;

- (f) the drainage facilities implemented on the site under Application No. A/YL-LFS/164 should be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on-site within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.10.2011;
- (h) the submission of run-in/out proposals within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 8.10.2011;
- (i) in relation to (h) above, the implementation of run-in/out proposals within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 8.1.2012;
- (j) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.10.2011;
- (k) in relation to (j) above, the implementation of fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.1.2012;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (m) if any of the above planning conditions (g), (h), (i), (j) or (k) was not

complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and

- (n) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

206. The Board also agreed to advise the applicant of the following:

- (a) prior planning permission should have been obtained before continuing the development on the site;
- (b) a shorter approval of two years was granted pending the findings on the review of the classification of the application site under the TPB PG-No. 13E;
- (c) to resolve any land issues relating to the development with the concerned owners of the site;
- (d) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots held under the Block Government Lease under which no structure was allowed to be erected without his prior approval, and to apply for Short Term Waiver (STW) to regularize the unauthorized structures on the lots concerned. Should no STW application be received/approved and the irregularities persist on-site, he would consider taking appropriate enforcement action against the registered owner. He did not provide maintenance works to the Government land nor guarantee right-of-way on the private land through which the site gained access from Deep Bay Road;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental

nuisance and to note that the operation on the application site was subject to the control of environmental legislation;

- (f) to note the comments of the Commissioner for Transport that the land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department to revise the access arrangement such that the sites of Applications No. A/YL-LFS/207 to 209 submitted by him could share the same access point; to construct the run-in/out at the access point at Deep Bay Road in accordance with the latest version of HyD's Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set was appropriate to match with the existing pavement; to provide adequate drainage measures at the site entrance to prevent surface runoff flowing from the site to the nearby public roads/drains;
- (h) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of layout plan(s), which should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs were to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of certain FSI, the applicant was required to provide justifications to him for consideration; and
- (i) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the granting of planning approval should not be construed as condoning to any unauthorized structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under BO or other enactment might be taken if contravention was found. Formal submission of any proposed new works,

including temporary structures for approval under the Buildings Ordinance was required; containers used as office were considered to be temporary buildings and were subject to control under the Building (Planning) Regulations (B(P)R), Part VII; if the site was not abutting on a street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage; provision of emergency vehicular access to all buildings was applicable under B(P)R 41D.

A/YL-LFS/207

207. After further deliberation, the Board decided to approve the application on review on a temporary basis for a period of two years until 8.4.2013, on the terms of the application as submitted to the Board and subject to the following conditions:

- (a) no night-time operation between 7:00 pm to 7:00 am, as proposed by the applicant, was allowed on the site during the approval period;
- (b) no operation on Sundays or public holidays was allowed on the site during the planning approval period;
- (c) no medium or heavy vehicle (i.e. over 5.5 tonnes) as defined in the Road Traffic Ordinance, or container trailer/tractor was allowed for the operation of the site during the planning approval period;
- (d) no material was allowed to be stored/dumped within 1m of any tree on the site during the planning approval period;
- (e) the landscape planting on the application site should be protected and maintained at all times during the planning approval period;
- (f) the drainage facilities implemented on the site under Application No. A/YL-LFS/161 should be maintained at all times during the planning approval period;

- (g) the submission of a condition record of the existing drainage facilities on-site within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.10.2011;
- (h) the submission of run-in/out proposals within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 8.10.2011;
- (i) in relation to (h) above, the implementation of run-in/out proposals within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 8.1.2012;
- (j) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.10.2011;
- (k) in relation to (j) above, the implementation of fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.1.2012;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (m) if any of the above planning conditions (g), (h), (i), (j) or (k) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (n) upon expiry of the planning permission, the reinstatement of the

application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

208. The Board also agreed to advise the applicant of the following:

- (a) prior planning permission should have been obtained before continuing the development on the site;
- (b) a shorter approval of two years was granted pending the findings on the review of the classification of the application site under the TPB PG-No. 13E;
- (c) to resolve any land issues relating to the development with the concerned owners of the site;
- (d) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots held under the Block Government Lease under which no structure was allowed to be erected without his prior approval, and he reserved the right to take enforcement action against any breach of conditions of the Short Term Waivers (STWs) No. 3175 and 3176 found within the site. To apply for Short Term Tenancy (STT) to regularize the unauthorized occupation of Government land (GL). Should no STT application be received/approved and the irregularities persist on-site, he would consider taking appropriate land control action against the occupier. He did not provide maintenance works to the GL nor guarantee right-of-way on the track through which the site gains access from Deep Bay Road;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance and to note that the operation on the application site was subject to the control of environmental legislation;

- (f) to note the comments of the Commissioner for Transport that the land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department to revise the access arrangement such that the sites of Applications No. A/YL-LFS/206, 208 and 209 submitted by him could share the same access point; to construct the run-in/out at the access point at Deep Bay Road in accordance with the latest version of HyD's Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set was appropriate to match with the existing pavement; to provide adequate drainage measures at the site entrance to prevent surface runoff flowing from the site to the nearby public roads/drains;
- (h) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of layout plan(s), which should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs were to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of certain FSI, the applicant was required to provide justifications to him for consideration; and
- (i) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the granting of planning approval should not be construed as condoning to any unauthorized structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under BO or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including temporary structures for approval under the Buildings Ordinance was required; containers used as office were considered to be temporary buildings and were subject to control under the Building (Planning)

Regulations (B(P)R), Part VII; if the site was not abutting on a street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage; provision of emergency vehicular access to all buildings was applicable under B(P)R 41D.

A/YL-LFS/208

209. After further deliberation, the Board decided to approve the application on review on a temporary basis for a period of two years until 8.4.2013, on the terms of the application as submitted to the Board and subject to the following conditions:

- (a) no night-time operation between 7:00 pm to 7:00 am, as proposed by the applicant, was allowed on the site during the approval period;
- (b) no operation on Sundays or public holidays was allowed on the site during the planning approval period;
- (c) no medium or heavy vehicle (i.e. over 5.5 tonnes) as defined in the Road Traffic Ordinance, or container trailer/tractor was allowed for the operation of the site during the planning approval period;
- (d) no material was allowed to be stored/dumped within 1m of any tree on the site during the planning approval period;
- (e) the landscape planting on the application site should be protected and maintained at all times during the planning approval period;
- (f) the drainage facilities implemented on the site under Application No. A/YL-LFS/162 should be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on-site within 6 months from the date of planning approval to the

satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.10.2011;

- (h) the submission of run-in/out proposals within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 8.10.2011;
- (i) in relation to (h) above, the implementation of run-in/out proposals within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 8.1.2012;
- (j) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.10.2011;
- (k) in relation to (j) above, the implementation of fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.1.2012;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (m) if any of the above planning conditions (g), (h), (i), (j) or (k) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (n) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

210. The Board also agreed to advise the applicant of the following:

- (a) prior planning permission should have been obtained before continuing the development on the site;
- (b) a shorter approval of two years was granted pending the findings on the review of the classification of the application site under the TPB PG-No. 13E;
- (c) to resolve any land issues relating to the development with the concerned owners of the site;
- (d) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots held under the Block Government Lease under which no structure was allowed to be erected without his prior approval, and he reserved the right to take enforcement action against any unauthorized structures (including converted containers) and any breach of conditions of the Short Term Waiver (STW) No. 2481 found within the site. To apply for STW/Short Term Tenancy (STT) to regularize the unauthorized structures on-site and the unauthorized occupation of Government land (GL). Should no STT/STW application be received/approved and the irregularities persist on-site, he would consider taking appropriate land control/lease enforcement action against the occupier. He did not provide maintenance works to the GL nor guarantee right-of-way on the track through which the site gained access from Deep Bay Road;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance and to note that the operation on the application site was subject to the control of environmental legislation;
- (f) to note the comments of the Commissioner for Transport that the land

status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;

- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department to revise the access arrangement such that the sites of Applications No. A/YL-LFS/206, 207 and 209 submitted by him could share the same access point; to construct the run-in/out at the access point at Deep Bay Road in accordance with the latest version of HyD's Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set was appropriate to match with the existing pavement; to provide adequate drainage measures at the site entrance to prevent surface runoff flowing from the site to the nearby public roads/drains;
- (h) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of layout plan(s), which should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs were to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of certain FSI, the applicant was required to provide justifications to him for consideration; and
- (i) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the granting of planning approval should not be construed as condoning to any unauthorized structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under BO or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including temporary structures for approval under the Buildings Ordinance was required; containers used as office were considered to be temporary buildings and were subject to control under the Building (Planning) Regulations (B(P)R), Part VII; if the site was not abutting on a street

having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage; provision of emergency vehicular access to all buildings was applicable under B(P)R 41D.

A/YL-LFS/209

211. After further deliberation, the Board decided to approve the application on review on a temporary basis for a period of two years until 8.4.2013, on the terms of the application as submitted to the Board and subject to the following conditions:

- (a) no night-time operation between 7:00 pm to 7:00 am, as proposed by the applicant, was allowed on the site during the approval period;
- (b) no operation on Sundays or public holidays was allowed on the site during the planning approval period;
- (c) no medium or heavy vehicle (i.e. over 5.5 tonnes) as defined in the Road Traffic Ordinance, or container trailer/tractor was allowed for the operation of the site during the planning approval period;
- (d) no material was allowed to be stored/dumped within 1m of any tree on the site during the planning approval period;
- (e) the landscape planting on the application site should be protected and maintained at all times during the planning approval period;
- (f) the drainage facilities implemented on the site under Application No. A/YL-LFS/163 should be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on-site within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning

Board by 8.10.2011;

- (h) the submission of run-in/out proposals within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 8.10.2011;
- (i) in relation to (h) above, the implementation of run-in/out proposals within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 8.1.2012;
- (j) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.10.2011;
- (k) in relation to (j) above, the implementation of fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.1.2012;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (m) if any of the above planning conditions (g), (h), (i), (j) or (k) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (n) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

212. The Board also agreed to advise the applicant of the following:

- (a) prior planning permission should have been obtained before continuing the development on the site;
- (b) a shorter approval of two years was granted pending the findings on the review of the classification of the application site under the TPB PG-No. 13E;
- (c) to resolve any land issues relating to the development with the concerned owners of the site;
- (d) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots held under the Block Government Lease under which no structure was allowed to be erected without his prior approval, and he reserved the right to take enforcement action against any breach of conditions of the Short Term Waiver (STW) No. 3176 found within the site. To apply for Short Term Tenancy (STT)/STW to regularize the unauthorized occupation of Government land (GL) and unauthorized structures on-site. Should no STT/STW application be received/approved and the irregularities persist on-site, he would consider taking appropriate land control/lease enforcement action against the occupier/registered owner. He did not provide maintenance works to the GL nor guarantee right-of-way on the track through which the site gained access from Deep Bay Road;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance and to note that the operation on the application site was subject to the control of environmental legislation;
- (f) to note the comments of the Commissioner for Transport that the land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the

same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;

- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department to revise the access arrangement such that the sites of Applications No. A/YL-LFS/206 to 208 submitted by him could share the same access point; to construct the run-in/out at the access point at Deep Bay Road in accordance with the latest version of HyD's Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set was appropriate to match with the existing pavement; to provide adequate drainage measures at the site entrance to prevent surface runoff flowing from the site to the nearby public roads/drains;
- (h) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of layout plan(s), which should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs were to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of certain FSI, the applicant was required to provide justifications to him for consideration; and
- (i) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the granting of planning approval should not be construed as condoning to any unauthorized structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under BO or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including temporary structures for approval under the Buildings Ordinance was required; containers used as office were considered to be temporary buildings and were subject to control under the Building (Planning) Regulations (B(P)R), Part VII; if the site was not abutting on a street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage;

provision of emergency vehicular access to all buildings was applicable under B(P)R 41D.

Agenda Item 4

[Open Meeting]

Draft Shek Kwu Chau Outline Zoning Plan No.S/I-SKC/F

Further Consideration of a New Plan

(TPB Paper No. 8789)

[The hearing was conducted in Cantonese.]

213. The following Members had declared interests on the item:

Mr. C.W. Tse (Assistant Director (Environmental Assessment)	-	the Environment Protection Department's integrated waste management facilities (IWMF) was one of the proposals in the draft Shek Kwu Chau (SKC) Outline Zoning Plan (OZP) under consideration
Professor Paul K.S. Lam]	
Professor Joseph H. W. Lee]	
Dr. W.K. Lo]	were members of Advisory Council on the Environment (ACE)
Ms. Pansy L.P. Yau]	
Dr. W.K. Yau]	

214. Members agreed that the interest of the above Members were indirect and not substantial, and they could stay at the meeting. Members noted that Ms. Pansy L.P. Yau and Dr. W.K. Yau had already left the meeting, and Professor Paul K.S. Lam, Professor Joseph H.W. Lee and Dr. W.K. Lo had tendered apologies for not attending the meeting.

215. The following representatives of the Planning Department (PlanD), Environmental Protection Department (EPD) and Agriculture, Fisheries and Conservation Department (AFCD) were invited to the meeting at this point:

Mr. Ivan Chung	-	District Planning Officer/Sai Kung and Islands (DPO/SKIs), PlanD
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- Mr. Elvis Au - Assistant Director (Nature Conservation & Infrastructure Planning, EPD
- Mr. Lui Ping Hon - Principal Environmental Protection Officer (Infrastructure Planning), EPD
- Miss Yang Ka Yee, Josephine - Senior Nature Conservation Officer, AFCD

216. The Chairman extended a welcome and invited Mr. Ivan Chung to brief Members on the Paper.

217. With the aid of a Powerpoint presentation, Mr. Ivan Chung briefed Members on the new draft Shek Kwu Chau (SKC) OZP as follows:

- (a) at the TPB meeting on 25.2.2011, the EPD briefed the Board on the progress on the key initiatives in the “Policy Framework for the Management of Municipal Solid Waste (MSW) (2005-2014)” and the proposed Integrated Waste Management Facilities (IWMF) as a component of the package of waste treatment and disposal facilities to deal with local wastes. At the same meeting, the Board gave preliminary consideration to the draft SKC OZP and agreed that the draft OZP was suitable for submission to the Islands District Council (DC) for consultation;
- (b) on 21.3.2011, the Tourism, Agriculture, Fisheries and Environmental Hygiene Committee (TAFEHC) of the Islands DC was consulted. Before the discussion, representatives of the Cheung Chau Rural Committee (RC) and South Lantau RC submitted two letters to the PlanD expressing their objection to the proposed IWMF;
- (c) during discussion, members of the TAFEHC were mainly concerned about the proposed IWMF at SKC and had not made specific comments on the land use zonings on the draft OZP. The TAFEHC passed a motion on its objection to the consultation paper and demanded the Government to

terminate its plan to construct incineration facilities on SKC;

- (d) the views expressed by the TAFEHC and the two RCs were mainly on insufficient public consultation, site selection for IWMF, environmental aspects of IWMF, and overall waste management strategy and need for incineration;
- (e) in consultation with EPD and AFCD, PlanD's views on the points raised by TAFEHC of the Islands DC and the two RCs were detailed in paragraph 4 of the Paper and highlighted below:

Insufficient public consultation

- (i) EPD had undertaken extensive public engagement on the proposed IWMF. From February to May 2008, EPD conducted briefings for the LegCo Panel on Environmental Affairs, Tuen Mun and Islands DCs, Cheung Chau RC and Cheung Chau residents (in the form of public forum). In September 2009, a delegation comprising representatives from EPD and 26 members of the Tuen Mun and Islands DCs conducted a study visit to Tokyo and Osaka to inspect the use of advanced incineration technologies for waste and sludge treatment in Japan;
- (ii) since the announcement of the EIA report for the IWMF under the Environmental Impact Assessment Ordinance (EIAO) on 17.2.2011, EPD had undertaken further consultation with various stakeholders;
- (iii) the preparation of the draft SKC OZP was made in parallel with the processing of the EIA report. On 25.2.2011, the Board considered the draft OZP and agreed that it was suitable for consultation with the Islands DC;
- (iv) the views of the Islands DC and RCs were reported to the Board at this meeting. Subject to the agreement of the Board, the OZP

would be formally gazetted under section 5 of the Ordinance. During the two-month exhibition period, the public could submit representations to the Board and all representations received would be available for public comments. The public would be fully consulted in accordance with the statutory plan-making process;

Site selection for IWMF

- (v) an advisory group comprising academics, professionals and environmental groups' members was set up by EPD in 2002 to advise on the choice of technology and the criteria for selecting suitable sites for building large scale waste management facilities in Hong Kong. A detailed site selection study which covered all suitable government sites was conducted in 2007-08 to examine the potential sites for developing the facility against a range of criteria. The Tsang Tsui site in Tuen Mun and the artificial island near SKC were identified for further consideration;

- (vi) the results of the site selection exercise for the IWMF was reported to the LegCo Panel on the Environmental Affairs on 29.1.2008. Taking into account the EIA report results, other factors relating to site selection and Hong Kong's overall waste management strategy, SKC was identified as the preferred site by EPD for developing the first modern IWMF due to the following considerations:
 - the artificial island near SKC was closer to the refuse transfer stations on Hong Kong Island and Kowloon. The operation of the IWMF would be more environmental and cost effective;

 - SKC was farther from major population clusters;

 - the IWMF could generate positive economic synergy with nearby islands, particularly Cheung Chau during the

construction and operation stages, in terms of an increase in employment opportunities, ferry service and other economic activities from people who worked at or visit the facility;

- IWMF site at the artificial island near SKC would achieve a well-balanced spatial distribution for waste management facilities for Hong Kong;

Environmental Aspects of IWMF

- (vii) the EIA study on IWMF commenced in 2008 assessed the direct, indirect as well as cumulative impact on areas arising from the project and other developments, covering noise, air, water, waste, ecology, fisheries, health, landscape and cultural heritage. The EIA had proposed appropriate mitigation measures to ensure that the impact on the environment could be alleviated to an acceptable level;
- (viii) the views on the environmental aspects of the IWMF raised by the TAFEHC of the Islands DC and the two RCs on air quality, health, ecology (including marine ecology) and fisheries impacts had been fully addressed by the EIA study;
- (ix) on 21.3.2011, the EIA Sub-committee of the Advisory Council on the Environment (ACE) agreed to recommend to the full Council of ACE that the EIA report for IWMF could be endorsed with some conditions;

Overall Waste Management Strategy and Need for Incineration

- (x) on 4.1.2011, the Government announced an implementation plan for waste management strategies. The implementation plan set "reduce, recycle and proper waste management" as the objective, with three core strategies including : (i) to strengthen efforts in promoting waste reduction at source and recycling; (ii) to introduce modern facilities for waste treatment; and (iii) to extend

the existing landfills in a timely manner;

- (xi) a series of action plans were thrashed out in line with the waste management strategies. The specific measures included: raising the MSW recovery target to 55% by 2015, promoting waste recovery at district levels, reducing waste at source, to introduce advanced waste treatment facilities and implementing the landfill extension plans in a timely manner;
 - (xii) on 25.2.2011, EPD briefed the Board on the above management strategy and need for development of IWMF at SKC; and
- (f) opportunity was taken to make refinements to the SKC OZP as detailed in paragraph 5 of the Paper.

218. After deliberation, the Board noted the comments from and responses to the TAFEHC of the Islands DC on the draft SKC OZP No. S/I-SKC/E and agreed that:

- (a) the draft SKC OZP No. S/I-SKC/F (Appendix 1 of the Paper) (to be renumbered as S/I-SKC/1 upon gazetting) and its Notes (Appendix 2 of the Paper) were suitable for exhibition for public inspection under section 5 of the Ordinance;
- (b) the ES (Appendix 3 of the Paper) was suitable to serve as an expression of the planning intention and objectives of the Board for various land use zonings on the draft SKC OZP; and
- (c) the ES was suitable for exhibition for public inspection together with the draft OZP and issued under the name of the Board.

Agenda Item 13

[Open Meeting]

Request for Deferral of Review of Application No. A/DPA/YL-NSW/12-2

Application for Further Extension of Time for Commencement of the Proposed Golf Course and Residential Development under Application No. A/DPA/YL-NSW/12 for Three Years until 18.12.2013

Lots 1520 RP, 1534 and 1604 in D.D. 123 and adjoining Government Land,

Nam Sang Wai, Yuen Long

(TPB Paper No. 8788)

[The hearing was conducted in Cantonese.]

Declaration of Interests

219. As the application was submitted by Nam Sang Wai Development Co. Ltd. & Kleener Investment Ltd., a subsidiary of Henderson Land Development Co. Ltd. (HLD), the following Members had declared interests on the item:

- | | | |
|-------------------------|---|--|
| Mr. Raymond Y.M. Chan | - | had current business dealings with HLD |
| Dr. C.P. Lau and | - | had a close relative being a consultant of HLD |
| Dr. James C.W. Lau | - | was a consultant of HLD projects |
| Mr. Clarence W.C. Leung | - | was a Director of an NGP that recently received a donation from a family member of the Chairman of HLD |
| Mr. Roger K.H. Luk | - | was a member of the Council of the Chinese University of Hong Kong (CUHK) which received a donation from a family member of the Chairman of HLD. |

220. As the item was to consider a request for deferment received from the applicant, Members agreed that the above Members could stay at the meeting. Members noted that Dr. C.P. Lau, Dr. James C.W. Lau and Mr. Roger K.H. Luk had already left the meeting,

and Mr. Raymond Y.M. Chan and Mr. Clarence W.C. Leung had tendered apologies for not attending the meeting.

221. The Secretary briefed Members on the background of the review application as set out in the Paper. The applicants applied for a review of the Rural and New Town Planning Committee's decision on 10.12.2010 to reject the application. On 23.3.2011 and 29.3.2011, the applicant's solicitors wrote to the Secretary requesting to defer making a decision on the review application for two months to allow more time for the applicant to submit further information or make representation for the review. The request was in compliance with the criteria for deferment as set out in the TPB Guidelines No. 33 in that the applicant needed more time to prepare further information for the review hearing, the deferment period was not indefinite, and that the deferment would not affect the interest of other relevant parties.

222. After deliberation, 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 for its consideration within three months from the date of receipt of further information from the applicants. The Board also agreed to advise the applicant that a period of two months was allowed for the preparation of the submission of the further information, and that no further deferment would be granted unless under very special circumstances.

Agenda Item 14

[Open Meeting (Presentation and Question Session Only)]

Request for Review of the Town Planning Board's Decision on Fulfillment of Approval Conditions in relation to Application No. A/DPA/YL-NSW/12 under section 17 of the Town Planning Ordinance

Proposed Golf Course and Residential Development, Lots 1520 RP, 1534 and 1604 in D.D. 123 and adjoining Government Land, Nam Sang Wai, Yuen Long
(TPB Paper No. 8790)

[The hearing was conducted in Cantonese.]

223. As the application was submitted by Nam Sang Wai Development Co. Ltd. &

Kleener Investment Ltd., a subsidiary of Henderson Land Development Co. Ltd. (HLD), the following Members had declared interests on the item:

- | | |
|-------------------------|--|
| Mr. Raymond Y.M. Chan | - had current business dealings with HLD |
| Dr. C.P. Lau and | - had a close relative being a consultant of HLD |
| Dr. James C.W. Lau | - was a consultant of HLD projects |
| Mr. Clarence W.C. Leung | - was a Director of an NGP that recently received a donation from a family member of the Chairman of HLD |
| Mr. Roger K.H. Luk | - was a member of the Council of the Chinese University of Hong Kong (CUHK) which received a donation from a family member of the Chairman of HLD. |

224. Members considered that the interests of Mr. Clarence W.C. Leung, Dr. C.P. Lau and Mr. Roger K.H. Luk were indirect and agreed that that they could stay at the meeting. Members noted that Dr. C.P. Lau, Dr. James C.W. Lau and Mr. Roger K.H. Luk had already left the meeting, and Mr. Raymond Y.M. Chan and Mr. Clarence W.C. Leung had tendered apologies for not attending the meeting.

225. The Secretary briefed Members on the background of the case as set out in the Paper as follows:

- (a) on 26.8.1994, the application was allowed by the Town Planning Appeal Board (TPAB) with conditions. The decision of the TPAB was further upheld by the Privy Council in 1996. The validity of the planning permission had been extended three times until 18.12.2010. The applicant's fourth request to extend the validity of the planning permission was rejected by the RNTPC on 10.12.2010. The applicant had applied for a review of the RNTPC's decision;
- (b) on 20.9.2010, the applicant submitted a modified Master Layout Plan

(MLP), Landscape Master Plan (LMP) and technical reports for fulfilling the approval conditions. On 1.12.2010, the Director of Planning (D of Plan) informed the applicant that the submitted modified MLP deviated substantially from the approved development scheme and therefore could not be considered in the context of compliance with condition (c) of the planning permission. The LMP and technical reports, which were all based on the modified MLP, also could not be considered in the context of fulfilment of the corresponding conditions;

- (c) on 6.12.2010, the applicant's solicitors wrote to the Secretary stating their disagreement to the views of D of Plan and sought to refer the dispute to the Board for consideration. On 17.12.2010, the Board decided that the modified MLP constituted major changes to the approved scheme and noted that the technical reports were considered not acceptable by relevant departments. Conditions (c), (d), (f) to (w) could not be regarded as satisfactorily complied with;
- (d) on 27.1.2011, the applicant's solicitors wrote to the Secretary requesting for a review of the Board's decision under section 17 of the Town Planning Ordinance (the Ordinance);
- (e) section 17 of the Ordinance applied where an applicant was aggrieved by a decision of the Board to refuse planning permission or to impose conditions subject to which the Board granted planning permission. There was no provision under s.17 of the Ordinance for the applicant to review the Board's decision on fulfilment of planning conditions; and
- (f) legal advice confirmed that the Board's decision could not be taken for review under s.17 of the Ordinance as the decision did not involve any further exercise of the Board's power under section 16 of the Ordinance.

226. After deliberation, the Board noted that there was no provision to review the Board's decision on fulfillment of approval conditions in relation to Application No. A/DPA/YL-NSW/12 under section 17 of the Ordinance.

Agenda Item 15

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26 (TPB Paper No. 8792)

[The meeting was conducted in Cantonese.]

Declaration of Interests

227. The following Members had declared interests on this item.

- | | |
|---|--|
| Ms. Maggie M.K. Chan | - owned a property within the Area |
| Mr. Fletch W.W. Chan
as the Principal Assistant
Secretary (Transport),
Transport and Housing
Bureau | - was an alternative member of the Mass Transit Railway Board. Mass Transit Railway Corporation Limited (MTRCL) was one of the representers (R4) |
| Mr. Roger K.H. Luk | - was a member of the Board of Directors of Octopus Card Ltd. in which MTRCL was a major shareholder. MTRCL was one of the representers (R4) |

228. As the item was procedural in nature and no deliberation was required, Members agreed that the above Members could stay at the meeting. Members noted that Mr. Fletch W.W. Chan and Mr. Roger K.H. Luk had already left the meeting and Ms. Maggie M.K. Chan had tendered apologies for not attending the meeting.

229. The Secretary reported that

- (a) on 19.11.2010, the amendments incorporated in the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26 were exhibited for public inspection under section 5 of the Town Planning Ordinance.

During the two-month exhibition period, a total of 1313 representations were received. On 28.1.2011, the representations were published for three weeks for public comments. One comment was received. Five representers (R614, R857, R994, R1029 and R1094) subsequently wrote to the Board indicating that they did not submit the representations. The records of these five representations had been taken out from the register and the representation numbers were skipped. The total number of valid representations was 1308 with the representation numbers remained unchanged;

- (b) It was suggested that the representations and comments should be considered by the full Board because the amendments, which were related to the imposition of building height restrictions (BHR) for the area, had attracted general public and local concerns. It was suggested to structure the hearing of representations into three groups:
 - (i) Group 1 (R2 to R4) - R2 was related to the BHR, non-building areas (NBA), building gaps and other amendments in general. R3 and R4 were related to amendments for specific “R(A)” and “OU” annotated “Mass Transit Railway Depot with Commercial and Residential Development Above” sites;
 - (ii) Group 2 (R1 and R5) - R1 and R5 were related to “G/IC” sites; and
 - (iii) Group 3 (R6 to R1313 and C1) - they were related to the BH, NBA and building gap restrictions for the Kai Tak Mansion which was zoned “R(A)”.

230. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of representations and comments as detailed in paragraph 2 of the Paper.

Agenda Item 16

[Open Meeting]

Submission of the Draft Tai Long Sai Wan Development Permission Area Plan No. DPA/SK-TLSW/1A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance
(TPB Paper No. 8793)

[The hearing was conducted in Cantonese.]

Declaration of Interests

231. The following Member had declared interests on this item.

Mr. Stephen M.W. Yip - was a former consultant of the Executive Committee under the Sai Kung Rural Committee

232. As the item was procedural in nature and no deliberation was required, Members agreed that the above Member could stay at the meeting.

233. The Secretary briefed Members as detailed in the Paper.

234. After deliberation, the Board:

(c) agreed that the draft Tai Long Sai Wan Development Permission Area Plan No. DPA/SK-TLSW/1A and its Notes at Annexes I and II 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;

(d) endorsed the updated Explanatory Statement (ES) for the draft Tai Long Sai Wan Development Permission Area Plan No. DPA/SK-TLSW/1A at Annex III of the Paper as an expression of the planning intentions and objectives of the Board for various land-use zonings on the draft DPA Plan and to be issued under the name of the Board; and

- (e) agreed that the updated ES was suitable for submission to the CE in C together with the draft DPA Plan.

Agenda Item 17

[Open Meeting]

Submission of the Draft Central District Outline Zoning Plan No. S/H4/13A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8794)

[The hearing was conducted in Cantonese.]

235. Noting that the consideration of further representation to the draft Central District Outline Zoning Plan No. S/H4/13 under Item 8 was deferred, the Board agreed to withdraw this item.

Agenda Item 18

[Open Meeting]

Submission of the Draft Kwai Chung Outline Zoning Plan No. S/KC/24A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8795)

[The hearing was conducted in Cantonese.]

Declaration of Interests

236. The following Members had declared interests on this item.

Mr. Jimmy C.F. Leung as the Director of Planning	- was a member of the Building Committee (BC) and Strategic Planning Committee (SPC) of Hong Kong Housing Authority (HKHA). HKHA was responsible for the rezoning of the ex-Kwai Chung Police Married Quarters site to facilitate public rental housing development (OZP No. S/KC/22)
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- | | | |
|---|---|---|
| Mr. Andrew Tsang
as the Assistant Director (2) of
the Home Affairs Department | - | was a representative of the Director of Home Affairs who was a member of the SPC and Subsidized Housing Committee of HKHA |
| Miss Annie K.L. Tam
as the Director of Lands |] | was a Member of HKHA |
| Mr. Stanley Y.F. Wong |] | |
| Professor Edwin H.W Chan | - | was a member of the Sub-Committee of BC of HKHA |
| Dr. W.K. Lo | - | was a member of the BC of HKHA |
| Mr. Stephen M.W. Yip | - | was a former Chairman of BC, member of SPC and member of Tender Committee of HKHA |
| Mr. Y.K. Cheng | - | his spouse was the Chief Architect of the Housing Department |
| Mr. Raymond Y.M. Chan | - | had business dealings with HKHA |
| Dr. Winnie S.M. Tang | - | was a member of the Kwai Tsing District Council |
| Ms. Anna S.Y. Kwong | - | was the Authorised Person of a development site at Cheung Wing Road/Kwok Shui Road in the area |

237. As the item was procedural in nature and no deliberation was required, Members agreed that the above Members could stay at the meeting. Members noted that Professor Edwin H.W Chan had already left the meeting and Mr. Andrew Tsang, Dr. W.K. Lo, Mr. Raymond Y.M. Chan and Dr. Winnie S.M. Tang had tendered apologies for not attending the meeting.

238. The Secretary briefed Members as detailed in the Paper.

239. After deliberation, the Board:

- (f) agreed that the draft Kwai Chung Outline Zoning Plan No. S/KC/24A and its Notes at Annexes A and B 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;
- (g) endorsed the updated Explanatory Statement (ES) for the draft Kwai Chung Outline Zoning Plan No. S/KC/24A at Annex C of the Paper as an expression of the planning intentions and objectives of the Board for various land-use zonings on the draft OZP and to be issued under the name of the Board; and
- (h) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 19

240. This item was reported under confidential cover.

Agenda Item 20

Any Other Business

[The meeting was conducted in Cantonese.]

241. There being no other business, the meeting was closed at 9:40pm.