

**Minutes of 983<sup>rd</sup> Meeting of the  
Town Planning Board held on 13.5.2011**

**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. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Dr. James C.W. Lau

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Professor Eddie C.M. Hui

Dr. C.P. Lau

Mr. Clarence W.C. Leung

Dr. W.K. Lo

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

Director of Lands

Ms. Annie Tam

Principal Environmental Protection Officer (Strategic Assessment)

Environmental Protection Department

Mr. H.M. Wong

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Mr. Fletch W.W. Chan

Assistant Director (2), Home Affairs Department

Mr. Andrew Y.T. Tsang

Director of Planning

Mr. Jimmy C.F. Leung

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

**Absent with Apologies**

Mr. B.W. Chan

Ms. Maggie M.K. Chan

Mr. Y.K. Cheng

Professor Paul K.S. Lam

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Professor P.P. Ho

Ms. Julia M.K. Lau

Mr. Laurence L.J. Li

**In Attendance**

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

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

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

Town Planner/Town Planning Board  
Ms. Karina W.M. Mok (p.m.)

## **Agenda Item 1**

[Open Meeting]

### Confirmation of Minutes of the 981<sup>st</sup> and 982<sup>nd</sup> Meetings held on 26.4.2011 and 29.4.2011

[The meeting was conducted in Cantonese.]

1. The minutes of the 981<sup>st</sup> and 982<sup>nd</sup> Meetings held on 26.4.2011 and 29.4.2011 respectively were confirmed without amendments.

## **Agenda Item 2**

### Matters Arising

[The meeting was conducted in Cantonese.]

- (i) This item was recorded under confidential cover.
- (ii) Proposed Amendments to the Draft Central District Outline Zoning Plan No. S/H4/13 as Further Varied  
Upon Consideration of Further Representation  
[Open Meeting. This item was conducted in Cantonese.]

2. Mr. Felix W. Fong had declared an interest on this item as he had current business dealings with Hutchison Whampoa Ltd. (HWL). Turbo Top Limited (F1) was a subsidiary of HWL and the subject amendments under consideration were to partially meet F1. Members noted that Mr. Felix W. Fong had not yet arrived to join the meeting at this point.

3. The Secretary reported that on 15.4.2011, the Board considered the further representation in respect of the proposed amendments to the draft Central District Outline Zoning Plan (OZP) No. S/H4/13 to partially meet the Representations No. R2 and R5. At the meeting, Members considered it necessary to keep the stipulation of the requirement on the provision of public car parking spaces at the Cheung Kong Centre (CKC) site under the “Commercial (1)” (“C(1)”) zone to ensure the continuous provision of public car parking spaces. However, flexibility should be allowed by providing a mechanism for the Board to

consider application for minor relaxation of the restriction on the minimum number of public car park spaces to meet the changing circumstances. Members also agreed to delete the imposition of restriction on the retail gross floor area (GFA) from the Notes of the “C(1)” zone so that it would be consistent with the development restrictions in that respect imposed on the International Finance Centre site. After deliberation, the Board decided to vary the amendments to the Notes and Explanatory Statement (ES) of the OZP to partially meet F1 and requested the Secretariat to work out the amendments for its further consideration.

#### Proposed Amendments as Further Varied

4. The proposed amendments to the OZP as further varied had been set out in the TPB Paper on Matters Arising (ii) (the TPB Paper) and highlighted as follows :

- to delete the restriction of providing not more than 680m<sup>2</sup> of GFA for retail purpose for the “C(1)” zone;
- to delete the restriction of providing not less than 25,000m<sup>2</sup> of GFA for public car parking for the “C(1)” zone; and
- to incorporate a provision for minor relaxation of the restriction on the provision of public car parking spaces on application for the “C(1)” zone.

5. The Secretary said that according to the Notes of the “C(1)” zone, the CKC site was subject to two requirements in respect of public car parking provision, namely, a GFA of not less than 25,000m<sup>2</sup> and a minimum of 800 public car parking spaces. For other OZPs, the general practice was to stipulate public car parking requirement for particular sites either in terms of minimum GFA or minimum number of parking spaces. For consistency, it was therefore suggested that the restriction on the provision of a minimum GFA for public car parking for the “C(1)” zone be deleted. As there was restriction of providing a minimum of 800 public car parking spaces in the Notes for the “C(1)” zone, the developer would be required to seek planning permission under s.16 of the Town Planning Ordinance if the requirement on the minimum number of parking spaces had to be relaxed. In response to the Chairman’s enquiry, the Secretary said that as compared with the stipulation of providing a minimum GFA, the stipulation of providing a minimum number of public car spaces would allow more flexibility for the design of the public car park. Members agreed.

6. After deliberation, Members agreed to the proposed amendments as further varied as set out at paragraph 3 of the TPB Paper and decided that the amendments as further varied at this meeting (shown at Annexes I and II of the TPB Paper) should form part of the draft Central District OZP No. S/H4/13. In accordance with section 6H of the Town Planning Ordinance, the OZP should thereafter be read as including the amendments. The amendments should be made available for public inspection until the Chief Executive in Council had made a decision in respect of the draft plan in question under s.9 of the Ordinance. The Building Authority and relevant government departments would be informed of the decision of the Board and would be provided with a copy/copies of the amendments.

(iii) Proposed Amendment to the Draft Wan Chai Outline Zoning Plan No. S/H5/26 Arising from Consideration of Representations  
[Open Meeting. The meeting was conducted in Cantonese.]

7. The following Members had declared interests on this item:

- |                       |   |   |
|-----------------------|---|---|
| Mr. K.Y. Leung        | - | his spouse owned a flat on Lockhart Road  |
| Ms. Julia M.K. Lau    | - | owned properties in Star Street   |
| Mr. Laurence L.J. Li  | - | owned a flat in Wan Chai  |
| Mr. Rock C.N. Chen    | - | owned a flat in Star Street   |
| Mr. Raymond Y.M. Chan |   | had current business dealings with Swire and Hysan which submitted representations to the OZP |

8. As the property owned by Mr. K.Y. Leung's spouse was far from the representation site under consideration, Members agreed that Mr. Leung could be allowed to stay in the meeting for this item. The Board also noted that Mr. Laurence L.J. Li and Ms. Julia Lau had tendered apologies for not being able to attend the meeting whilst Mr. Rock C.N. Chen and Mr. Raymond Y.M. Chan had not yet arrived.

9. The Secretary reported that upon consideration of the representations to and comments on the amendments to the draft Wan Chai OZP No. S/H5/26 on 26.4.2011, the Board decided to partially meet Representation No. R98 to R100 by rezoning the sites at 8-10 and 12-18 Wing Fung Street from “Residential (Group A) to a sub-area of “Commercial” (“C”) zone with a building height restriction (BHR) of 120mPD, and with a requirement that any redevelopment for commercial/office use be subject to the approval by the Board to ensure that there would be no adverse traffic impact. In accordance with the Board’s decision, the proposed amendments to the Plan were shown in Annex II of the TPB Paper on Matters Arising (iii) to reflect the following:

Rezoning of the sites at 8-10 and 12-18 Wing Fung Street from “Residential (Group A)” (“R(A)”) to “C(7)” subject to a BH restriction of 120mPD and setback requirement of 1m from the lot boundary fronting Wing Fung Street.

10. The proposed amendments to the Remarks in the Notes for the “C” zone and the proposed amendments to the relevant section of the Explanatory Statement (ES) of the Plan were shown in Annexes III and IV of the TPB Paper on Matters Arising (iii).

11. After deliberation, Members agreed that the proposed amendments to the draft Wan Chai OZP No. S/H5/26 as shown at Annexes II to III were suitable for publication for further representation under section 6(C)2 of the Ordinance, and the revised ES at Annex IV was suitable for publication together with the proposed amendments.

(iv) Amendment to the Confirmed Minutes of the TPB Meeting held on 11.3.2011  
[Open Meeting. The meeting was conducted in Cantonese.]

12. The Secretary reported that on 11.5.2011, the representative of Representation No. 14 (R14) in respect of the draft Pak Lap Development Permission Area Plan No. DPA/SK-PL/1 wrote to the Board advising that the lot numbers of the concerned representation site should include Lots No. 79, 82, 88 and 89RP in D.D. 368 and the Chinese name of Mr. Lau Pak On who attended the hearing in respect of R13 and R14 should read as ‘劉伯安先生’. A copy of the proposed amendments had been tabled at the meeting for Members’ easy reference. After deliberation, Members agreed that to rectify the

typographical errors, the relevant paragraphs of the minutes of the meeting should be amended accordingly.

[Mr. Felix W. Fong, Professor S.C. Wong, Mr. Rock C.N. Chen and Mr. Roger K.H. Luk arrived to join the meeting at this point.]

(v) Three New Town Planning Appeals Received

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

Town Planning Appeal No. 4 of 2011

Proposed 'House' in "Green Belt" Zone

Lot No. 1052s.A in D.D. 217, Ta Ho Tun, Sai Kung

(Application No. A/SK-HH/48)

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13. The Secretary reported that an appeal was received by the Town Planning Appeal Board (TPAB) on 12.4.2011 against the decision of the Town Planning Board (the Board) on 21.1.2011 to reject on review an application for a proposed house in the "Green Belt" ("GB") zone on the approved Hebe Haven Outline Zoning Plan No. S/SK-HH/6. The application was rejected by the TPB for the following reasons:

- (a) the proposed residential development was not in line with the planning intention of the "GB" zone. There was no strong planning justification in the submission for a departure from the planning intention;
- (b) the proposed residential development did not meet the TPB Guidelines No. 10 for 'Application for Development within "Green Belt" Zone under section 16 of the Town Planning Ordinance' in that the application would involve clearance of natural vegetation and affect the existing natural slope. The submission failed to demonstrate that the proposed development would not have adverse landscape impact on the surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for other similar applications within the "GB" zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment and bring about adverse landscape impact on the area.

Town Planning Appeal No. 5 of 2011

Proposed Comprehensive Residential Development in “Comprehensive Development Area” zone, Various Lots in D.D. 214 and D.D. 244 and adjoining Government Land, Ho Chung, Sai Kung

(Application No. A/SK-HC/124)

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14. The Secretary reported that an appeal was received by the TPAB on 12.4.2011 against the decision of the Board on 21.1.2011 to reject on review an application for a proposed comprehensive residential development in the “Comprehensive Development Area” (“CDA”) zone on the approved Ho Chung Outline Zoning Plan No. S/SK-HC/9. The application was rejected by the Board for the following reasons:

- (a) the “CDA” zone was intended for comprehensive development of the area for residential use with the provision of open space and other supporting facilities. The applicant had not demonstrated that the comprehensiveness of the proposed “CDA” development would not be adversely affected by the proposed phased development; and
- (b) the site was intended to be developed comprehensively so that the industrial/residential interface problem caused by industrial operations could be minimized. The applicant had not demonstrated that the potential industrial/residential interface problem could be addressed.

Town Planning Appeal No. 6 of 2011

Temporary Open Storage of Vehicles Not Yet Licensed to Run on the Road for a Period of 1.5 Years in “Government, Institution or Community” zone, Various Lots in D.D. 125 and Adjoining Government Land, Ha Tsuen, Yuen Long

(Application No. A/YL-HT/684)

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15. The Secretary reported that an appeal was received by the TPAB on 26.4.2011 against the decision of the TPB on 11.2.2011 to reject on review an application for a temporary open storage of vehicles not yet licensed to run on the road for a period of 1.5 years in the “Government, Institution or Community” (“G/IC”) zone on the approved Ha Tsuen

OZP No. S/YL-HT/10. The application was rejected by the Board for the following reasons:

- (a) the development was not in line with the planning intention of “G/IC” zone which was intended for expansion of the San Wai Sewage Treatment Works. There was no strong justification in the submission to merit a departure from such planning intention, even on a temporary basis; and
- (b) the development was not in line with the TPB Guidelines No. 13E for ‘Application for Open Storage and Port Back-up Uses’ in that no previous approval for open storage use had been granted for the site, there were adverse departmental comments on the drainage and environmental aspects, and the development would have adverse drainage and environmental impacts on the surrounding areas. No technical assessment had been included in the submission to address the environmental impact, and the drainage proposal submitted could not demonstrate that the drainage impact would be adequately mitigated.

16. The hearing dates of the appeals had not yet been fixed. The Secretary would act on behalf of the Board in dealing with the appeals in the usual manner.

Appeal Statistics

17. The Secretary reported that as at 6.5.2011, there were 23 cases not yet been heard by the TPAB. Details of the appeal statistics were as follow:

Allowed	:	27
Dismissed	:	116
Abandoned/Withdrawn/Invalid	:	148
Yet to be Heard	:	23
<u>Decision Outstanding</u>	:	<u>3</u>
Total	:	317

**Agenda Item 3**

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the

Draft Yau Ma Tei Outline Zoning Plan No. S/K2/21

Group 1: R1 and R9, C1, C78 to C161, C163 to C177, C179 to C361 and C363 to C704

(TPB Paper No. 8808)

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*[Open Meeting (Presentation and Question Sessions only)]*

*[The meeting will be conducted in English and Cantonese.]*

18. The following Members had declared interests on this item:

Ms. Maggie M.K. Chan - her spouse owned a property in the area

Mr. Fletch Chan – a church member of The Evangelical Lutheran Church of Hong Kong, which had submitted a comment on the representation.

19. Members noted that Ms. Maggie M.K. Chan had tendered an apology for not being able to attend the meeting. Members considered that the interest of Mr. Fletch Chan on this item was indirect and should be allowed to join the meeting. Members noted that Mr. Fletch Chan had not yet arrived to join the meeting at this point.

20. Members noted that a replacement page (i.e. page 35) to the Chinese version of the Paper had been tabled at the meeting.

**Presentation and Question Session**

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

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



C498 : Lui Hing Tong

Mr. Lui Hing Tong - Commenter

C501: Wong Yin Mei

Ms. Wong Yin Mei - Commenter

C514 : Wong Chi Fai

Mr. Wong Chi Fai - Commenter

C524 : Wong Pui Kwong, Allen

Mr. Wong Pui Kwong, Allen - Commenter

C540 : Tsang Chiu Ying

Ms. Tsang Chiu Ying - Commenter

C542: Yiu Siu Fung

Mr. Yiu Siu Fung - Commenter

C564 : Pun Kam Kiu

Mr. Pun Kam Kiu - Commenter

C 671 : The Evangelical Lutheran Church of Hong Kong (ELCHK)

Mr. Tai Ho Fai - Representative of Commenter

C672 : ELCHK Truth Lutheran Church

Mr. Tang Wai Hung, Wayne ] Representatives of Commenter

Mr. Chau Chok Ming ]

C678 : Ip Ching Wah

Mr. Ip Ching Wah - Commenter

C686 : Chan Ching Yee

Ms. Chan Ching Yee - Commenter

C699 : Ip Oi Kwong, Danny

Mr. Ip Oi Kwong, Danny - Commenter

C700 : Ngai Kong Yiu

Mr. Nagi Kong Yiu - Commenter

24. The Chairman extended a welcome and explained the procedures of the hearing to the representatives of the representers and commenters.

25. With the aid of a Powerpoint presentation, Ms. M.L. Leung made the following main points as detailed in the Paper:

- (a) On 29.10.2010, the draft Yau Ma Tei Outline Zoning Plan (OZP) No. S/K2/21 incorporating amendments mainly to impose BHRs on development zones, specify setback requirements and designate non-building area (NBA) in various zones, and other zoning amendments was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance).;
- (b) the background of the amendments to the draft OZP had been detailed in paragraph 2 of the Paper. An Air Ventilation Assessment (AVA) by Expert Evaluation (EE) of the Area had been undertaken to provide a qualitative assessment of the wind environment within the Area, to identify problem areas and propose mitigation measures. According to the AVA, the prevailing annual wind came from the northeast, east and west while the prevailing summer wind was mainly from the southeast and southwest. The summer wind was very important and beneficial to the thermal comfort of the Area. It was important to plan taking account of the annual wind characteristics and to maximise the penetration of the summer wind into the Area. Currently, the eastern part of the Area had considerable amount of open space for air ventilation, whereas the

western part relied on the building landscape to provide air paths. Measures such as adopting a stepped height concept and imposition of NBA, building setback and building gaps were adopted to address the AVA issues;

- (c) the amendments incorporated into the OZP were presented to the Yau Tsim Mong District Council (YTM DC) on 9.12.2010. A local consultation forum was also held at Tung Koon District Society Fong Shu Chuen School on 20.12.2010. The views expressed at these meetings and PlanD's responses were summarised in paragraph 2.3 of the Paper;

#### *Representations and Comments*

- (d) upon expiry of the public exhibition period, a total of 10 representations and 705 comments were received. Representation No. 10 (R10) had subsequently withdrawn his representation. Three commenters (C162, C178 and C362) wrote to the Board indicating that they had not submitted the comments. As such, there were a total of 9 representations and 702 comments;
- (e) on 26.4.2011, the Board decided to consider the representations and comments itself in two groups. Both R1 and R9 and the 625 related comments concerning the BHRs of two groups of "G/IC" sites were collectively heard as Group 1;
  - (i) R1 submitted by CLP Power Hong Kong Limited (CLP Power) opposed the imposition of BHRs on eight electricity substations (ESSs) on the OZP;
  - (ii) R9 submitted by the Methodist Church, Hong Kong opposed the imposition of BHRs on four "G/IC" sites;
  - (iii) one comment (C1) was related to R1 while 625 comments (C1, C78 – C161, C163 – C177, C179 – C361 and C363 – C704) were

related to R9. C1 submitted by Designing Hong Kong Limited objected to the proposed amendments to the OZP by both R1 and R9. The other 624 comments all supporting R9 were against the BHRs of “G/IC” sites in general and some specific church/school sites;

Grounds of Representations and Representers’ Proposals

- (f) the main grounds of the representations and the representers’ proposals as detailed in paragraphs 4.3 and 4.4 of the Paper were summarised as follows:

*Development rights*

- (i) the existing development intensity of the ESS sites might not reflect the maximum development potential under lease. The imposition of BHR would deprive R1 of the development rights;
- (ii) private ownership right of R9 was taken away without compensation. The principle of ensuring maximum plot ratio/GFA to be achievable under the BHR only applied to commercial sites but not to “G/IC” sites. There was no justification for such discriminatory approach to private property rights of “G/IC” sites. R9 needed to ensure full development potential at The Methodist sites to provide facilities to serve the expanding needs of the community;
- (iii) R9 should have the right to redevelop the Chinese Methodist School site to its full potential for provision of educational and social services, and the site should not be subject to a BHR of the height of the existing building;
- (iv) the BHR for most of the school sites on the OZP was 8 storeys to meet the minimum height requirement for standard school development. However, the 8-storey height was not a minimum

requirement but the maximum permissible height for a school building of 24m as prescribed by Regulation 7 of the Education Regulations (Cap. 279A). The maximum provision might be exceeded upon notice from the Permanent Secretary, and such an exception was not reflected in the BHR for school sites (R9);

*Flexibility of building design*

- (v) the BHRs would undermine the design flexibility of the ESSs. There was no clear definition of the extent of ‘minor’ under the provision of minor relaxation clause (R1);
- (vi) the BHRs prevented creativity or innovative architectural design and made it difficult to respond to the needs of the community. The BHRs were set too low and should be increased to allow for greater flexibility for good building design (R9);

*Visual and air ventilation considerations*

- (vii) given the relatively small scale and nature of the ESSs, there was no visual impact caused by these ESSs on the surrounding environment (R1);
- (viii) there was no mention of breathing space, visual or spatial relief in the planning intention of “G/IC” zone. The provision of ‘lower buildings as interface and visual and spatial relief in urban core’ as stated in Urban Design Guidelines only applied in the context of ‘Guidelines for New Towns’ but not ‘Guidelines for Kowloon’. In developed area where land resources was scarce for community and social services, there was no justification for singling out “G/IC” sites to provide breathing space, visual or spatial relief (R9);
- (ix) the Air Ventilation Assessment (AVA) had not provided support to the BHRs imposed on The Methodist sites. There was no attempt to compare the BHRs to any other alternative

scheme or to analyse other controls to achieve better air ventilation. There was no justifiable basis for the BHRs (R9);

*Public interest*

- (x) the BHRs would restrict the upgrading/redevelopment potential of the ESSs and not making good use of scarce land resource (R1);
- (xi) the imposition of BHR affected R9's ability to provide essential community and social services to the public. The Board should balance the need for community and social services against other planning and urban design considerations (R9);
- (xii) minor relaxation of BHR to be considered through the planning system illustrated the arbitrary nature of the adopted 'moratorium' approach (R9);

*Lack of public consultation*

- (xiii) there was no public consultation prior to the imposition of the BHRs. R9 or the public were not informed of the justifications for imposing the BHRs, the reasons of particular BHR imposed, any alternative BHR and any visual impact analysis indicating the impact of the BHR(R9);
- (xiv) the reason that a pre-mature release of development control might lead to a surge of building plan submissions was not a valid reason for not carrying out prior public consultation. BHRs had been imposed on neighbouring and other urban areas since 2007, and the landowners noted that similar BHRs were likely to be imposed on the OZP (R9);

*Irrelevant to consider historic grading*

- (xv) the presenter, as the landowner, was entitled to demolish and

redevelop the Methodist Kowloon Church regardless of its historic grading, and the imposition of the BHR would not offer any additional heritage protection (R9);

*Legal basis of introducing BHR*

(xvi) the imposition of specific BHR on individual site was a form of ‘spot zoning’. The ‘spot zoning approach’ was inconsistent with the Ordinance and violated the object of the OZP which was to indicate only the broad principles of development (R9);

*Contrary to Basic Law*

(xvii) there was no reason to impose a different BHR on The Methodist sites, which was lower than the BHR of sites in the immediate neighbourhood. The discrimination was unreasonable and unfair and contravened the spirit of Article 141 of the Basic Law which provided that the property rights and interests of religious organisations should be maintained and protected (R9);

Representers’ Proposals

(xviii) the proposals of R1 and R9 were summarized as follows:

R1

<i>Representation Sites</i>	<i>BHR on OZP</i>	<i>Proposals</i>
Saigon Street ESS & Staff Quarters	6 storeys	not more than 8 storeys
Yau Ma Tei ESS	1 storey	not more than 91.5mPD
Waterloo Road ESS	1 storey	Not more than 8 storeys
Hamilton Street ESS	1 storey	not more than 8 storeys
Yau Ma Tei 400kV ESS	4 storeys	not more than 12 storeys
Reclamation Street 234 ESS	1 storey	not more than 91.5mPD
Shanghai Street 265 ESS	1 storey	not more than 91.5mPD

Shanghai Street 129 ESS	1 storey	Not more than 61mPD
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R9

<i>Representation Sites</i>	<i>BHR on OZP</i>	<i>Proposals</i>
The Ward Church and YMMSSC	5 storeys	<ul style="list-style-type: none"> <li>• 100mPD or above (broader height bands of nearby buildings) or</li> <li>• at least 92mPD (BHR of Kwong Wah Hospital)</li> </ul>
Chinese Methodist Kowloon Church	4 storeys	<ul style="list-style-type: none"> <li>• 100mPD or above (broader height bands of nearby buildings) or</li> <li>• at least 8 storeys (BHR of the adjacent school) or</li> <li>• preferably 10 storeys (BHR of Diocesan Girls' School (DGS))</li> </ul>
Chinese Methodist School	8 storeys	<ul style="list-style-type: none"> <li>• 100mPD or above (broader height bands of nearby buildings) or</li> <li>• at least 10 storeys (BHR of DGS)</li> </ul>
Methodist College	8 storeys	<ul style="list-style-type: none"> <li>• 100mPD or above (broader height bands of nearby buildings) or</li> <li>• at least 10 storeys (BHR of DGS)</li> </ul>

Responses to Grounds of Representations and Representers' Proposals

- (g) the responses to the main grounds of the representations and the representers' proposals as detailed in paragraphs 5.3 and 5.4 of the Paper were summarised as follows::

*Development rights*

- (i) the BH profile was formulated in a comprehensive manner and had struck a balance between community aspiration for a better living environment and private development rights. Apart from providing G/IC facilities, the "G/IC" sites provided breathing space and visual relief to the densely built-up area. It was not

prudent to relax the existing BHRs in the absence of any redevelopment proposal. The OZP had not imposed any PR/GFA/site coverage restriction on the ESS sites and The Methodist sites, the existing development intensity of these sites had not been affected (R1 and R9);

- (ii) as “C” and “R(A)” sites were different land uses and of different development intensity as compared with the “G/IC” sites, and their BHRs should not be taken as a reference for the BHR of “G/IC” zone. Imposing BHRs on “G/IC” sites to confine their low vertical profile was intended to ensure proper visual permeability and wind penetration for the entire Yau Ma Tei area (R9);
- (iii) according to the Director of Social Welfare (DSW), R9 had not submitted any detailed redevelopment plan for the representation sites. The Secretary for Education (SED) also advised that although the Methodist College had indicated intention for in-situ redevelopment and to extend its premises to the Chinese Methodist School site, there was no concrete redevelopment plan. Without any agreed redevelopment proposal, relaxation of BHRs of The Methodist sites was not justified (R9);

*Flexibility of building design*

- (iv) according to the Director of Electrical and Mechanical Services, there was no redevelopment proposal for the eight concerned ESSs. In the absence of redevelopment proposal, relaxation of BHR was not justified (R1);
- (v) BHR alone would not impose undue constraint on the design flexibility of future redevelopments. BHRs did not preclude the incorporation of green features and innovative architectural features to promote a good building design. To cater for

site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. There was no predetermined figure for the percentage of relaxation that could be allowed. It would be determined by making reference to the impacts of the proposed relaxation on the surrounding area (R1 and R9);

*Visual and air ventilation consideration*

- (vi) “G/IC” sites serving as visual and spatial relief and breathing space to the built-up area was an established planning principle that had been generally adopted in the formulation of BHR in all OZPs (R1 and R9);
  
- (vii) breathing space and visual/spatial relief were much needed in densely developed areas such as Yau Ma Tei. In formulating the BHRs for “G/IC” sites, due regard had been given to the existing building height, nature of the existing uses, the height restriction under lease, development/redevelopment proposals, local setting, air ventilation and urban design considerations, where appropriate (R1 and R9);
  
- (viii) GIC facilities were clustered around King’s Park, and together they served as important visual relief/buffer and breathing space to the densely built-up Yau Ma Tei area. There was no technical assessment submitted by R1 and R9 to demonstrate that relaxation of BHR would not have adverse air ventilation impact on the wind environment of the Area (R1 and R9);
  
- (ix) it was considered insufficient to rely solely on administrative measures to control development height to achieve a good urban form upon redevelopment. The stipulation of BHR on the OZP was a more open and effective measure to control the height profile of the ESS sites and to ensure their function as visual and

spatial relief and as breathing space would not be affected upon redevelopment (R1);

*Public Interest*

- (x) a proper balance had been struck between efficient use of land to provide utility/community facilities and good urban design. Consideration had been given to the existing building height, (re)development plan and other relevant factors in determining the BHRs for the “G/IC” sites (R1 and R9);
- (xi) redevelopment proposals of the “G/IC” sites exceeding the BHR could be submitted to the Board under s.16 of the Ordinance for minor relaxation (R1 and R9). Factors such as site constraints would be taken into account and every case would be considered on its merits (R9);

*Lack of public consultation*

- (xii) the public was consulted on the OZP amendments in accordance with the exhibition and representations/comments process under the Ordinance. Any premature release of information before exhibition of the amendments might prompt an acceleration of submission of building plans by developers to establish *fait accompli*, hence defeating the purpose of imposing the BHRs (R9);

*Legal basis of introducing BHR*

- (xii) according to Department of Justice (DoJ), the Board had the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were necessary and sufficient planning justifications (R9);
- (xiii) given the wide coverage of the Area which comprised areas with varying characteristics, different restrictions for respective

sub-areas under the same broad zone were necessary (R9);

*Contrary to Basic Law(BL)*

- (xiv) DoJ advised that the imposition of the proposed BHRs on the sites owned by R9 would unlikely constitute deprivation of property or disproportionate interference with property rights for the purpose of Articles 6 and 105 of the Basic Law. Nor did it appear inconsistent with the protection of property rights of religious organisations under the Article 141(2) of Basic Law (R9);

*Responses to Representatives' Proposals*

- (xv) there were no redevelopment proposals at the ESS sites and The Methodist sites at present. Any relaxation of BHRs should be justified by functional and operational needs with planning and design merits. Should there be such need, the representatives might seek the Board's permission for a minor relaxation of the BHRs under s.16 or to apply for amendments to the OZP under s.12A of the Ordinance. In the absence of any redevelopment proposal, there was no design merit or strong planning justification for revising the BHRs of the ESS sites and The Methodist sites as suggested by the representatives at the present stage. Alternatively, if their scheme was well justified and supported by the relevant government bureau(x)/departments, PlanD might recommend to the Board to amend the BHR under section 5 or 7 of the Ordinance;
- (xvi) visual relief and breathing space provided by "G/IC" sites were important to a densely developed urban area like Yau Ma Tei. While there was generally no control on the development intensity for the "G/IC" sites, any relaxation in BHR of individual site should be fully justified on functional or operational needs upon application to the Board. Any piecemeal relaxation of BHR would lead to cumulative loss of

breathing space and visual relief and would affect air ventilation (R1 and R9);

- (xvii) while both R1 and R9 argued that their proposed BHRs were to be in line with that of nearby GIC facilities, compatibility in terms of height with the surroundings should not be the sole consideration to justify a significant relaxation of BHR. In formulating the BHRs of “G/IC” sites, due regard had been given to the existing BH, nature of the existing uses, the height restriction under lease, development/ redevelopment proposals, local setting, air ventilation and urban design considerations, where appropriate. Hence, the GIC facilities in the Area were subject to different BHRs. Besides, BHR under lease was one but not the only factor in considering BHR under OZP for “G/IC” sites (R1 and R9);
  
- (xviii) with regard to R1’s proposed BHRs for the concerned 8 ESSs (as summarized in paragraph (f) (xviii) above), there was no detailed information in the representation to justify that they were operational requirements. R1’s proposed BHRs of 12 storeys for the existing Yau Ma Tei 400kV ESS and 91.5mPD for the Yau Ma Tei ESS, Reclamation Street 234 ESS and Shanghai Street 265 ESS, the proposed BHRs were unusually high for ESS. However, it was considered appropriate to revise the BHR for the Hamilton Street ESS from 1 storey to 2 storeys to reflect the existing height (R1);
  
- (xix) R9’s proposal of removing all BHR was not supported. The BHRs proposed by R9 were considered significantly higher than the immediate surroundings from the urban design and visual perspectives. The BHR for Kwong Wah Hospital (predominantly 92mPD) was to reflect the Hospital Authority’s redevelopment scheme supported by the Food and Health Bureau, while the BHR for DGS (10 storeys) was to reflect the

building scheme under construction. Moreover, the “C” zone in the OZP with a BH band of 100mPD was of different land use and development intensity from The Methodist sites zoned “G/IC”. As such, the BHR of “G/IC” and “C” sites in the vicinity should not be taken as reference for the BHR of R9’s sites (R9);

#### Comments

- (h) the grounds of comments and commenters proposals, and PlanD’s responses were summarised in paragraphs 4.5, 4.6, 5.5 and 5.6 of the Paper respectively;
- (i) PlanD’s views –
  - a. to partially meet R1 by revising the BHR for the “G/IC” zone covering the Hamilton Street ESS from 1 storey to 2 storeys to reflect the as built situation; and
  - b. not to uphold R9 and the remaining parts of R1.

[Mr. Raymond Y.M. Chan and Ms. Anita W.T. Ma arrived to join the meeting at this point.]

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

#### R1 (CLP Power Hong Kong Limited)

27. With the aid of a Powerpoint Presentation, Ms. Yeung Man Yin, Jenny, the representative of R1 made the following main points in respect of the Yau Ma Tei 400kV Substation :

- (a) R1 had two queries on imposing a BHR of 4 storeys on the subject Substation;

#### *Principle of Imposing BHR for a Site with Different Existing Building Heights*

- (b) the Substation compound comprised three buildings. While Block A was a 5-storey building, Blocks B and C were 4 storeys high. These

three buildings were linked by bridges forming one single development. According to the Explanatory Statement of the OZP, specific BHR for the “G/IC” zone mainly reflected the existing and planned building heights of developments. In this regard, the BHR of 4 storeys failed to reflect the existing building heights;

- (c) PlanD stated that the BHR of 4 storeys was to reflect the predominant height of existing buildings as 60% of the site area were taken up by buildings of 4 storeys. This principle, however, was not applied in the case of Yau Tong Bay ESS site. About 25% of the site was occupied by a 4-storey ESS while 17% was occupied by a 6-storey District Office and depot. However, a BHR of 6-storey was imposed for the Yau Tong Bay ESS;

*Permitted Building Height upon Redevelopment*

- (d) it was noted that redevelopment to the existing building height was permitted under the Notes for the “G/IC” zone. There was doubt as to whether the existing 5-storey building height would be applicable to the whole site upon redevelopment of the Yau Ma Tei 400kV Substation, or whether it was only applicable to the redevelopment of that specific building block; and
- (e) R1 requested the Board to relax the BHR for the Yau Ma Tei 400kV ESS site from 4-storey to 5-storey to reflect the existing building height.

R9 (The Methodist Church, Hong Kong)

28. With the aid of a Powerpoint presentation, Rev. Yuen Tin Yau made the following main points:

- (a) he supported the imposition of the BHR in the Area to enhance a better living environment for the local community. However, the stringent BHRs proposed for the “G/IC” sites had in effect frozen the development of all “GIC” sites. This was unfair and unjust as the Board had only required the “G/IC” site, but not the commercial sites, to

provide breathing space and visual relief to serve the interests of the private landowners and developers. It was like robbing the poor (i.e. the church and NGOs who served the poor and under-privileged) to make the rich even richer;

- (b) the Board had failed to consider all relevant factors and its approach was not in the interest of the community. It was wrong to treat all the “G/IC” sites as similar in nature. The “G/IC” zoning covered a wide variety of sites providing different types of uses and involving a variety of organizations;
- (c) similar to other private landowners, the Methodist Church purchased the land for the church portion of the Ward Memorial Methodist Church (the Ward Church) (54 Waterloo Road) at a market price in 1963. It was not reasonable to impose a stringent BHR on the site;
- (d) PlanD stated that there were no concrete redevelopment proposals at the ESS site and The Methodist sites. Any relaxation of BHRs should be justified by functional and operational needs with planning and design merits. PlanD suggested that R9 could submit a rezoning application or an application for minor relaxation of the BHR. However, this would be time consuming and involve considerable expenses. Besides, some pioneer projects might not have the Government’s policy support. The BHR had shifted the burden to R9 to justify its redevelopment plan. There was no such requirement for private landowners of commercial and residential sites;
- (e) according to the experience of the Methodist Church in North Point, there was no guarantee that an application for either minor relaxation of the BHR or rezoning of the site would be granted once the BHR was imposed on the OZP. It was therefore unfair and unjust to impose stringent BHRs on “G/IC” sites while private landowners and developers were permitted as of right to develop with a much more relaxed BHRs;

- (f) there were no air ventilation or traffic issues that required the imposition of stringent BHRs on the Methodist Church sites;
- (g) imposition of BHR on the Methodist Church site was contrary to Article 141 of the Basic Law (BL141) which provided that the property rights and interests of religious organizations should be maintained and protected. The imposition of a lower BHR on the sites than those of the nearby buildings was also against Articles 1, 10 and 22 of Bill of Rights where all persons should be equal before the courts and tribunals and the law should prohibit discrimination;
- (h) the Methodist Church was not just a church but also an NGO providing extensive education and community services. Apart from providing religious services in 23 local churches and two chapels, the Methodist Church operated 12 kindergartens and nurseries, 11 primary schools, eight secondary schools and seven social services agencies;
- (i) four sites owned by The Methodist Church in Yau Ma Tei were affected by the BHR under the draft OZP, namely, the Ward Church site, the Methodist Kowloon Church, the Chinese Methodist School and The Methodist College;

*The Ward Church Site*

- (j) a BHR of 5 storeys was imposed on the Ward Church site. It was noted that the commercial and “G/IC” sites in the surrounding area had a more relaxed BHR of 89mPD to 100mPD;
- (k) the Ward Memorial Methodist Church and Yang Memorial Methodist Social Service Centre had been serving the community since 1967. The Church provided a wide range of social services for the community. Due to the insufficient floor space, many services provided by the Church had to be conducted in other residential/commercial buildings in Yau Ma Tei and Mong Kok. Redevelopment of the site was very much

needed and a conceptual redevelopment plan with a building height of about 100mPD had been worked out;

*Chinese Methodist Church (Kowloon) Site*

- (l) a BHR of 4 storeys was imposed on the site, whereas the commercial and GIC sites nearby had BHRs of 80mPD to 100mPD;
- (m) the Chinese Methodist Church (Kowloon) was designed in the 1940s and completed in 1951. The 4-storey church building had a main sanctuary and a few small study rooms. Its design and floor spaces were not compatible with the needs of a modern communal church. R9 planned to redevelop the church to provide more rooms for seminars, training and small group functions. The proposed Grade III historic grading should not be a reason for imposing a lower BHR on the site;

*The Chinese Methodist School Site*

- (n) a BHR of 8 storeys was imposed on the site, whereas the neighbouring sites had a BHR of 68mPD to 100mPD;
- (o) the school had been relocated and reprovisioned to a new site at Wylie Road. Ownership of the school site remained with the Church after the reprovisioning. R9 planned to redevelop the school site to its full development potential for provision of educational and social services to the community;

*The Methodist College Site*

- (p) the site had a BHR of 8 storeys whereas the “G/IC” and commercial buildings in the surrounding area had BHRs of 68mPD to 100mPD;
- (q) the school, with a site area of 2,670m<sup>2</sup> (excluding slopes) and a GFA of 6,345m<sup>2</sup> was far below the current standard for a secondary school (6,950m<sup>2</sup> site area and 11,860m<sup>2</sup> GFA). The College had already reached its full capacity. All the school facilities of the Methodist College, including its library and school hall, were below the size of the

facilities of a secondary school. There were insufficient space and facilities to meet the requirements of the New Senior Secondary Curriculum;

(r) due to the small site area and steep slopes, the school could only maximize the floor space by vertical expansion. Imposing a BHR of 8 storeys ruled out the possibility of redeveloping the site for a secondary school with better facilities;

(s) R9's proposals were :

Ward Memorial Methodist Church and Yang Memorial Methodist Social Service - to relax the BHR from 4 storeys to 92mPD (similar to the building height of the adjacent Kwong Wah Hospital)

Chinese Methodist Church (Kowloon) - to relax the BHR from 4 storeys to 10 storeys (same as the BHR imposed on the neighborhood)

Chinese Methodist School and Methodist College - to relax the BHR from 8 storeys to 100mPD or 10 storeys (same as the building height of Diocesan Girls' School in the neighbourhood)

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

29. With the aid of a Powerpoint presentation, Rev. Dr. Lam Sung Che made the following main points:

(a) the Ward Memorial Methodist Church (WMMC) was first established in 1953. In 1965, R9 acquired the site from the Government for building the Church and started its service in 1967;

- (b) after 50 years of development, the WMMC provided different religious services for more than 300 church members. The Church was also opened to the public and provided many public services to the local community;
- (c) the church building was designed in the 1950s. Apart from the Chapel, there were only five small rooms with a total floor area of less than 2,000 ft<sup>2</sup>. The adjoining Yang Memorial Methodist Social Service Centre (YMMSSC) was only 5-storey high. Due to inadequate space, R9 had to rent additional floor space in other commercial and residential buildings for providing its services;
- (d) redevelopment of the church and the social service centre was needed to meet the increasing needs of the community. In this regard, a conceptual redevelopment plan had been prepared. The redevelopment of the site would not cause any adverse visual and air ventilation impacts on the surrounding areas; and
- (e) it was unreasonable and unfair to require the “G/IC” sites, but not the private residential and commercial sites, to provide breathing space and visual and spatial relief for the local community. There was no justification for such discriminatory approach.

30. Mr. Chan Lai Sang, Jacob made the following main points:

- (a) the imposition of BHRs on the subject “G/IC” sites would severely affect the Methodist Church’s ability to provide essential community and social services, including the services for the elderly and the disabled;
- (b) PlanD had indicated that the BHRs could be amended through the planning application system if policy support was obtained. However, the Methodist Church might not be able to obtain the Government’s policy support to its pioneer projects. Flexibility on the redevelopment of the subject “G/IC” sites should be allowed to facilitate the provision of new community social services; and

- (c) in considering the development restrictions to be imposed on the subject “G/IC” sites, the Board should take into consideration the needs of the community.

31. With the aid of a Powerpoint presentation, Rev. Chan Tak Cheong, Wilson, the representative of R9 and Commenter No. 565 made the following main points:

- (a) the Chinese Methodist Church (Kowloon) was built in 1951 and had 60 years of development. The Church provided religious services for about 800 church members of different age groups. In addition to the religious services, the Church also worked with schools and other organizations in organizing different social services/activities for the community;
- (b) the Church did not have enough space for expanding its services. The Church was located on a slope. Redevelopment of the site could help to provide a barrier-free environment to facilitate public access. The supporting facilities such as rest areas, pantry and toilets could also be provided/enhanced ; and
- (c) the Church and the Chinese Methodist School were located in the same lot. There was no justification to impose a BHR of 4 storeys on the Church while the school was subject to a BHR of 8 storeys. The BHR for the whole lot should be relaxed to 10 storeys; and
- (d) the NGOs were urging for more space for serving the community, but not for profit-making or their own benefits.

32. With the aid of a Powerpoint presentation, Ms. Emily Wong made the following main points:

- (a) the Methodist College was established in 1958 with 15 classes. In the 1970s and 1980s, the College expanded to 26 classes by converting the previous open space and canteen into classrooms;

- (b) due to the lack of space, the school could not provide some standard school facilities, such as multi-purpose room, integrated science laboratories, preparation room for laboratories, language room, a guidance activities room, canteen, etc.. For those facilities currently provided at the school, they were of much smaller scale than the standard provision. For example, its library, school hall, visual arts rooms and computer room had only 1/2 to 2/3 of the size of the standard provision;
- (c) the school site was small and irregular in shape. As the school was built on steep slopes, the school building was in a stepped height ranging from 3 to 6 storeys. The 7<sup>th</sup> floor of the school as mentioned by PlanD accommodated two toilets below the roof;
- (d) PlanD stated that the standard height for schools was 8 storeys and hence a 8-storey BHR was imposed on the Methodist College site. However, it should be noted that the Methodist College was much smaller than a standard secondary school. After excluding the steep slopes, the net site area of the Methodist College was only 2,670m<sup>2</sup> as compared to the site area (6,950m<sup>2</sup>) of a standard secondary school. In order to achieve the gross floor area of 11,860m<sup>2</sup> of a standard secondary school, the Methodist College would have to be redeveloped to 21 storeys. Besides, the steep slopes of the site had imposed constraint for its redevelopment. There were very clear functional and operation needs for relaxing the BHR;
- (e) R9 had discussed with the Education Bureau on the redevelopment proposal of the Methodist College site since 2009. However, due to the uncertainty on the future use of the ex-Grantham College of Education site at 42 Gascoigne Road, the redevelopment plan of the Methodist College site could not be firmed up; and
- (f) it was noted that the DGS under redevelopment had a building height of 10-storey. It was reasonable for the Board to allow a minor relaxation of the BHR for the Methodist College site from 8 storeys to 10 storeys so that

it would be comparable to that of the DGC site. The relaxed BHR would greatly facilitate the redevelopment of the school.

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

33. With the aid of a Powerpoint presentation and some information shown at the visualizer, Mr. Menachem Hasofer made the following main points:

*Social Welfare Policy*

- (a) in its reply to a LegCo question on 16.3.2011, the Government acknowledged that there was a lack of sufficient space for providing many welfare facilities. The Government stated that, amongst others, PlanD reviewed from time to time the land use of G/IC sites to meet the changing needs of the community. If the social welfare organizations needed to redevelop/expand their facilities on G/IC sites and to amend the BHRs to meet the requirements, the Planning Authority would provide support to facilitate development. The blanket moratorium imposed on the “G/IC” sites to restrict the development to the existing building height failed to facilitate the development of the GIC uses and contradicted the Government’s social welfare policy;

*Duty of the Board*

- (b) the Board had to consider whether the imposition of the proposed BHRs would promote the health, safety, convenience and general welfare of the community. The proposed BHRs for the “G/IC” sites mainly reflected the existing building heights. Although there was a provision for minor relaxation of the BHR, the relaxation could only be ‘minor’ which by definition meant a small number. The proposed BHRs with a provision for minor relaxation would not facilitate the redevelopment of the “G/IC” uses;
- (c) the BHRs imposed on the OZP were only proposals as the Plan had yet to be approved by the CE in C;

*Control of Building Heights by Site-specific Spot Zoning*

- (d) the 'spot zoning' was a rigid and site-specific control which was inconsistent with the Ordinance in relation to the content and application of statutory plans. The legal advice from the Department of Justice had adopted a wide interpretation of the Board's powers under s.3 of the Ordinance and was not supported by any decided case law. In any case, the powers were conditional on 'necessary and sufficient planning justifications'. There were no necessary and sufficient planning justifications for imposing the BHRs in the draft OZP;

*Imposition of Height Limits on G/IC sites*

- (e) if the Board accepted that there was a good planning ground for redevelopment of the "G/IC" sites and there were concrete proposals for redevelopment, the proposed moratorium imposed on most of the G/IC sites should not be adopted. In formulating the BHRs, the Board should have full and proper inquiry on the demand and supply of community and social services, consideration and balancing of different community needs;
- (f) the considerations for formulating the BHRs as set out in paragraphs 3.2.1 and 3.2.11 of the TPB Paper were generalized, self-serving and contradictory statements. The blanket moratorium by reference to the existing building heights was contrary to the Board's duty to inquiry. The Board had a duty to ascertain the facts and the onus should not be on the representers to justify their submissions;
- (g) in considering the proposed amendments to the OZP at the Metro Planning Committee, a Member suggested that a study should be undertaken to examine how to maintain/enhance the local character of the old urban areas and their social complexity. However, this suggestion was not taken up and there was an arbitrary imposition of a blanket moratorium;
- (h) with the imposition of the BHRs, the NGOs were required to provide

‘concrete redevelopment proposals’ to substantiate their submissions. Such requirement abdicated the Board’s duty to undertake the systematic preparation of plans for the layout of an area. PlanD also mentioned in the Paper the various alternatives for taking forward the redevelopment proposal. This arbitrarily lumped together alternatives of s.12A rezoning, s.7 amendment and s.16 application for minor relaxation and search for alternative sites. There was no justification to impose the blanket moratorium freezing the “G/IC” sites to their existing building heights. The Board should take full inquiry and strike a fair balance in deciding the appropriate BHR;

- (i) it was wrongfully assumed that the lack of plot ratio/gross floor area/site coverage restrictions on the OZP meant that the BHRs did not affect the existing development intensity. All sites were subject to plot ratio restrictions under the Buildings (Planning) Regulations. The BHRs would in effect affect the development intensity of the “G/IC” sites;
- (j) PlanD had confused the roles of the Board in plan making and granting of planning permission. The distinction had been affirmed by the Court of Appeal in the International Trader Case;
- (k) the blanket moratorium imposed on the “G/IC sites’ was tantamount to, and even more severe than, a “CDA” zoning as redevelopment of the “G/IC” sites exceeding their existing building height was not allowed. Any relaxation of the BHR had to be supported by concrete redevelopment proposals;

*Defective Rationale for Moratorium on G/IC Sites*

- (l) the planning intention of the “G/IC” sites in Kowloon was to provide community facilities, but not to provide visual relief and breathing space;
- (m) as stated in the TPB Paper, the TPB Guidelines No. 16 published by the Board in 1999 stipulated that some GIC developments, especially the low-rise and low-density ones, also serve as breathing space within a

high-rise and high-density environment. However, the said guidelines were only a set of administrative guidelines concerning non-G/IC development. It could not replace the planning intention set out in the draft Yau Ma Tei OZP and should not be relied on for imposing a blanket moratorium on the “G/IC” sites;

- (n) paragraph 6.2.11 of the Urban Design Guidelines applied the principle of ‘visual and spatial relief’ only to the G/IC sites in new towns. The attempt at the TPB Paper paragraph 5.3.3(f) to extend the principle to Hong Kong Island and Kowloon was contrary to the wording of the Urban Design Guidelines;
- (o) the proposed BHRs to be imposed on R9’s sites was not supported by the AVA study or any visual impact assessment. According to the AVA study, R9’s sites were not located in any breezeway or air path. It was stated in the TPB Paper that there was no technical assessment submitted by the representers to demonstrate no adverse air ventilation impacts arising from relaxation of the BHRs. It was fundamentally wrong to shift the responsibility to the representers as PlanD had only provided a general air ventilation assessment;

*Failure to Maintain and Protect Property Rights and Interests*

- (p) DoJ’s advice at paragraph 5.3.8 of the Paper accepted that imposition of the proposed BHRs could breach the obligation to protect the Church’s property rights and interests. Basic Law 141 was about the duty to maintain and protect property rights and interests, but not ‘deprivation’ or ‘disproportionate interference’ as mentioned by DoJ;
- (q) the statement that R9’s property rights and interests in the sites concerned were subject to imposition of BHRs before 1 July 1997 was incorrect. There was no BHR imposed on the Yau Mai Tei OZP before 1 July 1997;
- (r) BHR had been stipulated in the lease of the Ward Church and YMMSSC site. However, the Government’s role as a private landlord under the

lease was different from its public functions under the Ordinance;

*Discriminatory and Arbitrary Approach*

- (s) the proposed BHRs discriminated against R9 and treated its sites in an arbitrary manner :
  - there was no rationale to single out the sites for providing breathing space and spatial and visual relief;
  - not giving it the same redevelopment rights as those G/IC sites which had 'policy support' or which were 'under construction';
  - only the school sites had development standard of 8-storey, but not other social welfare facilities;

*Irrational and Arbitrary Approach*

- (t) it was contradictory to freeze the redevelopment on the "G/IC" site while acknowledging that there was a need of expanding the social welfare services;
- (u) there was no rational explanation why G/IC sites had to provide visual and spatial relief to private landowners;
- (v) there was no justification for allowing 'standard school' development, but not allowing 'standard development' for other G/IC uses;
- (w) it was a wrong assumption that the lack of plot ratio/gross floor area/site coverage restrictions on the OZP meant that the BHRs did not affect existing development intensity;
- (x) it failed to distinguish the alternatives of s.12A rezoning, s.7 amendment and s.16 minor relaxation application and search for alternative sites, and failed to set out the uncertainty, delay and costs of these alternatives;
- (y) the Chinese Methodist Church (Kowloon) and the Chinese Methodist

School were located in the same lot. Instead of singling out the Church with a BHR of 4 storeys, a BHR of 8 storeys should be imposed for the whole lot;

#### R9's Requests

- (z) the Board should defer a decision on the representations to permit full inquiry and undertake urban planning study, and seek further legal advice in relation to the BL 141; and
- (aa) alternatively, the Board should relax the BHRs as proposed by R9.

34. Mr. Au Fun Kuen, the representative of R9 and Commenter No. C485, made the following main points:

- (a) it was unfair to discriminate against the NGOs by imposing BHRs on the "G/IC" sites, but not other commercial and residential sites. No reasonable justification had been provided;
- (b) there were more than 700 commenters raising objection against the proposed BHRs;
- (c) the 'spot zoning' approach was not permitted under the Ordinance; and
- (d) the Board should take a fair and reasonable approach in considering the representations and comments.

35. Rev. Yuen Tin Yau said that it was unfair to require only the "G/IC" sites to provide breathing space and visual relief in the built-up environment. The prime function of the G/IC sites was to provide community and social services to meet the needs of the community. PlanD suggested that R9 could submit a rezoning application or an application for minor relaxation of the BHR. However, it involved a lot of resources which could better be used in providing more community services. The BHRs proposed by R9 were moderate and compatible with the BHRs imposed on other buildings in the adjacent areas.

36. Rev. Chang Chun Wa made the following main points:
- (a) the Evangelical Lutheran Church of Hong Kong (ELCHK) had been providing extensive religious and social services for the whole territory for the past 50 years. The headquarters accommodated at the ELCHK site which was adjacent to the Ward Church site provided administrative supports for about 50 churches, 50 service units and 22 primary/secondary schools operated by the ELCHK;
  - (b) the relevant site was acquired by ELCHK long time ago. According to the lease, the building erected on the site should not exceed 300 ft. In October 2010, the ELCHK Truth Lutheran Church submitted a set of building plans with a building height of 6 storeys was disapproved due to the 3-storey BHR imposed on the site. The suggestion that the BHR could be relaxed if there were concrete redevelopment proposals was not true;
  - (c) the ELCHK was working on a redevelopment proposal for the site and had submitted a set of building plans with a building height of about 20-storey. A meeting was also held with PlanD on the redevelopment proposal;
  - (d) the BHRs had become a hurdle for the Church to carry out its redevelopment plan to improve its services. In order to allow the Church to better use their resources in providing the religious and social services, the BHR should be relaxed.

C524 Wong Pui Kwong, Allen

37. Mr. Wong Pui Kwong, Allen said that it was not fair to require only the “G/IC” sites to provide the breathing space and spatial relief for the whole community. As the concerned sites were acquired by R9 and ELCHK, they should not be deprived of their development rights. The NGOs and the Churches had been providing religious and social services not only to the local community in Yau Ma Tei, but for the whole territory. Many people had benefited from these services.

C540 : Tsang Chiu Ying

38. Ms. Tsang Chiu Ying said that the Ward Church and the Yang Memorial Methodist Social Services Centre were very old buildings built 50 years ago. The BHRs which reflected the existing building height would constrain the redevelopment potential of the Church and the centre. She urged the Board to relax the BHRs so that the sites could be redeveloped to provide more social services for the community.

C671 : The Evangelical Lutheran Church of Hong Kong (ELCHK)

39. Mr. Tai Ho Fai said that the building erected on the ELCHK site was over 50 years old and the building facilities could not meet the current standards. It was noted that the building plan for redevelopment of the site was disapproved due to the BHR. The BHRs imposed on the “G/IC” sites had constrained the NGOs and the Church in providing the community and religious services. This would adversely affect the harmony of society.

[Mr. Raymond Y.M. Chan left the meeting at this point.]

C672 : ELCHK Truth Lutheran Church

40. Mr. Tang Wai Hung, Wayne, said that ELCHK Truth Lutheran Church provided religious services in Putonghua serving many new migrants and visitors from the Mainland. There were over 1,000 church members. The Church had planned to expand its development since 2003/2004. A set of building plans for the expansion works was submitted in 2010. Mr. Chau Chok Ming added that the building plans for a 6-storey building were submitted in December 2010. The proposed building height was the same as that of the adjoining Ward Church and was below the highest point of the Truth Lutheran Church. In view of the proposed low-rise development, there would not be any adverse visual and air ventilation impacts on the area.

C686 : Chan Ching Yee

41. Ms. Chan Ching Yee said that she was responsible for providing social services for the elderly. Due to inadequate space in the Lutheran Building, the training for elderly services had been severely constrained. The imposition of BHRs to preserve the existing townscape was supported. However, the Government should respect the contractual agreement as a building height of 300ft had been stipulated in the lease of the site. There should not be a blanket restriction to freeze all “G/IC” sites to their existing building heights.

Development at the Lutheran Building and ELCHK Truth Lutheran Church sites would not have any adverse visual and air ventilation impacts on the area.

C700 : Ngai Kong Yiu

42. Mr. Ngai Kong Yiu said that the ELCHK provided both funding and accommodation support for the social services section, which had 50 service units and 90 staff. Due to the shortage of space in the Lutheran Building, only 2,000 ft<sup>2</sup> could be allowed for office and training purposes. The actual requirements should be three times the current provision. The BHRs on the Truth Lutheran Church and the Lutheran Building were not reasonable and would constrain the provision of social services for the community.

C501 : Wong Yin Mei

43. Rev. Wong Yin Mei said that the ELCHK Truth Lutheran Church provided different community/social services to meet the needs of society. To meet the increasing demand, the Government should facilitate the Church in providing the services.

C542 : Yiu Siu Fung

44. Mr. Yiu Siu Fung did not agree with PlanD's statement that the BHRs had balanced the needs of society. In fact, the BHR had favoured residential and commercial development. It was unreasonable and unfair to discriminate against the NGOs by imposing stringent BHRs on their sites. The development rights of all sites should be respected. PlanD stated that there was minor relaxation of the BHR if there was concrete redevelopment proposal. However, there was a concern on the extent of relaxation that would be allowed. A relaxation of the BHR from 6 to 12 storeys could hardly be considered as minor. The building plan for a development of 6 storeys at the car park adjacent to the ELCHK Truth Lutheran Church was disapproved as the proposed building height exceeded the BHR of 3 storeys on the OZP. For fairness, the BHR for the "G/IC" sites should be relaxed to that of the commercial and residential sites.

C678 : Ip Ching Wah

45. Rev. Ip Ching Wah said that there was a need for urban development and cost had to be paid for it. The cost should be shared by the community. It was unfair to require the "G/IC" sites to provide the breathing space and the visual relief. The Church had been serving the community and had positive influence on people. The BHRs imposed on the

G/IC sites would limit their development.

C699 : Ip Oi Kwong, Danny

46. Mr. Ip Oi Kwong, Danny, said that the ELCHK Truth Lutheran Church provided social services serving many people. The expansion proposal with a building height of 6-storey was disapproved due to the BHR. The proposed building height of 6 storeys would not have any adverse impacts on the area. He hoped that the Board could give the Church a chance to expand its services and help more people.

C394 : Chang Hin Chiu

47. Mr. Chang Hin Chiu said that the Government should treat the NGOs and Church as partners. Yau Ma Tei was an old district and had great demand for community and social services. Imposition of a stringent BHR on the “GIC” sites was not fair and would not benefit the community. The Government should strike a balance on the needs of different uses.

48. The Chairman then invited questions from Members.

*Representation No. R1*

49. In response to a Member’s enquiry, Mr. Wilson Chan said that according to the information provided by the Lands Department, the Sai Kung Street ESS and Staff Quarters site was a piece of private land acquired by the representer.

50. The Chairman enquired whether the principle of adopting the predominant building height as the BHR was applied on the Yau Tong Bay Substation. Mr. Wilson Chan said that the Yau Tong Bay Substation was the subject of a planning application for the development of a district office and depot, which was approved by the Board in 1992. The BHR of 6 storeys was to reflect an approved development scheme in relation to the existing development on the site.

51. A Member enquired about the use of Building A at the Yau Ma Tei 400kV Substation, which had a higher building height of 5 storeys. Mr. Tsang Chun Tat, Eric, the representative of R1, replied that Building A was a district office and depot serving as an operational and district centre. Car parking spaces were provided at the G/F of Building A

whereas the upper floors were used for office purpose and accommodating power supply equipments. Buildings B and C were used as electricity substation.

52. In response to the question raised by R1 regarding the building height permitted upon redevelopment, Mr. Wilson Chan said that under the Notes for the “G/IC” zone, redevelopment of the site to the existing building height was permitted. If the Yau Ma Tei 400kV Substation site was redeveloped, Building A could be redeveloped to its existing building height, i.e. 5 storeys. However, this 5-storeys existing building height only applied to the portion covered by Building A, but not the whole site. Mr. Tsang Chun Tat, Eric said that this approach would restrict the disposition of buildings upon redevelopment and constrain the design flexibility. Allowing other parts of the site to be redeveloped to 5-storey high would not have any adverse air ventilation impact on the area. In response, Mr. Wilson Chan said that this approach was generally adopted for imposing BHR on a “G/IC” site comprising buildings of different heights. If R1 had any redevelopment proposal for the subject ESS site and had the support of EMSD, an application for relaxation of BHR could be submitted for the Board’s consideration.

#### *Representation No. R9*

#### *Different Treatments*

53. A Member said that some of the representatives claimed that the “G/IC” sites had been treated unfairly as the imposition of the BHRs had frozen their redevelopment potential. This Member asked whether PlanD agreed with this comment. Mr. Wilson Chan said that BHRs had been formulated in a comprehensive manner and struck a balance between community aspiration of a better living environment and private development rights. “G/IC” sites were not stipulated with plot ratio restrictions so as to allow flexibility to meet the requirements, functions, nature and scale of different GIC uses. The representers might also seek the Board’s permission for a minor relaxation of the BHRs under s16 or to apply for amendments to the OZP under s.12A of the Ordinance. Moreover, if the redevelopment proposal was well justified and supported by the relevant government bureaux/departments, PlanD might recommend to the Board to amend the BHR under s.5 or 7 of the Ordinance. PlanD would work out with the NGOs and churches on the appropriate way to take forward their redevelopment proposals.

54. The same Member asked whether, apart from the “G/IC” sites, BHRs had also been imposed on the commercial and residential sites. Mr. Wilson Chan replied that BHRs had been imposed on all development zonings. Mr. Au Fun Kuen said that although BHRs had been imposed on the commercial and residential sites, their BHRs ensured that the maximum plot ratio/GFA of these sites would be achieved. For the G/IC sites, however, the BHRs generally reflected the existing building heights. Under the Building (Planning) Regulations (B(P)R), a maximum plot ratio of 15 for non-domestic development was permitted. However, with the stipulation of BHRs, the ‘G/IC’ sites could not be redeveloped up to the maximum plot ratio for non-domestic development. The Chairman said that plot ratio restriction under B(P)R and BHR were two separate restrictions under two separate Ordinances.

55. A Member asked whether BHRs were imposed on “G/IC” sites in other districts. Mr. Wilson Chan replied that BHR had been imposed on “GIC” zones in other districts to provide breathing space and visual relief for the areas. This Member said that this approach of formulating BHR for G/IC sites was an established practice adopted for revising the BHR for OZPs.

#### *GIC Sites Serving the Community*

56. A Member asked whether the “G/IC” sites should be considered as public resources serving the needs of the community. Mr. Au Fun Kuen said that this should not be the reason for imposing stringent BHRs on the “G/IC” sites as some of them were acquired by NGOs/charitable organizations from the open market. Two “G/IC” sites in Wan Chai were examples which were discussed at the hearing of the representations and comments in respect of the Wanchai OZP on 26.4.2011. The site of Chinese Methodist Church was bought by the church from the open market. Full premium had been paid for lease modification and the site was redeveloped into a composite building comprising accommodation for the church with commercial office space. Another example was the Church of Christ in China, Wanchai Church. The site was bought by the church from the open market and was held under unrestricted lease. The site was originally zoned “R(A)”. It was subsequently rezoned to “G/IC” to reflect the current use on the site. The site, however, was located in a mix of high-rise residential and commercial neighborhood. These were private resources. The Board should not discriminate against the NGO and churches by imposing a stringent BHRs on the “G/IC” sites. This was contrary to Article

141 of the Basic Law which safeguarded the property rights and interests of religious organizations.

57. Rev. Yuen Tin Yau said that the statements in the TPB Paper were contradictory. It stated on the one hand that no plot ratio restriction was imposed on the “GIC” zone to allow flexibility of development, yet on the other, stringent BHRs were imposed on these sites to restrict their development. While relaxation of BHR for “G/IC” sites required a redevelopment proposal and Government’s policy support, no such requirements were imposed on the commercial and residential sites. Moreover, the ELCHK Truth Lutheran Church had worked out a development plan on the church site and submitted building plans for the extension. However, the building plans were rejected because of the BHR imposed on the site.

58. In response to a Member’s enquiry on the need of policy support for the redevelopment proposals, Mr. Wilson Chan replied that redevelopment of the “G/IC” sites for providing more social services might require government policy and/or funding support. PlanD had no information as to whether similar welfare/social facilities had been/would be provided by other NGOs or charitable organizations in the same district. As such, comments and support from the relevant bureaux and departments were required. Rev. Yuen Tin Yau said that projects for new social and community services which had not been acknowledged or provided by the Government might not have the Government’s policy support. Moreover, many social services provided by R9 were funded by private donations, but not government funding.

59. A Member said that due to historical reasons and nature/function of the “G/IC” uses, “G/IC” buildings were in general low-rise and low-density, which formed part of the urban fabric. This Member enquired whether they had been used as spatial and visual relief for the built-up area prior to the imposition of the BHRs for such buildings on the OZPs. In response, Mr. Wilson Chan said that this was the case. Mr. Chan also added that stipulation of BHRs on the OZP was to provide better planning control on the building height upon redevelopment of the sites.

#### *The Methodist College Site*

60. A Member asked whether a BHR of 8 storeys on the site could meet the general

requirement and operation needs of a standard secondary school. Mr. Wilson Chan said that the building height of a standard school was 8 storeys and the 8- storey BHR had been imposed on most of the school sites in the Area. It was accepted that the Methodist College had a smaller site area and the achievable GFA might not meet the standard secondary school requirement. However, increasing the BHR was not the only and might not be the most appropriate solution to solve the problem. There were other alternatives, such as applying for a land exchange for more land in the vicinity or for relocating the school to a bigger site.

61. Rev. Yuen Tin Yau said that the DGS under construction was subject to a BHR of 10 storeys, but not the standard BHR of 8 storeys. The Methodist College had been serving the local community for over 50 years. Many alumni, students and parents did not agree to relocating the school to other districts. In fact, there was not much vacant land available in the urban area for relocation. In formulating the appropriate BHR to be imposed on the site, the fundamental issue to be considered was whether the facilities of a standard school could be provided on the site. Ms. Emily Wong added that with the slopes and other site constraints, the 8-storey BHR would render the provision of a standard secondary school on the site impossible. Both Rev. Yuen and Ms. Wong requested the Board to relax the BHR from 8 storeys to 10 storeys to be in line with that of the DGS.

62. In response, Mr. Wilson Chan said that the BHR of 10 storeys for DGS was to reflect the school building under construction which was supported by the Education Bureau and accepted by all concerned departments. It was understood that the Methodist College had indicated its intention to the Education Bureau to use the Chinese Methodist School premises as its extension after the primary school relocated to Wylie Road. This would help to provide more space for the College.

63. Ms Emily Wong said that the Chinese Methodist School was a very small school. Even if part of the school premises could be used as a New Annex for the College, the additional space that would be made available was very limited. Rev. Yuen Tin Yau added that the lease of the Chinese Methodist School site restricted the site for three uses, namely, school, church and social services. Only two storeys of the school premises would be used as the New Annex for the College. The total site area of the Methodist College and the New Annex was only 2,900m<sup>2</sup>, which was far below the standard provision of a

secondary school. In response to a Member's enquiry, Ms. Emily Wong said that DGS was a Direct Subsidy Scheme school while the Methodist College was subsidised by the Government.

64. In response to a Member's enquiry on whether the Methodist College could make use of the ex-Grantham College of Education site at 42 Gascoigne Road, Mr. Wilson Chan said that the site was owned by the Education Bureau. The same Member enquired whether R9 had explored this alternative site. Rev. Yuen Tin Yau said that R9 had submitted a proposal for using the ex-Grantham College of Education site for developing primary and secondary schools for more than 10 years ago. The site was, however, granted to the Pui Ching education establishment for development of private primary and secondary schools. The site was left vacant for more than 10 years. It was understood that the Pui Ching education establishment would return the site to the Education Bureau and formal arrangement for surrender had not yet been made. The Hospital Authority also proposed to use the site for hospital/medical services. The Government had no final decision on the use of the site.

65. Regarding the alternative of extending the Methodist College to the Chinese Methodist School, Rev. Yuen Tin Yan said that the two school sites were separated by a steep public road which would pose traffic safety problem for the students. Apart from classrooms, other supporting facilities such as playground were needed. Ms. Emily Wong added that the school was built on a steep slope. The connection between different parts of the school buildings was not satisfactory. The BHR of 8 storeys severely constrained the in-situ redevelopment of the College.

66. Given the constraints of the Methodist College site, a Member asked whether R9 would consider a land exchange and relocate the school to a bigger site. Rev. Yuen Tin Yan said that R9 had applied for a land exchange before and approval had been given by the Education Bureau for relocating the College to West Kowloon. However, the land exchange application was withdrawn as many parents and students preferred an in-situ redevelopment of the school.

*ELCHK Truth Lutheran Church Site*

67. The Chairman enquired about the building plans submitted for the Truth

Lutheran Church and the reasons for disapproval of the building plans. Mr. Chau Chok Ming said that the concerned building plans were for building an extension of the Church. The building plans had been rejected as the proposed building height of 6 storeys exceeded the BHR stipulated on the OZP. Mr. Wilson Chan said that the proposed extension was located at the open car park of the Church site which was subject to a BHR of 3 storeys. Apart from the BHR, building matters was also one the reasons for rejecting the building plans. To facilitate the extension scheme, the proponent could further discuss with PlanD in taking forward the development proposal. Rev. Chang Chun Wa said that it was unreasonable to impose a BHR of 3 storeys on the site. There was operational and functional need to redevelop the site. As a maximum building height of 300 ft was stipulated in the lease of the Church site, the Board should relax the BHR of the site to 300ft accordingly.

#### *Duty to Inquiry*

68. A Member said that in examining the proposals submitted by the representers, the Board was performing its duty of inquiry. Mr. Menachem Hasofer said that the Board needed to have an inquiry on the demand and supply of social and community services, and whether there was any need to provide new services to meet changing needs. It should also consult the relevant stakeholders, in particular the affected NGOs to identify their redevelopment plans. Based on the information solicited, the AVA expert should conduct a detailed study on the possible impacts of the proposed redevelopment plans.

#### *Service Groups*

69. In response to a Member's enquiry, Ms. Emily Wong said that in accordance with the requirements set out by the Education Bureau, only a maximum of 30% of the school places would be provided for students outside the district. The other school places would be provided for local community. Besides, the College was linked with the Chinese Methodist School and many students were graduates of the Chinese Methodist School. Mr. Chan Lai Sang, Jacob, said that the Yang Memorial Methodist Social Service Centre served mainly the local community. In fact, due to the inadequate space, some services for the local community had to be conducted in other districts. Rev. Chang Chun Wa said that the ELCHK site served about 1,000 church members and 1,000 students. The ELCHK also had three other churches in the Yau Tsim Mong District.

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

71. The meeting was adjourned for a two-minute break.

### Deliberation Session

#### Representation No. 1

72. A Member said the principle of formulating the BHRs for the ESSs site under the Yau Ma Tei OZP was consistent with that adopted in other OZPs. R1 had not put forward strong justification and there was no ground to relax the BHR as proposed. For the Yau Ma Tei 400kV ESS, Members considered that the BHR of 4 storeys was appropriate as it reflected the predominant height of the buildings on the site. If there was any redevelopment proposal with the support of the relevant bureaux and departments, it could be submitted for the Board's consideration. For the Hamilton Street ESS, Members agreed that the BHR should be revised from 1 storey to 2 storeys to reflect the existing height.

#### Representation No. 9

##### *G/IC Sites Serve as Visual and Spatial Relief and Breathing Space*

73. The Chairman said that apart from providing government, institution or community facilities serving the needs of the community, "G/IC" sites also served as visual and spatial relief and breathing space. This was particularly important in the densely developed areas such as Yau Ma Tei.

74. In response to another Member's enquiry, the Secretary said that the BHRs imposed on the "G/IC" sites in the Area generally reflected the existing building heights with the exception of schools which were normally allowed a BHR of 8 storeys to meet functional requirements, sites in area with special historical significance, sites with special functional requirements and committed development. Provisions had been provided in the OZP and

under the Town Planning Ordinance for relaxation of the BHRs, if required. A Member opined that the low-rise and low-density “G/IC” developments in fact formed part of the existing urban fabric. The role of “G/IC” sites serving as visual and spatial relief and breathing space to the built-up area was an established planning principle. Members agreed that the same principle should be consistently followed and considered that the imposition of the BHRs on the “G/IC” sites was not discriminated against the NGOs. If there was a redevelopment proposal that required a relaxation of the BHRs, it could be submitted for the Board’s consideration under s.16 or s.12A of the Town Planning Ordinance.

75. A Member asked whether the BHR for each “G/IC” site could be worked out taking into account its redevelopment needs. The Secretary said that there was a large variety of GIC uses with different functional and height requirements. It was only upon the submission of redevelopment proposals for the “G/IG sites that their redevelopment needs would be revealed and duly considered. Noting the Secretary’s clarification, another Member opined that this would be a practical approach in formulating the BHRs for the “G/IC” sites. In any case, the imposed BHRs could be revised upon examination of their redevelopment needs and vetting of the redevelopment proposals. Another Member also shared this view and said that the Board was not in a position to decide whether the redevelopment proposals submitted by the representers were justified and appropriate. Policy support and comments from relevant bureaux and departments were required.

#### *Visual and Air Ventilation Consideration*

76. Members had a discussion on R9’s argument that the provision of ‘lower buildings as interface and visual and spatial relief in urban core’ as stated in Urban Design Guidelines, Chapter 11 of the Hong Kong Planning Standards and Guidelines (HKPSG) only applied in the context of ‘Guidelines for New Towns’ but not ‘Guidelines for Kowloon’. Members noted that the quoted sentence was from the section ‘Development Height Profile’ in Chapter 11 of the HKPSG, which was intended to lay down the general principles for formulating development height profile in Hong Kong including Hong Kong Island, Kowloon, New Towns and Rural Areas. The term ‘urban core’ was a general reference to the high-density urban areas, where visual and spatial relief was most warranted. It was only highlighted in the context of New Towns for avoidance of doubt, as the development density in new town areas was generally lower than the urban core. Moreover, paragraphs 6.2.8 and 11.2.12 of Chapter 11 of the HKPSG also mentioned that in the urban core, low rise and low-density area should

be preserved and low-rise buildings should be located in windward direction and the waterfront areas and decentralised within high-density neighbourhood to create breathing spaces and induce building height variation.

#### *Duty to Inquiry*

77. In respect of R9's comment that the Board had a duty to make an inquiry on the need for the provision of social and community services and consult the relevant stakeholders before the imposition of the BHRs for the "G/IC" sites, Members noted that in formulating the BHRs, all relevant considerations and assessments had been taken into consideration, including the existing topography, the local character, the existing townscape and building height profile, the AVA study, the compatibility in terms of building height with the surrounding areas, the need to balance between public aspirations for a better living environment and private development potential, the urban design principles, etc. A Member said that in considering the representations and comments, the Board had clarified, inquired and duly considered the submissions and comments made by the representers and commenters.

#### *Legal Basis of Introducing BHR and Contrary to Basic Law*

78. In response to a Member's enquiry on the legal basis of introducing the BHRs, the Chairman said that according to the legal advice, sections 3 and 4 of the Town Planning Ordinance and the scheme of the legislation gave the Board comprehensive powers to control development in any part of Hong Kong. The Board had the power to impose development restrictions if there were sufficient planning justifications.

79. This same Member said that there were no BHR imposed on the OZP before 1 July 1997 and some of the representation sites were not subject to any building height control under the lease. The Secretary said that according to the legal advice, given that R9's property rights and interests in the sites concerned were subject to TPB's power to impose BHRs in accordance with the relevant provisions of the Town Planning Ordinance before 1 July 1997, the imposition of the proposed BHRs on R9's sites was unlikely to be inconsistent with the protection of the previous property rights and interests of religious organisations under Article 141 of the Basic Law. A Member opined that the representers had not submitted strong justifications to substantiate their arguments. Regarding the lease entitlement, the same Member said that was a private agreement between the landlord and the lease, and such

private agreements were outside the purview of the Town Planning Board.

80. A Member said that according to the commenters, a building height of not exceeding 300ft was stipulated in the lease of the ELCHK site. This Member opined that such building height was to meet the designed requirements of the church, such as the high headroom and steeple. Another Member said that the representation sites were held by private treaty grant and the premium should have reflected the development intensity permitted at the time when the land was granted. The development intensity permissible under the Building (Planning) Regulations was under a separate regime.

#### *Consideration of Redevelopment Proposals*

81. Members agreed that the BHRs imposed on the “G/IC” sites were appropriate. A Member said that the representer proposed that the BHRs of their sites should be relaxed to the height bands of the nearby buildings/school. However, in the absence of any detailed redevelopment proposal, there was no strong planning justification for revising the BHRs. If there was such a need, the representer might seek the Board’s permission for minor relaxation of the BHRs under s.16 or to apply for amendments to the OZPs under s.12A of the Ordinance. Alternatively, if the redevelopment proposal 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.

82. In response to a Member’s question on the provision of ‘minor relaxation’ of the BHR, the Secretary stated that as set out in the TPB Paper, the BHRs had been formulated taken into account all relevant planning consideration. If there was any redevelopment proposal that would require a relaxation of the BHR, such relaxation should be justified on planning and design grounds. The Chairman said that there was no definition of ‘minor’ in considering application for minor relaxation. This would allow flexibility for the Board to consider cases on individual merits.

83. A Member said that in considering the representations and comments in respect of the Wan Chai OZP on 26.4.2011, the Board agreed that PlanD would be requested to take a proactive role in facilitating the processing of the redevelopment proposals submitted by the representers and commenters. Subject to obtaining policy support from the concerned bureaux/departments and acceptance of the proposals by the relevant government

departments, PlanD would take the initiative to revise the OZP under section 5 or 7 of the Ordinance to incorporate the redevelopment parameters into the OZP for public comments. This Member opined that this proactive approach should also be adopted for the Yau Ma Tei OZP to address the redevelopment needs of the NGOs and churches. Other Members agreed.

#### *No Prior Public Consultation*

84. Members noted that it was the Board's practice that the public would be consulted on the OZP amendments in accordance with the provision of the Town Planning Ordinance, whereby the public would have a statutory channel to submit representations and comments and would be heard by the Board. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs.

#### *Historic Grading of the Chinese Methodist Church (Kowloon)*

85. Members noted that The Chinese Methodist Church (Kowloon) was a proposed Grade 3 historic building. However, the proposed grading was a general description in the TPB Paper rather than a justification for the BHR of the church.

86. Members appreciated the contributions made by the NGOs and churches in providing many social and community services for the community. Members agreed that PlanD would be requested to take a proactive role in assisting the NGOs and churches in taking forward the redevelopment proposals by circulating the redevelopment proposals when submitted by the representers and commenters for departmental comments. If the proposals were supported and accepted by the relevant bureaux/government departments, PlanD would take steps to revise the OZP under section 5 or 7 of the Ordinance.

87. The Chairman noted that Members agreed to partially meet R1 and not to uphold R9. Members then went through the suggested reasons for not upholding the representations as detailed in paragraph 6.1 of the Paper and considered that they should be suitably amended.

#### R1

88. After further deliberation, the Board decided to partially meet the Representation No. 1 by relaxing the building height restriction for the "G/IC" zone covering the Hamilton Street ESS from 1 storey to 2 storeys as shown on Annex VI of the Paper.

89. After further deliberation, the Board decided not to uphold the remaining parts of the Representation No. 1 for the following reasons:

- (a) Apart from providing G/IC facilities, “G/IC” sites in the built-up urban area also served as breathing space as well as spatial and visual relief. Their BHs should be contained to ensure good air ventilation as recommended in the AVA Study. The development scale and intensity of “G/IC” sites should be considered on a case-by-case basis, having regard to the requirements, functions and nature of different GIC facilities; and
- (b) any relaxation of the BHRs should be justified by functional and operational needs with planning and design merits. There was provision under the Ordinance for a minor relaxation of the BHRs or for amendments to the OZP. In the absence of any redevelopment proposal, there was no strong justification to support the proposed relaxation of BHRs.

90. After further deliberation, the Board decided not to uphold the Representation No. 9 for the following reasons:

- (a) Apart from providing G/IC facilities, “G/IC” sites in the built-up urban area also served as breathing space as well as spatial and visual relief. Their BHs should be contained to ensure good air ventilation as recommended in the AVA Study. The development scale and intensity of “G/IC” sites should be considered on a case-by-case basis, having regard to the requirements, functions and nature of different GIC facilities;
- (b) any relaxation of the BHRs should be justified by functional and operational needs with planning and design merits. There was provision under the Ordinance for a minor relaxation of the BHRs or for amendments to the OZP. In the absence of any redevelopment proposal, there was no strong justification to support the proposed relaxation of BHRs;
- (c) Sections 3 and 4 of the Ordinance and the scheme of the legislation gave the Board comprehensive powers to control development in any part of Hong Kong. The Board had the power to impose BHRs on individual sites

or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were necessary and sufficient planning justifications; and

- (d) the two-month statutory exhibition period and provision for representations and comments formed part of the public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus defeating the purpose of imposing the BHR.

91. The meeting was adjourned for a lunch break at 3:00 pm.

92. The meeting was resumed at 3:30 p.m..

93. The following Members and the Secretary were present in the afternoon session:

Mr. Thomas Chow Chairman

Mr. Stanley Y.F. Wong Vice-chairman

Mr. K.Y. Leung

Mr. Walter K.L. Chan

Ms. Anna S.Y. Kwong

Dr. James C.W. Lau

Professor Edwin H.W. Chan

Professor Eddie C.M. Hui

Mr. Roger K.H. Luk

Professor S.C. Wong

Dr. W.K. Yau

Mr. Stephen M.W. Yip

Principal Environmental Protection Officer (Strategic Assessment),  
Environmental Protection Department

Mr. H.M. Wong

Assistant Director (2), Home Affairs Department

Mr. Andrew Tsang

Director of Lands

Miss Annie Tam

Director of Planning

Mr. Jimmy C.F. Leung

**Agenda Item 5**

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the  
Draft Yau Ma Tei Outline Zoning Plan No. S/K2/21  
Group 2 : R2 to R8 and C1 to C77, C420 and C705  
(TPB Paper No. 8810)

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[The hearing was conducted in Cantonese and English.]

94. The Secretary said that Ms. Maggie M.K. Chan had declared an interest on this item as her spouse had a property in the King's Park area which was a subject of the representations under consideration. Members noted that Ms. Chan had tendered an apology of being unable to attend the meeting.

**Presentation and Question Session**

95. As sufficient notice had been given to the representers and commenters to invite them to attend the meeting, Members agreed to proceed with the hearing of the representations and comments in the absence of the other representers and commenters who had indicated that they would not attend or had made no reply.

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

- |                 |   |
|-----------------|---|
| Mr. Wilson Chan | - District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), PlanD   |
| Ms. M.L. Leung  | - Senior Town Planner/Special Duties (STP/SD), PlanD                      |
| Mr. Calvin Chiu | - Air Ventilation Assessment (AVA) Consultant (Environ Hong Kong Limited) |

97. The following representers, commenters and their representatives were also invited to the meeting:

R3 - Dr. Edward Lee (Environmental Group of Yau Ma Tei)

Dr. Edward Lee - Representer

R5 - Yeung Tsz Hei, Benny (Yau Tsim Mong District Councillor)

Mr. Yeung Tsz Hei, Benny - Representer

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

Ms. Kira Brownlee - Representatives of R8

Ms. Anna Wong

C20 – Mr. Tang Kwong Chung

Mr. Tang Kwong Chung - Commenter

C77 – The Owner Committee of Block 3 of Prosperous Garden

Mr. Choi Wing Hong - Commenter

C705 - The Owner Committee of Block 4 of Prosperous Garden

Mr. Chan Sun Wing	]	
Mr. Choi Wing Hong	]	
Mr. Fong Sung Yau	]	
Ms. Mak On Kei	]	Representatives of C705
Ms. Tang Pui Man	]	
Mr. Choi Kwok Yin	]	
Mr. Tong Chong Sun	]	

98. The Chairman extended a welcome and explained the procedures of the hearing to the representers, commenters and their representatives. He then invited STP/SD to brief Members on the representations and comments. Members noted that a replacement for Page 32 of the Paper was tabled at the meeting. In addition, Members noted that a letter dated 7.3.2011 from REDA to the Chairman and Members of the Board and a letter dated 9.5.2011 from the Secretary of the Board to REDA submitted by the representatives of R8 had also been tabled at the meeting.

99. With the aid of a Powerpoint presentation, Ms. M.L. Leung made the following main points as detailed in the Paper:

*Background*

- (a) on 29.10.2010, the draft Yau Ma Tei Outline Zoning Plan (OZP) No. S/K2/21 incorporating amendments mainly to impose building height restrictions (BHRs), specify setback requirements and designate non-building area (NBA) in various zones as well as other zoning amendments was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 9 representations and 702 comments were received during the statutory publication periods of the draft OZP and the representations respectively. Seven representations (R2 to R8) and 79 related comments to be heard at this hearing were generally related to the BHRs, NBA, building setback requirements and building gaps imposed on development zones;
- (b) the BH review for the Yau Ma Tei Planning Area (the Area) had taken into account relevant planning considerations, including the existing topography, ridgeline protection, the local wind environment and measures suggested for ventilation improvements and relevant urban design considerations in the Urban Design Guidelines (UDG). A stepped height concept was generally adopted with higher height bands along Nathan Road, descending gradually to the east and west directions;
- (c) taking account of the recommendations of the AVA Study, a non-building area (NBA) and two building setbacks were stipulated on the OZP. That included a NBA at the public open space south of 8 Waterloo together with Yunnan Lane, a building setback of 3m at 15m above mean street level for the sites on both sides of Portland Street, Arthur Street, Woosung Street (between Kansu Street and Saigon Street) and Parkes Street as well as a building setback of 6m at 15m above the mean street level for the “Commercial” (“C”) zone abutting the northern curb of Kansu Street. In addition, building gaps of 10m/15m-wide above podium level were stipulated in the Explanatory Statement (ES) of the OZP for long-term implementation;

*Supportive Representations for More Stringent Control on BHRs (R2 to R4)*

- (d) R2 (Green Sense), R3 (Dr. Edward Lee, Environmental Group of Yau Ma Tei) and R4 (Designing Hong Kong Limited) welcomed the imposition of BHRs on the OZP as a general measure to avoid ‘walled’ buildings, control developments and provide ventilation space. They also requested for a more stringent control on BHRs mainly on the following grounds :
- (i) the Area could not accommodate high density commercial buildings zoned “C” with a plot ratio (PR) of 12 as the traffic network was close to its capacity (R2);
  - (ii) imposing BHRs without corresponding PR review would lead to ‘walled’ buildings and canyon effect (R4);
  - (iii) the two-tier approach to BHR was not supported as it would induce podium design and destroy small-scale development (R4); and
  - (iv) air quality in the Area was deteriorating with the construction of massive transport infrastructures, e.g. Central Kowloon Route (CKR) and Express Rail Link (XRL). Controlling the height/scale of buildings which were subject to severe vehicular emission and forbidding developments in the coastal areas could improve air ventilation (R3);
- (e) R2, R3 and R4 proposed to :
- (i) reduce the permitted PR of “C” zone from 12 to 5-6 and that of “Residential (Group A)” (“R(A)”) zone from 7.5 to 5 for domestic buildings and from 9 to 6 for composite buildings (R2);
  - (ii) require the provision of at-grade open space on 20% of the site area as a pre-requisite to allow BHR of 100mPD on sites with an area of 400m<sup>2</sup> or more in “R(A)” zone (R2);
  - (iii) forbid developments along coastal area and enforce mandatory control on developments along the coastal area and areas subject to excessive vehicular emission (R3); and
  - (iv) provide mitigation measures, e.g. ventilation space, greening and

landscaping for areas subject to excessive vehicular emission along Ferry Street (R3);

*Representation with Reservation on BHRs (R5)*

- (f) R5 (Yau Ma Tei District Councillor Mr. Yeung Tsz-hei, Benny) had reservation on the imposition of the blanket BHRs of 80m and 100m as this would lead to the development of ‘walled’ buildings at a uniform height of 80m;
- (g) R5 proposed to restrict the height of developments on reclaimed land to the west of Ferry Street to not more than 40m to allow fresh air blowing into the Area;

*Adverse Representations for More Lenient BHRs (R6 to R8)*

- (h) R6 (Mr. Tse Kwok-yin), R7 (Wellgain Investment Limited) and R8 (REDA) opposed BHRs imposed on the OZP mainly on the following grounds:
  - (i) the low BHRs of 80mPD/100mPD would create monotonous cityscape and constrain innovative/good quality building design (R6 to R8). It would result in bulky buildings forming walled developments and block air flow, light and views (R8);
  - (ii) a BHR up to 120mPD along Nathan Road was allowed in the Mong Kok OZP to amplify down wash effect. Such proposal was not adopted in the Yau Ma Tei OZP. Setting the BHRs too low would result in a flat height profile, making downwash effect insignificant (R8);
  - (iii) there was no clearly expressed objective of the BHRs and no information on the floor-to-floor height adopted in formulating the BHRs (R8);
  - (iv) the BHRs affected redevelopment potential in the Area (R6 to R8). The existing gross floor area (GFA), which was larger than that

permissible under the OZP, could not be achieved in the new buildings with the BHRs imposed (R8);

- (v) the two-tier approach was in conflict with the new Practice Notes on sustainable building design and worked against a quality urban environment by encouraging car ownership. Site amalgamation would take place naturally if the BHRs were set at an encouraging height (R8); and
- (vi) the ‘spot zoning’ approach was inconsistent with the broad land use zone and broad principles of development stipulated in paragraphs 3.1 and 3.2 of the ES of the OZP (R8);

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

(i) R6 to R8 proposed to :

- (i) remove or relax the BHRs by 20-40m to allow more interesting building design, and further relax the BHR for sites at or near MTR Station to about 160mPD to create landmark development and free up space for pedestrians (R6 and R7);
- (ii) relax the BHRs by 20-40m for design flexibility and better air ventilation, including a BHR of at least 120mPD for the “C” sites along Nathan Road and more relaxed height limits for sites at or near transport nodes for more pedestrian space. A more generous BHR between 120-180mPD would encourage innovative design and built form. All BHRs should be increased to ensure that existing development rights of PR 15 or greater can be achieved (R8);
- (iii) incorporate a relaxation clause for the BHR of “C” zone for sites with an area not less than 1,500m<sup>2</sup>, similar to the relaxation scheme adopted in the Tsim Sha Tsui OZP (R8);
- (iv) introduce “Other Specified Uses” annotated “Mixed Use” (“OU(MU)”) zone at the “R(A)” sites one to two blocks from Nathan Road and those along Jordan Road to encourage the extension of a mixed use/commercial spine (R8);

- (v) delete the lower height band of the two-tier BHR and to allow the higher height band for all sites (R8); and
- (vi) undertake a detailed planning study and a comprehensive land use review with forward-looking approach (R8);

*Supportive Representations for More Stringent Control of NBA, Building Setbacks and Building Gaps*

- (j) R2 held that the Area lacked sufficient ventilation corridor/NBA and large-scale open space for air ventilation, and supported the building gaps at Man Ming Lane, Hamilton Street and Wing Sing Lane;
- (k) R2 and R4 proposed to:
  - (i) provide a minimum 10m-wide ventilation corridor for every 60m-long continuous building façade (R2);
  - (ii) consider creating air paths by demolishing buildings (R2); and
  - (iii) extend building setback requirement for sites along Nathan Road (R2 and R4);

*Adverse Representations for More Lenient Control of NBA, Building Setbacks and Building Gaps*

- (l) R8 objected to the designation of NBA, building setbacks and building gaps mainly on the following grounds:
  - (i) the designation of NBA and building setbacks violated the broad principles of planning and there was no provision for such designation under the Ordinance; and
  - (ii) the term ‘NBA’ caused uncertainty and confusion as the same term was used with specific meaning in the lease. The implication of NBA under the BO, particularly on site coverage and PR calculation, was unclear;

- (m) R8 proposed to:
- (i) replace the NBA by “Open Space” (“O”) zone or to delete the words ‘under exceptional circumstances’ from the Notes of the “Other Specified Uses” (“OU”) annotated “Residential Development with Historical Building Preserved” zone;
  - (ii) delete building setback requirements;
  - (iii) resolve the conflict with the new Practice Note on SBD through changes to the OZP; and
  - (iv) consider minor relaxation of all restrictions or requirements based on individual merits instead of under ‘exceptional circumstances’;

*Public Consultation*

- (n) R6 to R8 were of the view that there was no public consultation on the amendments to the OZP prior to the gazettal of the plan. R8 also indicated that the public were not informed of the justifications for imposing the restrictions and there was no alternative proposal and visual impact analysis to indicate the vision for the long-term development of the Area;

*PlanD’s Responses to Representations*

- (o) PlanD’s responses to the grounds of representations and proposals of R2 to R4 for more stringent control on BHRs were given in paragraph 4.4.1 of the Paper and summarised below :
- (i) PR restrictions had been introduced to Kowloon, including Yau Ma Tei, after the Kowloon Density Study in 1993. The proposed reviewing of PR for Yau Ma Tei would have significant ramifications and a comprehensive study was required to take due account of the constraints on transport/environment/infrastructure capacities and to strike a fair balance between public interest and private development potential. The

imposition of BHRs did not preclude future PR review, if justified (*R2 and R4*);

- (ii) the imposition of BHRs without corresponding PR review would not lead to wall/canyon effect. The formulation of BHRs had taken into account various relevant considerations, based on reasonable assumptions with allowance for design flexibility. In general, they should be sufficient to accommodate the permissible PR under the OZP. Opportunity for BH variations within a height band was allowed through the two-tier approach to BHR and the provision for minor relaxation of BHRs on application to the Board (*R4*);
- (iii) the two-tier approach to BHR was intended to facilitate amalgamation of sites for larger developments with the provision of more design flexibility and inclusion of supporting facilities. Whether large-scale podium would be constructed in a development depended on market forces and other factors. The UDG had included a set of guidelines for good podium design (*R4*). R2's proposal of requiring the provision of at-grade open space as a pre-requisite to allow a higher BH band was not directly related to the above purpose. Similar development control, such as green coverage requirement, had been provided under the Sustainable Building Design (SBD) Guidelines promulgated by the Buildings Department (BD) on 1.4.2011 (*R2*);
- (iv) the imposition of BHRs did not increase the development intensity of the sites nor result in additional traffic impacts on the Area. Where necessary, individual developers were required to assess the traffic impact of their proposed developments at the stages of planning and/or lease modification application (*R2 and R4*). Transport infrastructure projects which constituted a designated project under the Environmental Impact Assessment

Ordinance would also be subject to environmental impact assessment (R3); and

- (v) while the area between the Area and Yau Ma Tei Typhoon Shelter fell within the extent of the draft South West Kowloon OZP, the AVA had taken account of the existing/future developments in West Kowloon. Much of the reclaimed land facing the Area was zoned “Government, Institution or Community” (“G/IC”) and “O”. The relatively low-rise and dispersed developments allowed wind penetration into the Area (R3);
- (p) regarding the grounds of representation and proposals of R5, BHRs would not constrain good quality buildings or create a monotonous streetscape. Design flexibility was allowed under the two-tier BHR approach and the provision for minor relaxation of BHR. Moreover, the AVA had taken account of the existing/future developments in West Kowloon;
- (q) PlanD’s responses to the grounds of representation and proposals of R6 to R8 for more lenient control on BHRs were given in paragraph 4.4.3 of the Paper and summarised below :
  - (i) the rationale and objectives of the imposition of BHR for the Area were clearly expressed in MPC Paper No. 24/10 and paragraph 7.1 of the ES of the OZP. In general, the BHR was a response to public aspiration for better living condition and a greater certainty and transparency in the statutory planning system (R6, R7 and R8);

*Height variation*

- (ii) BHRs were formulated based on reasonable assumptions and flexibility was allowed in the shape and form of the buildings. They would not constrain good quality building or preclude the incorporation of green features and innovative architectural

features. Opportunity for BH variations within a height band was allowed through the two-tier approach to BHR and the planning system for minor relaxation of BHRs (*R6, R7 and R8*);

- (iii) a reasonable floor-to-floor height had been assumed in the formulation of the BHRs. A floor-to-floor height of about 4m for “C” sites and about 3-3.15m for “R(A)” sites for the typical floors would be possible under the BHRs (*R8*);

#### *Design flexibility*

- (iv) BHRs *per se* would not necessarily result in bulkier buildings or rows of buildings affecting air ventilation. Given the tendency to maximise the best view in certain direction and to capitalise on land values on the lower floors by designing a 100% site coverage commercial podium permissible under the Building (Planning) Regulation (B(P)R) to 15m, a development with no BH control could give the same bulkiness at pedestrian level. The provision of better designed sustainable buildings was not guaranteed by relaxing BHRs (*R8*);

#### *Building bulk*

- (v) a relaxed BHR would not necessarily provide more air flow, light and views. These features were subject to a combination of factors including building bulk, site geometry, building form and disposition, choice of views and prevailing wind direction (*R8*);

#### *Downwash effect*

- (vi) unlike Mong Kok, according to the AVA, the Area was generally unobstructed from the western seashore and there were existing air paths and open spaces cum low-rise GIC clusters to facilitate wind penetration. Further relaxation of BHRs to amplify downwash effect was not required (*R8*);

*Relaxation of BHR*

- (vii) blanket relaxation of BHRs might result in proliferation of high-rise developments. Further relaxed BHRs for sites at or near MTR stations/transport nodes would jeopardise the coherency of the stepped height profile. Landmark buildings were not necessarily tall buildings. To free up more low level space for pedestrian, NBA and building setback would be the more feasible alternatives. There was provision for application for minor relaxation of the BHRs should there be any planning and design merits for a development scheme to exceed the BHR (R6, R7 and R8);

*Relaxation clause for “C” zone*

- (viii) according to the UDG, Tsim Sha Tsui was recognised as a major high-rise node and no additional high-rise node should be designated outside the Tsim Sha Tsui area. Yau Ma Tei was predominantly a residential district and hence the relaxation clause adopted in the Tsim Sha Tsui OZP was not applicable to the Yau Ma Tei OZP (R8);

*Incorporation of “OU(MU)” zone*

- (ix) the sites one to two blocks away from Nathan Road and along Jordan Road were predominantly occupied by residential developments with lower floors for retail/commercial uses. The proposed introduction of the “OU(MU)” zone in this area was not in line with the existing land use. Flexibility for change of use was allowed through the planning permission system should the market determine that more commercial uses was required (R8);

*Comprehensive study*

- (x) the proposed detailed planning study/land use review would require thorough examination and long time to complete. Relevant study/review could be considered in future when the situation warranted (R8);

*Development rights and redevelopment potential*

- (xi) in formulating the BHRs, it had been ensured that upon incorporation of the BHRs, development sites would be able to accommodate the PRs as permitted in the OZP. Exceedance of the permitted plot ratio was also allowed by a standard clause related to section 22(1) or (2) of B(P)R and minor relaxation of the BHRs on application to the Board (*R6 to R8*);
- (xii) the BHRs had provided reasonable scope for redevelopment while avoiding out-of-context buildings. The imposition of BHRs would not result in a decrease in redevelopment potential, and hence would not jeopardise the incentive for private redevelopment (*R6 to R8*);

*Two-tier approach to BHR*

- (xiii) there was no presumption against development at small lots. While the maximum PR permitted on the OZP was achievable under the BHRs, buildings might not be built to the maximum permitted PR due to site constraints, building design and other considerations (*R8*);
- (xiv) it was not the intention of the two-tier approach to encourage on-site parking, but to allow sufficient floor space to accommodate supporting facilities for the residents, including parking spaces (*R8*); and

*Spot zoning*

- (xv) according to legal advice, sections 3 and 4 of the Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong if there were necessary and sufficient planning justifications. The imposition of BHRs was considered justified as it could provide better planning control on the BH and avoid

out-of-context development (*R8*);

- (r) PlanD's responses to the grounds of representations and proposals of R2 and R4 for more stringent control of NBA, building setbacks and building gaps were given in paragraph 4.4.4(a) of the Paper and summarised below :
  - (i) provision of more building setback/ventilation corridors/open space would pose undue constraints on future developments/redevelopments and have adverse impact on the development potential of the affected sites. The importance of building setback along Nathan Road was relatively low as the road was already over 30m wide (*R2 and R4*); and
  - (ii) the grid pattern of the streets in the Area had already confined many streets blocks zoned "C" and "R(A)" to a length of about 60m. For the long continuous building blocks, building gaps had been stipulated in the ES of the OZP for long-term implementation (*R2*);
  
- (s) PlanD's responses to the grounds of representations and proposals of R8 for more lenient control of NBA, building setbacks and building gaps were given in paragraph 4.4.4(b) of the Paper and summarised below :
  - (i) the designation of NBA and building setback requirements on the OZP which served a positive planning purpose and had positive planning benefits, was a type of development control and justified in the circumstances (*R8*);
  - (ii) the area designated as 'NBA' was clearly marked and shown in the OZP. There should be no building structure above ground, but development was permitted below ground. The objectives of the NBA were described in paragraph 7.8 of the ES, i.e. for air ventilation consideration. The development potential of the

sites would not be affected (R8);

- (iii) the planning intention of designating NBA and building gap was to improve air ventilation and visual permeability whereas the designation of setback was mainly to improve the environment at pedestrian level. The relaxation of such requirements would affect the achievement of the above objectives;
  - (iv) the wording ‘exceptional circumstances’ was included in the minor relaxation clause of NBA and setback requirements to cater for some exceptional situations when the specific requirement could not be met due to site constraints but the planning objectives could be achieved in other form (R8); and
  - (v) the new measures on SBD and the OZP restrictions on BHR, NBA and building setback/gaps were under two separate regimes which were complementary rather than duplicating each other (R8);
- (t) regarding R6 to R8’s views on public consultation, it was an established practice that proposed amendments involving BHRs should not be released to public prior to their gazettal as the premature release of such information might prompt an acceleration of submission of building plans by developers to establish *fait accompli*, hence defeating the purpose of imposing the BHRs;

#### *The Comments*

- (u) C1 supported all the amendments proposed by R2 and R3 and opposed those proposed by R5 to R8, without specifying grounds. C2 to C11 generally concurred with R2 to R4 for a more stringent development control to improve air ventilation in the Area without giving particular grounds. C420 supported R2’s proposal to lower PR of “C” zone because of the serious air pollution in the Area. C12 to C77 and C705

supported R3 and R5 on similar grounds. They opined that allowing high-rise developments in the coastal area while restricting the height of buildings in the hinterland to a relatively low level was unfair and would affect the property value. C76, C77 and C705 (Owners' Committee of Prosperous Garden Blocks 1 to 4) stated that sufficient height should be allowed for redevelopment of Prosperous Garden to shield off pollutants. C12 further considered that minimising the scale of transport infrastructures and the adjoining high-rise buildings was more effective than BHRs in improving air ventilation;

- (v) C1 to C77, C420 and C705 proposed to:
- (i) remove the two-tier approach and provision of minor relaxation of BHR (C2 to C7);
  - (ii) restrict height of all buildings to not more than 80m (C2 to C7);
  - (iii) remove the BHR of "R(A)1" zone (C75), relax (C12, C36, C76, C77 and C705) or relax to 120mPD (C18 to C35 and C37 to C74);
  - (iv) impose setback requirement for all redevelopments, particularly along Nathan Road (C2 to C7);
  - (v) provide a minimum 20m-wide ventilation corridor for each 60m-long continuous building façade (C2 to C7);
  - (vi) reduce the density, PR, width and scale of buildings, including the PR reduction of "C" zone from 12 to 6.5 and that of "R(A)" zone from 7.5 to 5 for domestic building and 9 to 6 for composite building (C2 to C11);
  - (vii) provide a 20% of site area as open space for sites with an area of 400m<sup>2</sup> or more (C2 to C7);
  - (viii) provide sufficient open space/air paths/shielding adjacent to large-scale transport infrastructures and between buildings upon redevelopment in accordance with the air/noise standards in the HKPSG (C2 to C12);
  - (ix) increase open space provision, lower PR and reduce transport infrastructure with heavy vehicular emission (C13 to C17);
  - (x) reduce land use on carpark to encourage use of public transport

- (C2 to C10)* and minimise extensive transport infrastructures *(C2 to C12)*;
- (xi) forbid buildings in coastal region to maintain air paths *(C2 to C7)*;
  - (xii) forbid new developments or large-scale transport infrastructures in areas already subject to excessive vehicular emission *(C2 to C12)*;
  - (xiii) forbid developments in the coastal area and relax BHR of residential developments in the hinterland *(C12 to C17 and C21 to C74)*; and
  - (xiv) relocate the tunnel portal of CKR away from residential developments at a distance of about 1,000m *(C12 to C74)*;
- (w) while some of the PlanD's responses to the grounds of representations and representers' proposals were relevant, the following additional points should be noted :
- (i) C1 had not provided any grounds for its support and objection to the amendments proposed by other representers;
  - (ii) a uniform BHR of 80m would violate the stepped height concept and undermine the downwash effect created by gradation of BHs *(C2 to C7)*;
  - (iii) relaxing the BHR of Prosperous Garden and inner Yau Ma Tei area would undermine the integrity of the stepped height profile intended for the Area. Prosperous Garden was situated at the wind entrance close to the harbour. Without any known development/redevelopment proposal, relaxation of the BHR of Prosperous Garden at the present stage was considered not justified. There were provisions for minor relaxation of BHRs and for allowing existing developments exceeding the relevant BHRs to be redeveloped to the height of the existing buildings *(C12 to C77 and C705)*;
  - (iv) the provision of minor relaxation clause was intended to provide

incentive for development/redevelopment with design merits/planning gains, some of which would in turn help address C2 to C7's concerns, e.g. providing separation between buildings to enhance air ventilation and visual permeability (C2 to C7);

- (v) the Commissioner for Transport (C for T) advised that in designing car parking provision, they would balance the need of road users and other types of transport facilities, taking into account the traffic and pedestrian conditions in Yau Ma Tei (C2 to C12); and
- (vi) while the location of CKR facilities was not related to the OZP amendments, environmental issues relating to CKR and XRL would be addressed separately in the respective projects (C12 to C74).

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

R5 - Yeung Tsz Hei, Benny (Yau Tsim Mong District Councillor)

101. Mr. Yeung Tsz Hei, Benny made the following main points:

- (a) noting that a two-tier BHR approach had been adopted in the Yau Ma Tei OZP, it was not clear why a blanket BHR of 80mPD was proposed for the Area;
- (b) according to the town planning principle, BH of developments should descend from the inland area towards the waterfront. However, it was not clear why some very tall residential developments were built in the West Kowloon Reclamation area while the inland area along Nathan Road was restricted to a much lower BHR;
- (c) there was an urgent need to impose BHRs for the West Kowloon Reclamation area in view of its waterfront location and to avoid the erection of tall buildings to establish "fait accompli". The new

developments by big developers were not put under BHRs, but BHRs were imposed on buildings owned by individual owners in the old district. The redevelopment value of properties owned by small owners were affected;

- (d) the existing height of Prosperous Garden should be around 90mPD instead of 87.1mPD as stated in paragraph 5.3.6 of the Paper. The exact BH would be provided by R3 and the representatives of C705;
- (e) there was no explanation why the BHR of 132mPD for the site at 8 Waterloo Road had reflected the BH of the existing residential development whereas the adjacent site occupied by another development, i.e. Prosperous Garden was subject to a lower BHR of 80mPD than the existing BH of about 90mPD. The BHR would affect the property value and the redevelopment potential of Prosperous Garden;
- (f) the Board should consider imposing a BHR of 40mPD or below for the West Kowloon Reclamation area so as to maintain the coherency of the stepped height profile with the higher BHR of 80mPD in the inner Yau Ma Tei area; and
- (g) while supporting the provision of air paths for improving air ventilation, there were many highways passing through the Area, resulting in serious pollution problems. Locating the tunnel portal of the CKR in the Area near Prosperous Garden would further aggravate the pollution problems. Measures to control or minimize the sources of pollution should be examined in the future planning of the Area.

R3 – Dr. Edward Lee (Environmental Group of Yau Ma Tei)

102. Dr. Edward Lee made the following main points:

- (a) the Board and PlanD's efforts to improve the environment through the imposition of development controls on the OZP were much appreciated.

The stipulation of BHRs was essentially to avoid increasing tall buildings. However, instead of restricting the BH to the existing level, PlanD had recommended a BHR of 80mPD which was lower than the existing BH of 91.25mPD. This was unlawful and in breach of Article 120 of the Basic Law which stipulated that ‘all leases of land granted, decided upon or renewed before the establishment of the Hong Kong Special Administrative Region which extend beyond 30 June 1997, and all rights in relation to such leases, shall continue to be recognized and protected under the law of the Region’. The private property right of the owners of Prosperous Garden was deprived of without compensation. It was unfair and unreasonable to lower the BH of Prosperous Garden as it did not constitute ‘walled’ buildings and did not block the air path. On the contrary, BHR was not imposed on the tall and ‘walled’ buildings in the West Kowloon Reclamation area. The rationale of imposing BHRs on the inner Yau Ma Tei area and not the West Kowloon Reclamation area was questionable;

- (b) the Area was surrounded by the future tunnel portals of CKR, Hung Hom Harbour Crossing and Western Harbour Crossing, the flyover at Gascoigne Road, the future XRL terminus and many local roads, which were the sources of serious pollution problems in the Area. The pollutants were trapped by the ‘walled’ buildings in the coastal area. To improve air ventilation, it would be more effective to remove the sources of pollution from the Area rather than designating air paths on the OZP;
- (c) although environmental impact assessments had been undertaken for major transport infrastructures, the pollution problem in the Area was still serious. Since 1999, the level of total suspended particulates, respirable suspended particulates and nitrogen oxide at street level had exceeded the acceptable levels. The highest Air Pollution Index in the Area had also increased 13 times between 2000 and 2010. The CKR should not be built as it was a major pollution source, causing permanent impacts to residents’ living at Prosperous Garden. An area-based environmental impact assessment should be undertaken for the whole

area; and

- (d) to conclude, he objected to the lowering of the BH of Prosperous Garden and opined that the Government should stop building major transport infrastructure in the Area to avoid aggravating the air and noise pollution problems.

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

### R8 - REDA

103. Ms. Anna Wong made the following main points:

- (a) the representer was concerned about the impact of the OZP amendments on the development system as a whole. The representation related to matters of principle and in particular, to the need to protect the property rights of individual property owners; and
- (b) the representer was not satisfied with PlanD's responses in TPB Paper No. 8810. The following points should be noted:
  - (i) the imposition of NBAs, building gaps and setbacks was unjustified and outside the provisions of the Ordinance;
  - (ii) the spot zoning approach was also not provided for under the Ordinance; and
  - (iii) a similar relaxation scheme as adopted in the Tsim Sha Tsui OZP should be included in the Yau Ma Tei OZP.

104. Ms. Kira Brownlee made the following main points:

- (a) on 7.3.2011, REDA wrote to the Chairman and Members of the Board expressing the concern that the SBD Practice Notes would be in direct conflict with the BHRs, NBAs, setbacks and building gaps imposed on OZPs. The Secretary of the Board replied on 9.5.2011. The two

letters were tabled at the meeting and formed part of the representation;

- (b) in REDA's letter dated 7.3.2011, PlanD was requested to undertake a review jointly with the industry to assess the combined effect of the SBD Practice Notes and the BHRs, and how the existing property rights would be affected. The SBD Practice Notes showed that the spot BHs, setbacks, building gaps and NBAs were no longer matters for the Board to consider. Rather, the Board should act in a broad and general manner to allow for design flexibility. As such, the Board should reassess the OZPs which had incorporated such restrictions and suspend the preparation of amendments to any other OZPs. It was noted that no such assessment had been carried out; and
  
- (c) the BHRs, building setbacks and/or building gaps imposed on the OZPs were in direct conflict with the SBD Guidelines and would prevent the SBD Guidelines from being implemented. The combined effect of the OZP controls and SBD Guidelines would result in a reduction in the development potential of the sites and a loss of development rights/value. This was because the BHRs were set too low, resulting in a reduction in the achievable GFA. This was particularly an issue when BHRs were set at 60mPD to 120mPD or less.

[Mr. Roger K.H. Luk returned to join the meeting at this point.]

105. Ms. Anna Wong then made the following main points:

- (a) the report on 'Building a Quality and Sustainable Hong Kong' commissioned by REDA had pointed out that the removal of concessionary GFA would discourage the redevelopment of high-density area. A low BHR would have a negative impact on urban renewal. For instance, it was not justified to impose a low BHR of 80mPD for Man Wah Sun Chuen as the site was far away from the waterfront and would not block the summer wind. It was anticipated that low BHR for the site would constrain its redevelopment; and

[Mr. Walter K.L. Chan left the meeting temporarily at this point.]

- (b) the BHR of 100mPD for the sites along Nathan Road was too low given that they were the commercial spine of the Area and some sites along the road that fell within the Mong Kok OZP were subject to a higher BHR of 120mPD. The same urban design principle as adopted in the Mong Kok OZP should apply.

106. Ms. Kira Brownlee concluded and made the following main points:

- (a) there were significant technical issues arising from the SBD Guidelines which had not been taken into account in the formulation of BHRs, setbacks, buildings gaps and NBAs. The spot zonings, setbacks, building gaps and NBAs should be removed from the OZP as they were redundant and the SBD Guidelines provided a more appropriate form of achieving the same objectives; and
- (b) the BHRs did not respect the existing development rights. They were set unreasonably low and did not allow for urban redevelopment/renewal. This could be resolved by relaxing the BHRs by 20-40m with no adverse visual impact. The Board should take steps to ensure that there was no down-zoning effect and the development potential as permitted under the OZP could be achieved within the BHRs without the need to submit a s.16 application.

[Mr. Andrew Tsang arrived to join the meeting.]

C705 - The Owner Committee of Block 4 of Prosperous Garden

107. Mr. Chan Sun Wing made the following main points:

- (a) tall and “walled” buildings were developed on land in the West Kowloon Reclamation area by large developers when there were no BHRs. These

new buildings blocked wind penetration to the inland area of Yau Ma Tei. As a result, the old buildings in Yau Ma Tei area had to suffer from pollution problems; and

- (b) noting that the Government had started to impose BHRs on various OZPs to avoid excessively tall buildings, it was the small owners such as those of Prosperous Garden who had to pay the price for a better environment. The BHR for Prosperous Garden which was set at a level lower than the existing height, was unlawful and contravened Article 120 of the Basic Law. The Board should respect and protect the private property rights of owners.

108. Mr. Fong Sung Yau made the following main points:

- (a) the adoption of stepped height approach and measures for improving air ventilation was supported. However, two important considerations had to be taken into account as follows :
  - (i) many tall buildings had been built in the West Kowloon Reclamation area. The BHRs in the inland area like Yau Ma Tei should not be set too low; and
  - (ii) the private property rights of the existing owners should be respected and protected; and

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

- (b) it was proposed that the BHRs be generally increased by 10m or more such that the existing BHs of developments in the Area could be respected and the BHRs would not be lower than the height of developments in the West Kowloon Reclamation area. This would allow wider separation between buildings and wider streets to facilitate air ventilation. In this way, the existing property rights of owners would be protected. This was conducive to maintaining harmony in society. Moreover, with an increase in BHRs, taller and slimmer buildings could

be built which could allow better air ventilation.

109. Ms. Mak Kei On made the following main points:

- (a) the existing BH of Prosperous Garden at 91.25mPD should be retained rather than imposing a BHR of 80mPD on the OZP; and
- (b) as the existing height of the development at 8 Waterloo Road was reflected as the BHR for the site, there was no reason why Prosperous Garden was restricted to a lower BHR.

C77 - The Owner Committee of Block 3 of Prosperous Garden

110. Mr. Choi Wing Hong made the following main points:

- (a) it was unreasonable to deprive owners of their private property rights. If the BHR of Prosperous Garden was set at a level lower than its existing height, the redevelopment potential of Prosperous Garden would be adversely affected; and
- (b) it was unfair to impose a BHR of 80mPD for Prosperous Garden while a higher BHR was imposed on sites only several street blocks away.

C20 – Mr. Tang Kwong Chung

111. Mr. Tang Kwong Chung made the following main points:

- (a) BHRs should be formulated for the coastal area first so as to act as a basis for formulating an appropriate stepped height profile towards the inland area. In this regard, it was suggested to terminate the amendments incorporated in the Yau Ma Tei OZP.

112. The Chairman asked DPO/TWK to clarify the existing BH of Prosperous Garden. In response, Mr. Wilson Chan said that according to the survey information

from the Lands Department, the height of Prosperous Garden at main roof level was about 87.1mPD. The existing height of 91.25mPD as claimed by representatives of C705 might have included the water tank at roof-top, which was about 4m in height. The BHR on OZP would normally refer to the height at main roof level. According to the stepped height profile proposed for the Area, a height band of 100mPD was adopted for the “C” sites along Nathan Road which was the commercial spine of the Area, and a lower height band of 80mPD was imposed on the areas radiating from the road to the east and west directions, including Prosperous Garden. Although the Prosperous Garden site, which was zoned “R(A)1”, had a BHR of 80mPD, it was clearly stated in the Notes of the “R(A)1” zone that any development/redevelopment could be redeveloped to the height of the existing buildings. The existing property rights of the owners of Prosperous Garden would therefore not be affected. Mr. Chan added that given the large site area of Prosperous Garden, there should be scope to replan the future redevelopment on the site so as to be in line with the BHR.

[Mr. Stanley Y.F. Wong returned to join the meeting at this point.]

113. In response to the Chairman’s question of whether the representers and commenters would still object to the proposed BHRs of Prosperous Garden after DPO/TWK’s clarifications, R3 and the representatives of C705 had the following responses:

- (a) Ms. Mak Kei On (representative of C705) said that Prosperous Garden was a “Class B” rather than “Class A” site as claimed by PlanD. By referring to the Yau Ma Tei OZP, Mr. Wilson Chan explained that Prosperous Garden was zoned “Residential (Group A)1” on the OZP, which was different from the classification of site under the BO as claimed by Ms. Mak;
- (b) Mr. Fong Sung Yau (representative of C705) said that a general increase of the BHRs by 10m or above could help improve the air ventilation. The Chairman asked if there were any justifications for the proposed increase by 10m. Mr. Fong said that the developments at the waterfront in West Kowloon were very tall and hence the BHRs for the inland area,

including Prosperous Garden, should be more compatible with the new buildings there; and

- (c) Dr. Edward Lee (R3) supported in general the imposition of BHRs, but objected to lowering the height of Prosperous Garden. Even if the existing height of Prosperous Garden could be maintained, he was still not satisfied with the overall planning in the Area and would maintain his objection unless the sources of pollution were removed.

114. A Member asked about the BH of Man Wah Sun Chuen. Mr. Wilson Chan said that Man Wah Sun Chuen had an existing height of 60mPD. According to the stepped height profile intended for the Area, a BHR of 80mPD was imposed on the site.

115. Dr. Edward Lee (R3) asked why the BHR for the development at 8 Waterloo Road had reflected the existing height but not for Prosperous Garden. Mr. Wilson Chan said that development of 8 Waterloo was zoned "OU" annotated "Residential Development with Historical Building Preserved" on the OZP, which was different from that of Prosperous Garden. It was developed in accordance with a previously approved scheme (No. A/K2/159) by the Board. The BHR had reflected the BH of the approved scheme and any redevelopment in future would be allowed to go up to the existing BH. Similarly, any redevelopment of Prosperous Garden would also be allowed to go up to the existing BH according to the Notes of the OZP.

116. Dr. Edward Lee said that it was not clear that the existing BH of Prosperous Garden would be respected in future as claimed by DPO/TWK, as the BH was not stipulated on the OZP as in the case of 8 Waterloo. Mr. Wilson Chan explained that both the Notes and the OZP should be read together in deriving the development restrictions of a land use zone and paragraph (5) in the Remarks of the Notes of the "R(A)" zone had indicated clearly that redevelopment to the height of the existing building was allowed.

117. A Member said that the planning objectives of imposing BHRs, NBAs, building setbacks and building gaps on the OZPs were to improve the local environment and air ventilation. This Member asked how such objectives could be achieved if R8's proposals were all adopted by the Board with other factors remained unchanged. Ms.

Anna Wong (representative of R8) said that while no AVA had been undertaken, the SBD Guidelines which had recently been issued would help achieve the above objectives. In response to the Chairman's question, Ms. Anna Wong said that although no AVA had been undertaken, R8's proposals would bring about the general improvements to the area. For instance, if the BHRs were relaxed, taller and slimmer buildings could be developed which could facilitate air ventilation. Ms. Kira Brownlee (representative of R8) added that if R8's proposals were accepted, all the OZPs had to be re-assessed taking into account all relevant considerations including the SBD Guidelines. The Chairman said that as discussed before, the Board maintained the view that the SBD Guidelines were an administrative arrangement under the purview of BD whilst the OZP development controls on BHR, NBA, building setback and building gaps were statutory provisions under the Town Planning Ordinance. They were under two separate regimes and were complementary rather than duplicating with each other. Ms. Kira Brownlee said that the representer maintained the opposite view.

118. 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, commenters and their representatives. The representers and related commenters would be informed of the Board's decision in due course. The Chairman thanked the representatives of PlanD, the representers, commenters and their representatives for attending the meeting. They all left the meeting at this point.

### Deliberation

#### *SBD Guidelines*

119. The Chairman noted that R8's concern on the combined effect of BHRs and the SBD Guidelines had been discussed before. He said that the SBD Guidelines were administrative measures introduced by the Government to promote a quality and sustainable built environment. Under the SBD Guidelines, developers were encouraged to provide sustainable building design through the granting of GFA concessions under the BO and the prerequisite for such grant was compliance with the requirements under the SBD Guidelines. However, the SBD Guidelines were not a statutory requirement. Developers did not have to follow the SBD Guidelines if they chose not to apply for GFA

concessions. If the BHRs were relaxed as proposed by R8 but the developers chose not to apply for the GFA concessions and therefore did not need to follow the SBD Guidelines, the planning objective of improving the environment and air ventilation through the OZP development controls would not be achieved.

120. The Secretary said that R8's claim that the SBD Guidelines were in direct conflict with the OZP development controls might be made on the basis that the BHRs were too stringent to allow for incorporation of new measures under the SBD Guidelines.

121. After some discussions, Members agreed that the new measures on SBD Guidelines and the OZP development controls on BHRs, NBAs, building setbacks and/or building gaps were under two separate regimes which were complementary rather than duplicating with each other. Members also noted that R8 had not undertaken an AVA to justify its proposals whereas PlanD had undertaken an AVA in formulating the BHRs, NBAs, building setbacks and building gaps on the OZP.

#### *Two-tier approach to BHR*

122. The Chairman said that under the two-tier approach to BHR, an additional BH of 20m could be allowed if a site was amalgamated to exceed 400m<sup>2</sup>. This approach was introduced to encourage amalgamation of site for achieving more comprehensive development, better building design and provision of supporting facilities to meet modern standards. Members noted and agreed that the relevant part of representations should not be upheld.

#### *Spot zoning*

123. Members noted that R8 alleged that the spot zoning approach had violated the broad principle of planning that the object of the OZP was to indicate only the broad principles of development. On this point, Members noted that according to previous legal advice, sections 3 and 4 of the Ordinance gave the Board comprehensive powers to control development in any part of Hong Kong. Hence, the Board had the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were necessary and sufficient planning justifications.

Members considered that the imposition of BHRs was justified as its formulation had taken into account all relevant considerations, including the findings of the AVA and the departmental comments. Members thus agreed not to uphold this part of representation submitted by R8.

#### *Public consultation*

124. As regards some representers' concern on the need for prior public consultation before the imposition of BHRs, Members noted that the amendments involving BHRs should not be released to the public prior to gazetting of the OZP. The reason was that premature release of information before exhibition of the OZP amendments might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. The public would be consulted on the OZP amendments in accordance with the provisions of the Ordinance, whereby the public would have a statutory channel to submit representations and comments and would be heard by the Board. Members noted and agreed that the relevant part of representations should not be upheld.

#### *Plot ratio review*

125. The Chairman noted that some representers proposed to undertake a PR review for the Yau Ma Tei area. He said that in view of the growing community aspirations for better living environment, the Board in recent years had been reviewing the OZPs progressively to stipulate BHRs. Notwithstanding, such review did not preclude a review of PR restrictions in future, if justified. Members noted and agreed that the relevant part of representations should not be upheld.

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

#### *Urban Renewal*

126. A Member noted that R8 alleged that the BHRs were too stringent which would have negative impact on urban renewal. Some commenters were also concerned with the effect on redevelopment value with a BHR of 80mPD for Prosperous Garden.

The Chairman clarified that Prosperous Garden would be allowed to be redeveloped to its existing height according to paragraph (5) in the Remarks of the Notes for the “R(A)” zone. The Secretary said that the current amendments of BHR to the OZP did not involve any change to PR restrictions. As such, the general principles had applied such as the BHRs imposed would ensure that the maximum PR/GFA permissible under the OZP could generally be accommodated. Moreover, there was provision for application for minor relaxation of the BHRs under the OZP to cater for special circumstances or site constraints.

127. A Member asked if minor relaxation of BHR could be granted as of right if the developer could not achieve the maximum PR/GFA permissible under the OZP. The Secretary said that as the circumstances of each site were different, the developer had to submit a s.16 planning application for minor relaxation of BHR and to demonstrate to the Board that the proposed relaxation was justified and the relevant criteria as set out in the ES of the OZP were met. Each application would be considered by the Board on its individual merits.

128. Regarding the example of Man Wah Sun Chuen as quoted by R8, the Secretary said that a BHR of 80mPD was imposed on this site taking into account its location at the wind entrance based on the findings of the AVA undertaken by PlanD and the stepped height profile intended for the Area. According to the Notes for the subject “R(A)2” zone, this site was subject to PR of 7.5 for a domestic building or 9 for a building that was partly domestic and partly non-domestic, or the PR of the existing building, whichever was the greater. Man Wah Sun Chuen did not have any approved PR under the BO per se as its existing building bulk was calculated based on a volume approach. In this regard, the PR of the existing building of Man Wah Sun Chuen was yet to be determined.

#### *Prosperous Garden*

129. The Chairman said that DPO/TWK had explained at the meeting that Prosperous Garden could be redeveloped to its existing BH according to the relevant provision of the Notes. A Member said that some commenters were also concerned about the height of the development at 8 Waterloo Road and the developments in the West Kowloon Reclamation area. The Secretary said that their concern was mainly on the absence of BH control for the West Kowloon Reclamation area which was at the waterfront location. As explained by the Chairman earlier at the meeting, the Board had

been reviewing the BHR of the OZPs progressively. The BHRs to be imposed for the West Kowloon Reclamation area would be subject to a review to be undertaken by PlanD. As regards the development at 8 Waterloo Road, the Secretary said that the concerned site was previously zoned “CDA” on the Land Development Scheme Waterloo Road/Yunnan Lane Development Scheme Plan. It was developed in accordance with the approved Master Layout Plan under Application No. A/K2/159. The approved scheme had included a Grade 1 historic building, the former pumping station of the Water Supplies Department, within the site to be preserved in-situ and part of the site had to be used for a public open space. A higher BH was thus allowed at the residential portion of the site. The Chairman noted that a commenter’s representative suggested relaxing the BHRs in general. However, no assessment had been undertaken to demonstrate that relaxing the BHRs could improve air ventilation and hence such proposal was considered not justified.

130. After deliberation, Members noted the support of R2 to R4 for the BHRs on the OZP. Members also generally agreed not to uphold R5 to R8 and part of R2 to R4. Members then went through the reasons for not upholding the representations as stated in paragraphs 7.3 to 7.8 of the Paper and considered that they were appropriate.

#### Representation No. R2

131. After further deliberation, the Town Planning Board (the Board) noted the support of Representation No. R2 and decided not to uphold the remaining part of the representation for the following reasons :

- (a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing

condition and the recommendations of the Air Ventilation Assessment, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;

- (b) provision of more building setback/ventilation corridor/at grade open space would pose undue constraints on future developments/redevelopments, especially for small lots which were common in the Area. The proposal of imposing building setback requirement along Nathan Road was not necessary as the road was wide enough for air ventilation purpose. A fair balance had been struck between air ventilation and private development right;
- (c) the proposal of providing ventilation corridor for continuous building façade had already taken account of in the current review of Outline Zoning Plan; and
- (d) imposition of BHR did not involve relaxation of development intensity and would therefore not worsen the vehicular/pedestrian traffic conditions.

### Representation No. R3

132. After further deliberation, the Town Planning Board (the Board) noted the support of Representation No. R3 and decided not to uphold the remaining part of the representation for the following reasons :

- (a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing

topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the Air Ventilation Assessment, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right; and

- (b) there was a need to strike a fair balance between air ventilation and private development right. The proposal of more stringent control on height and scale of buildings would pose undue constraints on future developments/redevelopments and had adverse impact on the development potential of the affected sites, especially for small lots which were common in the Area.

#### Representation No. R4

133. After further deliberation, the Town Planning Board (the Board) noted the support of Representation No. R4 and decided not to uphold the remaining part of the representation for the following reasons :

- (a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the Air Ventilation Assessment, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private

development right;

- (b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility in the shape and form of the buildings and to accommodate development intensity permissible under the Outline Zoning Plan. BHRs would not lead to wall or canyon effect;
- (c) the provision of a higher maximum BH (i.e. from 80mPD to 100mPD) for “Residential (Group A)” sites with an area of 400m<sup>2</sup> or more would cater for site amalgamation for more comprehensive development and allow design flexibility and provision of supporting facilities for development of different scales and having different building design considerations;
- (d) there was a need to strike a fair balance between air ventilation and private development right. The proposal of imposing building setback requirement along Nathan Road was not necessary as the road was wide enough for air ventilation purpose; and
- (e) imposition of BHR did not involve relaxation of development intensity and would therefore not worsen the vehicular/pedestrian traffic conditions.

#### Representation No. R5

134. After further deliberation, the Town Planning Board (the Board) decided not to uphold Representation No. R5 for the following reasons:

- (a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing

topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the Air Ventilation Assessment, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right; and

- (b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility in the shape and form of the buildings and to accommodate development intensity permissible under the Outline Zoning Plan. BHRs would not lead to wall effect.

#### Representations No. R6 and R7

135. After further deliberation, the Town Planning Board (the Board) decided not to uphold Representations No. R6 and R7 for the following reasons:

- (a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the Air Ventilation Assessment, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;
- (b) the BHRs were formulated on the basis of reasonable assumptions with

allowance for design flexibility in the shape and form of the buildings and to accommodate development intensity permissible under the Outline Zoning Plan (OZP). BHRs would not create a monotonous streetscape. Blanket relaxation of the BHRs or piecemeal deletion/relaxation of BHRs for individual sites was not supported as it would result in proliferation of high-rise developments, which was not in line with the intended planning control;

- (c) there would not be adverse impacts on the development intensity permitted under the OZP. For an existing building which having already exceeded the BHRs, the rights of redeveloping the buildings to their existing heights would be respected on the OZP; and
- (d) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs and setback requirements under the OZP. Each application would be considered by the Board on its individual merits.

#### Representation No. R8

136. After further deliberation, the Town Planning Board (the Board) decided not to uphold Representation No. R8 for the following reasons:

- (a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the Air Ventilation Assessment,

had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;

- (b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility in the shape and form of the buildings and to accommodate development intensity permissible under the Outline Zoning Plan (OZP). BHRs would not constrain innovative and good quality building design. Blanket relaxation of the BHRs or piecemeal deletion/relaxation of BHRs for individual sites was not supported as it would result in proliferation of high-rise developments, which was not in line with the intended planning control;
- (c) there would not be adverse impacts on the development intensity permitted under the OZP. For an existing building having already exceeded the BHRs, the rights of redeveloping the buildings to their existing heights would be respected on the OZP;
- (d) the BHRs would not result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone. Given the tendency to maximise the best view in certain direction and to capitalise on the land value of lower floors, a development with more relaxed BH control might be even taller and bulkier. The provision of better designed sustainable buildings was not guaranteed;
- (e) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs and setback requirements under the OZP. Each application would be considered by the Board on its individual merits;
- (f) the provision of a higher maximum BH (i.e. from 80mPD to 100mPD) for “Residential (Group A)” sites with an area of 400m<sup>2</sup> or more would cater for site amalgamation for more comprehensive development and allow design flexibility and provision of supporting facilities for development of

different scales and having different building design considerations;

- (g) according to the Urban Design Guidelines, Tsim Sha Tsui was recognised as a new major commercial high-rise node and no additional high-rise nodes should be designated outside the area. In accordance with the Urban Design Guidelines, it was inappropriate to apply the approach used in the Tsim Sha Tsui OZP to the subject OZP;
- (h) the proposal to introduce “Other Specified Uses” annotated “Mixed Use” zone to the predominantly residential areas one to two blocks from Nathan Road and along Jordan Road was not in line with the development pattern and existing land use. Flexibility for change of use was allowed through the planning permission system should the market determine that more commercial uses was required;
- (i) Sections 3 and 4 of the Ordinance and the scheme of the legislation gave the Board comprehensive powers to control development in any part of Hong Kong. The Board should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were necessary and sufficient planning justifications;
- (j) designation of non-building area (NBA), building gap and setback requirements on the OZP could serve a positive planning purpose and had positive planning benefits by improving air ventilation, visual permeability and the pedestrian environment. It had legal basis as it would form part of the planning control of the Board, which had the necessary and sufficient justifications;
- (k) the relaxation of the NBA and building setback requirement for one site would affect the effectiveness of their planning intention. The wording ‘exceptional circumstances’ was included in the minor relaxation clause of NBA and setback requirements to cater for the situation that only in some exceptional cases under which the requirement could not be met due

to site constraints but the planning objectives would be achieved in other forms; and

- (l) the new measures on Sustainable Building Design and the OZP restrictions on BHR, NBA, building setback/gaps were under two separate regimes. They were complementary, rather than duplicating each other.

### **Sha Tin, Tai Po and North District**

#### **Agenda Item 6**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-TK/337

Renewal of Planning Approval for Temporary “Private Garden Ancillary to New Territories Exempted House” for a Period of 3 Years in “Green Belt” zone, Government Land Adjoining Lot 595 S.A in D.D. 14, Tung Tsz, Tai Po (TPB Paper No. 8815)

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[The meeting was conducted in Cantonese.]

#### **Presentation and Question Session**

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

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

Mr. Ho Kun Wing - Applicant’s representative

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

139. Mr. W.K. Hui presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for renewal of planning approval for a temporary private garden ancillary to New Territories Exempted House (NTEH) for a period of 3 years in an area zoned “Village Type Development” (“V”) and “Green Belt” (“GB”) on the Ting Kok Outline Zoning Plan (OZP);
- (b) on 14.1.2011, the Rural and New Town Planning Committee (RNTPC) rejected the application for the reason that the development was not in line with the planning intention of “GB” zone and the applicant failed to provide strong planning justifications in the submission for a departure from this planning intention even on a temporary basis;
- (c) the justifications put forth by the applicant in support of the review application were summarised in paragraph 3 of the Paper. The applicant claimed that the private garden would not disturb/affect the surrounding area as it was already existed on the site and the portion of the site encroaching onto the “GB” zone was small and mainly for drainage purpose. Moreover, the applicant had complied with all the approval conditions under the previous application (No. A/NE-TK/244). This should be a merit for consideration of the current application;
- (d) the relevant government departments consulted had no objection to/no adverse comments on the renewal application. According to the District Lands Officer/Tai Po (DLO/TP), about 177.8m<sup>2</sup> of the site was covered by Short Term Tenancy (STT) No. 1383 for private garden purpose;
- (e) during the statutory publication period of the review application, no public comment was received;
- (f) PlanD’s view - PlanD did not support the review application based on the assessments set out in paragraph 7 of the Paper. The site was the subject

of two previous applications (No. A/NE-TK/202 and 244) for the private garden which were approved by the Committee on 17.2.2006 and 1.2.2008 respectively on a temporary basis for a period of 3 years. In considering Application No. A/NE-TK/202, sympathetic consideration was given by the Committee to tolerate the private garden on a temporary basis as the portion of the private garden encroaching onto the “GB” zone was small. Notwithstanding, as a matter of principle, the encroachment of the private garden onto the “GB” zone without justification was not in line with the planning intention of the “GB” zone. The subject private garden (about 184m<sup>2</sup>) was on government land. Even without the “GB” portion of 27.5m<sup>2</sup>, the private garden was already more than twice the size of the footprint of a NTEH of about 65.03m<sup>2</sup>. No strong justification was given by the applicant to merit sympathetic consideration of the private garden encroaching onto the “GB” zone. There were other NTEHs having similar circumstances that were adjacent to the “GB” zone. It would be difficult to support the application from planning viewpoint as this would undermine the planning intention of the “GB” zone.

140. The Chairman then invited the applicant’s representative to elaborate on the application. Mr. Ho Kun Wing made the following main points:

- (a) Mr. Ho was the owner of the NTEH on Lot 595 S.A in D.D. 14 next to the subject private garden and the applicant was his wife. One of the rejection reasons for the s.16 application was the lack of strong planning justifications. He did not provide much information to justify his application as the applications for the private garden use had been approved twice before and hence the Board should be well aware of the background to the application. Besides, upon obtaining the previous planning approvals, he had been advised by PlanD staff to comply with the approval conditions and to renew the permission prior to its expiry as a matter of formality. In light of the above, he apologised for not providing adequate justifications in the application. He was not familiar with the necessary procedures involved and in the past 10 years, the whole process had caused much disturbances to him;

- (b) when he bought the NTEH, the private garden was already existed on the site with a large portion occupied by a drainage channel. On application to DLO/TP for a STT for the private garden, he had been advised to confine the private garden within the “V” zone and not to encroach onto the “GB” zone. However, he preferred taking up the concerned “GB” portion as reverting that portion back to the original condition would cause significant disturbances to the surrounding environment and the neighbours. He also preferred taking up the management of the section of the drainage channel that fell within the application site himself, saving the need for the Government to fix any problems associated with the channel;
  
- (c) since obtaining the approvals from DLO/TP and the Committee, he had paid much efforts in complying with the conditions to preserve trees and maintain the drainage channel. There were two occasions that he had stopped the neighbouring villagers from felling trees in the green belt area. These were all done for the purpose of maintaining a good environment for his family and the neighbours;
  
- (d) as compared with an approved Small House application in the western Tung Tsz area, the subject private garden was much smaller in area. Moreover, only a small portion of 27.5m<sup>2</sup> of the private garden had encroached onto the “GB” zone. There were no unauthorised structures on the site. All the approval conditions attached to the previous application (No. A/NE-TK/244) had been complied with. Apart from private garden use, the site could not be put to other uses. Neither was it large enough for building a NTEH/Small House. Retaining the private garden use of the site would not affect any government projects or development rights of indigenous villagers. The Government could continue to receive rental income from the STT. As such, it was considered most appropriate to retain the current private garden use of the site; and

- (e) in light of the above, he hoped that the Board would give sympathetic consideration to the application as in the previous approvals. If the Board decided to approve the application on review, he hoped that a longer approval period or a permanent approval could be granted.

141. A Member asked for information about the drainage channel within the site. Mr. W.K. Hui referred to Plans R4-b and R4-c of the Paper and pointed out that the drainage channel was located on the eastern side of the site abutting the boundary fence and had extended outside the site as shown on Plan R-4e of the Paper. The drainage channel was on government land and was inside the “GB” portion. According to the Chief Engineer/Mainland North, Drainage Services Department, regardless of whether the private garden included the “GB” portion, the site should have its own stormwater collection and discharge system to cater for the runoff generated from the site and overland flow from the surrounding areas.

142. In response to the same Member’s question on the other private garden to the north of the site, Mr. W.K. Hui referred to Plans R2-a and R-2b of the Paper and explained that the fenced off area was a private garden of the adjacent house on Lot 595 RP in D.D. 14. The owner of Lot 595 RP had obtained planning approval from the Committee for private garden use on the “GB” zone in 2007 under Application No. A/NE-TK/240 on a temporary basis for a period of 3 years. That planning permission had lapsed on 28.9.2010. Regarding the subject private garden, it should be noted that PlanD did not support the previous application (No. A/NE-TK/202). It was only approved by the RNTPC on sympathetic grounds that the portion of the site encroaching onto the “GB” zone was small and tolerating it on a temporary basis would not frustrate the long term planning intention.

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

143. The same Member asked how long the applicant had lived in the NTEH on Lot 595 S.A and the alignment of the drainage channel. Mr. Ho Kun Wing said that he moved into the concerned NTEH in 1998/99 and the drainage channel alignment had remained the same throughout the years. He had only covered the drainage channel by grille to avoid fallen leaves from blocking the drains. He had also regularly cleaned up

the drainage channel. With the aid of Plans R-2b and R-4e of the Paper, Mr. W.K. Hui said that the alignment of the drainage channel generally followed the boundary fence of Mr. Ho's house and extended outside the site.

144. The Vice-chairman said that the concerned "GB" portion of the private garden only had an area of 27.5m<sup>2</sup>. According to Plans R-4a and R-4b of the Paper, the "GB" portion was paved with no building structures. The Vice-chairman asked if the applicant would consider retreating the boundary of the private garden by excluding the "GB" portion of the site as it appeared that the work involved would not be substantial and that would also save him the efforts to obtain the necessary approvals. Mr. Ho Kun Wing said that he had considered excluding the "GB" portion of the site, but the work involved in realigning the boundary fence and relocating the entrance gate would entail a considerable amount of money. More importantly, the drainage channel would be excluded from his private garden and left unattended. He would prefer retaining the "GB" portion so that he could continue the maintenance work of the drainage channel. This would result in mutual benefit to all parties concerned.

145. The Chairman said that even if the boundary fence was realigned to exclude the "GB" portion, nothing would stop the applicant from continuing to maintain the drains if he so wished. The Chairman asked the applicant's representative who would benefit if the "GB" portion was retained for the private garden use. Mr. Ho Kun Wing said that if the "GB" portion was part of his private garden, he would continue the upkeep of the drainage channel so as to avoid flooding in raining seasons.

146. A Member referred to Plan R-4e of the Paper and noted that a canopy was erected in front of the entrance gate of the applicant's house with two cars parking underneath. This Member asked if that area fell within the "GB" zone and whether the canopy was an unauthorised building works. Mr. W.K. Hui said that while the area fell within the "GB" zone, he had no information at hand on whether it was an unauthorized structure. The same Member asked if planning enforcement could be undertaken against the car park use. Mr. W.K. Hui said that enforcement action could be undertaken by the Planning Authority if the use was an unauthorised development under the Town Planning Ordinance. Another Member asked if the car park was used by the applicant. Mr. Ho Kun Wing replied in the affirmative. He added that the concerned car park area was

paved by the contractor of the adjacent house and it was common for residents to park their cars near their houses in the rural area. The canopy was built about six months ago and could be demolished if it was illegal.

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

#### Deliberation Session

148. A Member was sympathetic to the applicant as the concerned "GB" portion was small in area. The drainage channel which fell within the "GB" portion could be properly maintained by the applicant if the area was included. If the private garden use of the site was accepted, the zoning boundary could be suitably adjusted to exclude that portion of land from the "GB" zone. This Member thus considered that the application could be approved on review. Notwithstanding, enforcement action against the unauthorised car park in front of the entrance gate should be undertaken.

149. The Chairman said that even if the "GB" portion was excluded from the private garden, the applicant could still clean up the drainage channel as it would not be fenced off.

150. A Member noted that there were many fallen leaves in the drainage channel within the site as shown in Plan R-4c of the Paper and doubted whether the applicant had regularly cleaned up the drainage channel. It was also noted that the entrance gate of the applicant's house was built on the drainage channel as shown in Plan R-4e of the Paper which might affect the surface flow of the drainage channel. Moreover, that Member considered that the car park in front of the entrance gate and the adjacent private garden to the north, which were located within the "GB" zone, were unauthorised uses and should be subject to planning enforcement actions.

151. The Chairman told Members that one public comment jointly submitted by nine indigenous villagers of Tung Tsz was received against the s.16 application. The indigenous villagers considered that the subject private garden had taken up much land and would affect the future use of the land for Small House development.

152. A Member was sympathetic with the applicant noting the long history of the site being used as a private garden. As previous planning approvals had been granted for the private garden use, consideration might be given to granting a temporary STT. The Chairman clarified that the granting of STT was under the purview of the Lands Department.

153. The Vice-chairman said that the “GB” portion of the site was small in area with no building structures. As such, excluding the “GB” portion from the site should not involve substantial cost. More importantly, the private garden use was not in line with the planning intention of the “GB” zone and approval of the current application would set an undesirable precedent for similar applications. As a matter of principle, the current application should not be supported. Another Member shared the above views.

[Mr. Andrew Tsang left the meeting at this point.]

154. A Member agreed that approval of the application would set an undesirable precedent for similar applications. In fact, apart from the private garden, the subject “GB” zone had also been encroached upon by the car park use in front of the entrance gate.

155. To conclude, the Chairman said that the majority of Members’ views were that the application should be rejected on review. The applicant failed to provide justifications for the encroachment of the private garden onto the “GB” zone and approval of the application would set an undesirable precedent for similar applications. Members agreed.

[Professor Eddie C.M. Hui left the meeting temporarily at this point.]

156. After further deliberation, the Board decided to reject the application on

review. Members then went through the reason for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reason was:

- the development was not in line with the planning intention of “Green Belt” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. The applicant failed to provide strong planning justifications in the submission for a departure from this planning intention even on a temporary basis.

### **Agenda Items 7 and 8**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-LYT/422

Temporary Warehouses (excluding Dangerous Goods Godown) for a Period of 3 Years in “Residential (Group C)” and “Agriculture” zones,

Lots 755, 835 S.B ss.1, 836, 837, 838 RP, 841 RP, 842 RP, 844 RP and 854 in D.D. 83, 31A Ma Liu Shui San Tsuen, Fanling

(TPB Paper No. 8813)

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Review of Application No. A/NE-LYT/423

Temporary Warehouses (excluding Dangerous Goods Godown) for a Period of 3 Years in “Residential (Group C)” and “Agriculture” zones,

Lots 756, 792 RP, 803 RP, 838 S.A, 839, 840, 841 S.A, 842 S.A, 843 and 844 S.A in D.D. 83, 31A Ma Liu Shui San Tsuen, Fanling

(TPB Paper No. 8814)

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[The meeting was conducted in Cantonese.]

157. The Chairman suggested and Members agreed to consider Applications No. A/NE-LYT/422 and 423 together as they were of the same applied use submitted by the same applicant and the sites were adjacent to each other.

Presentation and Question Session

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

Mr. W.K. Hui	-	District Planning Officer/Shu Tin, Tai Po and North (DPO/STN)
Mr. Ng Kwok Leung	]	
Mr. Lam Kin Chung	]	
Mr. Tony C.M. Cheng	]	Applicant's representatives
Mr. Memfus H.K. Wong	]	
Ms. Paulina M.Y. Nip	]	

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

160. Mr. W.K. Hui presented the applications and covered the following main points as detailed in the Papers:

- (a) the applicant sought planning permission for temporary warehouses (excluding dangerous goods godown) for a period of 3 years on each of the application site zoned "Residential (Group C)" ("R(C)") and "Agriculture" ("AGR") on the Lung Yeuk Tau & Kwan Tei South Outline Zoning Plan (OZP). There were two warehouses on each site, which together formed one single development;
- (b) the applications were approved with conditions by the Rural and New Town Planning Committee (RNTPC) on 13.8.2010 on a temporary basis for a period of 3 years. On 7.12.2010, the applicant sought review of the following approval conditions attached to each planning permission :
  - (i) to amend approval condition (a) which stipulated that 'no operation between 7:00 p.m. and 7:00 a.m. is allowed on the application site

during the planning approval period' by extending the operation hours by an additional hour until 8:00 p.m.;

- (ii) to amend approval condition (b) which stipulated that 'no operation on Sundays and public holidays is allowed on the application site during the planning approval period' by extending the operation days to include non-statutory public holidays; and
- (iii) to completely delete approval condition (c) which stipulated that 'no heavy goods vehicles (HGVs)/container vehicles (CVs) are allowed to enter the application site at any time during the planning approval period';

[Professor Eddie C.M. Hui returned to join the meeting at this point.]

- (c) the justifications put forth by the applicant in support of the review applications were given in paragraph 3 of the Papers and summarised below :
  - (i) regarding the operation hours under approval condition (a), normally the delivery trucks would leave by around 4:00 p.m. and the warehouse workers would mostly complete their work inside the warehouses by 6:00 p.m.. However, there were about two times per month that workers had to finish the indoor work by 8:00 p.m. due to late delivery of goods to the warehouses;
  - (ii) there was a need to extend the operations days under approval condition (b) to include non-statutory public holidays from practical and economical viewpoints as most factories and retail outlets open on these days; and
  - (iii) regarding the prohibition of HGVs/CVs to enter the sites under approval condition (c), the applicant indicated that such types of vehicles had to be used for large consignment of goods, otherwise

alternatives, such as stuffing/destuffing of goods from HGVs/CVs to light/medium goods vehicles at another location or parking HGVs/CVs near the warehouse entrance for loading/unloading of goods at roadside using forklifts, had to be adopted. The nearby residents would suffer as the loading/unloading activities would be carried out nearer to their houses;

- (d) the departmental comments on the review applications were given in paragraph 5 of the Papers. The Director of Environmental Protection (DEP) advised that there was no record of pollution complaint for the sites in the past three years. The detailed environmental assessments submitted by the applicant in support of the review applications were not complete. Notwithstanding, DEP noted that the applicant had clarified that the operation between 7:00 p.m. and 8:00 p.m. would only involve indoor forklift operations inside the enclosed warehouse structures. There would only be four HGVs/CVs travelling in/out of the sites per day and they would likely leave the sites before 6:00 p.m.. Stacks of containers would also be installed as barrier along the internal access road. In light of the applicant's clarifications, DEP advised that the proposed extension of operation hour until 8:00 p.m. should not cause adverse noise impacts if only forklifts inside the enclosed warehouses would be operated during the proposed extended operation hour. However, he would not support the applicant's proposal to differentiate "public holidays" and "Statutory Holidays" for approval condition (b). If there was reservation to completely delete approval condition (c), the Board could consider restricting the number of HGVs/CVs to four as committed by the applicant to minimize the environmental nuisance;
- (e) during the respective publication period, two public comments were received for Application No. A/NE-LYT/422 and one public comment was received for Application No. A/NE-LYT/423. They were submitted by a North District Council member who had reservation on the review applications as the developments which were in close proximity to residential dwellings would cause traffic/environmental impacts on local

residents;

- (f) the District Officer/North, Home Affairs Department advised that the Chairman of Fanling District Rural Committee as well as the Indigenous Inhabitants Representatives and Residents Representatives of Ma Liu Shui San Tsuen and Fu Tei Pai objected to the applications mainly on adverse traffic and environmental grounds. They opined that Hai Wing Road and Dao Yang Road were one-way road and already overloaded. Frequent travelling of heavy vehicles would generate noise nuisance, damage road paving, disturb the tranquil environment and cause danger to the local residents. There were already a number of warehouses and vehicle parks in the vicinity. The temporary warehouses under applications would aggravate the traffic problems. More Small Houses in Ma Liu Shui San Tsuen had also been recently completed;
- (g) PlanD's view - PlanD considered that the review applications could be partially supported based on the assessments set out in paragraph 7 of the Papers, which were summarised below:
  - (i) at the time of consideration of the s.16 applications, the RNTPC noted that DEP did not support the applications as there were domestic dwellings in the vicinity of the sites and along the access road, and the use of heavy vehicles for the warehouse use might generate environmental nuisance to the domestic dwellings. Moreover, there were local objections to the applications mainly on environmental and traffic grounds. In this connection, relevant approval conditions including approval conditions (a), (b) and (c) were imposed to address the concerns of DEP and the local residents;
  - (ii) taking into account DEP's comments, it was considered that the applicant's request to amend approval condition (a) to extend the operation hours until 8:00 p.m. could be tolerated. However, a new approval condition prohibiting operation, except indoor

forklift operation inside the enclosed warehouses, between 7:00 p.m. to 8:00 p.m. should be imposed;

- (iii) DEP did not support differentiating public holidays and statutory holidays. There were also domestic dwellings in close proximity to the sites of which the closest ones were located to the immediate north-west. It was thus considered necessary to maintain approval condition (b) from the planning and environmental viewpoints;
- (iv) the use of heavy vehicles might general environmental nuisance to the domestic dwellings in the vicinity of the application sites. There was no strong justification to depart from the RNTPC's previous decisions and the applicant's proposed deletion of approval condition (c) was not supported; and
- (v) regarding DEP's suggestion that the Board could consider restricting the number of HGVs/CVs entering the sites to a maximum of four as committed by the applicant to minimize environmental nuisance, it was considered that such a condition, if imposed, would be very difficult to enforce.

161. The Chairman then invited the applicant's representatives to elaborate on the applications.

162. Mr. Memfus H.K. Wong made the following main points:

- (a) the applicant accepted PlanD's recommendation to amend approval condition (a) to extend the operation hours until 8:00 p.m. and to impose a new approval condition on prohibition of operation, except indoor forklift operation inside the enclosed warehouses, during the extended operation hour from 7:00 p.m. to 8:00 p.m.. The applicant also agreed that no operation would be undertaken on the sites on Sundays and public holidays as stipulated under the original approval condition (b). In this respect, the applicant agreed to withdraw the applications for review in respect of

approval condition (b);

- (b) the outstanding issue was in relation to approval condition (c) regarding the prohibition of HGVs/CVs from travelling in/out of the sites. Regarding the concern raised by the local residents, the newly built village houses in the area were located at considerable distance from the subject warehouses and the access roads. The access roads nearby were also not so heavily used by vehicles as claimed by the local residents. Photos exhibited at the meeting showed that there was no vehicle using Dao Yang Road;
- (c) for logistics business, it was important to ensure that goods would be delivered in a quick and reliable way to match with the tight shipment/air flight schedules and customs clearance. For large consignment of goods, if HGVs/CVs were prohibited, a larger number of light/medium goods vehicles had to be used instead, which would pose greater uncertainty and difficulty in the delivery process. Whilst the tenants of the warehouses agreed to comply with approval condition (c), they also requested the applicant to seek review of the condition to cater for their genuine need for HGVs/CVs;
- (d) the sites were the subject of several approved applications for temporary workshops/warehouses for the manufacturing/storage of wooden and rattan furniture. In the previous planning approvals, there was no restriction on the use of HGVs/CVs. DEP also advised that there was no record of pollution complaint for the sites in the past three years. In this regard, the proposed deletion of approval condition (c) should not cause significant adverse environmental impact on the nearby residents;
- (e) the applicant's submission had listed out a number of similar cases in the North-east New Territories in which temporary planning approvals for non-residential uses e.g. industrial or warehouse uses were granted. Although domestic dwellings were found near the sites of these similar cases, no approval condition was imposed to prohibit the use of HGVs/CVs. PlanD also indicated in paragraph 7.8 of the Papers that

there were two similar applications with no such restriction imposed;

[Professor Edwin H.W. Chan left the meeting temporarily at this point.]

- (f) notwithstanding the above, as a compromise, the applicant hoped that the Board could consider amending approval condition (c) to restrict a maximum of four HGVs/CVs per day to enter/leave the sites as suggested by DEP. If this was accepted by the Board, the applicant would liaise with the tenants on the detailed arrangements to strictly comply with the condition. The applicant would implement the noise barrier as recommended in the environmental assessments and the predicted noise level with a maximum of four HGVs/CVs per day would be acceptable; and

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

- (g) to ensure that no more than four HGVs/CVs would travel in/out of the sites each day, one parking space for HGV/CV would be provided for each warehouse and the applicant would work out a schedule with the tenants on the days that their HGVs/CVs were allowed to enter/leave the sites. If any tenant breached the agreement, the applicant would terminate the lease. The applicant assured PlanD that he was willing to comply with the approval condition and he understood that non-compliance with the approval condition would result in revocation of the planning permissions. As a result, the applicant would suffer from a loss and sympathetic consideration might not be given to any further applications once the previous permission was revoked.

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

163. Mr. Tony C.M. Cheng made the following main points:

- (a) to minimise the potential environmental nuisance to the nearby residents, noise barrier in the form of two stacks of containers arranged in a row for a

length of about 64m and with a height of about 5m would be provided along a section of the internal road near the residential use; and

- (b) according to the findings of the environmental assessments, if a maximum of four HGVs/CVs were allowed to travel in/out of the sites each day and the said noise barrier was provided, the predicted noise level due to vehicle movement at the identified noise sensitive receivers would be less than 55dB(A). This was similar to the background noise level and was within the acceptable noise level. In this regard, relaxing approval condition (c) to allow a maximum of four HGVs/CVs per day would not cause significant adverse environmental impact on the nearby residents.

164. Mr. Ng Kwok Leung made the following main points:

- (a) the complete banning of HGVs/CVs from entering/leaving the sites would cause great difficulties in the operation of the warehouses. The tenants would then have to resort to using light/medium goods vehicles for the transportation of goods and a larger number of vehicles had to be used. This in turn would cause greater traffic volume and traffic noise on the nearby residents; and
- (b) the applicant had been operating the warehouses at the sites for 20 years with planning approvals throughout the years. No pollution complaint for the sites had been received in the past three years. The relationship with the nearby residents was good. If the proposed amendment to approval condition (c) was accepted by the Board, the applicant would ensure that the condition would be strictly complied with.

165. Mr. Memfus H.K. Wong concluded and made the following main points:

- (a) at the request of the local residents, the applicant had paid for the provision of bumpers on the access road which was not solely used by the tenants of the subject warehouses. This was an example showing the good relationship with the local residents; and

- (b) there was genuine need for HGVs/CVs to serve the warehouses. The applicant also committed to strictly comply with the restriction on allowing a maximum of four HGVs/CVs to travel in/out of the sites per day.

166. The Vice-chairman noted from the applicant's submission at the s.16 stage that about 24 vehicles, including 10 private cars for staff use, 10 light goods vehicles of 3 tonnes, two CVs of 20 feet long and two CVs of 40 feet long, would enter the sites per day. The Vice-chairman asked whether the applicant would ensure that only the above number of vehicles by types would be allowed to enter/leave the sites. Mr. Memfus H.K. Wong replied in the affirmative and added that the figures were based on the actual records of operation compiled by Mr. Lam Kin Chung who worked at the sites. They were the average figures on normal business days.

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

167. The Vice-chairman asked the applicant to advise on the number of vehicles by type that were parked on the sites as shown in the site photos on Plans A-4a of the relevant RNTPC Papers. Mr. Ng Kwok Leung said that according to the site photos, one CV and two light/medium goods vehicles were parked on the site of Application No. A/NE-LYT/422. The Chairman noted that there were at least four heavy vehicles parked on the site. Mr. Ng Kwok Leung said that the site photos were taken on 20.4.2010, before the termination of lease with a former tenant who had brought in too many vehicles. The Vice-chairman referred to some more recent site photos taken by PlanD on 8.4.2011 as shown on Plan R-4b of TPB Paper No. 8813 and Plan R-4a of TPB Paper No. 8814 and Mr. W.K. Hui explained that there were fewer number of vehicles parked on the sites as compared with the photos taken on 8.4.2011.

168. The Chairman asked if the applicant could limit the number of HGVs/CVs travelling in/out of the sites per day if the proposed amendment to approval condition (c) was accepted by the Board. Mr. Ng Kwok Leung admitted that they might not be able to stop HGCs/CVs from entering/leaving the sites if the specified maximum number had reached. However, the applicant would strive to ensure that the tenants would comply with the restriction on the use of HGCs/CVs and if the tenants were found breaching the

agreement, the applicant would issue warning letters and terminate the lease.

169. A Member noted that in approving the s.16 applications on 13.8.2010, there was no restriction on light/medium goods vehicles from entering the sites. The site photos taken by PlanD had shown that the vehicles parked on the sites were only light/medium goods vehicles and hence the applicant had not violated approval condition (c). This Member asked about the location of the parking spaces to be provided for HGVs/CVs within the sites. Mr. Ng Kwok Leung said that there were four warehouses within the sites and one parking space for HGV/CV would be designated for each warehouse. He would keep record of the vehicles that entered the sites and ensure that only a maximum of four HGVs/CVs would be allowed to travel in/out of the sites.

170. Another Member asked if the environmental assessments had included a scenario that there were more than four HGVs/CVs entering/leaving the sites per day. Mr. Tony C.M. Cheng replied in the negative. This Member further asked if the assessments had assumed all the four HGVs/CVs were within the sites at the same time. Mr. Tony C.M. Cheng said that the environmental assessments had assumed that two HGVs/CVs would travel in/out of the sites within a period of 30 minutes.

171. A Member asked if there were similar planning approvals had been granted in the vicinity with the same approval condition which restricted HGCs/CVs from entering the sites. Mr. W.K. Hui said that there was no such planning approval in the vicinity of the sites. However, similar approval condition restricting the use of heavy vehicles was imposed on certain planning approvals in other areas to address DEP's concern. Mr. Memfus H.K. Wong said that paragraph 7.8 of the Papers, PlanD had indicated that there were two similar cases with no restriction on the type of vehicles entering the sites. Mr. W.K. Hui said that these cases were applications for private car park and petrol filling station use and hence there was no need to impose such restriction in granting the planning approvals.

172. A Member asked about the location of the sensitive receivers and whether the applicant had kept proper records on the vehicles that entered the sites. With the aid of a plan, Mr. Tony C.M. Cheng pointed out that the sensitive receivers for the subject warehouses were two 2-storey village houses nearby. Mr. Ng Kwok Leung said that

records were kept on the number of vehicles that travelled in/out of the sites.

173. The Chairman asked how many ingress/egress points the sites had. Mr. Memfus H.K. Wong said that Dao Yang Road, which was relatively wider, was the main access road used by vehicles travelling in/out of the sites. Hai Wing Road which was relatively narrower was for vehicles leaving the sites. The Chairman further asked if the applicant would consider installing gates at these two roads to control vehicles from entering/leaving the sites. Mr. Memfus H.K. Wong said that if the Board agreed to relax the restriction on HGVs/CVs, the applicant would consider ways to ensure that only authorized HGVs/CVs would be allowed to enter the sites.

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

#### Deliberation Session

175. A Member shared PlanD's view that it would be difficult to enforce a planning condition that restricted the number of HGVs/CVs to four and was more concerned about the traffic safety problem that might result rather than noise nuisance. That Member considered that the Board should either restrict or not to restrict HGVs/CVs from entering/leaving the sites.

176. The Chairman noted that the Commissioner for Transport (C for T) had not raised traffic safety concern. C for T was actually concerned about the manoeuvring spaces for long vehicles and suggested prohibiting vehicles longer than 7.5m from entering/leaving the sites via Hai Wing Road such that all long vehicles would have to enter/leave the sites via Dao Yang Road only.

177. The Vice-chairman opined that it would be equally difficult to enforce an

approval condition to prohibit HGVs/CVs from entering/leaving the site completely or to restrict it to a maximum number of four. In both circumstances, if the applicant was found not complying with the planning condition, the planning permissions would be revoked. The Vice-chairman said that as the applicant had demonstrated his willingness to comply with the condition in the applications for review of the Board's decision, he intended to support the applicant's suggestion to allow a maximum of four HGVs/CVs to enter/leave the sites per day.

178. Another Member considered that the Board should either restrict or not to restrict HGVs/CVs from entering/leaving the site. That Member believed that the applicant would try his best to comply with the approval conditions as evident by the fact that detailed information on how that could be done was provided. The applicant had also assumed a maximum of four HGVs/CVs but not more in undertaking the environmental assessments. As such, that Member was of the view that there was no need to restrict the number of HGVs/CVs and the condition could be deleted accordingly.

179. A Member was concerned that relaxing the planning condition on the restriction might set an undesirable precedent for similar applications. There were local objections to the review applications mainly on environmental and traffic grounds which should be taken into account in considering the subject applications.

180. Mr. H.M. Wong, Principal Environmental Protection Officer (Strategic Assessment) of the Environmental Protection Department, said that DEP's concern on the applications was on noise nuisance caused by the HGVs/CVs on the nearby residents. Notwithstanding, the applicant had committed that there would only be a maximum of four HGVs/CVs entering/leaving the sites per day, which was equivalent to one HGV/CV for each warehouse per day. The noise nuisance so caused might not be unacceptable. On the other hand, it was noted that there was no gate at the entrance of the sites as shown on Plan R-4a of TPB Paper No. 8814. As such, PlanD's concern on the difficulty to enforce the restriction on the number of HGVs/CVs might be relevant for Members to consider.

181. A Member agreed to allow a maximum of four HGVs/CVs to enter the sites per day if this was considered acceptable by DEP. There was no record of pollution complaint for the sites in the past three years. In any case, the Board could revoke the

planning permissions if the applicant was found breaching the approval condition.

182. Another Member said that if HGVs/CVs were prohibited from entering the sites, the tenants would have to use more light/medium goods vehicles for the transportation of goods. This in turn might cause greater traffic volume and traffic noise on the nearby residents. That Member said that normally the loading/unloading time for CVs of 20 feet long and 40 feet long was about two and three hours respectively. As such, such vehicles would unlikely be travelling in/out of the sites very frequently. This Member therefore agreed to allow a maximum of four HGVs/CVs to enter the sites per day or even to uplift the restriction entirely. However, it might be more practical to request the applicant to install gates at the entrances of the sites from Dao Yang Road and Hai Wing Road to prevent vehicles not from their tenants from entering the sites.

183. Mr. Jimmy Leung, Director of Planning, said that in view of the nature of the applied uses and the operation mode of the warehouses as explained by the applicant at the hearing, it might be difficult for the tenants to operate the warehouses if HGVs/CVs were prohibited entirely. He suggested restricting a maximum of four HGVs/CVs to enter/leave the sites as proposed by the applicant rather than uplifting the restriction entirely. Members agreed.

184. The Chairman summarised Members' views that approval condition (a) should be amended by extending the operation hours until 8:00 p.m. as proposed by the applicant and a new approval condition of 'no operation except indoor forklift operation inside the enclosed warehouses is allowed on the application site between 7:00 p.m. to 8:00 p.m. during the planning approval period' should be imposed. Moreover, approval condition (c) should be amended to restrict a maximum of four HGCs/CVs per day to travel in/out of the sites and a new approval condition requiring the provision of gates at the entrances of the sites from Dao Yang Road and Hai Wing Road should be imposed. Mr. H.M. Wong said that there were two application sites in question and hence the maximum number of HGVs/CVs for each application site would be two. The original approval condition (b) would remain. Members agreed.

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

185. After further deliberation, the Board decided to partially agree with the review applications by amending approval conditions (a) and (c) (approval condition (c) was re-ordered as approval condition (d) and including two new conditions (b) and (e)). Each permission should be valid on a temporary basis for a period of 3 years until 13.8.2013, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

*Application No. A/NE-LYT/422*

- (a) no operation between 8:00 p.m. and 7:00 a.m., as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) no operation except indoor forklift operation inside the enclosed warehouses was allowed on the application site between 7:00 p.m. to 8:00 p.m., as proposed by the applicant, during the planning approval period;
- (c) no operation on Sundays and public holidays was allowed on the application site during the planning approval period;
- (d) a maximum of two heavy goods vehicles/container vehicles were allowed to enter the application site per day during the planning approval period;
- (e) gates should be provided at the entrance of the application site at all times during the planning approval period;
- (f) vehicles longer than 7.5m should only be allowed to use the ingress/egress at Dao Yang Road at any time during the planning approval period;
- (g) no open storage of materials should be carried out on the application site at any time during the planning approval period;
- (h) no manufacturing activities should be carried out on the application site at any time during the planning approval period;

- (i) no used electrical appliances, televisions, computer monitors, computer parts or any other types of electronic waste were allowed to be stored on the application site during the planning approval period;
- (j) the submission of drainage proposals within 12 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.8.2011;
- (k) in relation to (j) above, the implementation of drainage proposals within 12 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.8.2011;
- (l) the submission of proposals for water supplies for fire fighting and fire service installations within 12 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.8.2011;
- (m) in relation to (l) above, the provision of water supplies for fire fighting and fire service installations within 12 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.8.2011;
- (n) the submission of tree preservation and landscape proposals within 12 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 13.8.2011;
- (o) in relation to (n) above, the implementation of tree preservation and landscape proposals within 12 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 13.8.2011;
- (p) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or

(i) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and

- (q) if any of the above planning conditions (j), (k), (l), (m), (n) or (o) 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.

*Application No. A/NE-LYT/423*

- (a) no operation between 8:00 p.m. and 7:00 a.m., as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) no operation except indoor forklift operation inside the enclosed warehouses was allowed on the application site between 7:00 p.m. to 8:00 p.m., as proposed by the applicant, during the planning approval period;
- (c) no operation on Sundays and public holidays was allowed on the application site during the planning approval period;
- (d) a maximum of two heavy goods vehicles/container vehicles were allowed to enter the application site per day during the planning approval period;
- (e) gates should be provided at the entrance of the application site at all times during the planning approval period;
- (f) no vehicles longer than 7.5m were allowed to use the ingress/egress at Hai Wing Road at any time during the planning approval period;
- (g) no open storage of materials should be carried out on the application site at any time during the planning approval period;

- (h) no manufacturing activities should be carried out on the application site at any time during the planning approval period;
- (i) no used electrical appliances, televisions, computer monitors, computer parts or any other types of electronic waste were allowed to be stored on the application site during the planning approval period;
- (j) the submission of drainage proposals within 12 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.8.2011;
- (k) in relation to (j) above, the implementation of drainage proposals within 12 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.8.2011;
- (l) the submission of proposals for water supplies for fire fighting and fire service installations within 12 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.8.2011;
- (m) in relation to (l) above, the provision of water supplies for fire fighting and fire service installations within 12 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.8.2011;
- (n) the submission of tree preservation and landscape proposals within 12 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 13.8.2011;
- (o) in relation to (n) above, the implementation of tree preservation and landscape proposals within 12 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 13.8.2011;

- (p) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (i) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (q) if any of the above planning conditions (j), (k), (l), (m), (n) or (o) 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.

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

*Application No. A/NE-LYT/422*

- (a) to note the comments of the District Lands Officer/North to apply to his office for regularization of the existing use and the excessive built over area. There was no guarantee that the new Short Term Waivers (STWs) would be granted to the applicant(s). If the new STWs were granted, the grant(s) would be made subject to such terms and conditions to be imposed as the Government should deem fit to do so including the payment of additional STWs fee;
- (b) to note the comments of the Chief Engineer/Development(2), Water Supplies Department as follows:
  - (i) existing DN80 water main would be affected. Free access should be made available at all times for staff of the Director of Water Supplies or his authorized contractor to carry out construction, inspection, operation, maintenance and repair works to the water main. As there was no unallocated land in the vicinity, diversion of the water main was not possible;
  - (ii) for provision of water supply to the development, the applicant

might need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards; and

(iii) the proposed development was within the flood pumping gathering ground;

(c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department as follows:

(i) all unauthorized structures on the site should be removed;

(ii) the granting of the planning approval should not be construed as condoning to any structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found; and

(iii) formal submission of any proposed new works, including any temporary structure for approval under the BO was required. If the site was not abutting and accessible from a street having a width of not less than 4.5m, the development intensity should be determined under Building (Planning) Regulations (B(P)R) 19(3) at building plan submission stage. The applicant should pay attention to B(P)R 41D regarding the provision of emergency vehicular access to the proposed development;

(d) to note the comments of the Director of Fire Services regarding the fire service installation (FSI) proposal as follows:

(i) sufficient emergency lighting should be provided throughout the

entire building in accordance with BS 5266: Part 1 and BS EN 1838;

- (ii) sufficient directional and exit sign should be provided in accordance with BS 5266: Part 1 and FSD Circular Letter 5/2008;
  - (iii) fire alarm system should be provided throughout the entire building in accordance with BS 5839-1:2002 + A 2:2008 and FSD Circular Letter 1/2009. One actuation point and one audio warning device should be located at each hose reel point. This actuation point should include facilities for fire pump start and audio/visual warning device initiation;
  - (iv) a modified hose reel system supplied by a 2m<sup>3</sup> FS water tank should be provided. There should be sufficient hose reels to ensure that every part of each building could be reached by a length of not more than 30m of hose reel tubing. The FS water tank, FS pump room and hose reel should be clearly marked on plans;
  - (v) portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans; and
  - (vi) an automatic sprinkler system should be provided to the entire building in accordance with BS EN 12845: 2003 and FSD Circular Letter 3/2006. The classification of occupancies and capacity of sprinkler tank should be clearly stated. The sprinkler tank, sprinkler pump room, sprinkler inlet, sprinkler control valve group should be marked on plans;
- (e) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department to replace the dead trees within the application site as soon as possible;
- (f) to follow the environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary

Uses and Open Storage Sites” issued by the Director of Environmental Protection in order to minimize any possible environmental nuisances; and

- (g) to check with the lands authority about the land status of Dao Yang Road and Hai Wing Road leading to the site. The management and maintenance responsibilities of the same roads should be clarified with the relevant lands and maintenance authorities accordingly.

*Application No. A/NE-LYT/423*

- (a) to note the comments of the District Lands Officer/North to apply to his office for regularization of the existing use and the excessive built over area. There was no guarantee that the new Short Term Waivers (STWs) would be granted to the applicant(s). If the new STWs were granted, the grant(s) would be made subject to such terms and conditions to be imposed as the Government should deem fit to do so including the payment of additional STWs fee;
- (b) to note the comments of the Chief Engineer/Development(2), Water Supplies Department as follows:
  - (i) for provision of water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to his department’s standards; and
  - (ii) the proposed development was within the flood pumping gathering ground;
- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department as follows:

- (i) all unauthorized structures on the site should be removed;
  - (ii) the granting of the planning approval should not be construed as condoning to any structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found; and
  - (iii) formal submission of any proposed new works, including any temporary structure for approval under the BO was required. If the site was not abutting and accessible from a street having a width of not less than 4.5m, the development intensity should be determined under Building (Planning) Regulations (B(P)R) 19(3) at building plan submission stage. The applicant should pay attention to B(P)R 41D regarding the provision of emergency vehicular access to the proposed development;
- (d) to note the comments of the Director of Fire Services regarding the fire service installation (FSI) proposal as follows:
- (i) sufficient emergency lighting should be provided throughout the entire building in accordance with BS 5266: Part 1 and BS EN 1838;
  - (ii) sufficient directional and exit sign should be provided in accordance with BS 5266: Part 1 and FSD Circular Letter 5/2008;
  - (iii) fire alarm system should be provided throughout the entire building in accordance with BS 5839-1:2002 + A 2:2008 and FSD Circular Letter 1/2009. One actuation point and one audio warning device should be located at each hose reel point. This actuation point should include facilities for fire pump start and audio/visual warning device initiation;

- (iv) a modified hose reel system supplied by a 2m<sup>3</sup> FS water tank should be provided. There should be sufficient hose reels to ensure that every part of each building could be reached by a length of not more than 30m of hose reel tubing. The FS water tank, FS pump room and hose reel should be clearly marked on plans;
  - (v) portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans; and
  - (vi) an automatic sprinkler system should be provided to the entire building in accordance with BS EN 12845: 2003 and FSD Circular Letter 3/2006. The classification of occupancies and capacity of sprinkler tank should be clearly stated. The sprinkler tank, sprinkler pump room, sprinkler inlet, sprinkler control valve group should be marked on plans;
- (e) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department to replace the dead trees within the application site as soon as possible;
- (f) to follow the environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection in order to minimize any possible environmental nuisances; and
- (g) to check with the lands authority about the land status of Dao Yang Road and Hai Wing Road leading to the site. The management and maintenance responsibilities of the same roads should be clarified with the relevant lands and maintenance authorities accordingly.

187. The Board also decided not to support the applicant’s proposal for amending approval condition (b) (re-ordered as approval condition (c)) for the review applications. Members then went through the reason for rejection as stated in paragraph 8.2 of TPB Papers No. 8813 and 8814 and considered that they were appropriate. For each review

application, the reason was:

- favourable consideration had been given to the application in the last approval subject to the imposition of suitable approval conditions to address the environmental concerns of the Director of Environmental Protection and local residents. In view of the close proximity of the domestic structures to the application site and along the access road, approval condition (b) were considered necessary to minimize the potential adverse environmental impacts imposed by the applied use on the nearby sensitive receivers.

[Mr. Andrew Tsang left the meeting at this point.]

### **Hong Kong District**

#### **Agenda Item 9**

[Open Meeting]

Request for Deferral for Review of Application No. A/H11/97

Proposed Minor Relaxation of Building Height Restriction from 230mPD to 238.7mPD in “Residential (Group B)” zone, 23, 25, 27D, E and F Robinson Road, Mid-levels West (TPB Paper No. 8816)

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[The meeting was conducted in Cantonese.]

188. The Secretary said that as the application was submitted by two subsidiaries of Henderson and ADI Ltd. was a consultant of the application, the following Members had declared interests in this item:

- Mr. Raymond Y.M. Chan - having current business dealings with Henderson Land Development Ltd. (Henderson)
- Mr. Clarence W.C. Leung - being the director of a non-government organization that recently received a donation from a family member of the Chairman of Henderson

Ms. Anna S.Y. Kwong - having current business dealings with ADI Ltd.

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

190. The Secretary reported that on 26.4.2011, the applicant's representative wrote to the Secretary of the Board requesting the Board to defer consideration of the review application for one month in order to allow time to prepare for the review hearing. The justifications for deferment met the criteria for deferment as set out in the TPB Guidelines No. 33 on 'Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance' in that the applicant needed more time to prepare for the review hearing, the deferment period was not indefinite, and that the deferment would not affect the right or interest of other parties.

191. After deliberation, the Board agreed to defer consideration of the review application for one month in order to allow time for the applicant to prepare submission of further information. 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 applicant. The Board also agreed to advise the applicant that one month was allowed for preparation of submission of the further information, and no further deferment would be granted unless under very special circumstances.

### **Procedural Matter**

#### **Agenda Item 10**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Tsuen Wan Outline Zoning Plan No. S/TW/27  
(TPB Paper No. 8817)

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[The meeting was conducted in Cantonese.]

192. The Secretary said that as representations No. 6 and 7 were submitted by

subsidiaries of Sun Hung Kai Properties Ltd. (SHK), the following Members had declared interests in this item:

Mr. Raymond Y.M. Chan	]	having current business dealings with SHK
Mr. Felix W. Fong	]	
Ms. Julia M.K. Lau	-	being the former employee of SHK

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

194. The Secretary briefly introduced the Paper. On 24.12.2010, the draft Tsuen Wan Outline Zoning Plan (OZP) No. S/TW/27 was exhibited for public inspection under section 5 of the Town Planning Ordinance. A total of 8 representations and 8 comments were received after the statutory publication periods of the draft OZP and the representations respectively. As there were only 8 representations and 8 comments, it was suggested to hear them by the full Board without resorting to the appointment of a Representation Hearing Committee. Moreover, all the representations were in respect of the “Comprehensive Development Area” zonings on the draft OZP and hence it was suggested to hear the representations and the related comments collectively in one group.

195. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of the representations and comments as detailed in paragraphs 2.1 and 2.5 of the Paper.

### **Agenda Item 11**

[Closed Meeting]

196. This item was recorded under confidential cover.

## **General**

### **Agenda Item 4**

[Open Meeting]

Planning and Engineering Study on the Future Land Use at Ex-Lamma Quarry Area  
at Sok Kwu Wan, Lamma Island – Feasibility Study  
(TPB Paper No. 8811)

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[The meeting was conducted in Cantonese.]

197. The following representatives of government departments were invited to the meeting at this point:

- |                      |   |
|----------------------|---|
| Mr. Ivan M.K. Chung  | - District Planning Officer/Sai Kung & Islands (DPO/SKIs), Planning Department (PlanD)                                  |
| Mr. Billy W.K. Fong  | - Town Planner/SKIs, PlanD  |
| Mr. David K.C. Lo    | - Chief Engineer/Islands, Hong Kong and Islands Development Office, Civil Engineering and Development Department (CEDD) |
| Ms. Helen S.M. Szeto | - Engineer/Islands, Hong Kong and Islands Development Office, CEDD  |

198. The Chairman extended a welcome and invited Mr. Ivan M.K. Chung to brief Members on the background of the Paper. With the aid of a Powerpoint presentation, Mr. Chung did so as detailed in the Paper and made the following main points:

#### *Background*

- (a) the ex-Lamma quarry site (the Site) was established for rock extraction in 1978. Rehabilitation works were undertaken in 1995 and completed in December 2002. The Site was currently zoned “Undetermined” (“U”) on the Lamma Island Outline Zoning Plan (OZP) No. S/I-LI/9 and occupied by landscape areas and a lake;

- (b) in 1999, in order to retain flexibility for the Strategic Sewage Disposal Scheme (SSDS) project (currently known as the Harbour Area Treatment Scheme (HATS)), the Government reserved the Site for accommodating future sewage treatment facilities;
- (c) in 2002, the Government completed the Planning and Development Study on Hong Kong Island South and Lamma Island (HKIS & LI Study). As a portion of the Site was still reserved for possible sewage treatment facilities under the SSDS project, the HKIS & LI Study proposed that an Outdoor Recreational and Educational Centre could be developed at the Site as an interim land use, subject to the Government's decision on the SSDS project. Given the limited residential development opportunities in other parts of Lamma Island, the HKIS & LI Study remarked that the residential development potential of the Site might be considered in determining its future land use;
- (d) in 2005, the Government decided that the HATS Stage 2 be implemented in phases with the treatment works centralized in Stonecutters Island. The reservation of the Site for HATS was thus no longer necessary;

#### *Study Objective*

- (e) PlanD and CEDD would engage consultants to carry out the proposed Planning and Engineering Study on Future Land Use at Ex-Lamma Quarry Area at Sok Kwu Wan, Lamma Islands – Feasibility Study (the Study). The overall objective was to examine the future land use of the Site including residential development and other compatible uses;

#### *Study Area*

- (f) the Study Area had an area of about 59.9 ha. Apart from the Site, the natural and man-made slopes immediately surrounding the west, north and east of the Site were also included within the Study Area to address possible interface issues and to ensure that the natural hazard and

ecological values of the adjacent slopes were adequately taken into account;

### *Scope of the Study*

- (g) the Study would be undertaken in four phases as follows:
- (i) Inception Phase: to undertake baseline review of the area and to formulate a community engagement strategy;
  - (ii) Option Formulation Phase: to formulate initial land use options and carry out preliminary feasibility assessment to ascertain the general feasibility of the various options. Stage 1 community engagement would be undertaken on the initial land use options;
  - (iii) Preferred Option Finalization Phase: to review the initial land use options, to formulate a preferred land use option and to undertake technical assessment on the preferred land use option. Based on the preferred land use option, the Preliminary Outline Development Plan (PODP) would be formulated and detailed engineering assessments and Environmental Impact Assessment (EIA) including the Cultural Heritage Impact Assessment (CHIA) would commence; and
  - (iv) Recommended Option Finalization Phase: to formulate the draft Recommended Outline Development Plan (RODP) and complete the detailed engineering assessments and EIA including the CHIA. Stage 2 Community Engagement would be undertaken on the draft RODP. The views collected would be used to finalise the RODP;

### *Way Forward*

- (h) the Islands District Council and the Lamma Island (North) Rural Committee were consulted on 18.4.2011 and 4.5.2011 respectively. They

generally welcomed the Study. Peng Chau/Cheung Chau/Lamma Area Committee and Lamma Island (South) Rural Committee would be consulted in May 2011;

- (i) CEDD would then proceed with the necessary funding application and commence the consultant selection process. The Study would commence in end 2011 for completion within 30 months; and
- (j) the OZP would be amended to incorporate the proposed layout, land uses and development intensities for the Site as recommended in the RODP.

199. Members had the following questions/comments on the Study:

- (a) was there any broad direction on the future use of the Site ?
- (b) there was previously a proposal for a marina and for yacht sailing competition in other parts of Lamma Island. Such uses/activities might be worth considering in the Study;
- (c) there were not many ex-quarry sites in Hong Kong. As such, the future land uses of the Site should capitalize on the unique history of the Site as a quarry. For instance, a museum featuring the previous quarrying activities could be considered. Other suggested uses included theme park and resort with lagoon;
- (d) the locational advantage of the Site being in close proximity to the urban area should be taken into account in considering the future land uses;
- (e) it was considered desirable to engage the public and relevant stakeholders as early as possible on the possible future land uses of the Site. Besides, more creative consultation methods e.g. drawing competition should be explored;
- (f) was there any target population for the Site ?

- (g) as Lamma Island relied solely on ferry services which had been operating with financial difficulty, an increase in the population at Lamma Island might help maintaining the ferry services. Would the Study consider the provision of transport facilities to cater for the future land uses of the Site ?
- (h) was the southern shoreline of the Site an artificial one and would there be any reclamation outside the shoreline ? and
- (i) whether there were any natural features at the Site ?

200. Mr. Ivan M.K. Chung responded to the questions/comments as follows:

- (a) the Study would examine the future land use of the Site with focus on its residential development potential and other possible compatible uses e.g. outdoor recreational and education uses as suggested in the HKIS & LI Study. Members' views on the possible future land uses of the Site would be taken into account in the Study;
- (b) upon commencement of the Study, a community engagement strategy would be formulated setting out the detailed arrangement and programme of the community engagement activities. Member's views on creative consultation methods would be taken into account in the formulation of the community engagement strategy;
- (c) while the Study had no pre-determined population target for the Site, the local views gathered so far indicated that more population could be accommodated at the Site. Notwithstanding, the Study would identify the appropriate land uses and development parameters for the Site having regard to all relevant considerations including the rural character of the area and the reliance on ferry services;
- (d) a traffic impact assessment would be undertaken as part of the Study to

examine the transport requirements for and impacts of the preferred land use option. The future transport requirements would also take into account the existing pier located opposite the Site across Sok Kwu Wan;

- (e) the southern shoreline of the Site was an artificial seal wall constructed when the Site was previously used as a quarry. No reclamation would take place outside the southern shoreline; and
- (f) the Site had been rehabilitated with landscaping in end 2002 under a quarry rehabilitation contract. It was currently occupied by landscape areas and a lake. The lake was previously the casting basin of the ex-Lamma quarry and subsequently rehabilitated into a lake. Birds were found around the lake according to site inspection. The Study would examine if the Study Area had any areas/features of high ecological value that would be worth protecting. In addition, the areas to the north of the Site were natural areas zoned as “Green Belt”, “Coastal Protection Area” or “Conservation Area”. Nests of rare species of White-bellied Sea Eagle were found there. The Sham Wan Site of Special Scientific Interest at southern Lamma Island was also the nesting site for the endangered Green Turtles.

201. The Chairman asked the representatives of PlanD and CEDD to take account of the views expressed by Members in the Study. As Members had no further questions to raise, the Chairman thanked the representatives of PlanD and CEDD for attending the meeting. They left the meeting at this point.

### **Agenda Item 12**

#### Any Other Business

[The meeting was conducted in Cantonese.]

202. There being no other business, the meeting was closed at 7:45 p.m..