

**Minutes of 1019th Meeting of the
Town Planning Board held on 14.9.2012**

Present

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

Chairman

Mr. Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Professor Edwin H.W. Chan

Ms. Bonnie J.Y. Chan

Professor K.C. Chau

Mr. Rock C.N. Chen

Dr. Wilton W.T. Fok

Mr. Ivan C.S. Fu

Mr. Sunny L.K. Ho

Professor P.P. Ho

Mr. Lincoln L.H. Huang

Professor Eddie C.M. Hui

Ms. Janice W.M. Lai

Mr. Dominic K.K. Lam

Dr. C.P. Lau

Mr. Patrick H.T. Lau

Ms. Christina M.S. Lee

Mr. H.F. Leung

Mr. Clarence W.C. Leung

Dr. W.K. Lo

Mr. Roger K.H. Luk

Mr. Stephen H.B. Yau

Dr. W.K. Yau

Deputy Director of Environmental Protection
Mr. Benny Wong

Principal Assistant Secretary (Transport)
Transport and Housing Bureau
Miss Winnie Wong

Director of Lands
Ms. Bernadette Linn

Director of Planning
Mr. Jimmy Leung

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

Secretary

Absent with Apologies

Mr. H.W. Cheung

Mr. Timothy K.W. Ma

Ms. Julia M.K. Lau

Mr. Maurice W.M. Lee

Mr. Laurence L.J. Li

Ms. Anita W.T. Ma

Assistant Director (2), Home Affairs Department
Mr. Eric Hui

In Attendance

Assistant Director of Planning/Board
Ms. Christine K.C. Tse

Chief Town Planner/Town Planning Board
Miss H. Y. Chu (a.m.)
Mr. Edward W.M. Lo (p.m.)

Senior Town Planner/Town Planning Board
Ms. Doris S.Y. Ting (a.m.)
Mr. Raymond H.F. Au (p.m.)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1018th Meeting held on 31.8.2012

[The meeting was conducted in Cantonese.]

1. The minutes of the 1018th Meeting held on 31.8.2012 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

[Closed Meeting.]

2. (i) The item was recorded under confidential cover.
- (ii) Consideration of Representations and Comments to the Draft Tseung Kwan O Outline Zoning Plan No. S/TKO/18
3. The following Members had declared interests on this item:

Mr. Benny Wong - The proposed amendments of the draft
(as Deputy Director of Tseung Kwan O OZP No. S/TKO/18
Environmental Protection) were related to the proposed South East
New Territories Landfill (SENTLF)
Extension under the purview of the
Environmental Protection Department
(EPD).

Dr. C.P. Lau - Being a Tuen Mun District Council

Member and one of the three strategic landfill sites was located in Tuen Mun

4. As the item was to report to the Town Planning Board (the Board) on the follow-up actions undertaken by EPD regarding management and enforcement control measures in relation to the SENTLF, Members agreed that the above Members could stay at the meeting for this item.

5. The following representatives of EPD were invited to the meeting:

Dr. Ellen Y.L. Chan - Assistant Director (Environmental Infrastructure) (AD(Env. Infrastructure)), EPD

Mr. Lawrence M.C. Lau - Principal Environmental Protection Officer (Waste Facilities), EPD

6. The Chairman extended a welcome and then invited representatives of EPD to brief Members on the follow-up work regarding the SENTLF as requested by the Board after the hearing of the representations and comments to the draft TKO OZP No. S/TKO/18. Members noted that a Paper had already been circulated to them prior to the meeting.

7. With the aid of a Powerpoint presentation, Dr. Ellen Y.L. Chan made the following main points:

- (a) during the hearing of the representations and comments to the draft TKO OZP No. S/TKO/18, the Board, at its meeting on 13.12.2011, gave EPD some very good suggestions regarding the management of the landfill sites and its surrounding areas and the enforcement against non-compliant activities in relation to the SENTLF. The last report to the Board on the progress of those follow-up actions was made on 17.2.2012, and the current report would focus on the latest progress of the five areas of follow-up actions as requested by the Board;

To devise a comprehensive and systematic improvement / implementation programme to address local concerns

- (b) apart from the existing odour control measures as reported in February 2012, the following additional measures were introduced in the SENTLF:
 - (i) covering the sludge with soil instead of construction waste, since late July 2012;
 - (ii) installation of four additional gas extraction wells;
 - (iii) increasing the number of water tanker from two to three to enhance dust control; and
 - (iv) extending the operation of some mobile de-odourisers from 8 a.m. until midnight to 24 hours a day;

[Professor S.C. Wong arrived to join the meeting at this point.]

- (c) an independent consultancy was commissioned in August 2012 to evaluate the effectiveness of the existing odour control measures that had been implemented in the SENTLF, and to determine whether further measures (from international best practices) could be introduced for further improvement in odour management. The draft findings of the consultancy would be available by the end of 2012;
- (d) to continue to closely liaise and remind the waste collection trade on good operation and maintenance practices through the regular Landfill User Liaison Meetings held at a 3-month interval, with recent meetings held on 8.2.2012, 9.5.2012 and 8.8.2012. Besides, a Code of Practice on the Operation of Refuse Collection Vehicles was prepared jointly by EPD, Transport Department (TD) and Environmental Contractors Management Association to remind the trade of the good operation and maintenance practices of refuse collection vehicles;

[Mr. Patrick H.T. Lau arrived to join the meeting at this point.]

- (e) EPD had widely distributed posters and leaflets to the property management companies and Owners' Corporations to promote the importance of hiring quality waste collectors which adopted good operation and maintenance practice and used fully enclosed refuse collection vehicles in order to contribute to the improvement of environment;
- (f) while Wan Po Road would continue to be cleaned, the operator of SENTLF had started to clean the roadside planters along Wan Po Road and the plants inside the planters;

To actively step up enforcement action against non-compliant activities

- (g) a joint blitz operation with the Hong Kong Police (Police), the Food and Environmental Hygiene Department (FEHD) and the Environmental Compliance Division of EPD on vehicle speeding, overloading, insecure load and dripping of wastewater was conducted at Wan Po Road on 17.5.2012. During the operation, seven summonses were issued to drivers whose dump trucks or RCVs were found with dripping wastewater. 10 warnings were also given to dump truck drivers who did not have their loads on the dump trucks properly covered. While the originally scheduled operation on 24.7.2012 was called off due to typhoon, similar operation was being planned;
- (h) to increase the frequency of the joint departmental operation for removing illegally placed skips from once per month to once every three to four weeks. A total of four operations were conducted between March and June 2012;

To increase the percentage of random checks to ensure the dumping of construction waste at the landfill comply with the legislations

- (i) the percentage of random checks of construction waste carried by the dump trucks entering SENTLF had been increased from 2 - 3 % in the past to over 5%. Two composition surveys were conducted by EPD in January and June 2012 respectively at the SENTLF and the construction waste loads of the 187 dump trucks were thoroughly checked. The results of checking showed that only a very small quantity of non-construction waste and other non-toxic materials (about 0.2% by weight) were found in the construction waste. EPD would continue to review the waste checking operation and explored room for further enhancement;

To increase the number of monitoring stations at sites near LOHAS Park

- (j) as the proposal of setting up an environmental monitoring station at LOHAS Park development was not accepted by the Owners' Committees, EPD had obtained the consent of the Fire Services Department to set up an 'E-nose' at the roof of the Tseung Kwan O Fire Station to the south-east of LOHAS Park which was considered as a suitable location. The proposed 'E-nose' would be in place by the end of 2012;

To form a local liaison group comprising local residents and government representatives to allow residents to reflect their concerns and to monitor the situation

- (k) general meetings/site visits to the SENTLF with the Owners' Committee of LOHAS Park, property management company of Oscar by the Sea and management office and tenants of the Tseung Kwan O Industrial Estate initiated by EPD were held on 29.2.2012, 7.7.2012 and 20.7.2012 to listen and respond to the concerns of the participants and to explain to them the latest odour control measures undertaken at the landfill. It was, however, noted that the participation rate of the residents of the LOHAS Park in these meetings/site visits conducted by EPD was on the low side. EPD would continue to strengthen her liaison with the local

community, in particular the residents of LOHAS Park, to build up better communication.

8. In response to the Chairman's question on whether there was any improvement in the number of complaint cases after the carrying out of the above measures by EPD, Dr. Y.L. Ellen Chan replied in the negative and explained that the phenomenon was probably due to the increase in population in the area during the past months. Mr. Lawrence M.C. Lau supplemented that as at the end of August 2012, a total of 270 complaints were received in the Tseung Kwan O district, which represented a slight increase as compared with the complaint figure for the same period in 2011. However, at the end of August 2012, 1,370 complaints were received from the residents of LOHAS Park and this had represented an increase of more than 70% as compared with the complaint figure for the same period of last year. It was also noted that some of these complaints were repeatedly lodged by the same groups of people or lodged within certain periods of time.

9. The Chairman then invited questions from Members. Members generally appreciated EPD's continued effort in improving the management of the landfill sites and their surrounding areas. Two Members raised the following questions:

- (a) what were the responses of those participants attending the briefing and site visits held in February and July this year?
- (b) apart from the regular odour control measures carried out by EPD throughout the year, was there any specific arrangement to cater for different daily or seasonal situations?

10. Dr. Ellen Y.L. Chan and Mr. Lawrence M.C. Lau of EPD made the following responses to Members' questions:

- (a) most of the participants were willing to listen and learn more about the technical aspects of the operation of the landfill. There had been a very good exchange of views between the participants and EPD. It was important for EPD to maintain an effective dialogue with the local community, in particular those living closer to the landfill site;

- (b) past records showed that the existing landfill would cause more adverse odour impact on the LOHAS Park in the summer when the prevailing wind came from south and south-east. In this regard, special arrangements had been made by locating the waste tipping areas farther away from the residential developments and to cover the tipping areas promptly after waste reception in order to minimise the adverse odour impact. Occasionally, some readjustment plans such as rearranging the work flow and schedule of carrying out the waste disposal activities or deployment of additional mobile de-odourisers would also be worked out, for example, to cater for some special outdoor events held in the vicinity of the landfill site on a particular day.

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

11. As Members had no further question and comment, the Chairman thanked the representatives of EPD for attending the meeting.

(iii) The Court of First Instance's Judgment on the Judicial Review lodged by Lindenford Limited against Town Planning Board in respect of the Skyway House site on the Draft Mong Kok Outline Zoning Plan No. S/K3/28

12. The following Members have declared interest in this item:

Mr. Dominic Lam - had business dealings with CITIC Pacific Limited which owned Lindenford Limited

Ms. Julia Lau - had business dealings with Environ HK Ltd., the AVA consultant of Lindenford Limited

13. As the item was to report the Court judgment, Members agreed that the above Members could stay in the meeting. Members also noted that Ms. Lau had not yet arrived to join the meeting.

14. The Secretary reported that on 28.7.2011, a Judicial Review (JR) application was lodged by Lindenford Limited against the TPB's decision on 29.4.2011 not to propose an amendment to the draft Mong Kok Outline Zoning Plan (OZP) No. S/K3/28 to meet its representation (R8) in respect of a site at No. 11-15 Kok Cheung Street currently occupied by Skyway House.

15. The Site was zoned "Other Specified Use" annotated "Business" ("OU(B)") on the draft OZP. The Applicant challenged the following two restrictions imposed on the Site, namely:

- (a) a building height restriction (BHR) of 80mPD; and
- (b) a building gap (BG) of 13m above 20mPD in the middle part of the site aligned with Ka Shin Street.

16. The Applicant proposed to revise the BHR to 96.05mPD, or 100mPD and to relocate the BG to the northern boundary of the site.

17. The JR was heard by the Court of First Instance (CFI) on 5.9.2012. On the same day, the Court handed down its judgment to dismiss the JR and ruled that all JR grounds failed. The Court also ordered the Applicant to pay the TPB's costs. The Secretary said that a copy of the judgment had been circulated to Members prior to the meeting. She continued to brief Members on the gist of judgment as follows.

Ground 1: Error of fact

- (a) the Applicant argued under this ground that TPB was mistaken in assuming that the permitted plot ratio (PR) of 12 under the OZP could be achieved on the Site despite the two restrictions (BHR and BG);
- (b) specifically, the TPB had made an error of fact in relying on a table prepared by the PlanD which assumed a structure on the Site with three basement levels contributing towards the total GFA (i.e. the three basement levels would not be used for car parking spaces). It

was not practically feasible because under the lease, basement floors on the Site might only be used for the storage of petrol or diesel and the parking, loading and unloading of motor vehicles and the lease also required that there should be a minimum number of car parking spaces (similar to the recommendations in the Hong Kong Planning Standards and Guidelines (HKPSG));

- (c) the Court did not accept the Applicant's submission;
- (d) first, the lease condition on the minimum number of car parking spaces might be negotiated and changed in the future. It was hard to see why the Board should have had regard to them when imposing restriction from a planning point of view. Also, the HKPSG were only guidelines and must be applied in the light of constraints;
- (e) second, even if more car parking spaces were actually required, more basement levels could be built. The mere fact that it might be more expensive or less efficient to build more basement levels did not mean that it was not possible to do so. Because of planning restrictions, it might entail greater expense to build a development with some total permissible GFA but it would not render it "impossible" to achieve the requisite;
- (f) third, the table was only intended as a calculation to indicate how the requisite GFA might be achieved. It was not purporting to be the only way, nor was it claiming to deal with all technical problems in designing or building a particular structure;
- (g) the Court rejected this ground and did not think that the Applicant had demonstrated that the requisite GFA could not be achieved whether in theory or practice;

Ground 2: Error of law

- (h) the Applicant argued that it was unfair for TPB to have regard to the table which contained new information not previously disclosed to the Applicant prior to the meeting and the Applicant also did not have a fair opportunity to respond to the same;
- (i) the Court did not accept this argument as the table was in effect an “aide-memoire” which PlanD produced when explaining why the total GFA was attainable. Many of the figures in the table would have been known by the Applicant prior to the meeting and other details could readily have been grasped. There would have been little in the table which could have taken the Applicant by surprise. Besides, the Applicant had not asked PlanD to state the assumptions prior to the meeting nor did it object to the table when it was produced at the meeting;
- (j) the table showing the broad assumptions in formulating the BHR for individual sites was presented at the meeting to clarify and respond to the points made by the representers only and there was no unfair treatment for the TPB to accept the clarification;
- (k) the Court did not consider that TPB relied on the minor relaxation provision to impose development restrictions. TPB did not see any particular difficulty with the restriction imposed on the Site and a PR of 12 was achievable despite the restrictions. The Explanatory Statement of the OZP permitted minor relaxation of restrictions to cater for site-specific matters. If the Applicant wished to argue for some “minor” relaxation in the future in order to accommodate some design innovation, the TPB would consider such application on its merits in the future. It was impossible to give any definition of “minor” in advance which would depend on the context and circumstances of a case;

Ground 3: Spot zoning

- (l) the Court did not agree that the TPB exceeded its powers under the TPO by imposing the restrictions and that it was micro-managing a site or usurped the functions of the Building Authority.

Ground 4: Procedural unfairness

- (m) the Court was of the view that the Applicant had sufficient opportunity to respond to the table;

Ground 5: Failure to acquaint itself with relevant information

- (n) the Applicant criticised that in imposing the BG, the TPB failed to take into account the difference in nature between the Air Ventilation Assessment (AVA) prepared by PlanD's consultant and that prepared by the Applicant;
- (o) the Court, however, considered that the TPB was aware of and considered the Applicant's AVA. Nevertheless, given especially that the Applicant's AVA consultant was only prepared to say that the Applicant's preferred scheme would "be better, or at least not worse" and could "achieve the same or better" ventilation in the site area, the Court did not think that the TPB could be faulted for acting on PlanD's AVA recommendation in imposing the BG. Further, the TPB was clearly entitled to conclude that the Applicant's proposed relocation of the BG would worsen the visual permeability along Ka Shin Street;
- (p) the Applicant's complaint that the TPB preferred the views of PlanD's AVA consultants to those of the Applicant's AVA consultant was hardly the basis for JR. The Court had no expertise in the assessment of air ventilation and must accord a wide margin of deference to the TPB in such matter;

Ground 6: Abdication of responsibility

- (q) the Court ruled that the TPB's mere copying of some or most of PlanD's recommended reasons for rejecting a developer's representations was hardly evidence of an abdication of responsibility. As a matter of general practice, the TPB (insofar as it is minded to agree with the PlanD) often adopted PlanD's suggested wording in the paper. However, it was evident from the minutes of the TPB's deliberations that the TPB did not simply rubber stamp what PlanD recommended. There was independent consideration and discussion of relevant matters by the individual members of the TPB;

Ground 7: Inconsistency

- (r) the Court ruled that there was no inconsistency between a PR of 12 and the proposed restrictions;

Ground 8: Failure to attach adequate weight

- (s) the Court ruled that the TPB considered the Applicant's objections and attached such weight to them as it deemed appropriate;

Ground 9: Wednesbury unreasonableness

- (t) the Court ruled that there was no unreasonableness.

Conclusion

- (u) the Court stated that there was a worrying tendency for developers to treat JR against a draft OZP as a re-hashing of arguments run before and rejected by the Board. That only led to inflated JR with much time and cost being wasted in the preparation by both sides in relation to points of little substance which had no place in a JR. That seriously delayed the hearing of a JR in relation to

draft OZPs. Meanwhile, there was a stay of the submission of the draft OZP to ExCo and the planning development of Hong Kong was held up;

- (v) the Judge reminded all parties involved (developers, their solicitors and their counsel) of their duty to assist the Court in resolution of disputes. The applicants should only put forward genuinely viable grounds for JR. JR should not be treated as a continuation of the representation process before the TPB;

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

- (w) one source of delay to hearings had been that applicants' preferred barristers were not available. The development of Hong Kong could not be held up solely because of the convenience of counsel. That must especially be the case where reviews against draft OZPs typically only related to specific sites and other areas covered by a draft OZP should not have to await planning development for any longer than necessary, while applications against restrictions on specific sites proceeded in Court.

18. Members noted the judgment.

- (iv) Approval of Draft Outline Zoning Plan (OZP)/Development Permission Area (DPA) Plan

19. The Secretary reported that the Chief Executive in Council (CE in C) on 4.9.2012 approved the following draft Outline Zoning Plan (OZP) and draft Development Permission Area (DPA) Plan under section 9(1)(a) of the Town Planning Ordinance (the Ordinance) and the approval of the above OZP/DPA Plan were notified in the Gazette on 14.9.2012:

- (a) Kai Tak OZP (to be renumbered as S/K22/4); and

- (b) Yim Tin Tsai and Ma Shi Chau DPA (to be renumbered as DPA/NE-YTT/2).

(v) Reference Back of Approved Outline Zoning Plans

20. The Secretary reported that the CE in C on 4.9.2012 referred the following approved OZPs to the Board for amendment under section 12(1)(b)(ii) of the Ordinance and the reference back of the OZPs were notified in the Gazette on 14.9.2012:

- (a) Sai Ying Pun & Sheung Wan OZP No. S/H3/27; and
- (b) Ma Wan OZP No. S/I-MWI/14.

Tsuen Wan and West Kowloon District

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comment to
the Draft Tsuen Wan Outline Zoning Plan No. S/TW/29
(TPB Paper No. 9182)

[The hearing was conducted in Cantonese and English.]

Hearing of Group 3 (Representations R3 to R7 and Comments C614 and C615)

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

Mr. Ivan Fu	-	had business dealings with Sun Hung Kai Properties Ltd. which was the owner of Starrylight Ltd. (R4); and with Masterplan Ltd. which was the consultant of R4
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- Mr. Dominic Lam] had business dealings with Sun Hung Kai
Mr. Patrick Lau] Properties Ltd. which was the owner of
Starrylight Ltd. (R4); and with Kenneth To
& Associates Ltd. which was the consultant
of R7
- Ms. Janice Lai - had business dealings with Sun Hung Kai
Properties Ltd. which was the owner of
Starrylight Ltd. (R4)

22. Members considered that the interests listed above were direct, and the concerned Members should be invited to withdraw from the meeting for this item. Members noted that Ms. Janice W.M. Lai had indicated that she would not attend the morning session of the meeting.

[Messrs. Ivan C.S. Fu, Dominic K.K. Lam, Patrick H.T. Lau and Benny Wong left the meeting temporarily at this point.]

Presentation and Question Session

23. The Chairman said that sufficient notice had been given to invite the other commenters to attend the hearing, but they had either indicated not to attend the hearing or made no reply. As sufficient notice had been given to the commenters, Members agreed to proceed with the hearing in their absence.

24. The following representatives of the Planning Department (PlanD), and the representers' representatives of Group 3 were invited to the meeting at this point:

- Mr. Wilson W.S. Chan - District Planning Officer/Tsuen Wan
and West Kowloon (DPO/TWK), PlanD
- Mr. K.T. Ng - Senior Town Planner/Tsuen Wan
(STP/TW), PlanD

Miss Yvonne Y.T. Leong - Town Planner/Tsuen Wan (TP/TW),
PlanD

Dr. Conn H.N. Yuen - Director of Co2nnsulting, AVA
consultant

R3 – REDA

Mr. Ian Brownlee] Representers' Representatives

Ms. Cynthia Chan]

R4 – Starrylight Ltd.

Mr. Ian Brownlee] Representers' Representatives

Mr. David Yeung]

R5 – Kowloon Panda Hotel Ltd.

Mr. C.K. Chan]

Mr. Daniel Fung]

Mr. Garrick Lau] Representers' Representatives

Ms. Angel Fung]

Ms. Helen Leung]

Mr. John Lee]

R6 – Wide Power Development Ltd.

Mr. Y. K. Leung - Representers' Representative

R7 – Tsuen Wan Properties Ltd.

Mr. Kenneth To]

Ms. Lam Tsz Kwan]

Mr. Allan Chan] Representers' Representatives

Mr. Jacky Ko]

Mr. Dominic Kwan]

Mr. Louis Chan]

25. The Chairman extended a welcome and explained the procedures of the hearing. He then invited DPO/TWK, PlanD to brief Members on the background to the representations.

26. With the aid of a Powerpoint presentation, Mr. K. T. Ng, STP/TW, made the following main points as detailed in the Paper:

Background

- (a) On 24.2.2012, the draft Tsuen Wan OZP No. S/TW/29, incorporating amendments mainly to impose building height restriction (BHRs) on various development zones, to designate non-building areas (NBAs) and demarcate building gaps in various zones, and other zoning amendments to reflect the planning intention or completed developments, was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the exhibition period, a total of 7 representations and 620 comments were received;

BHRs

- (b) the BHRs for the Tsuen Wan Area (the Area) had been formulated after taking into account various factors, including the existing topography, site levels, local character, existing land use zonings and building height (BH) profile, BHRs under lease and compatibility with the surrounding developments in terms of BH, stepped BH concept, the need to balance public aspirations for a better living environment and private development rights, permissible development intensity under the OZP, local wind environment and air ventilation improvement measures, and the broad urban design principles;

Urban Design Appraisal

- (c) to guide the formulation of BHRs of the Area, an Urban Design Appraisal had been conducted and the Area was divided into the following five sub-areas with different characters:

Tsuen Wan Town Centre (Sub-Area 1)

Tsuen Wan Town Centre covered the old town centre, the twin town nodes of the MTR Tsuen Wan Station and Tsuen Wan West Station where large-scale comprehensive residential developments (such as Luk Yeung Sun Chuen, Discovery Park and the proposed developments at the Sites TW5, 6 and 7) and commercial developments (such as Nina Tower) were located. To the immediate south-east and north-west of the old town centre were two major industrial areas. In general, the BH concept for Sub-Area 1 was to consolidate the twin town nodes by maintaining the BH profile of the existing/proposed high-rise commercial and residential developments above and around the two MTR stations;

Sheung Kwai Chung and Shing Mun Valley (Sub-Area 2)

this Sub-Area covered three public rental housing estates along Shing Mun Valley and the village settlements to the south and east. To the south and south-east over Shing Mun Valley were the existing and former industrial developments. The general BH concept for Sub-Area 2 was to adopt a stepped height profile respecting the terrain/natural topographical profile and descending southward and south-westward;

Tsuen Wan Bay Western Area and Yau Kom Tau (Sub-Area 3)

Tsuen Wan Bay Western Area was predominantly occupied by large-scale high-density comprehensive residential developments. The BH gradually descended westward to Yau Kom Tau. A height profile stepping down from the north towards the waterfront was adopted;

Tsuen King Circuit and Tso Kung Tam (Sub-Area 4)

developments in this Sub-Area were mainly large-scale comprehensive residential developments concentrated along the access road, Tsuen King Circuit, on a hilly topography. A height profile stepping up north-westward following the access road of Tsuen King Circuit was recommended for this sub-area; and

Fu Yung Shan and Wo Yi Hop (Sub-Area 5)

appropriate BHRs had been incorporated into the previous OZP for all development zones within Fu Yung Shan and Wo Yi Hop, including “Residential (Group B)2” (“R(B)2”), “R(B)3” and “Village Type Development” (“V”) zones. These BHRs were retained in the draft Tsuen Wan OZP No. S/TW/29;

Air Ventilation Assessment

- (d) an Air Ventilation Assessment (AVA) by Expert Evaluation (EE) had been undertaken to provide a qualitative assessment of the wind environment within the Area, to identify problem areas and to propose mitigation measures. According to the findings of the AVA EE, the major prevailing winds of the Area came from the north, north-east and east, whereas the summer prevailing winds were from the east, south and south-west. To facilitate better air ventilation in the Area, the AVA EE had recommended that the existing major roads, open space and the low-rise GIC developments in the Area should be maintained. Besides, two non-building areas (NBAs) at Nina Tower and at the western boundary of Sun Fung Centre as well as four building gaps within the proposed developments in West Rail Sites TW5, TW6, TW7 and Waterside Plaza had been designated on the draft OZP to further improve air ventilation condition;

Public Consultation

- (e) during the two-month exhibition period, the amendments to the OZP were presented to the Tsuen Wan District Council (TWDC) and the Harbourfront Commission's Task Force on Harbourfront Developments in Kowloon, Tsuen Wan and Kwai Tsing (the Task Force) for consideration on 27.3.2012 and 18.4.2012 respectively. TWDC members generally supported the stipulation of BHRs in respect of the Tsuen Wan OZP in order to strike a balance between development and cityscape. The Task Force generally had a consensus that the BH should be controlled;

Representations and Comments

- (f) a total of five representations (R3 to R7) and two comments (C 614 and 615) were included in this Group 3 hearing. R3 submitted by the Real Estate Developers Association of Hong Kong (REDA) mainly opposed the imposition of BHRs in general, spot BHR, NBAs, building gaps, the application of Sustainable Building Design (SBD) Guidelines, public consultation arrangement of the OZP amendments, the two-tier BHR for the "R(A)13" zone and the wording of the Minor Relaxation Clause on the OZP. R4 submitted by the owner of No. 13-17 Fu Uk Road opposed the imposition of various restrictions on sites within the Planning Area in general and specifically in relation to the stipulation of a BHR of 120mPD for the "R(E)" sites to the north of Kwok Shui Road. R5 to R7 which were submitted by the Kowloon Panda Hotel Limited, the Wide Power Development Limited (the owner of No. 2-6 Sha Tsui Road) and Tsuen Wan Properties Limited (who owned the majority interest of Riviera Plaza) respectively, opposed the BHR imposed on their respective sites;
- (g) both C614 and C615 submitted by Mr. CHOW Ping Tim, as a Tsuen Wan District Council Member and on behalf of the Riviera Gardens Estate Owners' Committee, were related to R7. The commenters opposed the BHR of 120mPD for the Riviera Plaza and opined that the

existing building height of 8 storeys for Riviera Plaza should be retained.

Grounds of Representations and Representers' Proposals

- (h) The main grounds of representations and their proposals were summarised in paragraphs 4.3, and 4.5 to 4.8 of the Paper and highlighted below:

Adverse Representations for More Lenient BHRs (R3 and R4)

- (i) the adoption of BHRs of 80/100mPD, 120mPD and 140mPD over most of the Area were very restrictive and would adversely affect the private redevelopment and urban renewal process. The objectives for imposing BHRs could be achieved with slightly relaxed height limits (R3);
- (ii) the imposition of unreasonably low BHRs would restrain building bulk and design flexibility, and constrain the provision of good quality development, thus directly affecting streetscape and air ventilation at grade (R3 and R4);

Representers' Proposals

- (iii) R3 proposed a general increase of all BHRs by 20m to achieve more generous height bands of 120mPD, 140mPD and 160mPD to encourage innovative design and built form;

Adverse Representation on NBAs and Building Gap Requirements (R3)

- (iv) there was a lack of legal basis and justifications for the imposition of NBA and building gap requirements. The objective of ensuring gaps between buildings could be achieved by designating such areas as open space, parks and streets;

- (v) the NBA imposed along the western boundary of Sun Fung Centre would adversely affect the development right of private landowner without any form of compensation. The AVA EE was inadequate to justify the extent of the proposed NBAs and no critical assessment had been undertaken to show that the proposal was essential for the public good;
- (vi) the NBA requirement at Nina Tower had already included in the lease and there was no need to duplicate the restriction on the OZP;
- (vii) the building gap requirement was not appropriate for the scale and generality intended for the broad-brush OZP. Provision of air paths would be more appropriately catered for under the SBD regime. There was no justification on the specific width and the specified BHRs of the building gaps;
- (viii) building gap restrictions imposed would affect property rights and land sale values of sites and there was no compensation for such loss. The restrictions had not given due regard to the approved Master Layout Plans (MLPs) of the railway property developments at the Sites TW5, TW6 and TW7 and would delay the housing supply;

Representer's Proposals (Put forth by R3)

- (ix) to delete the NBA and building gap requirements. Should the Board considered necessary to provide gaps, a more suitable zoning "Open Space" should be used. However, should the NBAs be retained, the wording 'under exceptional circumstances' should be removed from the Notes of the relevant zones so that a relaxation could be decided on its own merits; and
- (x) to amend the wording of minor relaxation clause such that minor

relaxation of all restrictions be considered on individual merits instead of ‘under exceptional circumstances’;

Adverse Representation on Spot Zoning (R3)

- (xi) to impose spot BHRs on a number of sites within the Area was restrictive and inconsistent with good town planning practice;

Representer’s Proposals (Put forth by R3)

- (xii) to delete the provision of lower BHR for sites of less than 400m² in the “R(A)13” zone and all sites therein should be allowed a higher BH;
- (xiii) to set the highest BHRs for sites with similar planning characteristics and for those with several BHRs within a single site;
- (xiv) to revert to the broad generalised zoning previously applied to the “R(A)”, “R(B)” and “G/IC” zones;

Adverse Representation on SBD Guidelines (R3)

- (xv) the SBD Guidelines were promoted by the Government to achieve the same objectives of better ventilation, enhance environmental quality of living space as the NBAs and building gaps on the OZP. Under the Joint Practice Note (JPN) No. 1, sky gardens and podium gardens were encouraged. The BHRs imposed on OZP were set so low that the SBD Guidelines were difficult to be implemented;
- (xvi) there had been no serious attempt to allow for the incorporation of the SBD requirements when preparing the BHRs;

Adverse Representation on Public Consultation (R3)

- (xvii) there had been no public consultation prior to the exhibition of the draft OZP, which gave no opportunity for the public including the development industry to be informed of the justifications or the need of the restrictions;

Adverse Representations Relating to Specific Sites

“R(E)” and “OU(B)” sites at Kwok Shui Road (R3 and R4)

- (xviii) the imposition of BHR of 120mPD on the “R(E)” and “OU(B)” sites had not taken into account their specific site constraints / background, including industrial/residential (I/R) interface, potential hazard associated with the Tsuen Wan Water Treatment Works (TWWTW), committed developments within the “R(E)” zone with heights much higher than the BHR imposed (including site at No. 106-114 Kwok Shui Road with approved BH of 174mPD now under construction, and site at No. 13-17 Fu Uk Road with approved BH of 174.9mPD), and building height profile in the surrounding area with Primrose Hill development at a BHR of 210mPD and Lei Muk Shue Estate with a BHR of 170mPD/190mPD;
- (xix) no assessment had been undertaken for a higher BHR which might also be acceptable from the air ventilation perspective;
- (xx) R4 considered that the BHR of 120mPD for its lot at No. 13-17 Fu Uk Road was so low that it would result in the loss of 18 floors under the approved scheme (Application No. A/TW/416), which had an overall building height of 174.9mPD as the high podium design of 36.5m should be maintained to meet CCPHI requirement of achieving an acceptable risk level. Hence, the stringent BHR would render the site impossible to accommodate

all the GFA with a reasonable floor-to-floor height

Representer's Proposals (Put forth by R3 and R4)

- (xxi) R3 proposed to increase the BHRs for the “R(E)” and “OU(Business)” sites from 120mPD to 160mPD;
- (xxii) R4 proposed to impose a BHR of 175mPD for the whole “R(E)” zone; or to relax the BHR for the four sites (i.e. Ching Hing Industrial Building, Safety Godown, North East Warehouse and No. 13-17 Fu Uk Road) within the 400m Consultation Zone (CZ) of the TWWTW to 175mPD; or to amend the OZP so that the development form and content similar to the approved scheme under planning application No. A/TW/416 could be achieved at its site at No. 13-17 Fu Uk Road;

Kowloon Panda Hotel (R5)

- (xxiii) according to the Urban Design Guidelines, developments should be highest in the central part of a new town and gradually descend down to medium to low-rise developments at the edges. The Panda Hotel had been the icon of Tsuen Wan since its completion and should be the highest part of Tsuen Wan;
- (xxiv) a substantial alteration and addition works were proposed to bring the hotel up to current standards without demolition. The proposed building at a height of 202.6mPD would not cause any adverse visual impact on the surroundings;

Representer's Proposal

- (xxv) to amend the BHR to 202.6mPD for the proposed alteration and addition works;

No. 2-6 Sha Tsui Road (R6)

(xxvi) objected to the imposition of 100mPD BHR on the site as the building plan approval in respect of the site which proposed an office development with a higher BH than the BHR had been obtained on 18.12.2008 with the latest amendment building plans approved on 29.3.2012;

Representer's Proposal

(xxvii) to exclude the site from any BH control;

Riviera Plaza (R7)

(xxviii) although the building plans for proposed alteration and addition works to the existing commercial centre and extension of a new office tower with a BH at 143.367mPD (main roof level) at the subject site approved in 2007 could still be implemented despite the newly proposed BHR of 120mPD, there was no flexibility allowed for further improvement to the approved scheme;

(xxix) the proposed office tower had to be constructed on the existing commercial centre at the northern portion of the site only to minimize interference to the existing public transport interchange (PTI) at G/F of the southern portion of the site. With the BHR, the proposed office tower could likely be in a bulky shape on top of the existing building in order to utilize the permissible floor area. The PTI had to be relocated during the construction period and users would be affected;

(xxx) the site was situated behind the nearby residential blocks of Riviera Gardens with building height ranging from 94.51mPD to 124.26mPD. It was not anticipated that the future office tower of 140mPD as proposed would create adverse visual impact when

viewed from the Tsing Yi Waterfront Promenade. Besides, the proposed development at 140mPD which was lower than the 150mPD BHR on the Site TW7 “CDA” site to the north-east might even create a more interesting BH profile which was the main commercial site in the neighbourhood;

(xxxix) the OZP should reflect the actual height of the committed developments to avoid causing confusion to the public;

(xxxixii) there was no justifiable ground to take inconsistent approaches in imposing BHRs to different zonings. For example, in the Tsim Sha Tsui OZP, the BHs of the Ocean Centre and Harbour City redevelopment scheme and the Urban Renewal Authority project at Hanoi Road were stipulated in the OZP. However, in the Tsuen Wan OZP, while the “C” site (where Nina Tower was located) and the “C(2)”, “C(3)” and “C(4)” sites (where the service apartments along the junction of Ma Tau Pa Road and Yeung Uk Road were located) were imposed with BHRs to reflect their actual BHs and to respect the development potential on these respective sites, the “OU(B)1” site at Chai Wan Kok (where the Cable TV Tower was located), with the existing BH at 197mPD, was imposed with a lower BHR (100mPD);

Representer’s Proposal

(xxxixiii) to relax the BHR to 140mPD (option 1); or to impose two different BH bands to allow a BHR of 140mPD for the northern part and 120mPD for the southern part of the “C(1)” zone (option 2).

PlanD’s Responses to Representations and Representer’s Proposal

(i) the main responses to the general grounds of representation and their proposals as well as to the grounds of representation relating to specific sites and their proposals were summarised in paragraphs 4.4, 4.5.5, and

4.6 to 4.8 of the Paper respectively and were highlighted below:

Adverse Representations for More Lenient BHRs (R3 and R4)

- (i) the BHR was imposed to meet the public aspiration for a better living environment and hence was for the public good and the public interest. The BHRs were also commensurate with its surroundings. In formulating the BHRs, due regard had been given to various factors, including topography, site formation level, existing BH profile, local characteristics, land uses, local wind environment and measures suggested for air ventilation improvements, the BHR under the lease, the compatibility in terms of BH with surrounding areas and stepped BH concept. An Urban Design Appraisal for the Area had been conducted and the broad urban design principles set out in the Urban Design Guidelines had also been taken into consideration;
- (ii) the BHRs were drawn up to provide better planning control on the BH of development/redevelopment to prevent out-of-context developments which would have negative impacts on the visual quality of the area and would violate the stepped BH concept. The concentration of tall buildings in the area would also create canyon effect and adversely affect the local air ventilation at pedestrian level as well as that in the neighbouring districts. The BHRs provided a stepped BH profile appropriate to the local setting and were generally sufficient to accommodate the development intensity permitted under the OZP;
- (iii) the BHRs per se would not result in bulkier buildings or wall effect affecting air ventilation. On the contrary, it would avoid out-of-context design, preserve local character and regulate the BH profile of the built environment;

- (iv) in the course of BH review, an assessment was conducted to ensure that development intensity permitted under the OZP could generally be accommodated under BHRs. Flexibility was allowed in designing the shape and form of the buildings and the BHRs did not preclude the incorporation of innovative architectural design;
- (v) whether a building was bulky or massive would depend on many considerations other than BH alone. The provision of better designed buildings could not be guaranteed by relaxing the BHRs;
- (vi) the need to cater for greater design flexibility and redevelopment incentives had to be balanced against the community aspirations for a better living environment with more optimal building developments. Besides, there was also provision for application for minor relaxation of the BHRs under the OZP to cater for development/redevelopment with planning and design merits. As stated in paragraph 7.6 of the Explanatory Statement (ES) of the OZP, the criteria for consideration of such applications included the provision of innovative building design, separation between buildings, better streetscape and good quality street level public urban space. Any innovative scheme with planning and design merits would be duly considered by the Board in accordance with such criteria;
- (vii) R3's proposal was not substantiated by any planning justifications and no assessment (e.g. visual impact assessment, AVA) was conducted to show that the new BH profile was better. Besides, R3 did not substantiate his argument that the height bands in the OZP were restrictive. More importantly, as the BHRs on the OZP were already able to accommodate the permitted development intensity and had struck a proper balance between the public aspirations for a better living environment and private development rights, the need for a general relaxation of the BHR was doubtful. Should there be

functional/operational need and/or planning/design merits which could justify developments to exceed the BHR, it could be considered individually by way of application for minor relaxation of the BHR, so that each case will be considered by the Board on its own merits;

- (viii) from air ventilation point of view, blanket increase of 20m BHRs would worsen the skimming flow problem in the Area and hindered the effectiveness of the three air paths at Tai Chung Road, Tai Ho Road and Ma Tau Pa Road to bring in the sea breeze to the hinterland;

Adverse Representations on NBA and Building Gap Requirements (R3)

- (ix) the Board was given comprehensive powers to control development in Hong Kong under sections 3 and 4 of the Ordinance. The designation of NBAs and building gaps on OZPs with necessary and sufficient planning justifications would be part of the planning control within the Board's power. Recent court's decisions on three judicial review cases confirmed that the Board had the power under the Ordinance to impose BHRs, NBAs or building gaps on particular sites;
- (x) the imposition of NBA was considered justified and was an essential planning requirement as it could serve to improve air ventilation and visual permeability in the Area. The NBAs requirements were imposed to meet the public aspiration for a better living environment and hence was for the public interest and public good;
- (xi) 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 designation of an area as NBA would not preclude the area from site coverage and plot

ratio calculation;

- (xii) the designation of two NBAs and four building gaps was based on the recommendations of the AVA EE, taking into consideration the site constraints and impacts on development/redevelopment potential. The areas so designated were relatively small in relation to the sites and should not adversely affect development intensity of the concerned sites. The NBAs along the western boundary of Sun Fung Centre could facilitate penetration of south-westerly wind to the village settlements to the north of Yau Ma Hom Road while the NBA at Nina Tower actually covered the existing open area at the north-western corner to improve air ventilation in the local area. The imposition of NBA requirement on the OZP (rather than merely rely on lease control) could provide clearer control and allowed opportunity for public representation under the Ordinance;
- (xiii) designation of building gaps at the Sites TW5, TW6 and TW7 and Waterside Plaza would play a key role in creating air paths and facilitating channelling of the southerly and south-easterly winds to the town centre and to enhance visual permeability. The alignment, width and height of the building gaps in the West Rail Sites TW5 to TW7 were in line with the respective approved MLPs for these sites and would not jeopardize the implementation of these sites;
- (xiv) the measures on SBD Guidelines and the OZP restrictions on building gaps were under two separate regimes which were complementary with each other;
- (xv) the provision for application for minor relaxation of the BHR under the OZP could cater for schemes with planning and design merits including those which would provide greater separation between buildings in the detailed design of a development/redevelopment;

- (xvi) the representer's proposal to delete the NBA and building gap requirements was not supported as it would compromise the planning intention to improve air ventilation and visual permeability in the area;
- (xvii) "O" zone and 'Road' were designated for specific planning purposes and planning needs. For the Sun Fung Centre site, there was no planning need to rezone the NBA into "O" or 'Road'. The designation of an area as NBA would not affect the land use zoning of that area nor affect the development intensity of the site;
- (xviii) the wording "under exceptional circumstances" was included in the minor relaxation clause of NBA requirements so as to only cater for certain exceptional cases;

Adverse Representation on Spot Zoning (R3)

- (xix) legal advice and recent court decisions on JR cases had confirmed that the Board had the powers under the Ordinance to impose BHRs, NBAs or building gaps on particular sites. On such basis, the Board should have the power to impose BHRs on individual sites or for such area within the boundaries of the OZP if there were sufficient planning justifications;
- (xx) BHRs were imposed for a planning purpose. Given the wide coverage of the Area that comprised areas with varying characteristics including different topography and different planning intentions/objectives, different restrictions for different sites under the same broad zone were necessary;
- (xxi) development at small lots might result in pencil-like building, which was considered undesirable due to the inefficient floor plate design. The adoption of two-tier approach in BHR for the "R(A)" zone was

intended to encourage amalgamation of sites for larger developments with the provision of more innovative design and inclusion of supporting facilities for the residents. Site amalgamation could optimise land resources and provide opportunities for local improvement. Rather than prohibiting small-scale development, the two-tier approach allowed flexibility for different scales of developments, which would result in more height variations within the height bands and create visual interest in the Area;

- (xxii) the designation of sub-areas on the OZP had taken into account the as-built situation, topography, characteristics, specific development proposals and planning intention of all development sites. The representer's proposal to revert to the previous general "R(A)", "R(B)" and "G/IC" zoning was not supported as different restrictions on PR/GFAs and BHs were adopted in these sub-areas to achieve the intended planning control, stepped height profile and urban design objectives;

Adverse Representation on SBD (R3)

- (xxiii) the measures on SBD Guidelines and the OZP restrictions were under two separate development control regimes, although they were complementary with each other. The SBD Guidelines were administrative measures for compliance on a voluntary basis for the granting of GFA concession, without reference to specific district characteristics and site circumstances. OZP restrictions were statutory planning control to achieve planning objectives specific to the district;
- (xxiv) the SBD Guidelines were not designed to replace mitigation measures for air ventilation at the planning level. The streets, open spaces, air paths and major building gaps were important measures to promote air ventilation in the city. It was important to

incorporate the necessary inter-connectivity among these measures on the OZP through the designation of NBAs and building gaps at strategic locations. The measures on planning regime and SBD Guidelines complemented with each other in promoting air ventilation in the city;

(xxv) the compliance with the SBD Guidelines involved detailed and site-specific building design matters which could only be firmed up after a detailed building scheme had been drawn up. In the absence of concrete building schemes, it was neither possible nor appropriate in the OZP review stage to determine how the SBD Guidelines would impact on the building development and design on individual sites. Without any detailed scheme, there was no basis to allege that the BH and other restrictions would conflict with the SBD Guidelines;

(xxvi) reasonable assumptions on floor-to-floor height and provision of basement car park had been generally adopted in the formulation of the BHRs. Should there be any site-specific circumstances, there was provision for application for minor relaxation of the BHRs under the OZP to cater for development/redevelopment with planning and design merits, which might include schemes with the incorporation of SBD features;

Adverse Representation on Public Consultation (R3 and R4)

(xxvii) proposed amendments involving BHRs would not be released to the public prior to gazetting as premature release of such information might prompt an acceleration of submission of building plans for tall buildings which contravened the overall BH concept, hence defeating the purpose of imposing the BHRs;

(xxviii) the statutory exhibition of the OZP itself was a public consultation

process. Briefings on the OZP amendments to TWDC had been carried out during the exhibition period;

- (xxix) all the relevant documents had been made available for public inspection;

Adverse Representations Relating to Specific Sites

“R(E)” and “OU(B)” sites at Kwok Shui Road (R3 and R4)

- (xxx) other than tall and thin building design, other mitigation measures might also be able to address I/R interface problems;
- (xxxii) the assessments as detailed in Tables 1 to 3 of the TPB Paper were carried out which demonstrated that the imposed BHR of 120mPD for the R(E)” and “OU(B)” zones would generally be sufficient to accommodate the permissible GFA under the OZP. Hence, the imposition of the BHR of 120mPD for the sites would not result in decrease in the development intensity as it had been ensured that the sites were able to accommodate the maximum permissible GFA under the OZP despite the stipulation of the BHR;
- (xxxiii) as advised by the Director of Environmental Protection, the proposed podium of 36.5m under Application No. A/TW/416 was not an absolute minimum to achieve an acceptable risk level and there was scope for the applicant to explore to lower the podium height so as to achieve a lower BH for the proposed development. An application for minor relaxation of the BHR could be submitted to the Board for consideration should there be any genuine site constraints;
- (xxxiiii) according to the Town Planning Board Guidelines on Lapsing of Planning Permission (TPB PG-No. 26A), a development being

carried out on a site in accordance with a planning permission would not be affected by a change of the land use zoning restriction of the site;

- (xxxiv) no strong planning ground to adopt the BH in the development schemes approved by the Board for the sites as they did not reflect the predominant BH profile of the area, nor the desirable one;
- (xxxv) the BHR of 120mPD was formulated based on urban design consideration to achieve an optimal height profile. The restrictions in the OZP were formulated after balancing all relevant considerations, based on a set of principles and reasonable assumptions. Sufficient justifications should therefore be provided by the Representatives (R3 and R4) to substantiate their representation and challenge to the appropriateness of the restrictions imposed by the Board;
- (xxxvi) having considered the BH of 3-storey of the village settlements in the immediate neighbourhood and with a view to achieving an optimal stepped BH profile for the concerned area, avoiding out-of-context tall developments, maintaining the integrity of the “R(E)” zone, and the compatibility of BH with the adjoining developments within Kwai Chung Planning Scheme Area, it was considered not appropriate to adopt R3 and R4’s proposed BHR;
- (xxxvii) if the BHR of the “R(E)” and “OU(B)” zones in the area was increased to 160mPD, the 20m-wide NBA would behave more like a canyon of 100m deep resulting in adverse air ventilation impact. Sufficient justifications and technical assessments were required to demonstrate the acceptability of the proposed BHR;

Kowloon Panda Hotel (R5)

- (xxxviii) the site was located at the periphery of the Tsuen Wan town centre. The proposed BH of 202.6mPD was not in line with the overall building height profile/context;

- (xxxix) Panda Hotel did not fall within the twin town nodes around the two MTR stations as set out in the Urban Design Appraisal, and was not considered as an iconic building and was not located at the centre of Tsuen Wan. Iconic/landmark buildings were not necessarily tall buildings. Innovative and quality building design could still be achieved within the proposed building height profile;

- (xl) the proposed relaxation of BH from 100mPD to 202.6mPD was not supported as such BH was considered out-of-context and visually not compatible with the surrounding residential developments within the same “R(A)” zone. No information had been submitted to justify the argument that the proposed scheme would greatly improve the air ventilation in the area. Also, the visual impact of the proposal was considered undesirable;

No. 2-6 Sha Tsui Road (R6)

- (xli) the BHR of 100mPD imposed on the site and its surrounding area was in compliance with the stepped BH profile of the whole area, which was formulated after taking into account the relevant planning and urban design considerations;

- (xlii) development proposals which had already obtained building plan approval would not be affected by an amendment to the zoning restriction unless there were substantial amendments. Subsequent amendments to the approved building plans would not need to conform to an extant statutory plan unless there were changes in use, increase in development intensity or substantial amendments;

- (xliii) deletion of the BHR for the site as proposed was not supported as piecemeal deletion of BHRs for individual sites would jeopardize the coherency of the stepped BH profile and undermining the overall purpose of imposing BHRs;

Riviera Plaza (R7)

- (xliv) the BHRs imposed on the OZP were mainly to achieve an optimal BH profile for the area. Approved building plans might not necessarily represent a desirable planning proposal and should not be adopted as a reference in setting the BHRs for the area;
- (xlv) development proposals which had already obtained building plan approval would not be affected by an amendment to the zoning restriction. Subsequent amendments to the approved building plans would not need to conform to an extant statutory plan unless there were changes in use, increase in development intensity or substantial amendments;
- (xlvi) the assessment as detailed in Table 4 of the TPB Paper had demonstrated that the imposed BHR of 120mPD for the site would be sufficient to accommodate the permissible GFA under the OZP. The imposed BHR had struck a proper balance between public aspirations for a better living environment and private development rights. There was no convincing ground to accept a relaxation of the BHR by 20m to 140mPD for the whole site or for the northern portion of the site;
- (xlvii) there was provision for application for minor relaxation of the BHRs under the OZP to cater for development/redevelopment with planning and design merits, and accommodating building design to address specific site constraints in achieving the permissible development intensity under the OZP. Each planning application

for minor relaxation of BHR would be considered on its own merits;

- (xlvi) the incorporation of the BHs of approved development schemes in building plans submissions for individual sites in Tsuen Wan into the OZP might jeopardise the integrity of the overall stepped BH concept;

Grounds and Proposals of Commenters (C614 and C615)

- (j) both C614 and C615 opposed the imposition of a BHR of 120mPD on Riviera Plaza as it was very close to some of the buildings of Riviera Gardens which would have serious impact on the residents living near Riviera Plaza;
- (k) C615 was also disappointed as the Riviera Gardens Estate Owners' Committee had not been consulted on the amendments to the draft Tsuen Wan OZP No. S/TW/29;
- (l) both C614 and C615 considered that the present BH of Riviera Plaza of 8 storeys should be maintained to avoid adverse impact on air circulation of the area and health of local residents;

Responses to Comment (C614 and C615)

- (m) R7 was entitled under the lease conditions to develop a maximum of 23,200m² office GFA at the site. A set of building plans indicating the proposed new office tower was approved by the Building Authority on 2.4.2007. The BHR of 120mPD imposed on the site had already struck a proper balance on the private development right and public aspirations for a better living environment;
- (n) on public consultation, the OZP exhibition process itself was a public consultation to seek representations and comments on the draft OZP.

The two-month statutory exhibition period was considered adequate for consultation with the public while maintaining the efficiency of the process.

PlanD's Views

- (o) PlanD did not support R3 to R7 and considered that they should not be upheld for the reasons as set out in paragraph 7.1 of the Paper.

27. The Chairman then invited the representers, their representatives and the commenter's representatives to elaborate on their representations and comment.

R3 – REDA

28. With the aid of a Powerpoint presentation, Mr. Ian Brownlee, the representative of R3, made the following main points:

- (a) the representer was concerned about the impact of the zoning amendments on the development system as a whole. The representer had previously made representations on other OZPs. All representations, including the subject representation, were related to matters of principle and in particular, the desire to see an improved and sustainable built environment, and the need to protect the property rights of individual property owners;
- (b) the representer had applied to the High Court for a JR of decisions of the Board in relation to four other OZPs. Two recent judgements handed down by the High Court in relation to Kai Tak Mansions and Lindenford, which clarified the situation regarding the operation of the Board and the various issues relating to the amendments to the OZP, were relevant to the consideration of representations of Tsuen Wan OZP by the Board. In particular the following points were relevant:
 - (i) practical feasibility should be ensured in imposing BHRs on sites so that the entitled GFA could be accommodated;

- (ii) the AVA did not provide robust justifications for the imposition of NBAs and building gaps;
 - (iii) proper attention should be given to establishing restrictions on the basis of cogent evidence that the restrictions could be reasonably regarded as necessary for achieving a particular planning objective;
 - (iv) the proportional impact on property rights should be considered; and
 - (v) reliance could not be placed on the minor relaxation process as an alternative to establishing restrictions;
- (c) in view of the change in legal context, the representer believed that the Board should consider whether to continue to process these amendments to the Tsuen Wan OZP, or defer its consideration until further legal advice was obtained on whether it was proper to consider these representations;

AVA, NBAs and Building Gaps

- (d) the EE approach to AVA was inadequate for the establishment of specific detailed restrictions on an OZP;
- (e) more detailed information, such as Computational Fluid Dynamic modelling, which allowed consideration of options, the actual degree of benefit to be obtained and the proportional impact on private property rights was necessary to be carried out to confirm the imposed restrictions. As no detailed study was carried out by PlanD in relation to the Tsuen Wan OZP, all the NBAs proposed on the OZP had not been adequately addressed and members of public were not provided with adequate information to understand the need and benefit that would arise;

- (f) the imposition of NBA on OZP was duplicating existing controls under the lease (such as that at Nina Tower). If a gap for ventilation purposes was essential, it should be zoned as “O” or road to allow public inspection in the plan making process and to compensate the owners accordingly;
- (g) no reason was given on why PlanD would not carry out the necessary detailed analysis in determining gaps for AVA purposes;

Approach to SBD Guidelines

- (h) SBD Guidelines were relevant and should be taken into account by the Board when preparing amendments in relation to imposition of BH and other restrictions on OZPs;
- (i) SBD Guidelines were now matters which were considered in every development and being included as a requirement under new leases or modified leases, and this would progressively affect development or redevelopment in areas such as Tsuen Wan;
- (j) the presenter did not agree to PlanD’s views that concrete building schemes were required before SBD Guidelines could be assessed and the presenter had offered to discuss the technical matter with the Board and PlanD but was refused;
- (k) evidence from the industry was that a generalized increase of about 20m BH in most cases would encourage the provision of SBD requirement;
- (l) by referring to a drawing extracted from Buildings Department’s Practice Note for SBD Guidelines (PNAP APP-152), it was considered that the compliance of SBD Guidelines regarding building separation by adjacent building developments would entail the provision of 15m-wide building gap, rendering the imposition of NBA requirement on OZP unnecessary;
- (m) to set the BHRs at the lowest level to accommodate the permitted GFA

under the OZP and to maximise site coverage permitted under the Building (Planning) Regulations (B(P)R) actually discouraged the inclusion of permeability, the provision of sky garden and other beneficial features promoted under the JPN and SBD Guidelines. Instead, an increase of 20m BH could allow flexibility for increased building permeability;

- (n) as illustrated by the photomontages in Plans H-20a to g of the TPB Paper, an increase of BH by 20m was visually insignificant and would not result in out-of-context tall buildings;
- (o) the AVA conducted by PlanD did not include an option that an increase of 20m BH would be totally unacceptable;
- (p) to ignore the SBD Guidelines would undermine the Board's intention to improve the quality of the living environment of the whole area;

PlanD's Assumptions for BHRs

- (q) PlanD's inclusion of some information about the assumptions used to assess the development potential that could be achieved with the imposed BHR, as contained in Tables 1 to 3 of the TPB Paper, was greatly appreciated;
- (r) the whole philosophy of imposing BHR was to depress building heights to the lowest possible level to accommodate the GFA permitted under the OZP. The use of the assumption of maximum site coverage permitted under the B(P)R would result in low and bulky buildings everywhere in Tsuen Wan;
- (s) the assumptions to have podia of 100% site coverage up to 15m (i.e. 3 floors) as shown in the tables of the TPB Paper were unreasonable and impractical as it was completely contrary to the Government's objective to reduce the podium site coverage so as to improve the pedestrian environment. Moreover, as the 100% podium site coverage would not

be achievable under the SBD Guidelines, the permitted GFA under the OZP could not be achieved. Besides, none of the JPN proposals such as sky gardens, refuge floors, transfer slabs or other basic design requirements had been included in the proposed development;

- (t) PlanD's assumed GFA concessions were set at 20% to 25%. However, under the current BD controls, most GFA concessions could only be granted on full compliance with the SBD guidelines and were subject to a cap of 10%. However, it was clear from PlanD's assumptions on site coverage and the proposed BHR that full compliance with SBD guidelines had not been assumed. Therefore, it was an incomplete analysis with an irrational conclusion that all permitted GFA was assured;

Conclusion

- (u) the detailed assumptions used by PlanD to illustrate that the permitted development potential of the sites could be achieved with the BHR set for these sites were out-of-date and not consistent with the objective of the Board. The representer therefore suggested that the Board to adjourn the hearing and instructed PlanD to completely reassess the assumptions that it applied to the review of this and other OZPs.

[Professor P.P. Ho left the meeting temporarily at this point.]

R4 – Starrylight Limited

29. Mr. Ian Brownlee informed the meeting that the representer had recently submitted a revised development scheme together with a hazard assessment to PlanD. The HA was tabled at the meeting for Member's reference.

30. With the aid of a Powerpoint presentation, Mr. Ian Brownlee and Mr. David Yeung, the representer's representatives, made the following main points:

The site

- (a) the representation site at 13-17 Fu Uk Road fell within the “R(E)” zone and was the subject of two planning applications for proposed residential development approved by the Board in 2006 and 2011 under Applications No. A/TW/365 and 416. The site was bounded by industrial buildings on three sides and Fu Uk Road on the west, and was subject to road traffic noise impact and I/R interface problems. In addition, the site also fell within the 400m CZ for TWWTW and a hazard assessment was required as part of the planning application to assess and mitigate the potential risk of chlorine leakage. The imposition of BHR of 120mPD on the OZP had created an additional constraint for development of the site;

[Professor P.P. Ho returned to join the meeting at this point.]

The s.16 approvals

- (b) according to the latest approved scheme under Application No. A/TW/416 which had taken into consideration all of the said constraints, the achievable form of development was a 35-storey (including 1 refuge floor) residential tower over a 6-storey podium, with an overall building height of 174.9mPD. The tower consisted of fairly standard small units with an average floor height of 3.15m and one refuge floor/sky garden;
- (c) to avoid the chlorine gas risk of the TWWTW, a high podium of approximately 36m above street level, consisting of parking, a club house, an indoor swimming pool and a transfer slab, was designed to minimize human occupation. Similarly, the Primrose Hill, an existing residential development located on the opposite site of Fu Uk Road with a building height of 230mPD, had adopted a similar building design of high podium to mitigate the chlorine gas hazard. Besides, the proposed development had to propose various noise mitigation measures including

single-aspect building design facing the street, with the adoption of podium and appropriate façade design;

- (d) the planning application approved by the Board under Application No. A/TW/416 was subject to a number of approval conditions, some of which were incompatible with each other. For example, while conditions (b) and (c) required the implementation of mitigation measures identified in the Hazard Assessment (HA) report and the environmental assessments, condition (a) required the submission of a revised building design of the proposed development with a lower podium height;
- (e) the lease modification to implement this approved development was at an advanced stage subject to the consideration of an appeal regarding the premium to be charged by the LandsD;

120mBHR

- (f) the 120mPD BHR for the “R(E)” zone did not pay respect to the approved development on this site, nor to another approved development at 106-114 Kwok Shui Road with a height of 174mPD. As compared with the approved scheme, the 120mPD BHR would unnecessarily and unreasonably constrain the redevelopment of the site resulting in either the removal of 18 storeys or an infeasible development with a very low floor-to-floor height of 1.525m to 1.625m;

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

General building plans submission

- (g) a set of building plans with a reduction in the overall building height by 8.5m (i.e. from 174.9mPD to 166.4mPD) resulting from the incorporation of the SBD requirements such as the provision of underground carpark and a reduction in GFA exemption for the

clubhouse, was submitted to the Buildings Department in May 2012. However, the building plans were rejected, largely on the advice of PlanD that there was insufficient information to demonstrate that the revised building design could effectively mitigate the chlorine gas risk and other industrial and traffic noise;

- (h) upon rejection of the building plans, a revised development scheme was contemplated and a new Hazard Assessment (HA) study was carried out to assess the likely risk from the chlorine gas, as well as the other mitigation measures. A revised development scheme, which comprised a single 34-storey residential block erected on top of the podium about 18m above ground and with an overall building height reduced from 166.4mPD (in May 2012 building plan submission) to 160mPD, together with the associated HA report was recently submitted to PlanD for consideration under condition (a) of the approved Application No. A/TW/416;

[Ms. Bonnie J.Y. Chan left the meeting temporarily at this point.]

New Hazard Assessment

- (i) as compared with the approved proposal, the residential block of the revised development scheme was located farther away from TWWTW. A HA for the revised scheme, which had taken into account the recent review on background population within CZ and the latest operational scenario of TWWTW with implementation of improved measures, was conducted. It was demonstrated that the risk level of the revised development scheme was acceptable subject to the approval by concerned parties;
- (j) however, the reduction in podium height would increase the number of residential units exposed to adverse industrial and traffic noise impacts. With a view to complying with the relevant noise standard, a 9-m high noise barrier facing Fu Uk Road and structural fins would need to be

constructed. Despite the introduction of various mitigation measures against the industrial noise in the close proximity of the site, the result of the industrial noise assessment was considered unsatisfactory. Hence, the feasibility of the revised development scheme was subject to the acceptability by the DEP on environmental grounds;

- (k) should the DEP accept the reduction in the height of the podium and proposed mitigation measures, the proposed development could be reduced to an overall height of 160mPD. Given the formation level of 31.5mPD, the total building height at 128.5m of the revised development scheme was considered not excessive for a development with a plot ratio 5 in a severely constrained location and was compatible with the rising backdrop of hills;

PlanD's responses

- (l) while the constraints had been clearly considered by the PlanD and the Board when granting approval to a scheme at 174.9mPD, there was no reason why the effect of these constraints on the building design was ignored by PlanD in the setting of BHR for the site (paragraph 4.5.5 of TPB Paper);
- (m) the statement in para. 4.5.5(a) of the TPB paper was unrealistic as PlanD did not propose any indicative scheme which could effectively mitigate the environmental constraints of the site. Furthermore, all the mitigation measures mentioned in this paragraph had already been incorporated into the building design of the proposed development;
- (n) given the size of some of the sites in the "R(E)" zone, the imposition of an unnecessarily low BHR for the "R(E)" zone had provided little incentive for other private owners to redevelop their sites for residential purpose. As there was no definite date on the eventual elimination of the I/R interface for the "R(E)" sites, the future residents of these new residential buildings within the "R(E)" zone should be protected from

adverse impacts by suitable building design;

[Ms. Bonnie J.Y. Chan returned to join the meeting at this point.]

Development Density

- (o) as set out below, there were fundamental problems with the analysis in Table 1 of the TPB Paper, which was used to illustrate that the imposition of the BHR of 120mPD would not result in a decrease in development intensity:
 - (i) the assumption of GFA concession of 20% could only be obtained if the development conformed with the SBD Guidelines. However, no assumptions regarding the building set-backs and building permeability had been made by PlanD;
 - (ii) the assumption of a 100% site coverage up to 15m was not achievable because of a requirement to set back from the road for the provision of a landscaped courtyard and to meet the SBD requirements for greening;
 - (iii) the assumption of a maximum permitted site coverage of 33.33% above 15m podium under the BO was the worst building design, resulting in solid building mass at low levels. Due to site constraints regarding industrial noise, traffic noise and BO requirements on prescribed windows and ventilation, the site could only achieve a site coverage of about 16% for the residential tower above the podium. PlanD had not carried out any study on these fundamental building design matters;
 - (iv) there was no provision for transfer slabs, E&M facilities, refuge floor, nor sky gardens or podium roof gardens or any of the 'green facilities' encouraged under the JPN;

[Dr. W. K. Lo left the meeting temporarily at this point.]

Standards Applicable

- (p) the approach adopted in Table 1 of the TPB Paper was not appropriate for an “R(E)” zone, in particular for the site which had the additional requirement to mitigate the chlorine gas risk as required by the ES to the OZP. These fundamental matters relating to site constraints had not been taken into consideration when Table 1 was prepared and there was no assurance that the total development rights could be achieved under a BHR of 120mPD;
- (q) with these fundamental problems regarding the site coverage calculations, and with the requirements to mitigate the I/R interface problem and/or chlorine hazard excluded, the remainder of PlanD’s assumptions and conclusions failed.

Setting a Reasonable BHR

- (r) there was no guarantee that the approved development scheme at BH of 174.9mPD could be implemented as there was no certainty that the building plans would be approved before the expiry of the planning permission in March 2015 given the need to comply with some stringent approval conditions. Should the planning permission expire, the new development would need to comply with the new BHR of 120mPD which would make any development on this site infeasible;

Relevant Context for BHR

- (s) rather than considering the site in the context of the 3-storey village development and the adjoining GIC sites as proposed by PlanD in paragraph 4.5.5(e) of the TPB Paper, the setting of appropriate BHR for the site should take into account the relevant context in the surrounding area including the existing industrial developments with buildings up to

18 storeys or 107mPD which were already significantly taller than the village developments, the rising hill profile behind the site, the Lei Muk Shue Estate to the further north with BHR of 170 – 190mPD, the two approved developments within the “R(E)” zone at 174mPD, and the existing adjoining Primrose Hill development at 230mPD;

[Dr. W.K. Lo returned to join the meeting at this point.]

- (t) the same issue of considering the BHR of the site in the context of the 3-storey village development and the adjoining GIC sites was also raised during the consideration of the s.16 application but the Board still approved a development scheme on the site at a height of 174mPD;

Respecting Approved Schemes

- (u) the Board should adopt a consistent approach in setting BHR for the area. Instead of only recognising the existing developments and the planning approvals for TW5, TW6, and TW 7, the approved schemes for the site and another site in Kwok Shui Road should also be taken into account in setting the BHR;

AVA

- (v) based on the information in Table 1 of the TPB Paper, the BHR of 120mPD would result in low ad bulky buildings which would adversely affect the permeability and ventilations between buildings. The AVA did not compare the permeability of buildings with different BHRs, say, 170mPD and 120mPD and could not be used to support a 120mPD BHR or reject a higher BHR;

Proposed Amendment

- (w) the High Court in the Kai Tak Mansions case had confirmed that each restriction should be justified on its own and should not be reliant on the

minor relaxation clause. The Board also stated that the setting of BHR and other restrictions did not rely on the minor relaxation clause;

- (x) the BHR of 120mPD was too low to be considered as a reasonable standard supported by cogent evidence. On the contrary, the approved “R(E)” schemes, which was more than 50m higher than the BHR, had taken account of the technical constraints of the site. To increase the BHR of the site to tally with the BH of the approved scheme could hardly be considered as a ‘minor relaxation’;
- (y) based on the assumption that the revised development scheme was acceptable by DEP, the representer proposed an alternative BHR of 160mPD for the site, the adjacent sites within the CZ, and possibly across the whole of the “R(E)” zone; and;

Conclusion

- (z) the information provided in the TPB Paper showed that the approach taken by PlanD to assess whether the permitted GFA under the OZP could be accommodated by the imposed BHR was completely flawed and based on unreasonable assumptions regarding the I/R interface, and did not include any allowance for mitigation measures;
- (aa) the imposition of an unreasonably low BHR would frustrate the implementation of redeveloping industrial sites for residential developments and delay the housing supply.

[Ms. Christina M.S. Lee, Messrs. Lincoln L.H. Hung and Stephen H.B. Yau left the meeting temporarily at this point.]

R5 – Kowloon Panda Hotel Limited

31. With the aid of a Powerpoint presentation, Mr. C. K. Chan, the representer’s

representative, made the following main points:

The Site and the existing building

- (a) the Kowloon Panda Hotel which was zoned “R(A)” on the OZP was imposed with a BHR of 100mPD. The existing 30-storey hotel (including basements) with a total of 943 rooms at the building height of 99.9mPD was completed in December 1990. According to the lease, the hotel was required to provide about 300 public car parking spaces;

[Ms. Christina M.S. Lee and Mr. Stephen H.B. Yau returned to join the meeting at this point.]

- (b) the existing hotel was typically a bulky building creating wall effect, as urban design was not a major consideration when the hotel was completed in 1990, the hotel was subject to a number of drawbacks:
 - (i) building façade which was 96m long façade created a wall effect blocking the east-west ventilation,
 - (ii) the dark colour external finishing projected an overcast effect over Kwan Mun Hau Street;

[Mr. Roger K.H. Luk left the meeting temporarily and Mr. Lincoln L.H. Huang returned to join the meeting at this point.]

- (iii) the floor-to-floor height of the existing building was only 2.9m and the clear headroom after allowing services at the ceiling was only 2.1m. This did not meet the modern standard for a hotel and render the upgrading of E&M facilities not feasible;
- (iv) no provision of refuge floor to comply with the current code of Means of Escape;

- (v) very minimal landscape/greening had been provided, and the energy-saving level of the hotel was low ; and
- (vi) the building separation with the adjoining development, New Haven, was only about 10m, which did not comply with the current SBD Guidelines on building separation;

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

Proposed A&A Works

- (c) the representer had explored alternative ways to redevelop the hotel including total demolition. However, demolition was considered not environmentally friendly and would cause interruption to the existing public car park. In order to meet the current building standards without the need of total demolition and to avoid creating wall effect, substantial alteration and addition works were proposed, mainly to maintain all the floors below 11/F, to trim the floor plate of each floor from 1564.942m² to 1,116.8m² for 11/F to 15/F, to 692.3m² for 16/F and above, and further to 326.8m² for the seven top most floors. It was also proposed to increase the floor height from 2.9m to 3.5m, resulting in an overall building height of 202.6mPD;

[Ms. Bernadette Lin left the meeting temporarily at this point.]

- (d) the proposed A&A works would bring a number of benefits for both the hotel and the surrounding areas as follows::
 - (i) the wall effect of the building would be eliminated upon the reduction in the length of the building façade by 31.9% for the 11/F to 15/F, 57.7% for 16/F to 50/F and 70.5% for the top seven floors;
 - (ii) the natural east-west air ventilation would be greatly improved;

- (iii) Kwan Mun Hau Street would become brighter as it would be less overshadowed by the hotel;
- (iv) the floor-to-floor height of the hotel at floors above 15/F would be upgraded to meet current standards in terms of quality, E&M facilities, environmental friendly design and energy saving efficiency;
- (v) more landscaping and greening at the flat roof of 1/F, 16/F and 51F;
- (vi) the icon of Tsuen Wan would be revitalised and sustainable; and
- (vii) to continue its contribution to the success of the tourism industry in Hong Kong;

Visual impact

- (e) as revealed from the photomontages prepared by the representer, the hotel after the completion of the proposed A & A works would not be out-of-context with the surrounding developments when viewed from the three vantage points identified in Tsuen Wan (viz. Kan Mun Hau Garden (Phase 1), Tsuen Wing Street Playground and rest garden at Wang Wo Tsai Street);

Proposed amendment to the BHR

- (f) the representer originally proposed to amend the BHR for the Panda Hotel site from 100mPD to 202.6mPD to take into account the proposed A&A works;

Justifications for the revised BHR

- (g) the proposed height profile was in line with the Urban Design Guidelines, which proposed to have the highest developments in the central part of a new town gradually descended down to fringe of the town. The Panda Hotel had been the icon of Tsuen Wan since its completion and should therefore be the highest part of the district;
- (h) nevertheless, the proposed height profile currently set out by the OZP which proposed the highest BH at the waterfront areas and the lowest BH for the inner areas was a complete reversion of the Urban Design Guidelines;
- (i) the proposed BH which allowed an opportunity for revitalisation of the existing Panda Hotel was in line with the urban design objectives of creating a high quality and sustainable built environment and providing flexibility for innovative ideas;
- (j) the existing hotel after the completion of the proposed A&A works would not cause adverse visual impact on the surroundings;

[Dr. W. K. Lo left the meeting temporarily at this point.]

Responses to PlanD's comments

- (k) the Urban Design Appraisal conducted by the PlanD had promoted a Twin Town Nodes concept around the two MTR stations. However, the BHR for Tsuen Wan MTR Station and Tsuen Wan West MTR station were set at 110mPD and 160mPD respectively. Besides, a higher BHR of 120mPD and 150mPD were imposed for a few sites which were not within the Nodes or far away from the Nodes in the same Sub-Area 1. In addition, the Sub-Area 3, which was far away from the Nodes and at the waterfront, was given a BHR of 120mPD to 140mPD. All the above-mentioned BHRs were not in line with the Twin Town Nodes Concept. The setting of BHR of 100mPD at the inner part of the new town while allowing waterfront sites away from the Nodes to be

built up to 160mPD to 300mPD was not in line with the Urban Design Guidelines, under which the highest development should be located in the central part of the new town, descending towards the fringe and waterfront;

- (l) the representer did not agree to PlanD's view that the Panda Hotel was not an iconic building as Panda Hotel was well-known to all people in Hong Kong and the hotel could be regarded as the landmark of Tsuen Wan;
- (m) there was no dispute that Panda Hotel was not at the centre of Tsuen Wan Town Centre. Given its location in the vicinity of at the fringe of the Town Centre, the BHR for the hotel site could also be increased, in particular when the adjacent residential development known as New Haven was set at 150mPD;
- (n) it was agreed that iconic building might not necessary be a tall building. The proposed higher BHR would facilitate the transformation of the icon into a sustainable one;
- (o) the proposed increase of BHR for the site was not a piecemeal uplifting. Given that the height of the adjacent residential development was 150mPD and to address PlanD's concern that the proposed BHR of 200mPD was out-of-context, the representer proposed to revise the BHR to 150mPD so as to be in line with the adjoining development;
- (p) the photomontages prepared by the representer were not distorted as the photos were genuine and taken at nearby vantage points;
- (q) according to the SBD Guidelines, new building developments should be provided with greenery area at the pedestrian zone, communal podium roof/ flat roof/ main roof, and these greenery areas should be designated as common areas accessible by all occupants of the building, but not necessarily by general public;

[Professor S.C. Wong left the meeting temporarily and Dr. W.K. Lo returned to the meeting at this point.]

- (r) no AVA was required to be conducted as it was common sense that reduction in the length of the building would improve ventilation and the prevailing wind for Hong Kong was from the east;

Revised proposal for BHR

- (s) the representer was prepared to accept a lower BHR of 150mPD instead of 202.6mPD as originally proposed;
- (t) based on the same photomontages prepared by PlanD, the suggested height limit of 150mPD as compared with the existing hotel at 99.9mPD was not out-of-context with the surrounding area and would not have adverse visual impact.

Conclusion

- (u) sympathetic consideration should be given to the representation taking into account the unique characteristics of the hotel and its environmentally conscious decision of upgrading the existing hotel to modern standards through alteration. Moreover, the upgraded and quality hotel services could contribute to the tourism industry of Hong Kong.

[Mr. Sunny L.K. Ho left the meeting temporarily at this point.]

[Messr. C.K. Chan, Daniel Fung, Garrick Lau, John Lee, Ms. Angel Fung and Ms. Helen Leung, the representer's representatives left the meeting at this point.]

R7 – Tseun Wan Properties Limited

32. With the aid of a Powerpoint presentation, Mr. Kenneth L.K. To, the representer's representative, made the following main points:

The Riveria Plaza Site

- (a) the Riveria Plaza site was zoned "Commercial(1)" ("C(1)") on the OZP. It was located at the northernmost part of Riveria Gardens which was a comprehensive residential development completed between 1988 and 1991, comprised 20 residential blocks of 30-40 storeys and zoned "R(A)8" on the OZP. With a site area of 4,360m², the Riveria Plaza site was currently occupied by a 8-storey commercial centre cum a public transport interchange (PTI) plus two basement levels at a building height of 48.817mPD (main roof level). The site was subject to a maximum GFA of 45,166m² of which 21,966m² should be provided for recreational/entertainment/retail purposes and 23,200m² should be provided for office purposes. The newly imposed BHR for the "C(1)" site was 120mPD;

- (b) the site of Riveria Gardens (including Riveria Plaza) was originally used as oil storage and was zoned "Industrial" ("I") on the OZP before 1.7.1983. The site was rezoned from "I" to "Other Specified Uses" annotated "Comprehensive Development Area" zone upon the gazettal of the Tsuen Wan OZP No. LTW/146M on 1.7.1983. The representer purchased the site in 1986 and the site of Riveria Gardens was subsequently rezoned to "Comprehensive Development Area" ("CDA") in 1990 to reflect the planning intention to phase out industrial developments and to encourage redevelopment into commercial/residential uses. The Riveria Gardens and the Riveria Plaza were completed in phases during the period from 1988 to 1991. The areas of the Riveria Gardens, including the Riveria Plaza, was rezoned from "CDA" to "R(A)8" in 2001 and the Riveria Plaza site was subsequently rezoned from "R(A)8" to "C(1)" to reflect the existing use

of the Riveria Plaza which was purely commercial in nature. In 2012, a BHR of 120mPD was imposed on the “C(1)” site;

Intention to use the site for office development

- (c) the representer intended to build an additional office tower on top of the existing commercial centre in order to utilise the remaining permissible plot ratio. Such intention had been duly incorporated in the Master Layout Plan (MLP) approved in 1987 and the development schedule for Riveria Gardens, which specifically set out the proposed GFA for the office accommodation. The proposed high-rise commercial/office development had also been reflected in the sales brochure of Riveria Gardens. The phase 1 development of Riveria Plaza was completed in early 90's and the proposed office tower was yet to commence. The relevant building plans for the development of a new office tower on top of the northern part of the existing commercial centre were submitted and approved by the Building Authority in 2007. According to the approved building plans, the proposed commercial building would have 33 storeys (including the portion of the existing commercial centre) with a building height of 139.017mPD;

[Professor P.P. Ho left the meeting temporarily at this point.]

- (d) according to the provisions of the Deed of Mutual Covenant and its sub-deed for Riveria Plaza, the registered owner had the reasonable right to commence the proposed extension and to utilise the unused plot ratio in respect of the Lot;

Grounds of representation

- (e) although the approved building plans for a proposed commercial development at a total building height of 139.017mPD could still be implemented in spite of the newly imposed BHR at 120mPD, no flexibility was allowed for further improvement to the scheme. It was

considered that the BHR of the site should respect the design of the approved building plans and be relaxed to 140mPD;

- (f) the representer intended to keep the existing public transport interchange (PTI) at the site intact and hence the proposed office tower would be located on top of the existing commercial centre in the northern portion of the site only to minimize interference to the PTI in the southern portion during construction. With the BHR of 120mPD, the proposed office tower could likely be built in a bulky shape on top of the existing building in order to utilize the permissible floor area. The PTI had to be relocated during the construction period and users would be affected;

[Professor P.P. Ho returned to join the meeting at this point.]

- (g) with the existing building heights of Riviera Gardens ranging from 94mPD to 125mPD, it was not anticipated that the future office tower at 140mPD would create adverse visual impact when viewed from the Tsing Yi Waterfront Promenade. Besides, the proposed 140mPD for the site, which was lower than the adjoining “CDA” site in Site TW 7 (with a BHR of 150mPD) to the northeast, might even create a more interesting height profile in the neighbourhood;

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

- (h) the proposed BHRs imposed on the OZP should reflect the heights of the committed/approved developments to avoid causing any confusion to the public. In this regard, there was no justifiable ground to take inconsistent approaches in imposing BHRs to different zonings. For example, in the Tsim Sha Tsui OZP, the BHs of the Ocean Centre and Harbour City redevelopment scheme and the Urban Renewal Authority project at Hanoi Road were stipulated in the OZP. However, in the Tsuen Wan OZP, while the “C” site (where Nina Tower was located) and the “C(2)”, “C(3)” and “C(4)” sites (where the service apartments along the junction of Ma Tau Pa Road and Yeung Uk Road were located)

were imposed with BHRs to reflect their actual BHs and to respect the development potential on these respective sites, the “OU(B)1” site at Chai Wan Kok (where the Cable TV Tower was located) was imposed with a BHR of 100mPD which was lower than the existing BH at 197mPD;

Proposed amendments

- (i) the representer proposed to relax the BHR for “C(1)” site to 140mPD to reflect its development right or to impose two different height bands with “C(1)” zone to allow the relaxation of BHR for the northern part of the “C(1)” zone to 140mPD.

33. As the presentations from PlanD’s representative and the representers’ representatives had been completed, the Chairman invited questions from Members.

[Mr. H.F. Leung returned to join the meeting at this point.]

BHR and SBD Guidelines

34. A Member noted that R3 proposed to relax the BHRs for various zones by 20m in order to comply with the SBD Guidelines. This Member raised the concern that upon relaxation of BHRs, land owners might choose not to comply with the SBD Guidelines. Mr. Ian Brownlee replied that the BHRs currently imposed on various zones on the OZP would prohibit the future building developments from complying with the SBD Guidelines which required building set-back on ground level. On the contrary, the relaxation of BHR by 20m would provide flexibility for the owners to comply with SBD guidelines so as to develop quality building design and to improve the environment. Theoretically speaking, the owners could choose not to comply with SBD Guidelines in new building developments. However, this would be most unlikely as the granting of GFA concession by the Building Authority was a great incentive for the developers to comply with the SBD Guidelines. Moreover, the SBD Guidelines, which were widely promoted by the Government, were progressively becoming integral parts of the building development process in Hong Kong and the compliance with the SBD Guidelines had become a

requirement under new leases. Past experience showed that developers would comply with the SBD Guidelines in order to enjoy the GFA exemption. Furthermore, it was considered that the increase of BHR by 20m would not have significant visual impact.

35. In response to a Member's question on whether PlanD had taken in account the SBD Guidelines in the assessments of whether the proposed BHRs could accommodate the permissible GFA under the OZP for sites within "R(E)" and "OU(B)" zones as illustrated in Tables 1 to 3 of the TPB Paper, Mr. Wilson Chan, DPO/TWK, said that the objective of imposing BHRs was to provide an overall height profile to achieve a cityscape acceptable to the public at large and to avoid the proliferation of out-of-context tall developments in Tsuen Wan. By referring to Table 1 of the TPB Paper, Mr. Chan said that in the estimation, PlanD had made a conservative assumption that the permissible GFA (including the 20% GFA concession) would be accommodated in the tower above the podium and no permissible GFA would be accommodated in the podium. Even with such an assumption, the proposed BHR of 120mPD could still generally accommodate the GFA permissible under the OZP. Though the estimated building height for sites no. 1, 2 and 4 had slightly exceeded 120mPD by 0.8m - 4.7m, there was scope to reduce the height of the podium which was assumed to be 36.5m, drawing reference to the approved scheme under Application No. A/TW/416. In this regard, DEP had advised, during the consideration of Application No. A/TW/416, that the proposed podium height of 36.5m was not an absolute minimum height to achieve an acceptable risk level and there was scope for lowering the podium height. Moreover, it was noted that the applicant of Application No. A/TW/416 had recently submitted a revised scheme with a lower podium of 18m in height to meet the CCPHI requirements, although the proposal was yet subject to the consideration and acceptance of CCPHI. Mr. Wilson Chan, DPO/TWK, also pointed out that the specific amount of GFA concession that would be granted for individual sites could only be worked out upon the drawing up of a detailed building scheme. It was considered that the assumption of 20% GFA concession for domestic use for the four "R(E)" sites, which had already taken into account the prevailing provisions/practices on GFA concessions administered by BD and the 10% GFA cap granted under the SBD Guidelines, was not unreasonable.

36. Mr. Wilson Chan, DPO/TWK, further said that the compliance of SBD Guidelines involved detailed building design matters which could only be firmed up after a

detailed building scheme had been drawn up by the architects. In the absence of a detailed building scheme, it would not be possible for PlanD at the OZP review stage to determine how the SBD Guidelines would impact on the building development on individual sites.

No. 13-17 Fu Uk Road (R4 Site)

37. Referring to the same Member's question on whether the mitigation measures to address the I/R interface problem had been taken into account by PlanD in the setting of BHR for the "R(E)" sites, Mr. Wilson Chan, DPO/TWK, advised that it was impossible to take into account all the mitigation measures such as noise barrier, building setback, structural fins, etc. in reviewing the building height for individual sites as the provision of mitigation measures was more a detailed building design matter. Mr. Ian Brownlee said that it was clear that PlanD had not applied the SBD Guidelines in Tables 1 to 4 of the TPB Paper as it was impossible to have 100% site coverage for the podium level if SBD Guidelines were to be complied with. Similarly, the assumed site coverage of 33.33% for developments above 15m could not be achieved if mitigation measures regarding the I/R interface were included.

38. Mr. Wilson Chan, DPO/TWK, said that the representation site of R4 (i.e. 13-17 Fu Uk Road) (R4 site) was one of the 7 sites within the "R(E)" zone. The R4 site was the subject of Planning Application (No. A/TW/365) approved by the Board in 2006 for a proposed residential development at a building height of 185.6mPD (later amended to 174.9mPD in Application No. A/TW/416). At the time when the first planning permission was granted in 2006, BH was not a major public concern. However, with the growing public concern on walled buildings and aspiration for better living condition, there was a need to regulate the BH profile of the built environment. In considering the optimal BH profile for the area, the low-rise village settlements and open space/GIC uses in the immediate vicinity of the "R(E)" and "OU(B)" sites should also be taken into account. With a view to achieving a stepped building height profile of the area, descending from the high-rise public housing developments (with a BHR of 170mPD to 190mPD) in the north towards the Kwai Chung area (with a BHR of 105mPD) to the further south, Mr. Chan pointed out that the proposed BHRs for the Tsuen Wan district had also taken into account the BHRs of developments in the adjoining Kwai Chung district, and the 120mPD BHR

for these sites was considered appropriate to achieve compatibility in terms of the town's BH profile.

[Mr. Rock C.H. Chen and Dr. C.P. Lau left the meeting and Ms Bonnie J.Y. Chan left the meeting temporarily at this point.]

39. By referring to Plan H-15d of the TPB Paper, a Member remarked that the R4 site was a small site (about 1226.3m²) within the CZ of the TWWTW and was subject to substantial constraints including I/R interface, adverse traffic noise impact, the need to comply CCPHI requirement, SBD Guidelines and BHR. This Member enquired if there was any scope to lower the overall building height by reducing the floor-to-floor height, given that some of the floor heights were as high as 4m and 6m. This Member also commented that allowing the increase of BHR for the site might set an undesirable precedent for other sites within the same "R(E)" zone, the cumulative impact of which would jeopardise the objective of achieving a stepped building height profile for the area.

40. In response, Mr. Ian Brownlee said that the revised development scheme recently submitted by R4 which proposed an overall building height of 160mPD with a podium structure of 18m and typical floor-to-floor height of 3m was already a compromised scheme taking account of the site constraints. The provision of a sky garden cum refuge floor was a green feature promoted by the Government and the proposed height of 7.6m met the minimum height requirement for such facility. He further said that the information contained in Table 1 of the TPB Paper was misleading as the assumed site coverage of 33.33% for development at 15m above could not be achieved for this site which was subject to substantial environmental constraints. Hence, the imposition of the BHR of 120mPD would definitely affect the development intensity of the site.

[Ms. Bonnie J.Y. Chan returned to join the meeting at this point.]

41. Responding to the Chairman's question on the standard height for sky garden cum refuge floor, Mr. Wilson Chan, DPO/TWK, said that according to the approved scheme under Application No. A/TW/416, a refuge floor of 4m in height was proposed. As shown in the revised development scheme recently submitted by R4, the overall

building height of the proposed development was reduced from 174.9mPD to 160mPD and this was mainly attributed to the reduction in the podium height by 18.5m (from 36.5m to 18m). The previously proposed 4m high refuge floor was changed to a sky garden cum refuge floor of 7.6m in the revised scheme. He considered the proposed height of 7.6m (equivalent to about 2 storeys) for sky garden cum refuge floor excessive and was not justified.

42. With the aid of an extract of JPN, Mr. Ian Brownlee briefed the meeting about the criteria for a sky garden/refuge floor including the area, location, greening ratio, lighting requirement, technical design, etc to be considered in the application for GFA exemption. According to the JPN, the clear height of a sky garden should not be less than 4.5m. In this regard, he considered that the height of a sky garden cum refuge floor should be about 6 – 7 m in order to provide sufficient lighting for the vegetation planted in the sky garden. Besides, it was also stated in the JPN that the granting of GFA concession for sky garden was subject to the compliance with the pre-requisites stipulated in the SBD Guidelines.

[Mr. Stephen H.B. Yau left the meeting and at this point.]

Riveria Plaza

43. In reply to a question raised by the Chairman, Mr. Kenneth To, representative of R7, said that although there was a set of approved building plans for R7's site, the imposition of a BHR lower than that of the approved building plans would pose a lot of difficulties to subsequent amendments to the building plans. It was because subsequent major amendments to the approved building plans could not be made as major amendments would be regarded as a new building plan submission which had to comply with the BHR. This was a common concern raised by the industry. He considered that the imposition of the BHR reflecting the building height of the committed development would help to give certainty in building development and could encourage more flexibility in future building design.

44. Noting that the representer already had a clear intention in 1987 to develop an office tower within the R7 site, a Member asked whether the design of the existing PTI on

the site had already allowed for the future office tower on top and why the office scheme was not implemented over the past 20 years. This Member also noted that Table 4 of the TPB Paper demonstrated that the BHR of 120mPD was adequate to accommodate the future development of the new office tower.

[Mr. Sunny L.K. Ho and Professor P.P. Ho left the meeting at this point.]

45. In response, Mr. Kenneth To said that although the representer had proposed to develop a commercial/office development on the site a long time ago as shown on the approved MLP dated 1987, the timing for implementation was a commercial decision, taking into account the demand for office space. With the rapid development of the Tsuen Wan New Town and the improvement in public transport over the past two decades, the representer decided in year 2000 to revisit the development proposal. As the existing PTI on the site could not withstand additional structural loading, the proposed new office tower would need to be constructed on top of the existing commercial centre at the northern part of the site. While it was always feasible from engineering perspective to achieve the permissible development intensity within the BHR of 120mPD which was 20m lower than approved building height, the flexibility of providing an innovative and quality building design would be sacrificed. He considered that it was not a good planning practice to compromise good building design merely for the sake of compliance with a desirable BHR.

46. By referring to Table 4 of the TPB paper, Mr. Wilson Chan, DPO/TWK, pointed out that a building height of 92.8mPD would already be sufficient to accommodate the permissible office GFA. According to his preliminary calculation, there was scope to reduce the site coverage of the office tower to 46% so as to avoid encroaching onto the existing PTI, given the BHR of 120mPD for the site. He opined that the BHR of 120mPD would not preclude the possibility for innovative building design to achieve good quality development.

Photomontages

47. A Member asked if there was any specification/standard on the types of camera lens that should be used in order to avoid creating distortion in the photomontages. In

response, Mr. Wilson Chan, DPO/TWK, said that he did not have such kind of information in hand. The Chairman remarked that taking a common sense approach, a standard lens could capture the real situation.

48. Another Member asked for the criteria in identifying the vantage points for preparing photomontages. Mr. Wilson Chan, DPO/TWK, replied that normally key pedestrian nodes, popular areas used by the public or tourists for outdoor activities which had views on the concerned sites/developments would be chosen as the vantage points for preparing photomontages.

Others

49. In response to a Member's question on the relationship between the built form and site coverage restriction, Mr. Wilson Chan, DPO/TWK, explained that the maximum site coverage for domestic and non-domestic developments with different site classification were stipulated in Schedule 1 of the B(P)R which should be followed in building development. Assuming that the plot ratio of the site remained unchanged, there was direct relationship between the site coverage and building height of the proposed development, namely a smaller site coverage would result in a taller building and vice versa.

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

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

Deliberation Session

51. The Chairman noted that the request of R3 to adjourn the representation hearing on the grounds of the legal implications of the recent High Court judgment on the

representation hearing was not justified. On the point that the feasibility to ensure the imposed BHR on sites could accommodate the permissible GFA was in doubt as the SBD Guidelines were not taken into account in PlanD's assessment, he asked the Secretary to update Members on the most recent court decision on the issue. The Secretary drew Members' attention to the judgment of the Hysan case, which was just available on the same day of the hearing, in which the Judge agreed with the Board's argument that SBD Guidelines concerned detailed building design of a specific site which the Board could not take into account in determining the planning control for the district in the plan-making process. In view of the recent court decisions on the JR cases which accepted the Board's arguments on the above, Members considered that there was no justification for the Board to entertain the request of R3 to adjourn the meeting.

52. In response to the key considerations of the representations, the representers' proposals and comments as well as all the written submissions, the oral representations and material presented at the meeting, the Chairman had made the following main points which were agreed by Members:

- (a) the imposition of BHRs was needed to prevent excessively tall or out-of-context buildings. The BHRs for the Area had been formulated after taking into account various factors, including the topography, local character, existing land use zonings and BH profile, and compatibility with the surrounding developments. The composition of BHRs, NBAs and building gaps on the OZP, including the BHRs imposed on the specific sites of Kowloon Panda Hotel, 13-17 Fu Uk Road, 2-6 Sha Tsui Road, and the Riveria Plaza, were formulated with good justifications based on relevant considerations, reasonable assumptions and objective studies including AVA and urban design appraisal and were not arbitrary;
- (b) the imposition of BHRs would not affect the design flexibility of future developments as there was provision for application for minor relaxation of the planning restrictions under the OZP in order to cater for development/redevelopment with planning and design merits and to cater for specific site circumstances and constraints. Each application

for minor relaxation would be considered by the Board on its individual merits;

- (c) in the absence of any assessment to justify the merits of increased BH for the area, R3's proposal to have blanket relaxation of the BHRs by 20m was not supported;
- (d) as confirmed by recent court's judgments, the Board should have the power to impose BHR, NBA and building gap requirements on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were sufficient planning justifications;
- (e) SBD Guidelines and OZP restrictions were under two separate control regimes, with the former concerning detailed building design matters and the latter dealing with planning control for the whole district. It was not possible for the Board to take SBD Guidelines into account in the plan-making process in the absence of concrete development scheme. In general, the compliance of SBD Guidelines was on a voluntary basis when GFA concession was sought; and
- (f) it was an established practice that proposed amendments involving BHRs should not be released to public prior to gazetting. The reason was that premature release of such 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. Amendments to the OZP were exhibited for public inspection for a period of two months in accordance with the provisions of the Ordinance. The exhibition process itself is a public consultation and any person can submit representations and comments on the draft OZP.

53. A Member agreed to DPO/TWK's view that the formulation of BH profile for a particular area should be considered in a wider context, taking into account the general

characteristics and BHR of adjoining areas/districts. As in the subject case, the BHR for the adjoining Kwai Chung OZP should be duly considered. In view of the above, this Member did not support R3's proposal of increasing the BHR of various zones in the Area by 20m.

“R(E)” and “OU(B)” sites to the north of Kwok Shui Road including the site at 13-17 Fu Uk Road (R3 and R4)

54. The Chairman said that the BHR of 120mPD for the “R(E)” and “OU(B)” sites was worked out on the basis of AVA and other studies conducted for the area. The representers did not provide any convincing grounds to justify the relaxation of the BHR to 160mPD both for his own sites at 13-17 Fu Uk Road and the entire “R(E)” zone.

55. For the representation site of R4 at 13-17 Fu Uk Road (R4 site), a Member said that the site was very small and subject to a number of constraints. It only occupied a small part of the entire “R(E)” zone. Should the BHR for the site be increased, the integrity of the BH profile for the concerned area would be adversely affected, defeating the very objective of imposing BHR for the area. Contrary to what the representer had argued, Members noted that PlanD's assessments had shown that the permissible GFA could be accommodated within the BHR of 120mPD which was considered reasonable. Moreover, the example used by the representer to justify the increase of BHR for the site was not too relevant as the existing adjoining development, Primrose Hill, which occupied a substantially larger site, was out-of-context in the area.

56. Mr. Jimmy Leung, Director of Planning, commented that the site was subject to constraints including I/R interface problem and chlorine hazard and therefore required to be mitigated by the construction of a tall podium. Based on the assessments conducted by PlanD, it was noted that the required BH to accommodate the permissible GFA for the R4 site was 124.7mPD, which slightly exceeded the BHR of 120mPD by 4.7m. Notwithstanding this, for the revised development scheme at a BH of 160mPD as proposed by R4, there appeared to be scope to further reduce the floor-to-floor height of the sky garden cum refuge floor and the typical floor-to-floor height of the development, so as to lower the overall building height as proposed by R4.

57. The Secretary pointed out that in the development scheme submitted by R4 with a BH of 160mPD, a very small site coverage (about 16%) was proposed. The site coverage could be increased at detailed building design stage to fit in with the BHR imposed. As already explained by DPO/TWK, the assessment in Table 1 of the TPB Paper had assumed a 36.5m high podium which was on a high side and that the floor space within the podium was not included in GFA calculation. There was scope for the developer to change the building design to reduce the BH. On this very point, R4 had recently submitted a revised development scheme which proposed a substantial reduction in podium height from 36.5m to 18m, resulting in a lower overall BH for the development. In this regard, it was impossible for the Board to scrutinize all the possible detailed development schemes on these “R(E)” sites. Instead, these specific development schemes should more appropriately be dealt with at the s.16 planning application stage with the benefits of having professional comments from concerned departments, should they apply for minor relaxation of BHR from the Board. At that stage, the Board would assess the application taking into account the site coverage, podium height, and whether portion of the site would be used for non-domestic purpose.

58. In response to Mr. Jimmy Leung, Director of Planning’s, question on whether the revised development scheme submitted by R4 could satisfactorily address the I/R interface problem, Mr. Benny Wong, representative of DEP, replied that the scheme was being vetted by his Department. However, apart from the I/R interface issue, the proposed development would also need to comply with the CCPHI requirement. The recent hazard assessment submitted by R4 was under consideration by EPD and no definite answer could be given at the moment on whether the reduced podium height of 18m was acceptable.

59. The Chairman said that there was provision for minor relaxation of BH of the “R(E)” sites should there be genuine difficulty in complying with the BHR due to the need to provide a tall podium.

60. A Member opined that it was more appropriate for the Board to consider the representations in the light of the general principles adopted in formulating BHR for the area rather than to focus on specific issues of individual site such as the detailed design, I/R interface problem, and the extent of minor relaxation. These issues should be

considered in detail under the provision of planning applications. For the subject case, should it be demonstrated that the imposed BHR of 120mPD was too restrictive after taking into account specific site circumstances and constraints, there was provision for application for minor relaxation of the BHR and the Board would consider the application on individual merits.

61. Another Member concurred that the Board was currently discharging a duty related to plan making, rather than considering specific development scheme submitted by the representers, which were not supported by technical assessments. The same Member further said that the methodology used in recommending a BHR of 120mPD for the site was reasonable and had already allowed sufficient design flexibility to cater for future change.

62. The Chairman said that it was the established principles of the Board to formulate the BHR based on reasonable justifications and objective assessments. PlanD had provided relevant assessments to demonstrate that the permissible GFA was achievable under the imposed BHR.

63. A Member said that PlanD had responded positively to a previous court judgment by providing additional information in the TPB Paper and a clear explanation in the oral presentation to support the imposition of BHRs on the OZP. On the contrary, the representers had failed to provide sufficient justifications to refute against the general principles in formulating the BHR for the area, and the BHR proposals as submitted by the representers submitted were de facto a practice of spot zoning. As it was considered important to preserve the general BH profile for the area, it would not be possible to support the representer's proposals to increase the BHR without strong justifications.

64. While noting that some of the representation sites might have obtained planning permission/building plan approval prior to the imposition of BHR on the OZP, the Chairman said that planning was an evolving process and each case would have to be assessed on individual basis. Moreover, there was provision for minor relaxation of BHR to cater for specific circumstances of individual site. He then concluded that Members' discussion on the general issues and Members' comments on the R4 site as set out above were also applicable to other representations.

Kowloon Panda Hotel (R5)

65. The Chairman noted that Kowloon Panda Hotel was considered by the representer as an icon of the Tsuen Wan district, but that alone could not be a justification for increasing the BHR to the level proposed. Should it be established that the BHR was not sufficient to accommodate the permissible GFA under the OZP or a higher BH was required to facilitate the innovative design in future, there was provision for minor relaxation of BH restrictions on the OZP and the Board would consider each case based on its merit.

66. A Member said that the revised BHR of 150mPD proposed by R5 at the meeting could not be supported without strong justifications.

No. 2-6 Sha Tsui Road (R6) and Riveria Plaza (R7)

67. The Chairman said that the main issue of the two representations was related to the imposition of lower BHR for these sites which did not respect the BH of the proposed developments under the approved building plans.

68. Members noted that the BHR of 100mPD imposed on the site and its surrounding area was in compliance with the stepped BH profile of the whole area which was formulated after taking into account the relevant planning and urban design considerations. Moreover, development proposals which had already obtained building plan approval would not be affected by an amendment to the zoning restriction unless they involved a change of use, an increase in development intensity or substantial amendments.

69. Regarding R7's proposal to relax the BHR for the site at Riveria Plaza from 120mPD to 140mPD on the justification that it would create a more interesting height profile in the local context given that a BHR of 120mPD was imposed for the adjacent residential developments of the Riveria Garden and 150mPD was imposed on the "CDA" site to its north, the Chairman said that it was a general practice to recommend the imposition of a broad height band covering a larger area rather than catering for individual sites.

70. In response to R7's argument that the Board had adopted inconsistent approaches in imposing BHRs on Tsim Sha Tsui and Tsuen Wan OZPs, the Secretary explained that Tsim Sha Tsui was recognised as a commercial high-rise node in the Urban Design Guidelines. Hence, the BH of ultra tall buildings were respected and incorporated in Tsim Sha Tsui OZP. Such practice was treated as an exception rather than the rule. In contrast, Tsuen Wan was one of the oldest new towns in the Territory with mixed commercial and residential developments, which was very different from that of Tsim Sha Tsui. Hence, it was inappropriate to apply the approach adopted for the Tsim Sha Tsui OZP to the Tsuen Wan OZP. The BH concept adopted for the Tsuen Wan OZP was to consolidate the twin town nodes in the town centre by maintaining the BH profile of the existing/proposed high-rise commercial and residential developments above and around the two MTR stations. Hence, it was reasonable to impose a higher BHR to respect the approved developments of TW5, TW6 and TW7.

71. By referring to Plan H-7 of the TPB Paper, a Member considered that the Riveria Plaza site was an integral part of the larger Riveria Gardens. Hence, adopting a BHR of 120mPD for the R7 site was consistent and in congruent with the surrounding areas.

72. After deliberation, Members agreed not to uphold Representations No. R3 to R7. Members then went through the reasons for not upholding the representations as stated in paragraph 7 of the Paper and considered that they were appropriate.

Representation No. R3

73. After further deliberation, the Board decided not to uphold Representation No. R3 for the following reasons:

- (a) the purpose of imposing 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, the Urban Design Appraisal for the Area, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, compatibility with the surrounding developments, development potential, the wind performance of the existing condition and the recommendations of the AVA EE, had been taken into consideration;

- (b) Sections 3 and 4 of the Town Planning Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board had the powers to impose BHRs on individual sites or for such areas within the boundaries of the OZP where there were necessary and sufficient planning justifications;
- (c) there would not be adverse impacts on the development intensity permitted under the OZP. For an existing building which had already exceeded the BHRs, the rights of redeveloping the buildings to their existing heights would be respected on the OZP unless otherwise specified. The BHRs had struck a balance between public aspirations for a better living environment and private development rights;
- (d) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. The BHRs would not result in larger building bulk. On the other hand, better designed and sustainable buildings were not guaranteed with more relaxed BH control;
- (e) to cater for site-specific circumstances and schemes with planning and design merits, there were provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits;

- (f) blanket relaxation of the BHRs by 20m was not supported as it would significantly increase the overall BH profile in the neighbourhood, create canyon effect and would adversely affect the local character and cityscape, which was not in line with the intended planning control. Moreover, there was no supporting basis for a blanket relaxation of 20m BHR;
- (g) the provision of a higher maximum BH (i.e. from 80mPD to 100mPD) for “R(A)” sites with an area of 400m² 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;
- (h) pursuant to sections 3 and 4 of the Town Planning Ordinance, the Board had powers to impose NBAs and building gaps for individual sites or areas within the boundaries of the OZP with necessary and sufficient justifications. Designation of NBAs and building gaps 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. Designation of NBAs and building gaps would not adversely affect the development potential of the affected sites;
- (i) as the NBAs had been designated with due considerations given to site conditions and other relevant factors, minor relaxation clause of NBAs should only be allowed for exceptional circumstances to cater for exceptional cases when NBAs could not be provided, alternative provision could be made to achieve the planning objectives in other form. The provision for minor relaxation of building gap restriction would be considered by the Town Planning Board based on individual merits;

- (j) the measures on SBD Guidelines and the OZP restrictions were under two separate development control regimes, although they were complementary with each other. The SBD Guidelines were administrative measures for compliance on a voluntary basis for the granting of GFA concession, without reference to specific district characteristics. OZP restrictions were statutory planning control to achieve planning objectives specific to the district;
- (k) 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 nullifying the effectiveness of imposing the BHRs. All information supporting the BHR and building gap requirements on the OZP including the AVA EE and Urban Design Appraisal, was available for public inspection; and
- (l) according to the Town Planning Board Guidelines on Lapsing of Planning Permission (TPB PG-No. 26A) promulgated in May 2006, a development being carried out on a site in accordance with a planning permission would not be affected by a change of the land use zoning restriction of the site.

Representations No. R4

74. After further deliberation, the Board decided not to uphold Representation No. R4 for the following reason:

- (a) the purpose of imposing 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, the Urban Design Appraisal for the Area, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, compatibility with the surrounding developments, development potential, the wind performance of the existing condition and the recommendations of the AVA EE, have been taken into consideration;

- (b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. The BHRs would not result in larger building bulk. On the other hand, better designed and sustainable buildings were not guaranteed with more relaxed BH control;
- (c) to cater for site-specific circumstances and schemes with planning and design merits, there were provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits;
- (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 nullifying the effectiveness of imposing the BHRs. All information supporting the BHR and building gap requirements on the OZP including the AVA EE and Urban Design Appraisal, was available for public inspection;
- (e) according to the Town Planning Board Guidelines on Lapsing of Planning Permission (TPB PG-No. 26A) promulgated in May 2006, a development being carried out on a site in accordance with a planning permission would not be affected by a change of the land use zoning restriction of the site; and

- (f) for sites which fell within the 400m Consultation Zone of the Tsuen Wan Water Treatment Works, the BHRs imposed were able to accommodate maximum permissible GFA under the OZP, taking into account the requirement of the CCPHI for achieving an acceptable risk level by locating the residential floors on a generally higher level. In addition, the tall and thin building design, as proposed by the Representer, was not the only means to address the industrial/residential interface problems.

Representation No. R5

75. After further deliberation, the Board decided not to uphold Representation No. R5 for the following reasons:

- (a) the purpose of imposing 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, the Urban Design Appraisal for the Area, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, compatibility with the surrounding developments, development potential, the wind performance of the existing condition and the recommendations of the AVA EE, had been taken into consideration;
- (b) the proposed relaxation of BH was not supported as such BH was considered out-of-context and visually not compatible with the surrounding residential developments within the same “R(A)” zone; and
- (c) from air ventilation point of view, the BHR for the site would not lead to significant negative impacts on its neighbourhood. The Representer

had not provided justifications on air ventilation performance to support that its proposal would improve the air ventilation in the area.

Representation No. R6

76. After further deliberation, the Board decided not to uphold Representation No. R6 for the following reasons:

- (a) the purpose of imposing 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, the Urban Design Appraisal for the Area, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, compatibility with the surrounding developments, development potential, the wind performance of the existing condition and the recommendations of the AVA EE, had been taken into consideration;
- (b) the BHRs imposed on the OZP were mainly to achieve an optimal BH profile for the area. Approved building plans might not necessarily represent a desirable planning proposal and should not be adopted as a reference in setting the BHRs for the area;
- (c) development proposals which had already obtained building plan approval would not be affected by an amendment to the zoning restriction. Subsequent amendments to the approved building plans would not need to conform to an extant statutory plan unless they involved a change of use, an increase in development intensity or substantial amendments; and

- (d) deletion of the BHR for the site as proposed by R6 was not supported as it would jeopardize the coherency of the stepped BH profile and could result in proliferation of high-rise developments, which was not in line with the intended planning control.

Representation R7

77. After further deliberation, the Board decided not to uphold Representation No. R7 for the following reasons

- (a) the purpose of imposing 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, the Urban Design Appraisal for the Area, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, compatibility with the surrounding developments, development potential, the wind performance of the existing condition and the recommendations of the AVA EE, had been taken into consideration;
- (b) 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;
- (c) the BHRs imposed on the OZP were mainly to achieve an optimal BH profile for the area. Approved building plans might not necessarily represent a desirable planning proposal and should not be adopted as a reference in setting the BHRs for the area;

- (d) development proposals which had already obtained building plan approval would not be affected by an amendment to the zoning restriction. Subsequent amendments to the approved building plans would not need to conform to an extant statutory plan unless they involved a change of use, an increase in development intensity or substantial amendments; and

- (e) the BHR of 120mPD for the whole Representation Site was already able to accommodate the permitted development intensity on the OZP and had struck a proper balance between the public aspirations for a better living environment and private development rights. There was no convincing ground to accept a relaxation of the BHR by 20m to 140mPD for the whole site or for the northern portion of the site.

78. The meeting was adjourned for lunch break at 1:10 p.m.

79. The meeting was resumed at 2:40 p.m.

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

Mr. Thomas Chow

Chairman

Mr. Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Professor Edwin H.W. Chan

Professor K.C. Chau

Dr. Wilton W.T. Fok

Mr. Sunny L.K. Ho

Mr. Lincoln L.H. Huang

Professor Eddie C.M. Hui

Ms. Janice W.M. Lai

Mr. Dominic K.K. Lam

Ms. Christina M.S. Lee

Mr. H.F. Leung

Mr. Clarence W.C. Leung

Mr. Roger K.H. Luk

Dr. W.K. Yau

Deputy Director of Environmental Protection
Mr. Benny Wong

Director of Lands
Ms. Bernadette Linn

Director of Planning
Mr. Jimmy Leung

Principal Assistant Secretary (Transport)
Transport and Housing Bureau
Miss Winnie Wong

Agenda Item 3 (cont'd)

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to
the Draft Tsuen Wan Outline Zoning Plan No. S/TW/29
(TPB Paper No. 9180)

[The hearing was conducted in Cantonese.]

Group 1

R1 and C616 to C620

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

Mr. Stanley Y.F. Wong]	serving members of the Energy Advisory Committee (EnAC) under the Environment
Ms. Janice W.M. Lai]	Bureau which was a non-statutory committee advising the government on energy policy

82. As the EnAC was not directly involved in the operation and development plan of CLP Power Hong Kong Limited (R1), Members agreed that they could be allowed to stay in the meeting.

Presentation and Question Session

83. The Chairman said that sufficient notice had been given to invite the other commenters to attend the hearing, but they had either indicated not to attend the hearing or made no reply. As sufficient notice had been given to the commenters, Members agreed to proceed with the hearing in their absence.

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

- Mr. Wilson Chan - District Planning Officer/Tsuen Wan & West Kowloon, PlanD (DPO/TWK, PlanD)
- Mr. K.T. Ng - Senior Town Planner/Tsuen Wan (STP/TW), PlanD
- Miss Yvonne Leong - Town Planner/Tsuen Wan, PlanD

R1 – CLP Power Hong Kong Limited

- Mr. Tsang Chun Tat, Eric]
Mr. Cheung Po Chung, Eric]
Mr. Leung Kok Kei] Representers' Representative
Mr. Tsui Ka Kit, Kenneth]
Mr. Leung Kin Wah]

85. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the background to the representation.

86. With the aid of a Powerpoint presentation, Mr. K.T. Ng, STP/TW, made the following main points as detailed in the Paper:

Background

- (a) on 24.2.2012, the draft Tsuen Wan OZP No. S/TW/29, incorporating various amendments including the imposition of building height restriction (BHRs) on "Government, Institution or Community" ("G/IC") zone, was exhibited for public inspection under section 5 of the Ordinance;

Representations and Comments

- (b) a total of 7 representations and 620 comments were received. Amongst the 7 representations, R1 was submitted by the CLP Power Hong Kong

Limited, opposing the BHRs imposed on 10 electricity substation (ESS) sites zoned “G/IC” on the OZP, i.e. Chai Wan Kok ESS, Lei Muk Shue extra high voltage (EHV) ESS, Tsuen Wan South ESS, Shing Mun Road ESS, Mei Wan Street ESS, Hoi Shing Road ESS, a planned ESS in Tsuen Wan Area 35, Wo Yi Hop Road ESS, Sha Tsui Road Residential ESS and Sha Tsui Road Industrial ESS;

- (c) 5 comments (i.e. C616 to C620) relating to R1 were received. C616 to C619 were submitted by the Chairmen of four Lei Muk Shue Estate Mutual Aid Committees, and C620 was submitted by a Tsuen Wan District Council (TWDC) Member. All the commenters objected to R1’s proposal to remove the BHR on the Lei Muk Shue EHV ESS;

Considerations for Formulating BHRs for “G/IC” Zone

- (d) “G/IC” sites were serving as breathing space and visual relief to the Area;
- (e) the Air Ventilation Assessment (AVA) Study had recommended maintaining the existing BH profile of the low-rise buildings in “G/IC” zones for enhancing the air ventilation performance of the Area;
- (f) in formulating the BHRs for the developed “G/IC” sites, consideration had also been given to the nature of the existing facilities/uses on the sites, the existing development intensity and their respective as-built conditions, the height restrictions on the land allocation/lease, any known development/redevelopment proposals and the need to meet the functional and operational requirements in terms of height for the designated GIC facilities;
- (g) in general, the BHR for low-rise developments on “G/IC” sites with a height of not more than 13 storeys was specified in terms of number of storeys (excluding basement floor(s)) so as to allow more design flexibility, in particular for GIC facilities with specific functional

requirements;

- (h) if there was a need for higher BH when a specific development/redevelopment proposal was available in future, an application for the relaxation of the BHR could be made to the Board through the planning application or plan amendment procedures. Such application would be considered based on individual merits;
- (i) other than the planned ESS site in Tsuen Wan Area 35 which was subject to a BHR of 1 storey to take into account the height of the structures in the adjoining Tsuen Wan Park, the BHRs for all ESS sites under representation were to reflect their individual existing BHs;

Grounds of Representation

- (j) the main grounds of representation were summarised in paragraph 4.3 of the Paper and highlighted below:

Negligible Effect on Planning Intention

- (i) given the scale and nature of ESSs, any incremental visual or airflow impacts could be considered as negligible. The application of BHR to the ESS sites had deprived R1 of its development right with minimal, if not none, effect on the planning intention;

Against Public Interests

Scarce Land Resources

- (ii) imposition of BH controls on ESS sites would restrict their upgrading/redevelopment potential, resulting in the need for relocating the existing ESS to a larger site or identifying additional sites for new ESSs so as to cater for the surging electricity demand in future. Such approach was not making the

best use of the scarce land resources and contradicted the intention to encourage upgrading/redevelopment of the existing ESSs to meet growing electricity demand in the urban area;

Insecure Electricity Supply

- (iii) it would be difficult to identify new suitable sites for ESSs in the urban area as they were often seen as “not-favoured” neighbouring use. Even if a site was made available, the delay caused by the relocation or the public consultation process would put the security and reliability of electricity supply to the area at risk;

Design Inflexibility for Future Modification/Development Plans

Design Inflexibility

- (iv) imposition of BHRs in terms of number of storeys would hinder design flexibility because most of the existing ESSs, in particular those small-sized sites, were fully utilised in site coverage and enhancement to ESS buildings might require the addition of extra building storey to accommodate the plants and equipments;

Ineffective Relaxation Instrument

- (v) although application for minor relaxation of BHRs might be considered by the Board, there was no clear definition on the extent of ‘minor’ that could be allowed. The process would involve considerable uncertainty and longer timeframe. All these would affect the provision of efficient, safe, reliable and timely electricity supply;

Infringement on Existing Development Rights

- (vi) the imposition of BHRs was virtually another way of depriving

R1 of the development right given that BH was one of the elements in determining the development intensity of a site. The existing development intensity of ESS sites, which was based on operational need, might not reflect their maximum development potential permitted under lease conditions; and

Visual Compatibility with Adjacent Development

- (vii) in designing an ESS, it was endeavoured to integrate it with its surrounding neighbourhood. Greening initiatives, environmental design guidelines and policies aiming at reducing environmental impact had been developed by R1. No adverse visual impact had been caused by the ESSs;

Representer's Proposals

- (k) the representer proposed to relax the BHR for 9 ESS sites and remove the BHR for one ESS site, as detailed below:

<u>Representation Sites</u>	<u>BHRs on OZP</u>	<u>Representer's Proposal</u>
Chai Wan Kok ESS	4 storeys	Not more than 8 storeys
Lei Muk Shue EHV ESS	6 storeys	Remove BHR
Tsuen Wan South ESS	2 storeys	Not more than 8 storeys
Shing Mun Road ESS	3 storeys	Not more than 8 storeys
Mei Wan Street ESS	4 storeys	Not more than 8 storeys
Hoi Shing Road ESS	2 storeys	Not more than 8 storeys
Planned ESS in Tsuen Wan Area 35	1 storey	Not more than 2 storeys
Wo Yi Hop Road ESS	2 storeys	Not more than 8 storeys

Sha Tsui Road Residential ESS	1 storey	Not more than 4 storeys
Sha Tsui Road Industrial ESS	1 storey	Not more than 6 storeys

- (l) for the existing ESS sites, the representer proposed to relax the BHR to conform with the number of storeys for “G/IC” zone in the vicinity. For Lei Muk Shue EHV ESS, no justification had been provided to support R1’s proposal to remove the BHR;

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

- (m) as for the planned ESS in Tsuen Wan Area 35, since the size of the reserved site was already smaller than the typical site area for a primary substation (i.e. 1,705m², with a dimension of 55m x 31m) as required under the Hong Kong Planning Standards and Guidelines (HKPSG), it would not be feasible to erect a single-storey ESS which could meet the operational requirements of a primary substation and the new government requirements on greening and sustainable building design;

Grounds and Proposal of Commenters

- (n) all the commenters opposed R1’s proposal to remove the BHR for the Lei Muk Shue EHV ESS site because this substation was located close to residential dwellings and primary schools, and had already blocked air circulation. The commenters requested that the present BH for the Lei Muk Shue EHV ESS be remained unchanged;

PlanD’s Responses to Representation

- (o) the responses to the grounds of representation were summarised in paragraph 5.3 of the Paper and highlighted below:

Negligible Effect on Planning Intention

- (i) the primary planning intention of “G/IC” zone was to provide GIC facilities to serve the needs of the local residents and/or wider district, region or the territory, which would have particular functional and operational requirements;
- (ii) the formulation of BHRs for the “G/IC” zone had taken into account the as-built conditions of the respective sites, the needs to meet the functional and operational requirements of the facilities as well as any known development/redevelopment proposals to demonstrate the needs;
- (iii) “G/IC” sites serving as visual relief and breathing space to the densely built-up area was an established principle that had been generally adopted in the formulation of BHRs in all OZPs. Such intention was in line with the HKPSG and the Town Planning Board Guidelines for Application for Development/Redevelopment within “G/IC” zone for Uses other than GIC Uses, and supported by the recommendations of the Urban Design Appraisal and the AVA Study;
- (iv) although the ESS sites under representation were small in area, it was necessary to contain their existing BH so as to provide visual relief and to enhance air ventilation;

Against Public Interests

Scarce Land Resources

- (v) the imposition of BHRs was a response to public aspirations for a better living environment as low-rise “G/IC” sites could serve as important visual relief and enhance air ventilation within the built environment;

- (vi) it was necessary to strike a careful balance between efficient use of land to provide utility/community facilities and confine the as-built situation of the “G/IC” sites (unless with known/agreed development/redevelopment proposal);
- (vii) in determining the BHR for the ESS sites, consideration had been given to the existing BH, nature of the existing uses, the height restriction under lease, development/redevelopment proposals, local setting, air ventilation, urban design considerations and other relevant factors;
- (viii) no sufficient and justifiable information had been provided by R1 to demonstrate that there were upgrading/redevelopment proposals for the ESS sites requiring the relaxation of BHRs for the “G/IC” sites in terms of operational and functional needs;

Insecure Electricity Supply

- (ix) according to the Director of Electrical and Mechanical Services (DEMS), other than the Sha Tsui Road Residential ESS and Sha Tsui Road Industrial ESS for which they did not have any record, no development/redevelopment submission had been received for the remaining 8 ESS sites under the approved CLP Power’s 5-year Development Plan (2008-13) and the coming Development Plan after 2013;
- (x) should there be a need for additional ESS sites to meet functional and operational needs, alternative sites would be identified through the established practice and procedure for site search for GIC use;
- (xi) alternatively, development/redevelopment/expansion proposals of the existing ESSs could be submitted to the Board under section 16 of the Ordinance for minor relaxation of the restrictions or

under section 12A of the Ordinance for amendments to the OZP;

Design Inflexibility for Future Modification/Development Plans

Design Inflexibility

- (xii) development/redevelopment of ESSs required approval from the relevant bureaux and departments. DEMS advised that they had not received any proposal for development/redevelopment for the representation sites;
- (xiii) in the absence of any development/redevelopment proposal to demonstrate the need to relax the BHRs to meet the functional and operational requirements, there was no justification to relax the BHRs at this stage;
- (xiv) should there be a need to relax the BHRs in the future, the public should have the opportunity to comment on the proposal through either the OZP amendment or the planning application procedure;

Ineffective Relaxation Instrument

- (xv) under the OZP, development/redevelopment of the concerned ESS sites should not exceed the BHRs or their existing BHs, whichever was the greater. Should more floor space be required, consideration could be given to placing equipment underground as basement levels were disregarded in the determination of BH;
- (xvi) for planning application on relaxation of the BHRs, paragraph 7.6 of the Explanatory Statement of the OZP had clearly set out the relevant criteria to be considered by the Board in determining the planning and design merits. While there was no predetermined level of relaxation that would be allowed, reference would normally be made by the Board to the impacts on the surrounding areas;

Infringement of Existing Development Rights

- (xvii) private development right was only one of the considerations in determining the BHRs for ESS sites. The BHR was formulated in a comprehensive manner, including the need to balance between community aspiration for a better living environment and private development right, the function of “G/IC” sites as visual relief, breathing space and air paths within the built-up environment and existing BH profile, etc;
- (xviii) “G/IC” zone was planned for a wide range of uses (e.g. schools, community centre, market, government office, ESS, religious institutions, etc.) serving the needs of the community. The utilisation of each “G/IC” site should be considered on a case-by-case basis, according to the requirements, functions, nature and scale of individual schemes as well as the location of the sites;
- (xix) the BHR for the ESS sites had already respected the as-built situation to confine their existing low-rise profile compatible with the surrounding area;

Visual Compatibility with Adjacent Developments

- (xx) “G/IC” sites functioned as visual relief as well as breathing space in the dense built-up area. Compatibility in BH with the surrounding developments should not be the sole consideration in varying the BHRs. Any variation of BHRs should be fully justified on functional or operational needs, and considered on a case-by-case basis; and
- (xxi) to ensure that the scale of ESS would not be excessive, justifications on functional or operational needs should be

provided to substantiate the proposed revision of BHRs;

PlanD's Responses to Representer's Proposals

- (p) the responses to the representer's proposals were summarised in paragraph 5.4 of the Paper and highlighted below:

Existing ESS sites

- (i) GIC facilities in the Area were subject to different BHRs. While DEMS had not received any redevelopment proposal in respect of the concerned ESS sites, R1 had not provided any justification on functional and operational needs to relax the BHRs of the existing 8 ESSs to 4-8 storeys;
- (ii) no justifications had been provided to substantiate the need to follow the BH of the nearby buildings. The BHR of 8 storeys for GIC sites was mainly for school development only;
- (iii) no justifications had been provided to substantiate the proposed removal of BHR for the Lei Muk Shue EHV ESS site. The Chief Architect/Central Management Division of the Architectural Services Department considered that a BHR was necessary for the site;

Planned ESS in Tsuen Wan Area 35

- (iv) DEMS had not received any development project submission for the planned ESS site in Tsuen Wan Area 35 from R1 under the approved CLP Power's 5-year Development Plan (2008-13) and the coming Development Plan period after 2013;
- (v) the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department advised that the site was government land and had

not yet been granted to R1;

- (vi) taking into account that the structures within the adjoining Tsuen Wan Park were of single storey, a BHR of 1 storey was imposed for the site; and
- (vii) should R1 had any concrete development proposal for the site in the future, which might require a higher BH for functional and operational reasons, an application could be submitted to the Board for relaxation of the BHR or amendments could be made to the OZP to facilitate the proposed development;

PlanD's Responses to the Comments and the Commenters' Proposal

- (q) the imposition of a BHR of 6 storeys for the Lei Muk Shue EHV ESS conformed with the commenters' view of "not to remove the BHR" for the site and the commenters' request to maintain the present BH of this ESS;

Public Consultation

- (r) the proposed amendments to the OZP were presented to the TWDC on 27.3.2012. Members of the TWDC generally supported the incorporation of BHRs onto the OZP and had no concern on the BH of the ESSs;
- (s) the Harbourfront Commission's Task Force on Harbourfront Developments in Kowloon, Tsuen Wan and Kwai Tsing was briefed on the proposed amendments to the OZP on 18.4.2012 and had no concern on the BH of the ESSs; and

PlanD's Views

- (t) PlanD did not support R1 and considered that the OZP should not be

amended to meet the representation for the reasons as set out in paragraph 7 of the Paper.

87. The Chairman then invited the representatives of R1 to elaborate on the representation.

88. With the aid of a Powerpoint presentation, Mr. Tsang Chun Tat, Eric, representative of R1, made the following main points:

- (a) the presentation would focus on the planned ESS in Tsuen Wan Area 35;
- (b) R1 had all along worked closely with PlanD to undertake site search and site reservation for ESS developments to ensure the reliability of electricity supply in meeting electricity demand. This was a good practice from both the town planning and utility services provision points of view;

[Dr. W.T. Fok arrived to join the meeting at this point.]

- (c) as agreed between R1 and the PlanD in 1991, a site with an area of about 1,378m² (with a dimension of 53m x 26m) had been reserved within the subject "G/IC" zone in Tsuen Wan Area 35 for the future development of a 2-storey 132kV ESS;
- (d) the standard site requirement of a 132kV ESS as specified in Chapter 7 of the HKPSG was 1,705m² (with a dimension of 55m x 31m);

[Mr. Sunny L.K. Ho arrived to join the meeting at this point.]

- (e) the typical design of a 132kV ESS was two storeys, including mainly transformers and switch rooms on the ground floor, and fire services installations and other plant rooms on the first floor;
- (f) all four 132kV ESSs recently completed or under construction in Hong

Kong at Fu On Street, Kai Tak Cruise Terminal, Lai Wan Interchange and Lam Tei respectively were of 2 storeys. All existing 132kV ESSs in Hong Kong were of 2 storeys or above,

- (g) a 1-storey building at the reserved ESS site in Tsuen Wan Area 35 would be technically infeasible to accommodate all the required plants and equipments of a 132kV ESS;
- (h) the rationale of imposing a 1-storey BHR for the subject site, which merely based on its proximity to Tsuen Wan Park, was not well justified since GIC and open space were two different types of land uses;

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

- (i) there was no designated long-term use for the temporary car park site zoned “G/IC(9)” on the opposite side of Wing Shun Street. The imposition of a BHR of 2 storeys for this site was contradictory to PlanD’s principle of imposing BHR for GIC sites based on operational need;
- (j) the operational and functional needs of GIC facilities should be fully catered for in the OZP during the forward-looking plan-making process instead of requiring the submission of planning applications at a later stage which would be a waste of time and resources;
- (k) there were two ESSs in Tsuen Wan at Chai Wan Kok and Mei Wan Street which were of 3 and 4 storeys respectively. A 2-storey ESS at the reserved ESS site in Tsuen Wan Area 35 would be compatible with the surrounding area in the Tsuen Wan district;
- (l) with the sustainable and green design of a 2-storey ESS developed by R1, there would be no adverse visual impact on the environment; and
- (m) R1 therefore proposed to relax the BHR of the planned ESS site at Tsuen

Wan Area 35 from 1 storey to 2 storeys to meet operational needs and functional requirements.

89. As the presentation from the representatives of the PlanD and the representer had been completed, the Chairman invited questions from Members.

Existing ESSs

90. Noting that the typical design of a 132kV ESS was 2 storeys in height, the Vice-Chairman asked R1 what the rationale was for proposing to amend the BHR for all 10 ESS sites across the board, including the proposed removal of BHR for the Lei Muk Shue EHV ESS site and the increase of the BHRs for the other 9 ESSs from their existing BHRs to 4-8 storeys. In response, Mr. Tsang Chun Tat, Eric, representative of R1, said that in general the design of ESS was based on operational and functional needs. Although there was currently no plan to redevelop the existing ESSs, the proposed increase in BHR would allow flexibility to facilitate future improvement to the ESSs without resorting to the planning application process. Mr. Tsang said that the proposed increase in BHR of 8 storeys had made reference to the BHR of other GIC sites such as schools which were also 8 storeys. Mr. Tsang said that R1 would not further elaborate on the proposal to increase the BHRs of the existing ESSs at the hearing but would focus on the proposed increase in BHR from 1 storey to 2 storeys for the planned ESS site in Tsuen Wan Area 35.

91. In response to the enquiry of the Vice-chairman regarding the differences between a 400kV ESS and a 132kV ESS in terms of building layout and design requirements, Mr. Leung Kok Kei, representative of R1, said that as compared to a 132kV ESS, a 400kV ESS required much more space, not directly in proportion to voltage capacity, to accommodate the additional plants and equipments for handling the higher voltages and electrical capacities. A larger and taller building was therefore required to accommodate a 400kV ESS than a 132kV ESS.

Planned ESS in Tsuen Wan Area 35

Site Reservation and 5-Year Development Plan

92. In response to the enquiry of the Chairman, Mr. Wilson Chan, DPO/TWK, said that according to the established procedure, any proposed ESS development by R1 should be included in CLP Power's 5-year Development Plan and submitted to the Electrical and Mechanical Services Department (EMSD) for approval. EMSD would circulate the 5-year Development Plan to all departments for consideration including the PlanD for verification of the information on population and latest development proposals, etc. According to the EMSD, no development proposal for the planned ESS in Tsuen Wan Area 35 had yet been received under the approved CLP Power's 5-year Development Plan (2008-13) and its coming Development Plan after 2013.

93. In response, Mr. Tsang Chun Tat, Eric, representative of R1, said that there was no direct relationship between the CLP Power's 5-year Development Plan and the site search and site reservation exercise for the long-term planning of ESS developments. Only those projects that were ready for implementation would be included in the CLP Power's 5-year Development Plan for the purpose of financial assessment by the Government. It was not uncommon that ESS sites were reserved for 15 to 20 years until the demand for electricity in the specific district had reached a level that justified the inclusion of the reserved ESS in the CLP Power's 5-year Development Plan for implementation. Whether the site had been included in the CLP Power's 5-year Development Plan was therefore irrelevant to the long-term planning process. On the other hand, Mr. Tsang said that a 2-storey 132kV ESS was a typical layout which could meet the requirements of EMSD as demonstrated by many previous installations by R1. Mr. Tsang also said that the approach in imposing a 1-storey BHR on the Tsuen Wan Area 35 site was inconsistent with that of schools where a BHR of 8 storeys was imposed on school site even though there was no concrete proposal for school development.

94. In response to the enquiry of a Member regarding the long lead time between the site reservation and implementation of ESS development, Mr. Leung Kin Wah, representative of R1, said that the reservation of site for ESSs was essential as part of a long-term planning process to ensure adequate provision of electricity supply in the future. New ESSs would be implemented in accordance with the increasing demand brought about by population intake and development needs of a concerned area.

Land Requirement and Feasibility of BHR of 1 Storey

95. In response to the question of a Member, Mr. Tsang Chun Tat, Eric, representative of R1, said that according to the agreement reached between R1 and PlanD in 1991, the area of the reserved ESS site at Tsuen Wan Area 35 was 1,378m² (with a dimension of 53m x 26m). In fact, a previous proposal to increase the area of the reserved ESS site to 1,484m² (with a dimension of 53m x 28m) at the same location was rejected by the PlanD in 1994.

96. In response, Mr. Wilson Chan, DPO/TWK, said that the area of the subject “G/IC” zone was about 2,507m², which was larger than the standard site area of 1,705m² for a 132kV ESS as stipulated under the HKPSG. Therefore, should the whole “G/IC” site be used for a 132kV ESS, there should be sufficient flexibility for R1 to design a 1-storey ESS building which could blend in well with the adjoining Tsuen Wan Park as well as satisfying the operational and functional requirements, instead of adopting a typical design of a 2-storey ESS which might have undesirable visual impacts on the adjacent Tsuen Wan Park. If the future implementation of the ESS required a higher BH for functional and operational reasons, a planning application could be submitted to the Board for minor relaxation of the BHR.

97. In response to the question of Mr. Jimmy Leung regarding the exact land requirement for the 132kV ESS, Mr. Tsang Chun Tat, Eric, representative of R1, said that the exact land requirement could not be ascertained until the detailed design stage, taking into account the need to comply with the current standards stipulated in the HKPSG and the relevant sustainable building design (SBD) requirements. Mr. Tsang said that it was the established practice that only the necessary amount of land would be applied for ESS development. Since under the Scheme of Control Agreement between the Government and R1, the capital expenditure and operating cost of R1 would have a bearing on the electricity tariff, any extra expenses for acquiring additional land would not be beneficial to R1’s customers.

98. A Member asked R1 whether a 1-storey building would be technically feasible for accommodating a 132kV ESS development taking into consideration possible technology advancements in the future which might result in a reduction of space

requirement for ESS development. In response, Mr. Leung Kok Kei, representative of R1, said that the typical layout of a 132kV ESS was a 2-storey building. In view of this and the need to comply with the relevant SBD requirements, it would be technically infeasible to accommodate a 132kV ESS in a 1-storey building. Mr. Leung said that the technology advancements of electrical installations in recent years had focussed on the reliability and safety of equipment rather than the reduction in size and space requirements. Mr. Leung also said that although a 1-storey 132kV ESS might be accommodated in a site of about 2,500m², such arrangement was considered unsatisfactory from the land utilisation point of view. If the ESS could be accommodated on a smaller site, the remaining areas could be used for other beneficial purposes. Noting that the subject site was well-shielded by mature trees, Mr. Jimmy Leung asked whether it would be better to provide the minimum site area required for the ESS and to allow the rest of the “G/IC” site for other uses such as plant nursery. In any case, the height of the ESS would be some 10m high to accommodate the transformers regardless of the number of storeys. In response, Mr Wilson Chan, DPO/TWK, said that the residual area could be considered for extension of the park.

Proposed Type of ESS

99. In response to the question of the Chairman, Mr. Wilson Chan, DPO/TWK, said that it was an established practice for R1 to liaise with PlanD to reserve site for ESS for long-term planning purpose and hence a number of ESS sites had been reserved on outline development plans (ODPs) to meet the long-term need. Although the site in Tsuen Wan Area 35 had long been reserved for ESS use, the type of ESS was not specified on the relevant ODP at the site reservation stage. In response, Mr. Tsang Chun Tat, Eric, representative of R1, said that the land requirements for different types of ESS had been specified in the HKPSG and based on the area of the site reserved, it was planned for a 132kV ESS. Mr. Tsang said that it was uncommon to reserve sites for 11kV ESSs since they were small in size and were mainly implemented at sites granted under short term tenancies.

100. A Member asked whether the subject “G/IC” site should be developed for ESS given its close proximity to the park and whether there were other more suitable uses for the site. In response, Mr. Wilson Chan said that the site had long been reserved for ESS

use, although its detailed design had yet been worked out by R1. Mr. Chan said that there were examples in which sites reserved for primary substations had not been implemented.

[Ms. Janice W.M. Lai left the meeting at this point.]

[Mr. Dominic K.K. Lam and Ms. Christina M.S. Lee arrived to join the meeting at this point.]

101. A Member asked R1 whether it would be possible to develop other types of ESS on the site given that no firm proposal had yet been prepared. Mr. Tsang Chun Tat, Eric, said that given the BHR of 1 storey, the only type of ESS which could be accommodated on the site was a 11kV ESS, which was smaller in scale and served different functions as compared with a 132kV ESS. Mr. Leung Kin Wah, representative of R1, supplemented that a 132kV ESS and a 11kV ESS were different in terms of layout design, height and size due to their different operational and functional requirements.

Visual Impact and Compatibility with Tsuen Wan Park

102. In response to the question of a Member, Mr. Wilson Chan, DPO/TWK, said that the BHR of 1-storey for the subject site at Tsuen Wan Area 35 was imposed with a planning objective to encourage the future ESS development to blend in well with the existing low-rise structures in the adjoining Tsuen Wan Park which was a very popular park and was highly patronised by Tsuen Wan residents.

103. Mr. Tsang Chun Tat, Eric, said that during the development process of an ESS, R1 would be required to comply with government requirements in terms of façade design, greening and environmental measures, etc. under the land grant. As such, there would be sufficient control to ensure that the future ESS could blend in harmoniously with the surrounding developments including Tsuen Wan Park, even if the BHR was increased to 2 storeys.

104. In response to the enquiry of a Member who showed a photo of a 132kV ESS at the Hong Kong University of Science and Technology (HKUST), Mr. Tsang Chun Tat, Eric, said that the ESS in HKUST was a 2-storey building, with three 10m tall

transformers occupying the front part, and 2 storeys of plant rooms including capacity banks, protection room and fire services installations at its rear, resulting in an overall BH of about 10m. Mr. Cheung Po Chung, Eric, representative of R1, supplemented that given the height requirement of transformers, there would not be noticeable difference in the overall BH between a 1-storey and a 2-storey ESS.

105. Mr. Tsui Ka Kit, Kenneth, representative of R1, said that the planned ESS site was located in close proximity to high-rise developments including Nina Tower and The Dynasty residential development to the north. High-rise development was also proposed in the “Undetermined” zone adjoining the ESS site to the east. In the light of the above, the proposed increase of the BHR for the ESS site from 1 to 2 storeys, amounting to an increase in BH of about 3m to 4m, to meet the operational need and future requirements of the ESS was not unreasonable.

Consistency with BHR for “G/IC(9)” Site

106. Regarding the “G/IC(9)” zone on the opposite side of Wing Shun Street, Mr. Wilson Chan, DPO/TWK, said that the future use of this site had not been confirmed since part of the site would be required for the future improvement of Tsuen Wan Road. Mr. Chan said that the planning considerations in determining the BHRs for the ESS site in Tsuen Wan Area 35 and the “G/IC(9)” site were different. A BHR of 2-storey was imposed for the “G/IC(9)” site to align with the adjoining elevated section of Tsuen Wan Road which was about 10m high. In response, Mr. Tsang Chun Tat, Eric, representative of R1, said that since the elevated section of Tsuen Wan Road was located in proximity to the subject site, it should also be a valid consideration to increase the BHR for the site to 2 storeys.

107. A Member asked the representatives of PlanD whether there would be noticeable difference in visual impact between a 1-storey and a 2-storey ESS building which were of similar absolute BH because of the 10m high transformers. In response, Mr. Wilson Chan said that it was an established practice for imposition of BHR for “G/IC” zone that developments with a height not exceeding 13 storeys were specified in terms of number of storeys. Mr. Chan said that in the absence of a detailed scheme, the visual impact of the ESS development could not be assessed at this stage. However, given the

close proximity of the site to Tsuen Wan Park, a BHR of 1 storey was considered appropriate to encourage innovative design to blend in well with the adjoining park. If a higher BH was necessary, R1 could apply for minor relaxation of BHR under section 16 of the Ordinance so that the Board could assess the visual impact at that stage.

Requirement of Planning Application

108. A Member asked R1 whether there would be any difficulties in submitting planning application for minor relaxation of BHR if a 2-storey ESS was subsequently found necessary. Mr. Tsang Chun Tat, Eric, said that as a matter of principle, a BH of 2 storeys was required for a 132kV ESS based on operational needs, and there were many examples of 2-storey 132kV ESSs in Hong Kong without the need to apply for planning permission. Mr. Tsang said that as good planning practice, an appropriate BHR should be imposed on the OZP at the plan-making stage to cater for the operational needs of ESS instead of requiring the submission of planning application at a later stage which might cause delay to the development process and adversely affect future electricity supply. Mr. Tsang said that if planning application was required for a 2-storey ESS development, the same argument presented in this representation would simply be repeated in the future planning application.

109. A Member asked R1 whether there was any previous ESS development which had been included in the approved CLP Power's 5-year Development Plan and its implementation had been delayed or render infeasible due to the need to meet the planning requirements. In response, Mr. Tsang Chun Tat, Eric, said that there was no such example as R1 had generally maintained a good working relationship with PlanD, as demonstrated in the site reservation exercise and the imposition of a 2-storey BHR for the ESS development in Tuen Mun.

SBD Guidelines

110. In response to the question of a Member, Mr. Tsang Chun Tat, Eric, representative of R1, said that although the SBD Guidelines was not applicable to ESS developments in terms of gross floor area concession, some requirements under the SBD Guidelines, i.e. greening, building separation and building set back, had been included in

the land grant conditions for recent ESS developments. Mr. Tsang said that a review of the ESS design might be required for compliance with these SBD requirements within the reserved site in Tsuen Wan Area 35.

111. 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 representation in the absence of the representer's representatives. They would be informed of the Board's decision in due course. The Chairman thanked the representatives of the representer and PlanD for attending the hearing. They all left the meeting at this point.

Deliberation Session

112. The Chairman invited Members to consider the representation taking into consideration the written submission, and the oral representation made by the representer's representatives.

Existing ESSs

113. Members generally noted that no concrete proposals as well as sufficient justifications had been submitted by R1 to support the relaxation of BHRs for the 9 existing ESSs covered by the Tsuen Wan OZP based on operational and functional grounds.

Planned ESS in Tsuen Wan Area 35

114. Members generally noted that site reservation for the planned ESS in Tsuen Wan Area 35 was made some 20 years ago. However, the type and design of the ESS to be built on the site had not yet been included in the CLP Power's 5-year Development Plan approved by EMSD and hence the imminent need of this ESS could not be established at this stage.

115. A Member said that it would not be unreasonable to impose a BHR of 2 storeys for the site in Tsuen Wan Area 35 in order to cater for the operational needs of a

132kV ESS. This Member therefore had no strong view on the suggestion to increase the BHR to 2 storeys should a 132kV ESS be justified on the site.

116. A Member however said that the proposed 132kV ESS as claimed by R1 had yet to be considered by EMSD. If a BH of 2 storeys was found necessary upon detailed design of the ESS, there was provision in the OZP for application for minor relaxation of BHR to cater for the operational requirements of the ESS. This Member did not support the proposed increase in BHR for the site to 2 storeys.

117. A Member said that from the town planning point of view, there was good justifications to require the future ESS development to blend in well with the adjoining Tsuen Wan Park. This Member was of the view that the Board should ensure sufficient control over the visual impact of the future ESS development and its compatibility with Tsuen Wan Park. This Member considered that a BHR of 1 storey for the site was appropriate in order to ensure the fulfilment of such a good planning intention.

118. Noting the requirement for high headroom to accommodate the transformers in ESS, a Member asked whether a BHR in terms of absolute BH instead of number of storeys would be more appropriate for ESS developments. In response, the Chairman said that from the town planning point of view, the visual compatibility of the ESS and the adjoining park should be maintained and the ESS should only be permitted to build to the height required for an ESS. Moreover, since the detailed design of each ESS development would be subject to the approval of EMSD, there would be sufficient control to avoid an excessively tall 1-storey ESS building.

119. A Member said that since the planned ESS had not been approved by EMSD and there would be a long lead time between site reservation and implementation of ESS developments, there might be future changes, possibly in the surrounding land uses and technology advancement, which would affect the planning and design of ESS at the site. As such, there were no strong justifications to increase the BHR to 2 storeys at this stage. This Member said that considering the need for the design of the future ESS to blend in with the adjoining park and to minimise possible adverse visual impacts, it would not be unreasonable for the Board to maintain a control on the design of the proposed ESS through the planning application system. If there was good justification, the applicant

could apply for minor relaxation of BHRs so that the Board could consider each application based on individual merits.

120. A Member asked whether it was a pre-requisite for R1 to obtain approval from EMSD on the ESS proposal prior to the determination of the BHR for the site. In response, the Chairman said that the role of EMSD was to examine the need of electricity installations in meeting the anticipated electricity demand, their technical design including facility provisions and land requirements, as well as the financial implications. During the consideration of planning proposals concerning ESS, the Board could consider the advice of EMSD in order to safeguard the public interests. Although there might be a need for a 132kV ESS at the site in future, in the absence of any development proposal submitted by R1 at this stage, it was not possible for the Board to assess whether the proposed increase of BHR to 2 storeys was essential to cater for the operational and functional needs of a future ESS.

121. In response to the question of a Member regarding the practice of imposition of BHR for ESS sites, the Secretary said that it was an established practice for the Board to impose a BHR that reflected the BH of the existing ESSs. As for planned ESSs, although a BH of 2 storeys was required for a standard 132kV ESS, considering that the subject "G/IC" site was sufficiently large and the low-rise structures in the nearby Tsuen Wan Park were mostly 1 storey, it was the planning intention to impose a BHR of 1 storey at this specific site in order to encourage a non-standard design for the future ESS development which would integrate with the Park. While the design of ESS was subject to the approval of EMSD, EMSD could not offer comment on the subject ESS in Tsuen Wan Area 35 at this stage since there was no development plan for the ESS.

122. Another Member said that there were good examples of 1-storey 132kV ESS in other countries although a larger site area might be required. This Member agreed to impose a BHR of 1 storey on the site with a view to encouraging innovative building design for achieving the planning intention to ensure that the proposed future ESS could blend in well with the popular Tsuen Wan Park.

123. The Chairman concluded by summarising that the established procedure of imposition of BHRs for GIC facilities, which had been based on practical operational and

functional needs, should be followed. In the absence of planned development/redevelopment proposals for the 10 ESSs under representation at this stage, the imposition of BHRs to reflect the as-built situation of the existing 9 ESSs and a BHR of 1 storey for the planned ESS site in Tsuen Wan Area 35 with planning justification was appropriate. There was provision in the OZP for application for minor relaxation of BHRs to cater for development/redevelopment with planning and design merits on an individual basis. The Board could consider future applications having regard to the practical need for relaxation when there was a solid proposal.

124. After deliberation, Members agreed not to uphold Representation No. R1. Members then went through the reasons for not upholding the representation as stated in paragraph 7 of the Paper and considered that they were appropriate.

Representation No. R1

125. After further deliberation, the Board decided not to uphold Representation No. R1 for the following reasons:

- (a) apart from providing Government, Institution and Community (GIC) facilities, “G/IC” sites in the built-up urban area also served as breathing space as well as visual relief. Their building heights should be contained to ensure good air ventilation as recommended in the Air Ventilation Assessment Expert Evaluation. The development scale and intensity of “G/IC” sites should be considered on a case-by-case basis, having regard to the practical requirements, functions and nature of different GIC facilities. There was no strong justification at the present stage to support the proposed variation of building height restriction (BHR) for the electricity substation (ESS) sites;
- (b) the proposed amendments to the BHRs for the ESS sites to tie in with the permitted number of storeys for “GIC” zone in the vicinity were not justified. No justifications had been provided to demonstrate that the BHRs proposed were required to meet the functional and operational needs of the respective ESS sites at the present stage; and

- (c) there was provision under the Town Planning Ordinance (the Ordinance) for planning application for minor relaxation of BHR under section 16 or for amendments to the Tsuen Wan Outline Zoning Plan under section 12A of the Ordinance and the Town Planning Board could consider such application as and when there were concrete proposals.

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to
the Draft Tsuen Wan Outline Zoning Plan No. S/TW/29
(TPB Paper No. 9181)

[The hearing was conducted in Cantonese.]

Group 2

R2 and C1 to C614

Presentation and Question Session

126. The Chairman said that sufficient notice had been given to invite the other commenters to attend the hearing, but they had either indicated not to attend the hearing or made no reply. As sufficient notice had been given to the commenters, Members agreed to proceed with the hearing in their absence.

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

Mr. Wilson Chan - District Planning Officer/Tsuen Wan & West Kowloon, PlanD (DPO/TWK, PlanD)

Mr. K.T. Ng - Senior Town Planner/Tsuen Wan (STP/TW), PlanD

Miss Yvonne Leong - Town Planner/Tsuen Wan, PlanD

R2 – The Church of Christ in China Chuen Yuen Church

Rev. Hui Hoi Ming]	
Rev. Cheung Mun Yee]	
Ms. Yip Chu Sin]	
Mr. Chan Cho Sing, Joel]	Representer's Representative
Mr. Yu Huen]	
Mr. Hui Fuk Lam]	
Mr. Wong Sau Man, William]	
Mr. Cheung Ho Yin	-	Representer's Representative and C38
Mr. Li Kam Cheong	-	Representer's Representative and C613

C54 - Wong Wai Cheong

Mr. Wong Wai Cheong Commenter

C100 - Chiu Kwan Wah

Mr. Chiu Kwan Wah Commenter

C272 - Chan Kit Yung

Ms. Chan Kit Yung Commenter

C361 - Chan Yat Ling

Ms. Chan Yat Ling Commenter

C453 - Chan Chi Tuen

Mr. Chan Chi Tuen Commenter

C572 - Wan Ngar Yee, Queenie

Ms. Wan Ngar Yee, Queenie Commenter

C575 - Ho Man Fan

Mr. Ho Man Fan Commenter

128. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the background to the representation.

129. With the aid of a Powerpoint presentation, Mr. K.T. Ng, STP/TW, made the following main points as detailed in the Paper:

Background

- (a) on 24.2.2012, the draft Tsuen Wan OZP No. S/TW/29, incorporating various amendments including the imposition of building height restriction (BHRs) on “Government, Institution or Community” (“G/IC”) zone, was exhibited for public inspection under section 5 of the Ordinance;

Representations and Comments

- (b) a total of 7 representations and 620 comments were received. Amongst the 7 representations, R2 was submitted by the Church of Christ in China Chuen Yuen Church opposing the BHR of 4 storeys imposed for the Chuen Yuen Church (the Church) at No. 2-4 Tai Uk Street, Tsuen Wan which was zoned “G/IC” on the OZP (Amendment Item F6);
- (c) a total of 614 comments (i.e. C1 to C614) relating to R2 were received. C1 to C613 were submitted by individuals, and C614 was submitted by a Tsuen Wan District Council (TWDC) Member. All the commenters supported Representation No. R2 and its proposal to relax the BHR of the church site;

Considerations for Formulating BHRs for “G/IC” Zone

- (d) “G/IC” sites were serving as breathing space and visual relief to the Area;

- (e) the Air Ventilation Assessment (AVA) Study had recommended maintaining the existing BH profile of the low-rise buildings in “G/IC” zones for enhancing the air ventilation performance of the Area;
- (f) in formulating the BHRs for the developed “G/IC” sites, consideration has also been given to the nature of the existing facilities/uses on the sites, the existing development intensity and their respective as-built conditions, the height restrictions on the land allocation/lease, any known development/redevelopment proposals and the need to meet the functional and operational requirements in terms of height for the designated GIC facilities;
- (g) in general, the BHR for low-rise developments on “G/IC” sites with a height of not more than 13 storeys were specified in terms of number of storeys (excluding basement floor(s)) so as to allow more design flexibility, in particular for GIC facilities with specific functional requirements;
- (h) if there was a need for a higher BH when a development/redevelopment proposal was available in future, an application for the relaxation of the BHR could be made to the Board through the planning application or plan amendment procedures. Such application would be considered based on their individual merits;

Grounds of Representation

- (i) the main grounds of representation were summarised in paragraph 4.3 of the Paper and highlighted below:

No Proper Reason to Impose the Restriction

- (i) given the location and small size of the site, the church redevelopment would not create significant undesirable impacts

on visual and air ventilation aspects;

Need for Space

- (ii) there was lack of space for the Church's office, Sunday service, fellowships, meetings, activities organised by and community services provided by the Church. While R2 was keen to expand its community services, there was a need to provide additional space for the existing kindergarten and the adjoining the Church of Christ in China Chuen Yuen First Primary School (the Primary School);
- (iii) the Church and the Primary School were integrated as a complex. Imposing a BHR of 4-storey on the church site would pose limitation to the possible improvement of the Primary School upon integrated redevelopment of the site;

Fairness

Existing Building Height

- (iv) the existing BH of the Church was 6 storeys, not 4 storeys. The imposition of a 4-storey BHR had unnecessarily and unfairly limited the potential of land utilisation and future expansion of the Church;
- (v) the surrounding area along Sha Tsui Road and Tai Ho Road was zoned "Residential (Group A)" ("R(A)") with BHRs of 80mPD to 185mPD;
- (vi) the site was neither a waterfront site nor adjacent to major open space. The BHR of 4 storeys was not well justified. The site was too small to provide spatial and visual relief to the surrounding;

No Consistency in “G/IC” Zone within the OZP

- (vii) there was no consistency in the imposition of BHRs for “G/IC” zone on the Tsuen Wan OZP. For example, Yan Chai Hospital had a BHR of 78mPD, the Primary School adjoining the site had a BHR of 8 storeys, and the Tsuen Wan Baptist Church and Kindergarten had a BHR of 9 storeys;

No Public Consultation Prior to the Gazette of the New Plan

- (viii) it was inappropriate for the Government to impose BHRs without any prior consultation with the TWDC, landowners and residents; and

Right of the Community and the Church

- (ix) the imposition of BHR had deprived the community and members of the Church of the right to enjoy better services. Considering the growing population in Tsuen Wan, the Church had a right to redevelop its premises in order to meet the present and future needs of the community;

Representer’s Proposals

- (j) originally, R2 submitted a redevelopment proposal of 10 storeys with a plot ratio (PR) of 8.65. On 27.8.2012, R2 clarified in a letter to the PlanD that the proposed redevelopment scheme was 9 storeys with a PR of about 7.875. According to the scheme submitted by R2 on 27.8.2012, the proposed facilities in the redeveloped church building included church main hall, chapel, kindergarten, church office, meeting room/conference room, library, staff accommodation and multi-function rooms;

Grounds and Proposals of Commenters (C1 to C614)

- (k) all the commenters supported the objection raised by R2 and its proposal to relax the BHR for the church site. Apart from the grounds of the representation submitted by R2, the commenters had the following additional grounds of comments:
- (i) the BH of the Church should not be lower than 8 storeys after redevelopment (C1 to C612);
 - (ii) the difference of BHR for the Church (4 storeys) and the Primary School (8 storeys) would make the future redevelopment extremely difficult (C613);
 - (iii) before the BHR was imposed, the Church had already prepared a redevelopment plan involving a proposed 14-storey building in 2011. The latest redevelopment plan had already been revised in light of the imposition of BHR (C613 and C614); and
 - (iv) the Government should provide fair, justifiable and acceptable reasons for the BHR of 4-storey and how the restriction could meet the aspirations of the community (C613);

PlanD's Responses to Grounds of Representation

- (l) the responses to the grounds of representation were summarised in paragraph 5.3 of the Paper and highlighted below:

No Proper Reason to Impose the Restriction

- (i) the BHRs for the "G/IC" sites on the draft Tsuen Wan OZP No. S/TW/29 were mainly to reflect their existing BHs, with the intention to preserve the much-needed breathing space and spatial and visual relief in the Area. This principle had been stated in the Hong Kong Planning Standards and Guidelines, and the

preservation of the low-rise “G/IC” sites was also recommended by the AVA Study;

- (ii) as GIC facilities would have particular functional and operational requirements, apart from visual and air ventilation, the BHRs imposed would take into account the as-built conditions, the needs to meet the requirements of facilities as well as any known development/redevelopment proposals;
- (iii) the BHR imposed on the site was based on the existing BH of the Church;

Need for Space

- (iv) while the need for expansion space by the Church was noted, no redevelopment proposal was received before the gazettal of the Tsuen Wan OZP No. S/TW/29;
- (v) upon receipt of the redevelopment proposal as part of R2’s representation, PlanD had circulated it to concerned bureaux/departments for comments which would be further elaborated under PlanD’s responses to representer’s proposal;

Fairness

Existing Building Height

- (vi) according to the Occupation Permit issued in 1961, the site was occupied by “one 4-storey building with additional 2-storey bell tower”. The BHR of 4 storeys was to reflect the predominant height of the existing building since about 94% of the site was occupied by the 4-storey church building and about 6% by the bell tower. This approach was generally adopted for determining the BHR for “G/IC” site comprising buildings of

different heights;

- (vii) developments in the “G/IC” zone were subject to maximum BHs as stipulated on the OZP, or the height of the existing building, whichever was the greater. An existing building with BH exceeding the BHR under the OZP would not be affected;

No Consistency in “G/IC” Zone within the OZP

- (viii) the BHR of 4 storeys was to reflect the predominant height of the existing building. The rationale for the BHR was not because of waterfront site or adjoining major open space;
- (ix) for the Yan Chai Hospital site, the BHR of 78mPD was to reflect the existing BH of the hospital. For the Primary School, a BHR of 8 storeys was imposed which was the general requirement for a standard school. The Tsuen Wan Baptist Church and Kindergarten was the subject of a planning application approved by the Board in 1984 and the BHR of 9 storeys was to reflect the height of the as-built church building;
- (x) the surrounding developments were predominantly residential developments with commercial facilities at lower floors zoned “R(A)” on the OZP which should not be taken as a reference for the BHR of “G/IC” zones;

No Public Consultation Prior to the Gazette of the New Plan

- (xi) the public was consulted on the OZP amendments in accordance with the provision of the Ordinance. During the plan exhibition period, PlanD had also provided briefings on the amendments to the TWDC and the Harbourfront Commission’s Task Force on Harbourfront Developments in Kowloon, Tsuen Wan and Kwai Tsing;

- (xii) it was an established practice that proposed amendments involving BHRs should not be released to the public prior to gazettal since premature release of such information might prompt an acceleration of submission of building plans to establish *fait accompli*, hence defeating the purpose of imposing the BHRs;
- (xiii) all the relevant information had been made available for public inspection;

Right of the Community and the Church

- (xiv) the BH profile was formulated in a comprehensive manner, having struck a balance between community aspiration for a better living environment and private development rights; and
- (xv) since the OZP had not imposed any PR/gross floor area/site coverage restrictions on the site, the existing development right of the site had not been affected. Minor relaxation of the BHR would be considered by the Board through the planning application system upon receipt of a concrete redevelopment proposal;

PlanD's Responses to Representer's Proposals

- (m) the responses to the representer's proposals were summarised in paragraph 5.4 of the Paper and highlighted below:
 - (i) policy support to the religious facilities in the proposed redevelopment scheme had been given by the Secretary for Home Affairs;
 - (ii) the Secretary for Education had no comment on the proposed

kindergarten as it was a private independent school;

- (iii) the redevelopment proposal of 9 storeys, with a PR of about 7.875, was comparable with similar developments within Tsuen Wan area;
- (iv) the Chief Town Planner/Urban Design and Landscape, PlanD, advised that as the developments in the immediate surroundings of the site were predominantly high-rise, R2's proposal to increase the BHR from 4 storeys to 9 storeys was considered not unacceptable from urban design perspective;
- (v) in view of the small scale of the site, significant visual impact arising from the proposed increase of BH to 9 storeys was unlikely; and
- (vi) other government departments (including the Transport Department and the Environmental Protection Department) had no objection to/no comment on the redevelopment scheme;

Responses to Comments C1 to C614

- (n) the responses to the grounds of representation and the representer's proposal as mentioned in sub-paragraphs (l) and (m) above were relevant;

Public Consultation

- (o) the proposed amendments to the OZP were presented to the TWDC on 27.3.2012. Members of the TWDC generally supported the incorporation of BHRs onto the OZP and requested PlanD to take an active role to follow up with the redevelopment plan of the Church;
- (p) an informal meeting was held between the representatives of R2 and

PlanD on 29.3.2012. During the meeting, PlanD advised R2's representatives to submit a representation on the subject Amendment Item F6, together with justifications for the redevelopment proposal and the relevant impact assessments for consideration by the Board. The Church presented its redevelopment proposal to the TWDC on 29.5.2012 and the proposal was supported by the TWDC. Subsequently, PlanD had met with the representatives of the Church several times to discuss the comments of the concerned bureaux/departments on its redevelopment proposal;

- (q) the Harbourfront Commission's Task Force on Harbourfront Developments in Kowloon, Tsuen Wan and Kwai Tsing was briefed on the proposed amendments to the OZP on 18.4.2012 and had no concern on the BH of the site; and

PlanD's Views

- (r) since R2's proposal was justified on functional needs and considered acceptable by the concerned bureaux and departments, PlanD supported R2's proposal to revise the BHR for the subject "G/IC" zone from 4 storeys to 9 storeys to meet the representation.

130. The Chairman then invited the representatives of R2 to elaborate on the representation.

131. With the aid of a Powerpoint presentation, five representatives of R2, made the following main points in turn:

Mr. Cheung Ho Yin (Representative of R2 and C38)

The Church

- (a) R2 was the first Christian church established in Tsuen Wan in 1905;

- (b) the existing church building was located at the centre of Tsuen Wan and had been in use since 1960. It was the tallest building in Tsuen Wan at that time;

[Mr. Lincoln L.H. Huang left the meeting at this point.]

- (c) the Church had a long history in serving the Tsuen Wan community;
- (d) the Church had a congregation of 450 to 500 persons on Sunday worships. At festival or special services, there would be about 700 attendees;

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

- (e) as a community church, it provided a range of religious and community services to the Tsuen Wan residents including kindergarten, hospital pastoral service, parent education and various social/community services in collaboration with other community service bodies;
- (f) owing to the growing number of members and changing community needs, R2 intended to improve the church facilities through redevelopment so as to have the needed space for improving its religious and community services;

Mr. Li Kam Cheong (Representative of R2 and C613)

Implications of the Amendment Items of the OZP

- (g) R2 had no objection to the rezoning of the site from “R(A)” to “G/IC” to reflect its church use which matched well with the planning intention of the “G/IC” zone;
- (h) the BH of the existing church was 6 storeys but the BHR imposed on OZP was 4 storeys. The imposition of a BHR of 4 storeys for the site

had posed serious constraint on R2's redevelopment plan. With the imposition of BHR on the OZP, R2 had revised its redevelopment proposal and reduced the proposed BH from the previous 14 storeys to 10 storeys;

- (i) after several meetings with PlanD, R2 understood the concerns of relevant government departments. R2 further revised the proposed redevelopment to a 9-storey building;

Reasons for Relaxation of BHR

- (j) the proposed church building was not an excessively high-rise development and the relaxation of BHR to 9 storeys would have no undesirable visual impacts;
- (k) according to the AVA Study, the site was not located on any air paths or wind corridors;
- (l) there were high-rise buildings in the surrounding areas such as Nina Tower and the Vision City residential development. The proposed 9-storey building would only be a low-rise building in the context of those high-rise developments around;

Need for space

- (m) the existing seating capacity of the church hall of 330 people was insufficient to accommodate the expanding congregation;
- (n) there was a need for more space for improving its religious and community services including 11 fellowships, church office, kindergarten and minister quarters. The pastor had to move out from the church to make available space for church activities;
- (o) given the current limited space in the kindergarten, it had to admit a

smaller number of students than the number of students approved by Government in order to ensure that the students would have access to adequate facilities. The kindergarten was very popular in Tsuen Wan, particularly among grass-root families;

- (p) the adjoining Primary School was also very small and sub-standard and had to rely on some of the church facilities for their school activities during weekdays;
- (q) the outdated building design and facilities of the existing church was incapable of providing toilets for the disabled, elevators and other related facilities for the young, old and disabled;
- (r) the lack of much needed space had limited the Church's capability in providing quality community service to serve the growing population of Tsuen Wan such as parenting talks and tuition classes, etc.;

Ms. Yip Chu Sin (Representative of R2)

Genuine Need for a 10-storey Building

- (s) prior to the imposition of BHR in Tsuen Wan OZP No. S/TW/29, R2 had already commissioned an architect to prepare a 14-storey redevelopment proposal;
- (t) in the light of the Government's concern on the BH profile of Tsuen Wan, the redevelopment proposal had been revised to 10 storeys, which comprised a kindergarten, a 500-seat church main hall, a chapel, church office, meeting rooms, activity rooms, multi-function rooms, library and staff quarters for church pastors;
- (u) after discussion with PlanD in March 2012, the redevelopment scheme had been further revised to a 9-storey building by deleting the activity room floor in order to address the concerns of government departments

including the concern on comparable PR with other GIC developments in Tsuen Wan;

- (v) the redeveloped church would be beneficial to many parties including the church, its members and staff, the kindergarten, the adjoining Primary School and the Tsuen Wan community;

Fairness

- (w) the development needs of the Church had to be catered for in the proposed amendments to the OZP;
- (x) the BHR imposed for the site was much lower than other GIC facilities and church buildings with kindergarten in Tsuen Wan, including Yan Chai Hospital, the adjoining Primary School, Tsuen Wan Baptist Church and Kindergarten, Caritas Social Centre and Tsuen Wan Adventist Hospital. A consistent approach should be adopted in the imposition of BHR for all GIC sites;
- (y) the BHR for the surrounding buildings of the site were between 80mPD to 150mPD. There should be consistency for the imposing BHR for developments within the same locality;
- (z) a BHR of 4 storeys for the site was unreasonable considering its existing BH at 6 storeys, the small size of the subject site and the surrounding high-rise developments;
- (aa) limiting the BH of the church would limit its future development which in turn would deprive the opportunity of the adjoining Primary School to make better use of church space for its school activities;

Rev. Cheung Mun Yee (Representative of R2)

Environmentally Friendly Plan

- (bb) should the proposed redevelopment scheme be approved, a number of environmentally friendly measures would be implemented by R2 including:
- (i) encouraging its members to use public transport;
 - (ii) providing setback at the ground floor of the church building to improve street environment;
 - (iii) adopting green architectural design such as vertical greening and use of environmentally friendly building materials, and
 - (iv) improving access and facilities for the disabled and elderly persons;

Rev. Hui Hoi Ming (Representative of R2)

- (cc) R2 had been serving the Tsuen Wan community for a century through its church activities as well as educational and social services. The Church would endeavour to continue its mission, but that good intention was seriously hindered by space problem;
- (dd) R2 had sound reasons for proposing a relaxation of BHR. The Church which was a non-profit making organisation had its right of redevelopment to resolve its acute need for more space by making full utilisation of its small site area;
- (ee) the proposed redevelopment would provide sufficient space for R2 to enhance its services for the community in spiritual, educational and social aspects, and to provide benefits to the adjoining Primary School by sharing out church space and facilities for use;
- (ff) the proposed redevelopment would not generate adverse impacts on air ventilation, visual, traffic and sewerage aspects. There would be

benefits to the environment and community after redevelopment; and

(gg) the proposed redevelopment was supported by the TWDC.

132. As the presentation from the representatives of the PlanD and the representer had been completed, the Chairman invited questions from Members.

133. A Member noted that the space of the adjoining Primary School was very limited and asked whether there was any plan to redevelop or relocate the Primary School so that a larger site could be made available for redevelopment of the Church. In response, Mr. Wilson Chan, DPO/TWK, said that the Primary School was a subsidised school under the purview of the Education Bureau (EDB). Both EDB and the school operator had to agree before the school could be relocated. According to EDB, there was currently no plan to redevelop or relocate the Primary School. Mr. Li Kam Cheong, representative of R2 and C613, said that there had been some discussion between the school and the Government regarding the feasibility of redevelopment of the school, but there was no conclusive decision at that stage. Mr. Li was also of the view that this issue should not be the focus of the representation hearing which was primarily in relation to the church site.

134. Noting that the original redevelopment proposal submitted by R2 was of 10 storeys, a Member asked the representatives of PlanD whether an increase of BHR to 10 storeys would be considered acceptable from the planning point of view. In response, Mr. Wilson Chan, DPO/TWK, said that based on the established principle for formulating the BHRs for "G/IC" sites, if there were development/redevelopment proposals agreed by the relevant bureaux and departments prior to the imposition of BHRs, PlanD would incorporate the BH of the agreed proposal onto the OZP. Examples in Tsuen Wan were Caritas Social Centre and Tsuen Wan Adventist Hospital. Mr. Chan said that since no redevelopment proposal for the Church had been received prior to the gazettal of the Tsuen Wan OZP No. S/TW/29, a BHR of 4 storeys was imposed to reflect the existing BH of the Church. Subsequently, PlanD took the initiative to explain to R2 the PR of other similar church developments with kindergarten in Tsuen Wan which was about 7.4 to 7.5, and if R2 could prepare a redevelopment proposal that was agreed by relevant bureaux and departments, the BHR of the church site could be amended. Mr. Chan further said that in

the 10-storey redevelopment proposal originally submitted by R2, there was an activity room floor at 7/F proposed for use by district councillors and non-governmental organisations. Upon departmental consultation, the District Officer/Tsuen Wan, Home Affairs Department (DO/TW, HAD) advised that no such need for the proposed activity rooms was envisaged. Upon receipt of HAD's view conveyed by PlanD, R2 agreed to delete the activity room floor and reduce the proposed BH to 9 storeys, upon further review of its operational and functional needs.

135. Mr. Wilson Chan, DPO/TWK, said that this case had truly reflected the established principle of the Board in imposing BHRs for GIC sites in that a BHR would be imposed to reflect those development/redevelopment schemes which were justified on operational and functional grounds, and agreed by the relevant bureaux and departments. R2 had also reasonably accepted another established practice of the Board that any proposed amendments involving BHRs should not be released to the public prior to gazettal since premature release of such information might prompt a submission of building plans for out-of-context developments, hence defeating the purpose of imposing the BHRs.

136. Mr. Cheung Ho Yin, representative of R2 and C38, said that the redevelopment proposal of 9 storeys would definitely be required to meet the current operational needs of the Church, but might not be able to fully meet the needs in the longer term in view of the expanding church services. R2 however had understandably accepted a BHR of 9 storeys for the site taking into consideration the development intensity of other similar church developments in Tsuen Wan. R2 appreciated the efforts of the Board and PlanD in considering the genuine needs of the Church in this case.

137. 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 representation in the absence of the representer's representatives. They would be informed of the Board's decision in due course. The Chairman thanked the representer's representatives and the PlanD's representatives for attending the hearing. They all left the meeting at this point.

Deliberation Session

138. The Chairman invited Members to consider the representation taking into consideration all the written submissions and the oral representations and materials presented.

139. Members generally noted that there was no known redevelopment proposal of the Church before the imposition of BHRs and a BHR of 4 storeys reflecting the existing BH was imposed on the site according to the established practice of the Board. After R2 had submitted a representation, R2 had obtained policy support of its redevelopment scheme and no adverse comments from government departments were received on R2's proposed redevelopment of 9 storeys.

140. The Vice-chairman said that the subject case was a good example to showcase the established principle of the Board in the imposition of BHRs for "G/IC" zone in that a BHR would be imposed to reflect those development/redevelopment schemes which could meet the operational and functional needs of the Church, and at the same time agreed by the relevant bureaux and departments. This case demonstrated the good effort of all parties concerned in meeting the genuine needs of the representer as well as the planning objective of imposing an appropriate BHR. He supported the revision of the BHR for the subject "G/IC" zone to 9 storeys to meet the representation.

141. Another Member agreed to the view of the Vice-chairman and said that this case had successfully demonstrated that the principles established by the Board in respect of the imposition of BHRs for "GIC" sites were practicable and workable.

142. The Chairman concluded by saying that the subject case had clearly demonstrated how the two requirements that could support a relaxation of BHRs for "GIC" sites was met, that was, a development/redevelopment proposal with genuine operational and functional needs as well as policy support and no adverse comments from government bureaux and departments.

143. A Member commented that taking account of the lack of space in the adjoining primary school and the standard requirement for a proper school building, a better

development would have been resulted if the church and the primary school could be redeveloped together into an integrated development with shared-use facilities on the middle floors to solve the spacing problems of both the church and the school. The Member considered that a 12-storey or taller integrated development on the site might not have significant impact on the surrounding area. This Member said that a comprehensive approach should be adopted by the Government in a similar situation in future and the opportunity for redeveloping the church and school as a whole with a view to optimising land utilisation and further enhancing the improvement of school and community services should be explored. Another Member agreed to the views of this Member and said that any similar redevelopments in future which could meet the needs of both the provision of educational and community services should be supported.

[Mr. Clarence W.C. Leung left the meeting at this point.]

144. The Chairman remarked that school redevelopments were under the jurisdiction of and subject to the approval of EDB. In the subject case, there was no redevelopment plan of the primary school adjoining the site.

145. After deliberation, Members agreed to uphold Representation No. R2 by revising the BHR for the subject “G/IC” zone covering the Church from 4 storeys to 9 storeys. The proposed amendment to the draft Tsuen Wan OZP No. S/TW/29 was suitable for publication for further representation in accordance with the provisions of section 6C(2) of the Ordinance.

Representation No. R2

146. After further deliberation, the Board agreed to uphold Representation No. R2 by revising the BHR for the subject “G/IC” zone covering the Church from 4 storeys to 9 storeys.

[The Chairman left the meeting temporarily and the Vice-chairman took over the chairmanship temporarily at this point.]

Tuen Mun and Yuen Long District

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-KTS/565

Proposed Two Houses (New Territories Exempted Houses – Small Houses)

in “Agriculture” zone, Lot 1186RP(Part) in D.D. 113, Tai Wo Tsuen, Kam Tin, Yuen Long
(TPB Paper No. 9183)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

147. The following representative of the Planning Department (PlanD) and the applicants’ representatives were invited to the meeting at this point:

Mr. W.W. Chan	-	District Planning Officer/Tuen Mun & Yuen Long (DPO/TMYL), PlanD
Mr. Kwok Chi Man]	Applicants’ Representative
Mr. Tang Chi Pun]	Applicants’ Representative

148. The Vice-chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TMYL to brief Members on the review application.

[The Chairman returned and resumed chairmanship at this point.]

149. With the aid of a Powerpoint presentation, Mr. W.W. Chan, DPO/TMYL, presented the review application and covered the following main points as detailed in the review paper:

- (a) the applicants, who claimed to be indigenous villagers of Wang Toi Shan Wing Ning Lei, sought planning permission for development of two New

Territories Exempted Houses (NTEHs) or Small Houses at the site zoned “Agriculture” (“AGR”) on the approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/11 at the time of s.16 application and currently in force;

- (b) the Rural and New Town Planning Committee (RNTPC) rejected the application on 18.5.2012 for the reasons that the proposed development was not in line with the planning intention of the “AGR” zone on the OZP, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes; and the application did not comply with the ‘Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories’ (‘Interim Criteria’) in that there was no shortage of land within the “Village Type Development” (“V”) zone of Tai Wo and Cheung Po to meet the demand forecast for Small House development;
- (c) the justifications put forth by the applicant in support of the review application were summarised in paragraph 3 of the review paper and highlighted as follows:
 - (i) the surrounding development and the small size of the site were not suitable for agricultural rehabilitation and the landowners had no intention to rehabilitate the land for cultivation;
 - (ii) although there was sufficient land in Tai Wo and Cheung Po for Small House development, the applicants were unable to acquire land in Pat Heung for development of Small Houses as the land price was surging as a result of the Express Rail Line (XRL) Project, and tso/tongs and villagers were unwilling to sell their land;

- (iii) the land in Tai Wo, which was under Pat Heung, had been wrongly incorporated under the Kam Tin South OZP. People would wrongly perceive that the applicants apply for Small Houses in Kam Tin Heung which was not allowed under the current policy. The assessment of the Small House applications in Pat Heung would also be affected as there was sufficient land in Kam Tin Heung;
 - (iv) there were similar applications in the vicinity previously approved by the Board; and
 - (v) apart from the Agriculture, Fisheries and Conservation Department, there were no adverse comments on the application from other departments;
- (d) the application site, with an area of about 282m², was located entirely within “AGR” zone. It was currently vacant and overgrown with vegetation. The surrounding areas were rural and residential in character predominated by residential dwellings/structures and agricultural land;
- (e) departmental comments – the departmental comments were summarised in paragraph 5 of the review paper. The Director of Agriculture, Fisheries and Conservation (DAFC) maintained the view of not supporting the application from the agricultural point of view as there were active agricultural activities in the vicinity of the site and the site had high potential for agricultural rehabilitation. Other government departments generally had no adverse comment on the review application;
- (f) public comment – one public comment from Kadoorie Farm and Botanic Garden Corporation was received during the statutory publication period of the review application. The public comment objected to the application as the proposed development was not in line with the

planning intention of the “AGR” zone and would cause adverse ecological impact. There would be numerous similar applications for the area within the “AGR” zone if the application was approved. Active, abandoned and illegally converted agricultural land should be preserved to safeguard the food supply for Hong Kong; and

- (g) PlanD’s views – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 7 of the review paper and summarised below:
 - (i) although the applicants considered that the surrounding environment and the small size of the site were not suitable for agricultural rehabilitation, the site was currently overgrown with vegetation and there were agricultural activities in the vicinity;
 - (ii) DAFC maintained the view of not supporting the application from the agricultural point of view as there were active agricultural activities in the vicinity of the site and the site had high potential for agricultural rehabilitation;
 - (iii) ownership of land was not a material consideration of Small House application from the planning point of view;
 - (iv) the OZP boundary did not necessarily follow the Heung boundaries. Moreover, the name of the OZP did not have any bearing on the Small House applications;
 - (v) six similar applications were approved in the vicinity of the application site according to the Interim Criteria based on the consideration that there were shortage of land in the concerned “V” zones, the footprint of the proposed Small Houses fell entirely or mostly within the “V” zone, or there were special circumstances; and

- (vi) the application did not comply with the Interim Criteria in that the site was entirely outside the “V” zone of Tai Wo and Cheung Po and there was no general shortage of land in meeting the demand for Small House development in the “V” zone.

[The Chairman left the meeting temporarily and the Vice-chairman took over the chairmanship temporarily at this point.]

150. The Vice-chairman then invited the applicants’ representatives to elaborate on the review application. Mr. Kwok Chi Man made the following main points:

- (a) in response to the PlanD’s reasons of not supporting the application in that there was no strong planning justification for a departure from the planning intention to retain fallow arable land with good potential for rehabilitation for cultivation, the applicants had submitted further justifications to demonstrate that the applicant site was not suitable for cultivation. Since the landowners had no intention to rehabilitate the land for cultivation, and given the small size of the plot, the site was surrounded by residential developments and the lack of transport infrastructures, the scope of rehabilitating the land for cultivation would be remote;
- (b) there were large areas of abandoned agricultural land in Kam Tin and Pat Heung at the foothill of Tai Mo Shan and adjacent to the country park which had good potential for rehabilitation for cultivation. However, these areas had been left fallow for years since the landowners were unwilling to engage in agricultural operation. While plenty of land was available for agricultural use, rehabilitation of these lands for cultivation had never been realised. Classifying the application site as farmland with good potential for rehabilitation was therefore meaningless and inappropriate;
- (c) it was unfair that the Government only permitted developers’ proposals

for large-scale residential developments on agricultural land, such as the one in the Sha Po Tsuen. It was apparent that the classification of land as farmland with good potential for rehabilitation was only an excuse to reject Small House applications by indigenous villagers;

- (d) the “AGR” zoning of the application site, which was designated about 20 years ago, was outdated. Whilst a wholesale conversion of agricultural land to residential development was proposed in the North-East New Territories New Development Areas, the applicants considered that strong planning justifications had already been provided in the submission to support the development of Small Houses in the “AGR” zone; and

[The Chairman returned and resumed chairmanship at this point.]

- (e) the Interim Criteria was impractical and unrealistic. There was still land zoned “V” in Tai Wo and Cheung Po available for Small House development because the managers of tso/tongs and landowners of such land were unwilling to sell their land at a reasonable price. There was an upsurge in land prices in the area resulted from the implementation of the XRL Project nearby. This also explained why the applicants were unable to acquire land within the “V” zone for Small House developments.

151. As the presentation from the representatives of the PlanD and the applicants had been completed, the Chairman invited questions from Members.

152. A Member noted that there were many existing Small Houses in the vicinity of the application site and asked whether these Small Houses had obtained planning approval from the Board. In response, Mr. W.W. Chan, DPO/TMYL, said that most of these houses were covered by planning permissions granted in the 1990s. After the Interim Criteria took effect in 2000, the consideration of planning applications for Small Houses by the Board largely followed the Interim Criteria in a consistent manner.

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

Deliberation Session

154. Members generally noted the proposed Small Houses were not in line with the planning intention of the "AGR" and did not comply with the 'Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories'. There was no change in planning circumstances after rejection of the planning application, and the applicant had not demonstrated any new grounds to support a departure from the previous decision of the RNTPC.

155. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the review paper and considered that they were appropriate. The reasons were:

- (a) the proposed development was not in line with the planning intention of the "AGR" zone on the OZP, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification given in the submission for a departure from the planning intention; and
- (b) the application did not comply with the 'Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories' in that there was land available within the "Village Type Development" ("V") zone of Tai Wo and Cheung Po to meet the demand forecast for Small House development. The applicants failed to demonstrate in the submission

why suitable sites within the areas zoned “V” could not be made available for the proposed development.

Agenda Item 6

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TT/280

Temporary Eating Place for a Period of 3 Years in “Village Type Development” zone,
Lots 1256(Part), 1258(Part), 1259RP(Part) and 1299RP(Part) in D.D. 117
and Adjoining Government Land, Tai Tong Shan Road, Tai Tong, Yuen Long
(TPB Paper No. 9184)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

156. The Chairman informed the meeting that the applicant indicated that she would not attend the hearing. The following representative of the Planning Department (PlanD) was invited to the meeting at this point:

Mr. W.W. Chan - District Planning Officer/Tuen Mun & Yuen Long
(DPO/TMYL), PlanD

157. The Chairman extended a welcome and then invited DPO/TMYL to brief Members on the review application.

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

158. With the aid of the visualizer, Mr. W.W. Chan, DPO/TMYL, presented the review application and covered the following main points as detailed in the review paper:

- (a) the applicant sought planning permission for a temporary eating place for a period of 3 years at the site zoned “Village Type Development” (“V”) on the approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/14

at the time of application and the approved Tai Tong OZP No. S/YL-TT/16 currently in force;

- (b) the Rural and New Town Planning Committee (RNTPC) rejected the application on 18.3.2011 for the reasons that the previous 3 planning permissions granted under Applications No. A/YL-TT/149, 192 and 249 were revoked due to non-compliance with approval conditions on fire safety aspect, the applicant failed to demonstrate to the Board that she would comply with approval conditions imposed by the Board, the potential fire risks from the eating place could not be adequately addressed, and the application did not meet the Town Planning Board Guidelines for 'Application for Eating Place within "V" Zone in Rural Areas under Section 16 of the Town Planning Ordinance' (TPB PG-No. 15A);
- (c) at the first review hearing on 24.6.2011, the applicant's representative informed the Board that the fire service installations (FSIs) had long been installed and water supplies for firefighting could be connected to the site in a few weeks' time. After giving consideration to the claims by the applicant's representative and noting that non-compliance with approval conditions on the fire safety aspect was the only reason for rejecting the review application as the applicant had already complied with all other approval conditions, the Board decided to defer consideration of the review application pending the provision of water supplies for firefighting system by the applicant;
- (d) on 23.2.2012, the applicant's representative submitted a letter reporting that water supplies for firefighting system had been provided and the FSIs had been implemented at the site and enclosed a fire certificate issued by the applicant's fire services contractor. In response to the Director of Fire Services' (D of FS's) comments on the information submitted, the applicant's fire services contractor on 25.6.2012 submitted further information including a set of FSIs plans, a form issued by the Water Supplies Department, and a fire certificate issued by

the Fire Services Department (FSD) in 2004;

- (e) the application site, with an area of about 1,501m², was zoned “V” and currently occupied by temporary structures used as a restaurant. The restaurant had temporarily ceased operation pending the decision of this section 17 review;
- (f) departmental comments – the departmental comments were summarised in paragraph 3 of the review paper. D of FS advised that the applicant should provide detailed layout plan drawn to appropriate scale and depicted with dimensions and nature of occupancy, and that the location of the FSI to be installed should be clearly marked on the layout plan with FS notes. Other government departments generally had no adverse comment on the review application;
- (g) public comment – no public comment was received during the statutory publication period of both the planning application and the review application; and
- (h) PlanD’s views – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 4 of the review paper and summarised below:
 - (i) although further information were submitted by the applicant on 23.2.2012 and 25.6.2012, D of FS considered the submission unacceptable and raised concern that the applicant should provide detailed layout plan drawn to appropriate scale and depicted with dimensions and nature of occupancy. Besides, the location of the FSI to be installed should be clearly marked on the layout plan with FS notes; and
 - (ii) since the subject eating place was already an existing establishment and the applicant was still unable to demonstrate that the requirement on FSIs would be complied with, the potential fire

risks from the eating place could not be adequately addressed.

159. As the presentation from the representative of the PlanD had been completed, the Chairman invited questions from Members.

160. In response to the enquiry of the Chairman regarding the requirements of FSD, Mr. W.W. Chan said that FSD considered the applicant's submission unacceptable in that the information submitted were not up-to-date but based on the FSI proposal prepared in 2004. Mr. W.W. Chan said that the requirements of FSD had been conveyed to the applicant but no further information had been received.

161. In response to the enquiry of a Member, Mr. W.W. Chan said that the subject eating place had already ceased operation. Mr. Chan said that the eating place was the subject of an unauthorised development and the relevant landowners and occupiers were prosecuted by the Planning Authority in August 2012.

162. As Members had no further question, the Chairman thanked the representative of the PlanD for attending the meeting. Mr. W.W. Chan left the meeting at this point.

Deliberation Session

163. Members generally noted that applicant had failed to comply with the fire safety requirements since the consideration of the subject review application by the Board on 24.6.2011.

164. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 7.1 of the review paper and considered that they were appropriate. The reasons were:

- (a) the previous 3 planning permissions granted under Applications No. A/YL-TT/149, 192 and 249 were revoked due to non-compliance with approval conditions on fire safety aspect, and the applicant failed to demonstrate to the Board that she would comply with approval conditions imposed by the Board; and

- (b) due to the failure in complying with approval conditions on fire service installations, the potential fire risks from the eating place could not be adequately addressed. The application therefore did not meet the Town Planning Board Guidelines for ‘Application for Eating Place within “V” Zone in Rural Areas under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 15A).

Agenda Item 7

[Open Meeting]

Request for Deferral for Review of Application No. A/TM/419

Proposed Columbarium and Residential Institution (Quarters) in Redevelopment Proposal of Gig Lok Monastery in “Government, Institution or Community” zone, Lot 2011(Part) in D.D. 132 and Adjoining Government Land, Tuen On Lane, Tuen Fu Road, Fu Tei, Tuen Mun

(TPB Paper No. 9185)

[The meeting was conducted in Cantonese.]

165. Dr. C.P. Lau had declared interests in the item as he owned a residential property in proximity to the application site. Members noted that Dr. Lau had tendered apology for being unable to attend the afternoon session of the meeting.

166. The Secretary reported that this was the first request for deferral by the applicant for the review of application. On 31.8.2012, the applicant wrote to the Board and requested the Board to defer consideration of the application for a period of 2 months in order to allow sufficient time to address the comments from the Electrical and Mechanical Services Department, Transport Department, Hong Kong Police Force and Fire Services Department regarding risk assessment for the existing high pressure town gas transmission pipes nearby, traffic and emergency vehicular access issues. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

167. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant pending the submission of further information by the applicant. The Board also agreed that the review application should be submitted for its consideration within 3 months upon receipt of the further submission from the applicant. The applicant should be advised that the Board had allowed a period of 2 months for preparation of submission of further information and no further deferment would be granted unless under very special circumstances.

Hong Kong District

Agenda Item 8

[Open Meeting]

Request for Deferral for Review of Application No. A/H11/99

Proposed Minor Relaxation of Plot Ratio Restriction from 5 to 5.1 and Building Height Restriction from 230mPD to 240.15mPD for a Residential Development in “Residential (Group B)” zone, 23, 25, 27D, E and F Robinson Road, Mid-levels
(TPB Paper No. 9186)

[The meeting was conducted in Cantonese.]

168. The application was submitted by a subsidiary of Henderson Land Development Co. Ltd. (Henderson). The following Members had declared interests in this item:

Mr. Dominic K.K. Lam]	had business dealings with
Ms. Janice W.M. Lai]	Henderson and its consultant, ADI Ltd.
Mr. Patrick H.T. Lau]	had business dealings with
Mr. Ivan C.S. Fu]	Henderson
Mr. Clarence C.W. Leung	-	director of a non-governmental organisation which had previously

received a private donation from a family member of the Chairman of Henderson

Mr. Lincoln L.H. Huang - lived next to the application site

169. As the item was a request for deferral, the Board agreed that the above Members could stay in the meeting. Members noted that Mr. Lau and Mr. Fu had tendered apology for being unable to attend the afternoon session of the meeting, and that Ms. Lai, Mr. Leung and Mr. Huang had left the meeting already.

170. The Secretary reported that this was the second request for deferral by the applicant for the review of application. On 25.5.2012, the Board agreed to defer consideration of the application as requested by the applicant pending the submission of further information. On 23.8.2012, the applicant's representative wrote to the Secretary of the Board and requested the Board to defer making a decision on the review application to October 2012 in order to allow sufficient time for the applicant to liaise with the Transport Department on the location of the ingress/egress point for the proposed development. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

171. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant pending the submission of further information by the applicant. The Board also agreed that the review application should be submitted for its consideration within 3 months upon receipt of the further submission from the applicant. The applicant should be advised that the Board had allowed a period of 2 months for preparation of submission of further information. Since this was the second deferment, the applicant should be advised that the Board had allowed a total of 4 months of deferment including the previous one, and no further deferment would be granted unless under very special circumstances.

Sha Tin, Tai Po and North District

Agenda Item 9

[Open Meeting]

Request for Deferral for Review of Application No. A/TP/461

Columbarium in “Government, Institution or Community” zone, Poh Yea Ching Shea,

Lot 1006 R.P. in D.D. 5, 2 Mui Shu Hang Village, Tai Po

(TPB Paper No. 9187)

[The meeting was conducted in Cantonese.]

172. Ms. Julia M.K. Lau had declared interests in the item as she had business dealings with Environ Hong Kong Ltd. which was a consultant of the applicant. Members noted that Ms. Lau did not attend the afternoon session of the meeting.

173. The Secretary reported that this was the first request for deferral by the applicant for the review of application. On 6.7.2012, the applicant wrote to the Board and requested the Board to defer consideration of the application for a period of 2 months in order to finalise the updated Traffic Impact Assessment Report and to liaise with the Highways Department and other government departments on the management responsibility of an emergency vehicular access leading to the application site. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

174. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant pending the submission of further information by the applicant. The Board also agreed that the review application should be submitted for its consideration within 3 months upon receipt of the further submission from the applicant. The applicant should be advised that the Board had allowed a period of 2 months for preparation of submission of further information and no further deferment would be granted unless under very special circumstances.

Agenda Item 10

[Open Meeting]

Request for Deferral for Review of Application No. A/NE-TK/382

Proposed Rural Committee/Village Office in “Green Belt” zone,

Government Land in D.D. 15, Shan Liu Village, Tai Po

(TPB Paper No. 9188)

[The meeting was conducted in Cantonese.]

175. The Secretary reported that this was the second request for deferral by the applicant for the review of application. On 22.6.2012, the Board agreed to defer a decision on the review application in order to allow time for the applicant to prepare submission of further information. On 5.9.2012, the applicant wrote to the Board and requested the Board to defer consideration of the application for a period of 2 months in order to allow more time for the preparation of sewerage connection system and landscape proposal. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

176. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant pending the submission of further information by the applicant. The Board also agreed that the review application should be submitted for its consideration within 3 months upon receipt of the further submission from the applicant. The applicant should be advised that the Board had allowed a period of 2 months for preparation of submission of further information. Since this was the second deferment, the applicant should be advised that the Board had allowed a total of 4 months of deferment including the previous one, and no further deferment would be granted unless under very special circumstances.

Agenda Item 11

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

Procedure and Practice

177. The Secretary reported that according to the current ‘Procedure and Practice’ of the Board, the gist of the decision of the Board or the Committee had to be uploaded onto the Board’s website immediately after every meeting on the same day. Given that there had been occasionally lengthy meeting the latest of which did not finish until about 2 a.m. on the next day, it was considered too resource demanding to have the gist uploaded to the website after midnight. As such, the Secretary suggested that the gist of the decision be uploaded onto the Board’s website the next day before 9 a.m. if the meeting could not be finished before 9 p.m. on that day. Mr. Jimmy Leung advised that the reason for taking 9 p.m. as the cut-off time was to tie in with the normal deadline for inclusion of news for printed media. After further deliberation, Members agreed to the suggestion of the Secretary and the relevant ‘Procedure and Practice’ should be amended accordingly.

North East New Territories New Development Areas Planning and Engineering Study

178. A Member asked what was the role of the Board in the North East New Territories New Development Areas Planning and Engineering Study (NENT NDA Study) which had been an issue of widespread public attention recently. The Secretary said that the Board had previously been consulted on the land use options and proposals of the NENT NDA Study. The Board had also agreed previously that the relevant outline zoning plans (OZPs) and development permission area (DPA) plan be referenced back to the Board for amendment/replacement to take on board the recommended land use proposals for the three NDAs. Upon completion of the public engagement exercise under the NENT NDA Study and the finalisation of land use proposals, new OZPs for the NDAs as well as proposed amendments to the relevant OZPs/DPA Plan would be submitted to the Board for consideration.

179. The Chairman remarked that the NENT NDAs were recommended by the Hong Kong 2030 Study to address the long-term housing demand and provide employment opportunities. The current public consultation was the Stage 3 Public Engagement of the NENT NDA Study. According to the recommended option of the NENT NDA Study, the NENT NDAs would provide some 50,000 new housing units, including public housing, to address the imminent need for housing of the people of Hong Kong.

180. There being no other business, the meeting closed at 5:50 p.m.