

**Minutes of 1020th Meeting of the
Town Planning Board held on 28.9.2012**

Present

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

Chairman

Mr. Stanley Y.F. Wong

Vice-Chairman

Professor S.C. Wong

Mr. Timothy K.W. Ma

Mr. Rock C.N. Chen

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr. C.P. Lau

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Dr. W.K. Lo

Mr. Roger K.H. Luk

Ms. Anita W.T. Ma

Dr. W.K. Yau

Professor K.C. Chau

Mr. H.W. Cheung

Dr. Wilton W.T. Fok

Mr. Ivan C.S. Fu

Mr. Sunny L.K. Ho

Mr. Lincoln L.H. Huang

Miss Janice W.M. Lai

Mr. Dominic K.K. Lam

Mr. Patrick H.T. Lau

Ms. Christina M. Lee

Mr. H.F. Leung

Director of Lands

Ms. Bernadette H.H. Linn

Deputy Director of Environmental Protection

Mr. Benny Y.K. Wong

Assistant Director (2), Home Affairs Department

Mr. Eric K.S. Hui

Director of Planning

Mr. Jimmy C.F. Leung

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Professor Edwin H.W. Chan

Mr. Maurice W.M. Lee

Ms. Julia M.K. Lau

Miss Bonnie J.Y. Chan

Mr. Stephen H.B. Yau

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Miss Winnie M.W. Wong

In Attendance

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

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

Senior Town Planner/Town Planning Board
Mr. J.J. Austin (a.m.)
Ms. Johanna W.Y. Cheng (p.m.)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1019th Meeting held on 14.9.2012

[The meeting was conducted in Cantonese.]

1. The minutes of the 1019th meeting held on 14.9.2012 were confirmed without amendments.

Agenda Item 2

Matters Arising

[The meeting was conducted in Cantonese.]

(i) **New Town Planning Appeals Received**

[Open Meeting]

Town Planning Appeal No. 8 of 2012 (8/12) to 12 of 2012 (12/12)

Proposed Houses (New Territories Exempted Houses – Small Houses) in area designated as “Unspecified Use”, Government Land in D.D. 255, Pak Tam Au, Sai Kung North, New Territories

(Application Nos. A/DPA/NE-TKP/7, A/DPA/NE-TKP/8, A/DPA/NE-TKP/9,

A/DPA/NE-TKP/10 and A/DPA/NE-TKP/13)

2. The Secretary reported that five appeals were received by the Appeal Board Panel (Town Planning) on 10.9.2012 against the decision of the Town Planning Board (the Board) to reject on review five applications for ‘New Territories Exempted House – Small House’ in areas designated as “Unspecified Use” on the approved To Kwa Peng and Pak Tam Au Development Permission Area Plan No. DPA/NE-TKP/2. The five applications were rejected by the Board on 22.6.2012 for the following reasons:

- (a) the proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories as the site was located within the Upper Indirect Water Gathering Grounds where public sewer was not available and the applicant failed

to demonstrate that the proposal would not cause adverse water quality impact on the area; and

- (b) the approval of the application would set an undesirable precedent for other similar applications in the area, the cumulative impact of which would result in an adverse impact of the water quality in the area.

3. The Secretary reported that the hearing dates for the appeals were yet to be fixed. Members agreed that the Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

(ii) Town Planning Appeal Decision Received

[Open Meeting]

Town Planning Appeal No. 9 of 2011 (9/11)

Renewal of Planning Approval for Temporary “Private Garden Ancillary to New Territories Exempted House” for a period of three years in “Green Belt” zone, Government Land adjoining Lot 595s.A in D.D. 14, Tung Tsz, Tai Po

(Application No. A/NE-TK/337)

4. The Secretary reported that the subject appeal was against the Town Planning Board (the Board)’s decision to reject on review an application (No. A/NE-TK/337) for a private garden ancillary to a New Territories Exempted House (NTEH) in the “Green Belt” (“GB”) zone on the Ting Kok Outline Zoning Plan (OZP). The appeal was heard by the Appeal Board Panel (Town Planning) (TPAB) on 18.4.2012. On 21.9.2012, the TPAB dismissed the appeal based on the following main considerations:

- (a) being zoned as “GB”, the appeal Site should be preserved in its natural environment. Turning the appeal Site for private usage of the appellant and her family as their own private garden would be contrary to the planning intention of the “GB” zone;
- (b) covering the appeal Site with concrete floor was objectionable;
- (c) with an area of 184m² and falling within Government land, the garden was more

than two times the site coverage of the NTEH. No valid reason had been given to justify the continued invasion into the “GB” zone;

- (d) allowing the appeal might set a bad precedent for other similar applications;
- (e) the appellant had no right or entitlement under the previous temporary planning permission for the granting of automatic renewal;
- (f) there were objections against the application from the neighbours; and
- (g) on the appellant’s request for a planning permission on a permanent basis, the TPAB noted that according to the relevant guidelines, any renewal could not exceed the original validity period for the temporary approval, and therefore the request could not be entertained. As the appellant had already enjoyed the private garden at the expense of the general public, it was time for the appellant to surrender the appeal site.

5. A copy of the Summary of Appeal and the TPAB’s decision had been sent to Members for reference.

Appeal Statistics

6. The Secretary reported that as at 28.9.2012, 26 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows:

Allowed	:	28
Dismissed	:	124
Abandoned/Withdrawn/Invalid	:	161
Yet to be Heard	:	26
Decision Outstanding	:	1
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Total	:	340

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

(iii) [Closed Meeting]

7. This item was recorded under confidential cover.

(iv) Decision on Representations of Wong Nai Chung Outline Zoning Plan No. S/H7/15
[Open Meeting]

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

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|------------------------|---|--|
| Professor S.C. Wong |) | had business dealings with Ove Arup & |
| Mr. Dominic K.K. Lam |) | Partners (OAP) which was a consultant |
| Mr. Ivan C.S. Fu |) | of Hong Kong Sanatorium and Hospital |
| | | (HKSH). HKSH was one of the |
| | | representers (R708). |
| Mr. Patrick H.T. Lau | - | being the Chairman of the Happy Valley |
| | | Residents' Association which was one of |
| | | the representers (R999) and had business |
| | | dealings with OAP and MVA Hong Kong |
| | | Ltd. both of which were the consultants of |
| | | HKSH (R708). |
| Miss Bonnie J.Y. Chan | - | her family member owned a flat in Happy |
| | | Valley. |
| Dr. Wilton W.T. Fok | - | his family member owned a flat at Blue |
| | | Pool Road in Happy Valley. |
| Mr. Maurice W.M. Lee | - | owned a flat at Link Road and a flat at |
| | | Wun Sha Street. |
| Ms. Bernadette Linn | - | owned a flat at Broadwood Road and her |
| (Director of Lands) | | spouse was a private practice doctor who |
| | | would occasionally use the facilities in |
| | | HKSH. |
| Miss Ophelia Y.S. Wong | - | owned a flat at Broadwood Road. |
| (the Secretary) | | |

9. Members noted that Professor S.C. Wong, Mr. Dominic K.K. Lam and Mr. Ivan

S.C. Fu had no involvement in the HKSH project, and the properties owned by Mr. Maurice W.M. Lee, Ms. Bernadette Linn, the family members of Miss Bonnie J.Y. Chan and Dr. Wilton W.T. Fok (that had very distant view of HKSH) would not be affected by the HKSH project. Members also noted that Ms. Linn's spouse was not an employee of HKSH nor was he involved in the HKSH project and considered that the interest declared was indirect. Members agreed that these Members should be allowed to stay in the meeting. Members noted that Mr. Dominic K.K. Lam and Mr. Ivan S.C. Fu had not yet arrived to join the meeting while Mr. Maurice W.M. Lee and Miss Bonnie J.Y. Chan had tendered apologies for being unable to attend the meeting.

10. Members considered that Mr. Patrick H.T. Lau's interest as a representative of representation R999 was direct. He should be invited to withdraw from the meeting for this item.

[Mr. Patrick H.T. Lau left the meeting temporarily at this point.]

11. As in the previous Board meetings to discuss the representations of HKSH, Members agreed that as the role of the Secretary was to provide information and advice on procedural matters and would not take part in the decision-making, she should be allowed to stay in the meeting.

12. The Secretary reported that an email was received from Mr. William Cheung (R1000) on 13.9.2012 stating that Transport Department's (TD) reply as shown in the post-meeting note of the minutes of the Board's meeting held on 17.8.2012 was incorrect. Mr. Cheung pointed out that after passing through the traffic light, there was no traffic sign or road marking for Shan Kwong Road north-bound traffic to give way to Wong Nai Chung Road west-bound traffic. According to the TD website, the traffic sign erected at Shan Kwong Road north-bound meant that vehicles on Shan Kwong Road and Wong Nai Chung Road had equal priority. Mr. Cheung requested TD to give a reply on the matter and the Board to review the situation at its meeting.

13. The Secretary continued to report that TD's comments on the matter had been sought. TD clarified that when driving on public road, motorists should observe both the traffic signs and road markings, and should follow the relevant traffic rules. The road

marking on the carriageway indicated that Shan Kwong Road would be truncated near the bus stop. Motorists along Shan Kwong Road wishing to proceed forward had to cross a traffic lane, as directed by the arrows marked on the road, to Wong Nai Chung Road. The rules of the road dictated that cars entering from the minor road or access should give way to those already on the major road, and cars making a right turn had to give way to oncoming traffic. In this regard, taking into account both traffic sign and road markings, motorists coming out from Shan Kwong Road had to give way to the Wong Nai Chung Road traffic.

14. Members noted TD's clarification and considered that the traffic light phasing/traffic sign issue was not a major concern for the consideration of the representations at the meeting held on 17.8.2012 nor was it a significant factor to render the assessment of traffic impact of HKHS's proposal unacceptable. After further deliberation, the Board decided that there was no need to review its previous decision and hence Mr. Cheung's request would not be acceded to. The Secretariat would make a reply to Mr. Cheung (R1000) accordingly.

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

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the Draft Po Toi Islands Development Permission Area Plan No. DPA/I-PTI/1

(TPB paper No. 9191)

[The hearing was conducted in Cantonese.]

Deliberation Session

15. The Chairman informed Members that before inviting the government representatives, representers and commenters to the meeting, the Board would need to deliberate how to handle a request for deferral submitted by one of the representers, R89 (Splendid Resources Inc.). He referred Members to the following documents that had been tabled at the meeting:

- (a) six letters submitted by R89 dated 18.9.2012, 21.9.2012, 23.9.2012, 24.9.2012, 25.9.2012 and 26.9.2012 respectively;
- (b) the Secretary, Town Planning Board's letter dated 24.9.2012 in response to the first two letters submitted by R89 dated 18.9.2012 and 21.9.2012; and
- (c) letters dated 21.9.2012 enclosing 93 standard letters signed by members of the public and 27.9.2012 enclosing 96 standard letters signed by persons who claimed to be representers/commenters (a sample copy of the two standard letters were attached).

16. The Secretary summarized the main issues raised by representer R89 in the letters as follows:

Letter dated 18.9.2012

- (a) a considerable number of the comments on the draft DPA Plan were sent in by fax, note, e-mail and letter format, but not submitted in Form S6A as indicated in the Town Planning Board Guidelines on 'Submission and Publication of Representations, Comments on Representations, and Further Representations under the Town Planning Ordinance' (TPB PG-No.29A). They should be treated as not having been made, in accordance with section 6A(3)(b) of the Town Planning Ordinance (the Ordinance);
- (b) some 500 comments supporting the representation submitted by The Hong Kong Bird Watching Society Hong Kong (HKBWS) (R4) were made by commenters who were called to submit their comments on HKBWS's website. R89 alleged that this was a "Cartel Action" calculated to out-number the representations supporting development on Po Toi Islands; and

Letter dated 21.9.2012

- (c) the Town Planning Board Guideline TPB-PG No. 29A clearly stated that

it was a requirement of the Board to have full details and identity of the person making the representation and/or comment. Otherwise, unscrupulous representers and commenters could send in representations and comments in multiple nicknames and aliases to outnumber the statistics and confuse the Board's consideration on the plan;

- (d) the Board indicated that there were 725 comments made by the public. They included the notes, papers, e-mails, letters submitted in unqualified forms, together with a small number of comments that were prepared properly in line with the guidelines of the Board;

Letter dated 23.9.2012

- (e) the representer R89 had confirmation in writing from at least one representer/commenter (Mr. L (*nickname*)) that the document found in the office of Planning Department was not sent or signed by him, so that the representation/comment under concern was a forged document;

Letters dated 24.9.2012 and 25.9.2012

- (f) R89 requested for a meeting with the Secretary of the Board to explain R89's case. R89 wished to exhaust all the appeal avenues to clarify the matter before, without any further choice, seeking judicial resolution;

Letter dated 26.9.2012

- (g) R89 scrutinized and analyzed all the 175 representations and 725 comments and concluded that 100% of the submissions supporting the Po Toi DPA Plan was questionable under the procedures prescribed by the Ordinance. The summary table attached to the letter indicated that the submissions categorically were not in compliance with TPB-PG No. 29A in that they either did not comply with Form S6 requirement, did not contain full personal details, did not bear a signature, or were sent in by e-mail.

17. The Secretary said that R89 in his letter dated 18.9.2012 requested the Board to defer the hearing for two months to allow R89 and others to procure more technical

information for the hearing and for the Board to have enough time to investigate and deal with the complaint properly. She also said that as per R89's request, two officers of the Secretariat of the Board met R89 and his representatives on 27.9.2012 to explain the procedures, practices and arrangements of the Board in the representation hearing.

18. The Secretary continued and said that legal advice had been sought on the issues raised by R89. The Department of Justice (DoJ) considered that even if TPB PG-No.29A mentioned that commenters should forward both a submission and Form S6A, section 6A(3)(b) of the Ordinance only stated that "any comment not complying with any requirements made under section 6A(2) may be treated as not having been made". The word "may" indicated that the Board had a discretion in deciding whether or not to treat the comments as not having been made. According to section 6(1) of the Ordinance, any person might make representation to the Board during the draft plan's exhibition period. According to section 6A(1), any person might make comment to the Board in respect of the representations available for public inspection within a stipulated timeframe. DoJ thus considered that as long as the representations and comments were properly submitted and valid according to the requirements under the Ordinance, the Board needed to consider them under section 6B(1). On the "cartel action", DoJ did not see any issue as it had not contravened any laws. As for the substance of the representation/comment, and whether it gave "false impression" or had "adverse/prejudicial effect", they were matters for the Board to consider. It was also for the Board to consider what weight to accord to those representations/comments. Regarding the allegation of impersonation, DoJ advised that there was no provision in the Ordinance mandating the Board to verify the identity of a representer/commenter. The Board might obtain evidence to understand the allegation and, after considering the evidence, the Board could decide whether or not to disregard the particular representation/ comment alleged to be forged.

19. The Secretary also reported that the letters dated 21.9.2012 and 27.9.2012 respectively enclosing 93 and 96 standard letters could not be considered as valid representations/comments on the draft DPA Plan as they were filed outside the statutory period. R89 had been advised on this at the meeting on 27.9.2012 with officers of the Secretariat.

20. The Chairman said that as specified in TPB-PG No. 29A, the purpose of

providing Forms S6/S6A was to facilitate the processing of submission of representations/comments. The Ordinance did not stipulate that the Forms were a mandatory requirement. Moreover, the Forms were not essential for the Board in considering a representation or comment – the Board’s focus was on the contents of the submission. Also relevant was that the provision of personal particulars was, as the Guidelines mentioned, to facilitate communication between the TPB Secretariat/Government departments with the representers/commenters and was not for consideration by the Board. This view was echoed by a Member who said that the statutory provisions of making representation/comment were to allow the public to express their views on the OZP and the established practice of the Board was to consider all representations/comments received provided they were valid according to the Ordinance, no matter whether they were submitted in Forms S6/S6A or not. The Board had all along received and considered representations and comments submitted in all formats including fax, e-mails and written submissions with or without the Forms. The same Member also agreed that the two letters enclosing the standard letters were filed outside the statutory time period under the Ordinance and should be considered as invalid.

21. Noting that the established practice of the Board was to consider all representations/comments received in different formats, the Vice-Chairman considered that there was no reason for the Board to accede to the deferral request. He considered it unnecessary to split the hearing session into two parts and to deal with the deferral request first. The Vice-Chairman suggested commencing the hearing and declining the deferral request at the outset, and then proceeding to the hearing of representations and comments. He was concerned that acceding to the deferral request without good justifications would set a bad precedent for the future operation of the Board. This view was shared by two Members who said that the Board was clear on the grounds of the deferral request as detailed in R89’s letters and considered that there was no justification for the deferral request. They stressed that the Board’s focus should be on the substance of the representations/comments received rather than the format of the submission or the personal particulars of the representer/commenter. A Member said that the Board could always decide to defer making a decision on the representations after listening to the views of those present at the hearing.

22. The Chairman considered that, for the sake of fairness and in line with the

practice of the Board, Members should let R89 present his case and make, if any, points other than those already given in his earlier letters to the Board. This view was echoed by another Member.

23. A Member suggested that R89 should be informed that the Board had already discussed the grounds of his deferral request on the basis of his letters. The Chairman agreed to do so but he would ask R89 if he had any additional points to make without repeating those points already made in his letters. He would also follow the Board's practice as specified in the Town Planning Guidelines on Deferment of Decision on Representations, Comments, Further representations and Applications made under the Town Planning Ordinance (TPB-PG No. 33) to invite other representers/commenters to express views on the deferral request. The Guidelines stated that deferral request would not be entertained unless with the consent of other concerned parties. In this regard, the Secretary informed Members that representer R89 had submitted another document, which largely reiterated his points stated in the letters, just before the meeting. The document had been tabled at the meeting for Members' reference.

24. After further deliberation, the Board agreed to follow the established practice to handle the deferral request first before proceeding with the hearing of the representations and comments.

Presentation and Question Session

25. The following representatives from the Planning Department, the representers and commenters were invited to the meeting at this point:

Planning Department (PlanD)

Mr. Ivan Chung	District Planning Officer/Sai Kung & Islands (DPO/SKIs)
Mr. Tim Fung	Senior Town Planner/Islands (1)
Mr. Gary Lui	Town Planner/Islands (6)

R1 (Designing Hong Kong Ltd)

Ms. Eva Tam	-	Representer's representative
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R2 (Kadoorie Farm & Botanic Garden Corporation)

Ms. Woo Ming Chuan - Representers' representative

R4 (The Hong Kong Bird Watching Society)

Mr. Cheng Nok Ming - Representers' representative

R7 (South Lamma Concern Group)

Mr. Wong Chun Pong - Representers' representative

R9 (Alliance for the Concern over Columbarium Policy)

Mr. Tse Sai Kit - Representers' representative

**R71, R94, R96-R106, R108-R112, R114-R121, R126, R128, R131-R133,
R135-R160, R162-R169, R172-R175**

C9-C25, C27-C45, C47-C77, C79, C81-C93 and C95-C105

Mr. Lau Tak - Representers' and Commenters'
representative

R88 (Lion Club of Hong Kong New Territories East)

Mr. Poon Tak Ming - Representers' representative

R89 (Splendid Resources Inc.)

Mr. Mak Chi Yeung) Representers' representatives

Mr. So Lek Hang, Lake)

R91

Ms. So Siu Ngan - Representers

Ms. Jazreel Cheng) Representers representatives

Ms. Chan Ling)

R124

Mr. Li Kwok Sun - Representers

C219

Mr. Alfred Yeung - Commenter

C240

Ms. Wong Hok Sze - Commenter

C359

Mr. Pong Hay Chi - Commenter

C361

Ms. Kong Choi Ping - Commenter

C368

Ms. Kong Kwai Wah - Commenter's representative

C371 (Association for Geoconservation, Hong Kong)

Ms. Choi Mo Ching - Commenter's representative

C434

Mr. Wong Chi Yan - Commenter

C708

Mr. Leung Chun Man)

Mr. Cheung Wai Ming)

Mr. Lai Chak Sum)

Ms. Kwok Yee Chu) Commenter's representatives

Ms. Kwok Kam Lei)

Mr. Law Shing)

Mr. Deric Leung)

26. The Chairman extended a welcome. He informed attendees that the Board had received six letters from representation R89 requesting the Board to defer the hearing and complained about the substance and validity of some of the representations and comments received by the Board. In this regard, the Board would need to deal with the deferral

request before proceeding with the hearing of the representations and comments. The Chairman further advised the representers, commenters and their representatives that the Board had already considered the reasons presented by R89 in his submissions requesting a deferral of the hearing. The Chairman then asked the representative of R89, Mr. Mak Chi Yeung, whether he had any new points to make with regard to the deferral request in addition to those already made in his submissions which the Board had considered.

27. In response, Mr Mak said that he was merely able to examine all the representations and comments on 18.9.2012 and there was not sufficient time. On the other hand, according to his understanding of the law, though section 6(2) of the Ordinance did not require the Board to verify the identity of the person who submitted representations and comments, section 3(2) of the Ordinance stipulated that in the course of preparation of the statutory plans, the Board “shall make inquiries and arrangements as it may consider necessary”. The statutory plan making procedure of receiving representation and comment was a sacred process and would affect the interest of individual landowners. It was therefore important to verify the identity of representers and commenters. Apart from the above, according to section 6D of the Ordinance, a representer or commenter who had made representation or comment to the Board could not submit a further representation should the Board decide to propose amendments to the DPA plan after the representation hearing. In this regard, the verification of the identity of the original representers and commenters would be relevant and important as the Board would have to distinguish the further representers from the original representers and commenters. However, it was noted that some of the representations/comments did not provide any personal particulars of the representer/commenter such as their identity card number, telephone number or address. Moreover, one of the representer/commenter that he had contacted subsequently made a declaration that he/she had not submitted the representation/comment, so that the concerned representation/comment was a forgery. Mr. Mak further said that the TPB Paper for the hearing was only received on 24.9.2012 and therefore he did not have enough time to study the paper. It would also be fair to defer the hearing so as to allow time for him to procure more technical information for the hearing.

28. The Chairman then asked other representers and commenters for their views on the request for deferral. Mr. Cheng Nok Ming (R4) objected to the deferral request. He said that as the purpose of publishing the DPA Plan was to introduce interim planning

control to Po Toi Islands, the Board should complete the plan-making process without further delay. He noted that there was an established mechanism to check the identity of the further representer, and hence the reason for the request for deferral by R89 was not substantiated. Mr. Tse Sai Kit (R9) also objected to the deferral request as the Board had followed its established practices and procedures in dealing with the representations and comments on the subject DPA Plan. The Board had all along been very effective in handling representations and comments. Mr. Tse said that it was not appropriate for the Board to consider the issue of verifying the identity of the representer and commenter at the hearing. It was more important to ensure that representers and commenters could express their views freely and indeed all representations and comments were published for public viewing. He urged for the approval of the draft DPA Plan as soon as possible.

29. Mr. Lau Tak (R71 *et al*) supported the request for deferral and said that the Board should disqualify those representers who did not meet the requirements and confirm the valid representations. As the Board's decision would be subject to judicial review, he asked the Board to defer the hearing and said that planning control over development on Po Toi Islands would not be affected by such deferral. Mr. Poon Tak Ming (R88) also supported the deferral request as the identity of the representers was important and the Board should confirm the validity of the representers.

30. The Chairman then requested a show of hands and said that he wanted to check the stance on the deferral request of those not speaking as not everyone asked to speak. The Board noted that 4 representers/commenters supported the request for deferral and 10 representers/commenters objected to the deferral request.

31. Mr. Mak Chi Yeung (R89) said that if the Board decided not to accede to the deferral request and to proceed with the hearing, he would submit a judicial review against the decision of the Board which could then hold up the statutory procedures for the approval of the DPA Plan for at least a few years.

32. The Chairman thanked the representers and commenters on their views and invited them to leave the conference room temporarily to enable Members to consider the request for deferral.

33. The representers and commenters and their representatives left the conference room at this point.

Deliberation Session

34. A Member enquired about the late receipt of the TPB paper as claimed by representer R89. In response, the Secretary said that the TPB Paper for the hearing was sent by courier to the address provided by the representer on 21.9.2012 and again on 22.9.2012 but there was nobody to receive the delivery. The Secretariat contacted the representer on 24.9.2012 who came to collect the TPB Paper on the same day. A few Members considered that it was important to try our best to deliver the TPB Paper but, equally important, the Board should prevent abuses as the representers/commenters could choose not to answer the door and claim late delivery. In response to the same Member's enquiry about R89's claim that one of the representation/comment was a forged document, the Secretary said that it was not possible for the Secretariat to verify the identity of each representer/commenter, especially when there were a large number of them. Moreover, some were related to signature campaigns and the signatures collected could not all be verified as usually no personal particulars were given. There were previous instances that if anyone indicated that he/she had not submitted the representation/comment, the concerned representation/comment would be considered as not having been made. The Chairman said that it was common that the representer/commenter identified himself as 'a group of citizens', in which case identity verification would not be possible. The provision of personal particulars was to facilitate communication between the TPB Secretariat and the representer/commenter. The Board's focus was not on these personal particulars but the substance of the representation/comment.

35. A Member noted that the identity of the representer/commenter would need to be checked at the further representation stage as the original representer was not allowed to submit a further representation to the Board under the Ordinance. In response, the Secretary said that the Secretariat would cross-check the name and/or contact address of the further representer with the original representers and commenters to ensure that a further representer did not include the original representer or commenter. She further explained that under the Ordinance, although the original representers and commenters were not allowed to submit a further representation, they were entitled to attend the hearing of the

further representation together with the further representers. Members agreed that provided that the Board and its Secretariat acted reasonably, the requirement of procedural propriety would have been met.

36. In response to a Member's enquiry about the show of hands, the Secretary said that according to the TPB Guidelines on 'Submission and Publication of Representations, Comments on Representations, and Further Representations under the Town Planning Ordinance' (TPB PG-No.29A), a request for deferment would not be entertained unless with the consent of other representers/commenters and there were very strong reasons to do so. The Chairman explained that he was only inviting all including those who did not ask to speak to show their positions on the deferment request.

37. A few Members agreed that the Board was not required to verify the identity of a representer/commenter.

38. After further deliberation, the Chairman concluded that Members generally considered that as any person could submit a representation/comment to the Board and the Board's concern was on the substance of the views expressed by the representer/commenter; that the provision of personal particulars was to facilitate communication but not for the Board's consideration; that it would in any case not be possible for the Board to verify the personal particulars; that there was nothing in the Ordinance requiring verification; and the request for deferral submitted by representer R89 had no solid basis and should be declined. Members agreed that the Board should continue with the hearing of the representations and comments.

39. The representers and commenters were invited to return to the conference room at this point.

Presentation and Question Session

40. The Chairman welcomed the attendees back to the meeting and informed them that the Board had considered the views expressed by the attendees and decided not to accept the request for deferral as the request was not justified. The Board would proceed with the hearing of the representations and comments.

41. The Chairman said that sufficient notice had been given to invite the representers and commenters to attend the hearing, but other than those who were present at the meeting, the rest had either indicated not to attend the hearing or made no reply. As reasonable notice had been given to the representers and commenters, Members agreed to proceed with the hearing in their absence. The Chairman then invited the representatives of PlanD to brief Members on the representations and comments.

42. At this juncture, a few attendees including Mr. Mak Chi Yeung (R89) and Mr. Poon Tak Ming (R88) left the meeting without waiting for their turn to make the presentation.

43. With the aid of a Powerpoint presentation, Mr. Tim Fung made the following main points as detailed in the Paper:

Background

- (a) on 20.2.2012, under the power delegated by the Chief Executive, the Secretary for Development directed the Board, under section 3(1)(b) of the Ordinance, to prepare a draft plan designating the Po Toi Islands as a Development Permission Area (DPA). The preparation of the DPA Plan was to provide a stopgap measure to effect planning control over the Area and to enable enforcement actions to be taken against any unauthorised developments and undesirable change of use to safeguard the Area's natural and rural character;
- (b) owing to the urgency of preparing the DPA Plan, except the area zoned "Village Type Development" ("V"), the other area had been designated as "Unspecified Use" pending detailed analysis and studies to establish the appropriate land uses in the course of preparing an Outline Zoning Plan (OZP) for the Area;
- (c) on 2.3.2012, the draft Po Toi Islands DPA Plan No. DPA/I-PTI/1 was exhibited for public inspection under section 5 of the Ordinance;

- (d) during the two-month exhibition period, a total of 175 representations were received. Two representations (R130 and R134) were subsequently withdrawn. On 25.5.2012, the representations were published for public comments and, in the first three weeks of the publication period, 725 public comments were received;
- (e) on 17.8.2012, the Board decided to consider all the representations and comments collectively by the full Board;

The Representations

- (f) fifteen representations were submitted by green groups, concern groups and local residents' organisations, including Designing Hong Kong (R1), Kadoorie Farm & Botanic Garden Corporation (R2), The Conservancy Association (R3), Hong Kong Bird Watching Society (R4), Green Sense (R5), WWF Hong Kong (R6), South Lamma Concern Group (R7), Alliance for the Concern over Columbarium Policy (R9), Range Education Centre Environment Concern Group (R11), Friends of Hoi Ha (R53), Sustainable Green Limited (R54), Green Animals Association Ltd (R68), Lamma Island (South) Rural Committee (R84), Po Toi Festival Committee (R85) and Lion Club of Hong Kong New Territories East (R88). One representation (R8) was submitted by Ms. YUE Lai Fan, a Member of the Islands District Council (IsDC). One representation (R89) was submitted by the owner of private land in the south-western part of Po Toi (Splendid Resources Inc.). The remaining representations were submitted by individuals in various standard forms;
- (g) 82 representations (R1 to R7 and R9 to R83) supported the DPA Plan and the introduction of statutory planning control to the Area while one representation (R8) provided comments on the DPA Plan expressing concerns on the tourism development of Po Toi and the need to provide more utilities and infrastructure at Po Toi;

- (h) the remaining 90 representations (R84 to R129, R131 to R133 and R135 to R175) opposed the DPA Plan. Among them, eight representations (R84 to R86 and R88 to R92) opposed the entire DPA Plan, one representation (R87) opposed the “V” zone and the remaining 81 representations (R93 to R129, R131 to R133 and R135 to R175) opposed the designation of “Unspecified Use” area on the DPA Plan;

[Mr. Patrick H.T. Lau left the meeting temporarily at this point.]

Grounds of Representations

Supporting representations (R1 to R83)

- (i) the main grounds of the supporting representations were summarized as follows:
 - (i) the Area had high scientific, ecological, social, recreational and cultural value that were worthy of protection. Po Toi was a natural habitat of various valuable species. It was an important refuelling stop for migratory birds and more than 300 bird species were found. Po Toi was also the natural habitat of the endangered Romer’s Tree Frog; (R1, R3 to R6, R9, R11 to R74, R76 to R79 and R82)
 - (ii) the Area had a high geological value with famous rock formations; (R53, R55 and R59)
 - (iii) the waters around Po Toi and Waglan Island had high ecological value of conservation importance; (R4)
 - (iv) Po Toi was a special recreation space with special cultural activities for Hong Kong and international visitors; (R4 and R83)
 - (v) according to the South West New Territories Development Strategy Review (2001), the potential of designating Po Toi as a Country

Park (CP) had been initially confirmed; (R3, R4, R6, R14, R53 and R57)

- (vi) the recent unauthorised activities that destroyed the agricultural land in Po Toi with suspected unauthorised conversion to ‘Columbarium’ use had damaged the environment, landscape and ecology of Po Toi, especially the wildlife habitats there; (R2, R4, R7, R9 and R83)
- (vii) the columbarium development on Po Toi was a case of ‘Destroy First, Build Later’; (R75 and R80)
- (viii) there were worries that the claim of “existing use” (EU) under the DPA Plan would be abused; (R1)

Adverse representations (R84 to R129, R131 to R133 and R135 to R175)

- (j) the main grounds of the adverse representations were summarized as follows:
 - (i) the DPA Plan should balance and address the needs of local residents and community; (R94 to 104, R106 to R108, R111 to R116, R119 to R121, R126 to R129, R131 to R133, R135 to R143 and R158 to R174)
 - (ii) preference should be given to the general welfare and convenience of residents and the property rights of private landowners, e.g. availability of land for Small House (SH) development, rather than the potential adverse visual and environmental impacts; (R84, R88, R93 to 104, R106 to R108, R111 to R116, R119 to R121, R126 to R129, R131 to R133, R135 to R143 and R158 to R174)
 - (iii) the need for an application under section 16 of the Ordinance to be submitted for any change of use would impose financial burden on villagers; (R85, R86 and R89 to R91)

- (iv) the boundary of the “V” zone (with an area of 0.56 ha) was different from the electoral boundary (with an area of 0.88 ha) for election of village representative under the Village Representative Election Ordinance; (R87 and R89)
- (v) there was insufficient land available in the “V” zone of Lamma Island for village type development. As south Lamma Island and Po Toi were within the same ‘Heung’, expanding the “V” zone of Po Toi would help alleviate the development congestion in south Lamma Island; (R87)
- (vi) the “Unspecified Use” area restricting the permitted use of the island to ‘Agricultural’ use only would not benefit local residents (R155, R168, R169 and R171 to R175) and might contradict with the ‘existing use’ (EU) (R93);
- (vii) the “Unspecified Use” designation contravened Articles 40 and 105 of the Basic Law; (R89 to R91)
- (viii) the “Unspecified Use” designation would hinder potential investors to invest in Po Toi as the need for planning application for uses/developments in the Area would increase the cost of investment; (R85, R86 and R89 to R91)
- (ix) the ‘Memorial Garden’ use would not have adverse ecological, environmental, landscape and traffic impacts; (R104, R110 to R112, R126 to R129, R131 to R133, R135 to R139, R144 to R147, R152, R154, R156, R157 and R161 to R165)
- (x) the existing Columbarium/Memorial Garden should not be controlled or restricted as it could provide the necessary facilities for society (R88, R92 and R121 to R127); it would solve the supply and demand problem of columbarium facilities in the territory (R126 to R129,

R131 to R133, R135 to R147, R151, R158 to R160 and R171 to R175); it would not cause psychological impact on the public as Po Toi was an outlying island, which was remote from the urban area (R94 to R101, R105, R150, R161, R166 and R167); and the IsDC would less likely raise objection against the proposed development (R150, R166 and R167);

- (xi) it was impractical to confine the land use to ‘Agricultural’ use as there was limited water, electricity, infrastructure, etc. to support ‘Agricultural’ use in the Area; (R90, R91, R105 to R110, R117, R118, R144 to R158 and R175) and
- (xii) the landowner of the private land where the concrete slabs were found opposed the “Unspecified Use” area on the grounds that it restricted the development rights of the indigenous residents of Po Toi, breaching the spirit of Articles 40 and 105 of the Basic Law; it was impractical to confine the land use to ‘Agricultural’ use as Po Toi lacked the provision of water, electricity and infrastructure; and the existing use on the private land could drive the future development of Po Toi and provide related community services to society; (R89)

[Mr. Ivan C.S. Fu arrived to join the meeting at this point.]

Grounds not related to the DPA Plan

- (k) the existing infrastructure in Po Toi was inadequate to meet the basic needs of the community; (R92)

Representers’ Proposals

- (l) the following proposals were made by the supportive representations:
 - (i) to designate conservation zonings such as “Conservation Area” (“CA”), “Coastal Protection Area” (“CPA”) and “Site of Special

Scientific Interest” (“SSSI”) on Po Toi and ultimately to designate Po Toi as a Country Park (CP) to reflect its scientific, ecological and recreational values; (R4 to R7, R9 to R74, R76 to R79 and R82)

- (ii) to designate the entire Area as “SSSI” or CP; (R1 to R3)
 - (iii) to expedite the formulation of an OZP for Po Toi; (R7)
 - (iv) to extend the planning scheme area to the waters around Po Toi and Waglan Island or to designate the waters as Marine Park; (R74 and R79)
 - (v) to exclude the sandy beach at Tai Wan from the “V” zone as it was an important feeding and perching ground for egrets; (R2)
 - (vi) to conduct a survey within the “V” zone and to exclude ecologically sensitive areas and natural habitats to ensure that species of conservation interest could be protected; (R3)
 - (vii) to review the definition of ‘existing use’; (R1) and
 - (viii) to take prompt enforcement action to stop the ‘Destroy First, Build Later’ cases in order to protect the natural and rural character of the Area with scientific and conservation interests; (R1, R9, R75, R80, R81 and R83)
- (m) the following proposals were made by the adverse representations:
- (i) the “V” zone should be enlarged to accommodate the small house demand of villagers in Po Toi and south Lamma Island. It was also proposed to permit tourism and recreation related business on the ground floor of NTEH; (R84 to R87, R90 and R91)
 - (ii) the private lots near Kwan Kee Store at southwest Po Toi should be

rezoned to “Government, Institution or Community” (“G/IC”) use to permit the continued operation of the ‘Memorial Garden’, which should be regarded as an ‘existing use’ under the DPA Plan; (R85, R86, R88 to R93, R125 to R129, R131 to R133 and R135 to R175)

- (iii) it was feasible to develop Columbarium/Memorial Garden in Po Toi (R94 to R121). However, such development should be done in a systematic and scaled manner (R118 to R121). The conservation of the eco-island environment should be considered (R113 to R117) and the boundary of the proposed Memorial Garden should be surrounded by horticulture with public footpath (R102, R103, R109 and R113 to R117);

- (n) the following proposals were not directly related to the DPA Plan:
 - (i) the Board should resume the preparation of village layout plans for all village zones and area where Small House (SH) developments were permitted, with priority accorded to the Frontier Closed Area, the “enclaves” within or adjacent to CP, and all other areas with special landscape, geological or ecological value; (R1)

 - (ii) the Board should prepare DPA Plans for all areas which were yet to be covered to ensure the greatest possible planning and development control; (R1)

 - (iii) the Board should request Lands Department (LandsD) to suspend the processing of land grant applications under the NTEH policy to avoid adding more development pressure and increased demand for compensation; (R1) and

 - (iv) infrastructure and utilities including water and electricity supplies should be provided for visitors and residents on Po Toi; (R4 and R8)

- (o) among the 725 comments received, eight comments were submitted by green groups, concern groups, private landowner and local residents' organisations (i.e. Po Toi Island Festival Committee (C2), Lions Club of New Territories East (C5), Splendid Resources Inc. (C106), Gaia Association (C324), Association for Geoconservation, Hong Kong (C371), Incorporated Owners of Parkland Villas (C455), Tai O Environment and Development Concern Association (C475) and Hong Kong Firefly Research Association (C608)). The remaining 717 comments were submitted by individuals in various standard forms and were substantially similar;
- (p) 619 comments (C107 to C725) supported the DPA Plan. They mainly expressed concern on the suspected unauthorized development in the Area, the ecological and scientific value of the Area, and proposed to designate the Area as "SSSI" or CP;
- (q) the remaining 106 comments (C1 to C106) opposed the DPA Plan. They claimed that the activities involving the laying of concrete slabs and vegetation clearance in southwest Po Toi was a 'Columbarium' or 'Memorial Garden' use which was an 'existing use' and should be protected by law;

Government's Responses to the Representations and Representers' Proposals

- (r) the Government's responses to the representations and the representers' proposals were summarized as follows:

Scientific, Recreational and Conservation value of Po Toi Island and Designation of Conservation Zonings and Country Park/Marine Park
(R1 to R7, R9 to R74, R76 to R79, R82 and R83)

- (i) the requests for imposing conservation zonings, including "CA", "CPA" and "SSSI" in the Area were noted. Although the Director

of Agriculture, Fisheries and Conservation (DAFC) supported designating conservation zonings in the Area (especially in Po Toi), the details of the designation needed to be carefully studied in the course of OZP preparation, taking into account the assessments/studies on various aspects including ecology, environment, geology, infrastructure, landscape, traffic etc. and in consultation with the departments concerned;

- (ii) the designation of a Country Park or Marine Park was under the jurisdiction of the Country and Marine Parks Authority (CMPA) governed by the Country Parks Ordinance (Cap. 208) and Marine Parks Ordinance (Cap. 476) which were outside the purview of the Board. DAFC advised that the designation of a Country Park should be assessed against the established principles and criteria, which included conservation value, landscape and aesthetic value, recreation potential, size, proximity to existing Country Parks, land status and existing land use. At present, there was no definite plan to designate Po Toi as a new country park or marine park;

Unauthorised Developments and Enforcement Action

(R1, R2, R4, R7, R9, R75, R80 and R83)

- (iii) on the issue of 'Destroy First, Build Later', the Board was determined to conserve the rural and natural environment and would not tolerate any deliberate action to destroy the rural and natural environment in the hope that the Board would give sympathetic consideration to subsequent development on the site concerned. The Board had adopted a practice to defer consideration of a planning application which might involve an unauthorised development so as to allow time for PlanD to carry out full investigation into whether there was unauthorised development on the site;
- (iv) the request for undertaking enforcement action against unauthorised

development in the Area was noted. The publication of the DPA Plan was to provide planning guidance and development control pending preparation of an OZP and to enable enforcement action to be taken against any unauthorised development and undesirable change of use in the Area. Besides, other concerned departments would also take enforcement action under their jurisdictions as appropriate. In this regard, District Lands Officer/Islands (DLO/Is), LandsD considered that the development activities on the subject lots were in breach of the lease conditions and lease enforcement action had been taken against the lot owners;

- (v) according to section 1A of the Ordinance, ‘existing use’ in relation to a DPA was defined as the use of any land or building which was in existence immediately before the first publication in the gazette of the notice of the DPA Plan. The onus of proof of the ‘existing use’ rested with the party making such claim. As such, the landowner had to submit the necessary evidence to demonstrate that the alleged columbarium and/or memorial garden use was in existence immediately before the gazette of the DPA Plan in order to claim the ‘existing use’ status. However, even if ‘existing use’ status was established, it did not necessarily mean that it would become a planned use on the OZP and met all other relevant legislation and government requirements including the conditions of the lease concerned;

Boundary of the “V” zone (R2, R3, R84 to R87 and R89 to R91)

- (vi) on the proposal to conduct a survey within the “V” zone to exclude ecologically sensitive areas (e.g. the sandy beach at Tai Wan), it should be noted that the current “V” zone boundary had already excluded the sandy beach at Tai Wan. It had taken into account the coastline, existing man-made features, the high water mark level, the village ‘environs’, local topography and site characteristics, avoiding any ecologically sensitive areas and stream courses;

- (vii) the “V” zone extension areas proposed by representation R84 to R87, R90 and R91 were subject to environmental constraints. The Director of Environmental Protection (DEP) advised that several water sensitive receivers were found within or near the proposed “V” zone extension areas, including two streams running through Tai Hang Mei area and Wan Tsai area, with the former one draining into the estuary at Tai Wan; a beach at the coastline of Tai Wan; and a Fish Culture Zone at Tai Wan which was a semi-enclosed bay;
- (viii) any amendments to the “V” zone would need detailed consideration and assessment which could be taken up at the OZP preparation stage;
- (ix) on the proposal that the “V” zone at Po Toi should accommodate the Small House demand of indigenous villagers in both Po Toi and south Lamma Island, DLO/Is, LandsD advised that the 10-year forecast Small House demand for Po Toi was 20 and that for south Lamma Island was about 523. According to PlanD’s records, there was still vacant land within the “V” zone (about 11.29 ha, which was equivalent to the land broadly required for 453 Small Houses) in south Lamma Island for Small House development. The boundary of the “V” zone within the DPA Plan would be further reviewed and defined at the preparation of OZP stage taking into account the results of relevant assessments/studies on various aspects including Small House demand of Po Toi, ecology, environment, geology, infrastructure, landscape, traffic, etc;

“Unspecified Use” Designation and Columbarium/Memorial Garden Development (R85, R86, R88 to R129, R131 to R133 and R135 to R175)

- (x) on the concern that the development right of the private landowners in areas designated as “Unspecified Use” would be adversely affected, it should be noted that the user of most private lots (i.e.

‘Agricultural’ use) was always permitted within the “Unspecified Use” area. Regarding the proposed development of the Columbarium/Memorial Garden, it should be noted that planning permission would be required and each application would be considered by the Board on its individual merits;

- (xi) as far as Article 40 of the Basic Law (BL 40) was concerned, even if the draft DPA Plan would adversely affect Small House development in the land covered by the DPA Plan, insofar as Small House development was subject to planning controls that might be imposed under the Ordinance before the Basic Law came into force, applying those controls to the land concerned by way of the draft DPA Plan did not appear inconsistent with BL 40. As regards Article 105 of the Basic Law (BL 105), even if the draft DPA Plan would affect the existing property rights in the land concerned, it would unlikely constitute ‘deprivation’ of property requiring payment of compensation. Besides, insofar as it pursued the legitimate aim of providing better planning control and did not impose a disproportionate burden on the landowners concerned in pursuing that aim, it did not appear inconsistent with BL 105;
- (xii) on the proposal to rezone the site near Kwan Kee Store at southwest Po Toi from “Unspecified Use” to “G/IC” to permit the continued operation of ‘Memorial Garden’ use, there was no evidence or information to establish that there was any existing ‘Columbarium’ or ‘Memorial Garden’ use at the site. Even if the alleged ‘Columbarium’ and/or ‘Memorial Garden’ use was an ‘existing use’ under the Ordinance, it did not necessarily mean that the existing use would become a planned use and could meet relevant legislation and government requirements including the conditions of the lease concerned;

General Planning Consideration of the Area

(R84 to R86, R88 to R91, R93 to 104, R106 to R108, R111 to R116, R119

to R121, R126 to R129, R131 to R133, R135 to R143 and R158 to R174)

(xiii) the general planning intention of the DPA Plan for the Area was to protect the rural and natural landscape with scientific importance and conservation value from encroachment by unauthorised development and from undesirable change of use, and to reflect the existing recognised village and rural settlements. Appropriate land uses would be established in the course of preparation of the OZP pending detailed analysis and studies;

Proposals not directly related to the DPA Plan

(xiv) the requests for provision of tourist, infrastructure and utility facilities for tourism and recreational purposes were noted. The appropriateness to provide such facilities in the Area required detailed consideration and assessments in consultation with relevant government departments. The need for providing such facilities in the Area and possible designation of appropriate zonings, if required, would be further studied at the preparation of the OZP stage in consultation with departments concerned; (R4 and R8)

(xv) on the proposal to resume the preparation of village layout plans, the preparation of new layout plans for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the layout plans, manpower and priority of work within PlanD. For areas covered by new DPA Plans, the priority should be to prepare the OZPs to replace the DPA Plans rather than layout plans for the villages; (R1)

(xvi) as to the proposal to prepare statutory plans for the areas yet to be covered, it had been the Government's long-term target to prepare statutory plans for all areas of Hong Kong except areas covered/to be covered by Country Parks. Such task would be undertaken having regard to development pressure, priorities and resource

availability; (R1 and R7) and

(xvii) on the proposal to suspend the processing of Small House applications, it should be noted that the processing of land grant applications under the Small House policy was outside the purview of the Board. (R1)

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

Representation No. R1

45. Ms. Eva Tam made the following main points:

- (a) the introduction of the draft DPA Plan for Po Toi Islands was supported;
- (b) the areas designated as “Unspecified Uses” should be studied in detail so that sites of historical and cultural significance could be appropriately reflected in the OZP while the remaining areas should either be zoned “CA” or designated as country parks;
- (c) as the ecologically sensitive areas in Po Toi had already been disturbed, the Board’s policy in handling cases of ‘Destroy First, Build Later’ should be applicable to the unauthorised developments on the island; and
- (d) the Board should review the definition of ‘existing use’ in order to avoid abuse and prevent developers from using the ‘Destroy First, Build Later’ approach, claiming that the development that was carried out without planning permission was an ‘existing use’.

Representation No. R2

46. Ms. Woo Ming Chuan made the following main points:

- (a) as Po Toi Islands was an important natural habitat for migratory birds, the endangered Romer’s Tree Frog and butterflies that were not found

elsewhere in Hong Kong, any development that was unsustainable was not supported;

- (b) one particular plant species found on the island was an important host plant for a butterfly species of conservation interest while the streams on the island were an important habitat for the Romer's Tree Frogs. Any vegetation clearance and changes to the environment would significantly affect the flora and fauna that depended on the natural habitat for survival;
- (c) the Area should be zoned to "CA" and "CPA" with a view in the long term to be designated as a country park and marine park; and
- (d) according to the Convention on Biological Diversity of which the HKSAR was a signatory, the HKSAR Government had the responsibility to implement practices for the conservation and sustainable use of biodiversity.

Representation No. R4

47. With the aid of a Powerpoint presentation, Mr. Cheng Nok Ming made the following main points:

- (a) the Hong Kong Bird Watching Society had conducted a study on migratory birds in 2007 for the Agriculture, Fisheries and Conservation Department (AFCD);
- (b) the overall landscape value of the Po Toi Islands was high as the islands were remote, rugged and visually dramatic. There was also high cultural value due to cultural activities carried out on the islands during Tin Hau Festival;
- (c) according to the South West New Territories Development Strategy Review conducted by PlanD in 2001, there was high potential for the Po Toi Islands to be designated as a country park;

- (d) Po Toi was of international importance in terms of biodiversity conservation. More than 300 species of migratory birds were found on Po Toi, some of which were rare migratory bird species. Moreover, 8 migratory bird species found were listed internationally as “vulnerable” and 3 species were listed as “near threatened”. Po Toi was a crucial refuelling stop for migratory birds and a prime site for research of migratory birds;
- (e) the planning intention of the draft DPA Plan was fully supported and the prompt publication of the draft DPA Plan was appreciated;
- (f) the south-western part of Po Toi Island should be zoned “SSSI” in view of its crucial geographical location for migratory birds. The existing woodland habitat near the pier and the Tai Wan area, and the lagoon (wetland), shrubland and grassland habitat provided habitat diversity which was inter-related with bird diversity. Birds that arrived at the south would move towards the woodland areas to forage. In this regard, it was essential to zone the area as an “SSSI” in order to alert project proponents and give proper protection to the area, given that all projects on land zoned “SSSI” would need to conduct an environmental impact assessment under the Environmental Impact Assessment Ordinance;
- (g) Waglan Island was a known breeding site for terns and the other islands should also be conserved from the landscape conservation point of view. In this regard, these other areas should be zoned as “CA” and “CPA”, with a view for the islands to be designated as country parks in the long term;
- (h) the “G/IC” zoning proposed by some representations was not supported as such zoning would cause adverse ecological impacts in terms of human disturbance, landscape impact, soil erosion, loss of foraging grounds for migratory birds, and loss of host plant for the butterfly species. The diversion of the stream and other drainage works needed to prevent the “G/IC” site from flooding in the wet season would affect the hydrological

and habitat properties of the existing stream and adversely affect the Romer's Tree Frog and the migratory birds. The landscape planting works associated with the "G/IC" proposal would also increase the risk of invasive species which would change the existing eco-system;

- (i) compared with 2007 in which about 120 species of migratory birds were recorded, there was a lower bird diversity in 2012 with only about 80 species of migratory birds recorded; and
- (j) on the proposal to expand the "V" zone, careful planning was needed as several rare and threatened species of migratory birds were found in the general area where the "V" zone expansion was proposed. Some of the areas also had a steep terrain which would be hazardous to residents.

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

Representation No. R7

48. With the aid of a Powerpoint presentation, Mr. Wong Chun Pong made the following main points:

- (a) making reference to banners that were erected on several locations on the island, he indicated that although only one indigenous villager had submitted a written representation objecting to the columbarium development, many residents in fact did not support the columbarium development;
- (b) he had interviewed seven residents who unanimously objected to the columbarium development on Po Toi Island;
- (c) contrary to a representer's claim that the island lacked basic facilities, he noted that edible water was provided by the Government on a regular basis and electricity was available from private generators;
- (d) designating the area as a country park would benefit the local residents as

a country park would attract more visitors; and

- (e) development and conservation were not necessarily contradictory as it was only a matter of identifying a sustainable form of development most suitable for the site. In this regard, columbarium development was not an appropriate use. Government should follow the recommendation of the South West New territories Development Strategy Review and designate the Po Toi Islands as a country park.

Representation No. R9

49. With the aid of a Powerpoint presentation, Mr. Tse Sai Kit made the following main points:

- (a) the draft DPA Plan for Po Toi Islands was supported;
- (b) in 2012, massive tree felling on Po Toi was found together with the laying of concrete slabs on the ground in an area in the south-western part of Po Toi Island (the Site). The development had affected the stability of the slope and increased the danger of landslides. The original stream was also diverted, adversely affecting the habitat;
- (c) according to the lease of the Site, the use of the land should be for agricultural purposes only;
- (d) according to the minutes of the Island District Council (IsDC), it seemed that the developer of the site (Splendid Resources Inc.) had misled the Vice-Chairman of the IsDC to believe that tree felling was mainly to carry out land survey for a proposed tourism development. In fact, the developer was carrying out an unauthorised columbarium development;
- (e) DLO/Is, LandsD had already requested the landowner to stop the development as it was in breach of the lease, which were new grant lots and were not unrestricted leases;

- (f) the local residents did not support the columbarium development. They would prefer the area to be designated as a country park and would welcome tourism development on the island. Banners had been erected on the island by the residents to express their objection to the columbarium development;
- (g) the proposal to rezone the Site to “G/IC” was not supported as the site under concern was a new grant lot for agricultural use only and should not be developed into a ‘Memorial Garden’. The objective of the developer was to carry out the unauthorised use, hoping to claim an ‘existing use’ status. Besides, the proposed development was a columbarium rather than a ‘Memorial Garden’ as claimed. The developer’s proposal to develop a columbarium with 20,000 niches on the site would significantly affect the habitat and natural environment. The site should be rezoned “SSSI” or “CA” and should be designated as a country park in the long term; and
- (h) it was misleading to claim that Po Toi and south Lamma Island belonged to the same ‘Heung’ as they comprised different villages which were only grouped together under the same rural committee. The existing infrastructure on Po Toi would not be capable to accommodate a large increase in population;

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

Representation No. R71, R94, R96-R106, R108-R112, R114-R121, R126, R128, R131-R133, R135-R160, R162-R169, R172-R175 and Commenter No. C9-C25, C27-C45, C47-C77, C79, C81-C93 and C95-C105

50. With the aid of some plans and photos, Mr. Lau Tak made the following main points:

- (a) he was the representative of several local villagers of Po Toi, Kwan Kee Store, Po Toi Festival Committee and the South Lamma Island Rural Committee;

- (b) the “V” zone proposed for the village was too small and should be extended. It only covered the existing village houses without any area reserved for village expansion. Although villagers could apply for Small House development within the “Unspecified Use” area, they would need to employ consultants to submit a planning application which was costly and there was no guarantee that applications submitted would be approved;
- (c) it was not practical to designate 99.9% of the Area as “Unspecified Use” on the draft DPA Plan where ‘Agricultural Use’ was the only use that was always permitted, as the existing facilities on the island were not designed to cater for agricultural activities. This would also deprive the landowner of their development rights;
- (d) land under private ownership should be planned to enable development which would attract economic activities to the island. The area near Kwan Kee Store should be zoned “G/IC” to enable the continued operation of the ‘Memorial Garden’ on the site;
- (e) as no structures were proposed within the ‘Memorial Garden’, vegetation would grow naturally to cover the site in summer so that it would not cause any visual impact on the surrounding;
- (f) the ‘Memorial Garden’ was not an incompatible use as there were burial grounds in the surrounding area. Compared with the existing burial sites which were quite scattered, the ‘Memorial Garden’ would be better-planned and better-managed;
- (g) the local residents supported the proposed development which would attract economic activity and boost tourism;
- (h) the Government should respect the private property right of villagers and sites with building rights should be included into the “V” zone as it was

unfair to require these landowners to apply for planning permission for Small House development;

- (i) the proposed columbarium development on Po Toi was in line with the Government's proposal to develop columbarium facilities in each administrative district; and
- (j) the villagers welcomed the conservation proposals for Po Toi. However, a balance would need to be struck and some form of economic activity should also be introduced to Po Toi.

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

Comment No. C219

51. Mr. Alfred Yeung made the following main points:

- (a) the statements made by Mr. Lau Tak that the 'Memorial Garden' would be covered naturally by vegetation in summer and that it was well-managed were contradictory statements; and
- (b) the existing burial sites did not affect the natural habitat mainly because they were scattered and not managed. However, a 'Memorial Garden' with a concentration of niches and proper management would likely cause an adverse impact on the natural habitat for the existing flora and fauna.

Comment No. C240

52. Ms. Wong Hok Sze made the following main points:

- (a) migratory birds would normally make their landing along the coast and would not fly inland. In this regard, the proposed development on Po Toi could significantly affect the migratory birds that use the island as their refuelling stop. If the natural habitat was affected so that the amount of food available for the migratory birds was reduced, these birds could become exhausted and would be unable to continue with their

journey;

- (b) it should be noted that migratory birds did not feed on whatever was available but would only feed on certain kinds of flora and fauna;
- (c) compared with a columbarium development, the designation of the islands into a country park would attract much more visitors all the year round; and
- (d) the migratory birds should not be sacrificed.

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

Comment No. C371

53. With the aid of a Powerpoint presentation, Ms. Choi Mo Ching made the following main points:

- (a) Po Toi Islands was a valuable natural geological heritage, showcasing typical granitic landforms with intrusion and geological features of high aesthetic value. The best use of the site was for ecological and geological education and conservation;
- (b) Po Toi island comprised entirely granitic rock which was formed 140 million years ago from volcanic eruption;
- (c) the typical granitic landform in Po Toi include a rounded landmass of less than 500m in height, intrusions of fine grained granite into medium grained granite, and unique outcrops shaped by various weathering processes including sheet exfoliation and block disintegration. The more renowned rock formations include the Buddha's Palm Cliff, the Monk Rock, the Tortoise and the Tortoise Egg Rock, Baby Rock, Noah's Ark, and Coffin Rock;
- (d) due to the geology of the island, not all land was suitable for

development;

- (e) the DPA Plan was supported. A holistic approach was needed to protect Po Toi Islands for its high ecological, geological, geomorphological, historical and cultural values;
- (f) any activity to destroy first and build later must be heavily penalised and the abuse of the 'existing use' concept should be stopped;
- (g) Po Toi Islands should be designated as a country park; and
- (h) ecotourism and geotourism were the best option to bring about a sustainable form of economic development that would serve the needs of the local community and all other stakeholders.

Comment No. C708

54. Mr. Leung Chun Man and Ms. Kwok Yee Chu made the following main points:

- (a) the local villagers objected to the proposed columbarium development as it would adversely affect the fung shui of the village; and
- (b) Ms. Kwok, a member of the Po Toi Festival Committee, queried the claim made by Mr. Lau Tak that the proposal was supported by the Committee as the Committee had never discussed the subject matter.

55. As the representers' representatives had finished their presentation, the Chairman invited questions from Members.

56. The Vice-Chairman enquired about the number of niches to be provided in the proposed 'Memorial Garden', whether the niches were for the local villagers or the general public and the transport facilities proposed to bring people to the site. In response, Mr. Lau Tak (R71 *et al*) said that he did not represent the developer of the 'Memorial Garden' but he would reply to the best of his knowledge. He said that there were about 3,000 concrete slabs on the subject site and the proposed niches were mainly for people living on

the islands, although the general public were also welcome to purchase the niches. As regards the transport facilities, Po Toi Island was currently served by a ferry from Stanley and there were no plans to provide any additional means of transport. In this regard, the number of visitors to the 'Memorial Garden' would be limited by the capacity of the ferry services. Mr. Ivan Chung clarified that there were 2,750 concrete slabs on the site under concern at the time of the freezing survey (i.e. the day after the gazette of the draft DPA Plan for Po Toi Islands) and ferry services to Po Toi Island was currently available from Aberdeen and Stanley on fixed days.

57. In response to the enquiry of a Member on whether the site of the existing 'Memorial Garden' as claimed by the representer was within the burial grounds of the villagers, Mr. Lau Tak said that he did not have the information.

58. As a number of representers/commenters had raised the issue of existing use, Mr. Jimmy C.F. Leung asked DPO/SKIs to explain the term within the context of the Ordinance. Mr. Ivan Chung said that the definition of 'existing use' under the Ordinance was mentioned in para. 6.14 of the TPB Paper. According to the definition, the 'existing use' must be in existence before the first publication in the gazette of the notice of the DPA Plan and the use had continued since it came into existence. Under such circumstances, the use would be 'tolerated'. However, any change in use or intensification of use would need to meet the requirements as set out in the DPA Plan. He also explained that even if the 'existing use' status was established, it did not necessarily mean that the use would become a planned use on the future OZP to be prepared to replace the DPA Plan. Mr. Chung supplemented that DLO/Is, LandsD was following up the case as the proposed 'Memorial Garden' was likely to be in breach of the lease conditions. As regards the Board's policy in dealing with suspected cases of 'Destroy First, Build Later', Mr. Chung said that the Board would defer the consideration of the application under concern to allow PlanD to carry out an investigation to confirm whether the case involved any unauthorised development.

59. A Member enquired about the development in the other parts of Po Toi. In response, Mr. Ivan Chung said that development was concentrated on the south-western part of Po Toi Island with about 3.3. ha of private land and there was no development in the other areas which were all government land. These other areas provided important

foraging grounds and natural habitats for the migratory birds, the Romer's Tree Frogs and the butterflies. The planned use of these areas would be examined at the OZP preparation stage. Tai Wan Village was a recognised village and a careful balance between conservation and the need for village development had to be made in the future preparation of the OZP.

60. Mr. Tse Sai Kit (R9) raised the issue on whether the existing 'Memorial Garden' comprised 'Destroy First, Build Later'. At the invitation of the Chairman, Mr. Ivan Chung said that PlanD had not received any planning application for columbarium or 'Memorial Garden' use at the site under concern. Nevertheless, since the publication of the Po Toi Islands DPA Plan, there was no evidence that there was any unauthorised development at the site. PlanD would continue to monitor the situation closely.

61. Mr. Tse Sai Kit (R9) said that as a new columbarium with about 2,000 niches was being developed in Cheung Chau, he did not agree with the claim made by Mr. Lau Tak (R71 *et al*) that the other islands did not welcome columbarium development. He considered that the general public welcomed columbarium developments in their districts provided that they were public columbaria.

62. As Members had no further questions, and the representers and commenters and their representatives had nothing to add, the Chairman said that the hearing procedures had been completed, the Board would deliberate on the representations in their absence and would inform them of the Board's decision in due course. The Chairman thanked the representers and commenters and their representatives and the PlanD representatives for attending the hearing. They all left the meeting at this point.

63. The meeting was adjourned for a short break at this point to allow time for PlanD officials and the representers/commenters to leave the conference room.

Deliberation Session

64. The Chairman noted that there was no legal obligation for the Board to verify the identity of each representer/commenter and that, in any case, the concern of the Board was on the substance of the representation/comment received rather than the personal

particulars of the representer/commenter or the quantity of the submissions. He noted that following the Board's practice and procedure, the Secretariat had made its best endeavours to send the TPB Paper to representer R89 and the fact that the representer only received the TPB Paper on 24.9.2012 was not the fault of the Secretariat. The Board also needed to guard against abuses where the representer/commenter deliberately refused receiving the TPB Paper by not answering the door. As for the representers' claim that more time was needed to study the representations/comments, the Chairman noted that the representations and comments had been published more than two months ago and since then were available for public inspection at the PlanD Public Enquiry Counters. In this regard, representer R89's claim that he did not have enough time to examine the representations/comments could not be substantiated. Members agreed.

65. Members further considered that, as a detailed study of the area was yet to be conducted, there was no basis at this stage for the Board to decide on the detailed zonings for conservation purpose such as "CA" or "CPA" for specific areas. Moreover, it was outside the jurisdiction of the Board to determine whether certain areas were suitable for designation as a country park or marine park.

66. The Chairman noted that the Board would continue to follow its adopted practice in dealing with 'Destroy First, Build Later' cases. He also noted that for the site where concrete slabs were laid, no 'existing use' was established at this stage and PlanD would continue to monitor the situation closely. In response to a Member's enquiry, the Secretary said that the onus of proof for the 'existing use' of the site rested with the landowner and it was up to him to prove that the 'existing use' was a columbarium use. At this stage, PlanD would not consider that the site was for any particular use, except that it was laid with concrete slabs.

67. On the proposal to extend the "V" zone, the Chairman noted that the Small House demand would be examined at the OZP preparation stage and the boundary of the "V" zone could be revisited then. The concern on the extent of land designated as "Unspecified Use" would also be addressed at the OZP preparation stage. Members agreed.

[Ms. Christina M. Lee left the meeting at this point.]

68. In response to an enquiry on which department would be responsible for proposing the conservation zonings for the Area, the Chairman said that PlanD would conduct a study with input from the various government departments and the final proposal would be a consolidation of the views of all relevant government departments.

69. The Chairman concluded the discussion and said that Members agreed to note the views of R1 to R83 supporting the draft DPA Plan and not to uphold the opposing representations of R84 to R129, R131 to R133 and R135 to R175. Members then went through the suggested response to the concerns raised by the supportive representations and the reasons for not upholding the opposing representations as detailed in paragraphs 8.2 and 8.3 of the Paper and considered that they were appropriate.

Representation No. R1 to R83

70. After further deliberation, the Board noted the views of the above representations in support of the draft DPA Plan and agreed to advise them that:

the DPA Plan was an interim plan which could be replaced by an Outline Zoning Plan (OZP) within 3 years. In the preparation of the OZP, land use zonings for the Area would be comprehensively reviewed subject to a more detailed analysis of the land use pattern, infrastructural provisions, environmental and ecological values and local need. Relevant stakeholders including green groups, the concerned government departments, Islands District Council, and the Lamma Island South Rural Committee would also be consulted.

Representation No. R1, R2, R4, R7, R9, R75, R80 and R83

71. After further deliberation, the Board also agreed to advise the above representations that:

- (a) the issue of “Destroy First, Build Later” had been thoroughly discussed by the Board on 24.6.2011. The Board was determined to conserve the rural and natural environment and would not tolerate any deliberate action to destroy the rural and natural environment in the hope that the

Board would give sympathetic consideration to subsequent development on the site concerned. Since then, the Board had adopted a practice to defer consideration of a planning application which might involve an unauthorised development (UD) so as to allow time for Planning Department (PlanD) to carry out full investigation into whether there was UD on the site; and

- (b) the DPA Plan was prepared to empower the Planning Authority to undertake enforcement action against any UD and undesirable change of use in the Area. Should UD be identified in the future, enforcement action would be instigated under the Ordinance.

Representation No. R84 to R129, R131 to R133 and R135 to R175

72. After further deliberation, the Board decided not to uphold representations R84 to R129, R131 to R133 and R135 to R175 and not to amend the OZP to meet the proposals made by the representations for the following reasons:

- (a) to prevent any haphazard and uncontrolled development that might adversely affect the rural and natural character of the Area, it was necessary to prepare the DPA Plan covering the Area to provide interim planning guidance control for future development pending preparation of an OZP and to enable enforcement actions to be taken against any unauthorized developments and undesirable change of use to safeguard the Area's natural and rural character with scientific importance and conservation value;
- (b) the DPA Plan was an interim plan which could be replaced by an Outline Zoning Plan (OZP) within 3 years. Detailed land use zonings would be worked out during the OZP stage taking into account relevant assessments / studies on various aspects including traffic, environment, ecology, landscape, geological, etc. In the preparation of the OZP, land use zonings for the Area would be comprehensively reviewed subject to a more detailed analysis of the land use pattern, infrastructural provisions, environmental and ecological values and

local need in consultation with Government departments concerned. Relevant stakeholders including green groups, the concerned Islands District Council and the Lamma Island South Rural Committee would be consulted;

Designation of Conservation Zonings (R1 to R7, R9 to R74, R76 to R79, R82 and R83)

- (c) whilst there was potential to designate conservation zonings, including “Conservation Area” (“CA”), “Coastal Protection Area” (“CPA”) and/or “Site of Special Scientific Interest” (“SSSI”), in the Area (especially in Po Toi), the details of the designation needed to be carefully studied in the course of OZP preparation to ensure a balance between the rights of indigenous villagers of Po Toi and nature conservation should be struck. Relevant assessments/studies on various aspects including ecology, environment, landscape, geology, etc. would be conducted in consultation with the government departments concerned. Relevant stakeholders would be consulted during the process;

Designation of Country Park / Marine Park (R1 to R7, R9 to R74, R76 to R79, R82 and R83)

- (d) designation of Country Park and Marine Park was under the jurisdiction of the Country and Marine Parks Authority (CMPA) governed by the Country Parks Ordinance (Cap. 208) and Marine Parks Ordinance (Cap. 476) which were outside the purview of the Board;

Boundary of the “V” zone (R2, R3, R84 to R87, R90 and R91)

- (e) the current “Village Type Development” (“V”) zone boundary had primarily reflected the existing village clusters and had excluded the sandy beach at Tai Wan. It had also taken the coastline, existing man-made features, the high water mark level, ‘village environs’, local

topography and site characteristics into account, avoiding any ecologically sensitive areas and stream courses; (R2 and R3)

- (f) the boundary of “V” zone within the DPA Plan was drawn up provisionally to primarily reflect existing village clusters and had taken into account the coastline, existing man-made features, the high water mark level, ‘village environs’, local topography and site characteristics. It would be further reviewed and defined at the preparation of OZP stage taking into account the results of relevant assessments / studies on various aspects including Small House demand of Po Toi, ecology, environment, geology, infrastructure, landscape, traffic, etc.; (R84 to R87, R90 and R91)

Proposed Amendments to the “Unspecified Use” area (R85, R86, R88 to R129, R131 to R133 and R135 to R175)

- (g) there was no evidence or information to establish that there was any existing ‘Columbarium’ / ‘Memorial Garden’ use at southwest Po Toi. Besides, even if the alleged ‘Columbarium’ and/or ‘Memorial Garden’ use was an ‘existing use’ under the Ordinance, it did not necessarily mean that the ‘existing use’ would become a planned use and could meet relevant legislation and government requirements including the conditions of the lease concerned. The proposed Columbarium / Memorial Garden development might also have immense implications on traffic, infrastructure, landscape, ecology, environment, etc. and might conflict with the general planning intention of conserving the scientific and conservation values of Po Toi. In any event, appropriate zonings guiding the land uses and developments of the Area would be formulated for the Area at the preparation of OZP stage taking into account relevant assessments/ studies on various aspects including ecology, environment, geology, infrastructure, landscape, traffic, etc;

Proposed Columbarium/Memorial Garden Development (R94 to R121)

- (h) according to the Notes of the DPA Plan, the proposed Columbarium / Memorial Garden development would require planning permission from the Board. Each application would be considered by the Board on its individual merits;

Proposals not directly related to the DPA Plan

Provision of facilities in the Area (R4 and R8)

- (i) the appropriateness to provide tourist, infrastructure and utility facilities for tourism and recreational purposes in the Area required detailed consideration and assessments in consultation with relevant government departments. As such, the need for providing such facilities in the Area and designation of appropriate zonings, if required, would be further studied at the preparation of the OZP stage;

Resumption of village layout plans preparation (R1)

- (j) the preparation of new village layout plans for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the village layout plans, manpower and priority of work within PlanD. For the new DPA Plans which had just been completed such as this DPA Plan, OZPs with specific land use zonings should be prepared before layout plans could be contemplated. As the boundary of the “V” zone would be further reviewed and defined at the preparation of OZP stage, the need for preparation of new village layout plans for the “V” zone to be covered by the OZP would then be reviewed as appropriate;

Preparation of statutory plans for other areas (R1)

- (k) it had been the Government’s long-term target to prepare statutory plans for all areas of Hong Kong except areas covered / to be covered by

Country Park (CP). Such task would be undertaken having regard to development pressure, priorities and resource availability; and

Suspend the processing of Small House applications (R1)

- (1) processing of land grant applications under the Small House policy was outside the purview of the Board.

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TYST/546

Proposed Temporary Shop and Services (Temporary Traffic Engineering Highway Sub-station and Sale Office of Traffic Engineering Equipment with Ancillary Display Area) for a Period of 3 Years in “Residential (Group D)” zone, Lots 969 (Part) and 972 RP (Part) in D.D. 121 and Adjoining Government Land, Shan Ha Tsuen, Yuen Long

(TPB Paper No. 9197)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

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

Mr. W.W. Chan	District Planning Officer/Tuen Mun & Yuen Long, PlanD
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Mr. Lau Tak)	Applicant’s representatives
Mr. Lake So)	

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

application.

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

- (a) the applicant sought planning permission for temporary shop and services (temporary traffic engineering highway sub-station and sale office of traffic engineering equipment with ancillary display area) for a period of 3 years at the site which was zoned “Residential (Group D)” (“R(D)”) on the Tong Yan San Tsuen Outline Zoning Plan (OZP);
- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 20.1.2012 and the reasons were:
 - (i) the proposed development, which was more akin to an open storage yard rather than a retail shop serving the surrounding residential neighbourhood, was not in line with the planning intention of the “R(D)” zone. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;
 - (ii) the application did not comply with the TPB PG-No. 13E; and
 - (iii) approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the “R(D)” zone and cause cumulative degradation of the rural environment of the area;
- (c) the application site was subject to planning enforcement action against unauthorized storage use. Enforcement Notice (EN) was served by the Planning Authority requiring the concerned parties to discontinue the unauthorised development. Prosecution action was undertaken and the concerned parties were convicted and fined;

- (d) the justifications put forth by the applicant in support of the review application were summarized in paragraph 3 of the Paper and highlighted as follows:
 - (i) in order to address the departmental comments, the site layout had been revised so that the entire display area (220m²) would be covered with an open shed. The landscape proposal would also be revised accordingly; and
 - (ii) as the showroom activities would be covered, there would be no eyesore or noisy activities affecting the neighbouring sites;
- (e) departmental comments – the departmental comments were summarized in paragraph 5 of the Paper. The Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers of residential uses in the vicinity of the site and environmental nuisance was expected. The Chief Engineer/Mainland North, Drainage Services Department (CE/MN,DSD) commented that the drainage proposal submitted at the s.16 application stage was not yet acceptable to DSD and the applicant had not included any revised drainage proposal at the s.17 review stage;
- (f) public comments – five public objections to/concerns were received on the application during the statutory publication period at the s.16 and the s.17 stages mainly on land use incompatibility, violation of planning intention of the area, environmental, fire safety, and noise nuisance grounds; and
- (g) PlanD's views – PlanD did not support the application based on the assessments as stated in paragraph 7 of the Paper, which were summarized below:
 - (i) notwithstanding the proposed revision to the site layout, the proposed development was still more akin to an open storage

yard than a retail shop serving the surrounding residential neighbourhood. In this regard, the proposal was not in line with the planning intention of the “R(D)” zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;

- (ii) the applicant failed to demonstrate that the proposed development would not generate adverse environmental and drainage impacts on the surrounding areas. In this regard, DEP did not support the application as there were sensitive uses in the vicinity of the site and environmental nuisance was expected;
- (iii) the application did not comply with the Town Planning Guidelines on ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13E) in that no previous planning approval had been granted for the use on the site and there were adverse departmental comments on and local objections to the application. The development was also not compatible with the current and planned residential use in the surrounding areas; and
- (iv) as no approval for similar uses had been granted in the subject “R(D)” zone since 2002, approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

76. The Chairman then invited the applicant’s representatives to elaborate on the application.

77. With the aid of some plans and photos, Mr. Lau Tak made the following main points:

- (a) although the site and its surrounding area had been zoned “R(D)” since 1993, only a few sites had been developed for residential use mainly due to scattered ownership, lots being held by *Tso/Tongs*, and the low development intensity permitted making development unattractive;
- (b) agricultural use of the site was not an option as the environment was no longer suitable for farming. The site was currently surrounded by warehouses, workshops and open storage uses;
- (c) the domestic structures in the vicinity were mainly occupied by employees of the workshops and warehouses nearby. No new residential development in the area was anticipated in the next few years. Even if a planning application for residential development was submitted and approved by the Board, it would take 4 to 5 years for the various procedures including land exchange, premium negotiation, submission of building plans, etc, to be completed and construction works to begin;
- (d) as the site had been idle for more than 20 years, the landowners only wanted to make better use of the site, hence the proposed temporary open storage use which would not affect the environment or the long term planning intention of the site;
- (e) the applicant had submitted a revised layout and proposed to cover the display area by an open shed so as to reduce the visual and noise impact on its surroundings;
- (f) making reference to application No. A/YL-KTS/562, where the Board considered the proposed temporary coach assembly workshop would cause nuisance to a recently approved residential development in the vicinity but granted planning permission for 1 year in order to allow adequate time for the temporary coach assembly workshop to relocate, the

applicant considered that the Board should also grant planning permission on a temporary basis for the current proposal. The applicant was willing to relocate and make way for any future residential development in the vicinity; and

- (g) the landowners were frustrated by the rejection of the planning application as the site would not be put to any beneficial use.

78. In response to the Chairman's enquiry on the status of the open storage uses surrounding the application site, Mr. W.W. Chan said that the open storage uses in the vicinity were suspected unauthorised developments which were subject to enforcement action. Mr. Lau Tak, however, claimed that some of these sites were 'existing uses' under the Notes of the OZP.

79. In response to a Member's enquiry on the meaning of the patterns shown on Plan R-1, Mr. W.W. Chan said that the hatched pattern and the cross-hatched pattern were mainly to depict the site boundaries of different applications covering the same site.

80. A Member enquired about the location of the residential uses nearby. In response, Mr. W.W. Chan said that residential developments were located within the "R(B)1" zone to the northwest of the application site and several domestic structures were also found in the vicinity to the south of the site. Mr. Lau Tak, however, said that the residential developments in the "R(B)1" zone were quite far away from the application site.

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

Deliberation Session

82. The Chairman noted that the existing residential developments were only about

25m to 30m away from the application site. In this regard, Members agreed that the proposed development would likely cause nuisance to the residential uses. The Chairman also noted that the drainage proposals submitted by the applicant were not acceptable to DSD.

83. A Member commented that the applicant's revised proposal to provide a shed to cover the display area was not an effective mitigation against the visual and noise problems likely to be generated by the proposed development.

84. In conclusion, the Chairman noted that Members considered that the application should not be supported as the development was not in line with the planning intention of the "R(D)" zone, it did not comply with TPB Guidelines No. 13E in that no previous approval had been granted and there were adverse departmental comments and local objections to the proposal, and approval of the application would set an undesirable precedent for similar applications within the "R(D)" zone. The applicant had not provided strong justifications to convince the Board that the application should be approved on review.

85. After further 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 Paper and considered that they were appropriate. The reasons were:

- (a) the proposed development, which was more akin to an open storage yard rather than a retail shop serving the surrounding residential neighbourhood, was not in line with the planning intention of the "R(D)" zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;
- (b) the application did not comply with the TPB PG-No. 13E in that no previous planning approval had been granted for the use on the site

and there were adverse departmental comments on and local objections to the application. The development was also not compatible with the current and planned residential use in the surrounding areas;

- (c) the applicant failed to demonstrate that the proposed development would not generate adverse environmental and drainage impacts on the surrounding areas; and
- (d) as no approval for similar uses had been granted in the subject “R(D)” zone since 2002, approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

86. The meeting was adjourned for lunch break at 1:20 p.m.

87. The meeting was resumed at 2:30 p.m.

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

Mr. Thomas T.M. Chow

Chairman

Mr. Stanley Y.F. Wong

Vice-chairman

Mr. Timothy K.W. Ma

Mr. Rock C.N. Chen

Dr. C.P. Lau

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Mr. Roger K.H. Luk

Ms. Anita W.T. Ma

Dr. W.K. Yau

Prof. K.C. Chau

Mr. H.W. Cheung

Dr. Wilton W.T. Fok

Mr. Ivan C.S. Fu

Mr. Sunny L.K. Ho

Mr. Dominic K.K. Lam

Mr. Patrick H.T. Lau

Mr. H.F. Leung

Deputy Director of Environmental Protection

Mr. Benny Y.K. Wong

Director of Lands

Ms. Bernadette Linn

Director of Planning
Mr. Jimmy C.F. Leung

Principal Assistant Secretary, Transport and Housing Bureau
Miss Winnie M.W. Wong

89. As the attendees for Agenda item 6 had already arrived, the Chairman suggested to proceed with Agenda item 6 first. Members agreed.

Tsuen Wan and West Kowloon District

Agenda Item 6

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations No. R1 to R10 and Comments No. C1 to C3
Draft West Kowloon Cultural District Development Plan No. S/K20/WKCD/1
(TPB Paper No. 9193)

[The meeting was conducted in Cantonese.]

90. The following Members had declared interest in this item:

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|----------------------|---|---|
| Mr. Roger K.H. Luk |] | had business dealings with Wheelock |
| Mr. Patrick H.T. Lau |] | Properties Ltd., which was one of the |
| Mr. Ivan C.S. Fu |] | companies that formed the Austin Property |
| | | Management Limited that submitted R1 |
| Mr. Dominic K.K. Lam | - | had business dealings with Wheelock |
| | | Properties Ltd. and New World |
| | | Development Co. Ltd., which were the two |
| | | companies that formed the Austin Property |
| | | Management Limited that submitted R1 |
| | - | had business dealings with CITIC Pacific |
| | | Limited, that owned the Western Harbour |
| | | Tunnel Co. Ltd, which submitted R2 |
| Dr. Wilton W.T. Fok | - | co-workers with Mr. Cheung Kwok Pun |
| | | (R4) and was editor of a book about the |
| | | West Kowloon Cultural District (WKCD), |
| | | that had incorporated information from |
| | | R4's proposal |

91. Members agreed that the interests of the above Members were direct and they should be invited to leave the meeting for this item. Members noted that Mr. Dominic K.K. Lam had not arrived to join the meeting.

[Dr. Wilton W.T. Fok and Mr. Patrick H.T. Lau left the meeting and Mr. Roger K.H. Luk and Mr. Ivan C.S. Fu left the meeting temporarily at this point.]

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

93. The following government representatives were invited to the meeting at this point:

Mr. Wilson Chan	District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), Planning Department (PlanD)
Mr. Tom Yip	Senior Town Planner/TWK, PlanD
Mr. C.H. Mak	Town Planner/TWK, PlanD
Mr. M.L. Wan	Project Manager, WKCD Project Management Team, Home Affairs Bureau (HAB)
Mr. Kathy Chan	STP/WKCD Project Management Team, HAB

94. The following representers and commenters were invited to the hearing at this point:

R2 (Western Harbour Tunnel Co. Ltd.)

Mr. Keith Kong] Representer
Mr. Eric Pang]
Mr. William Ho]
Mr. Thomson Ronald Ross	- Representer's representative

R3 (Central and Western Concern Group)

Mr. John Batten] Representer's representative
Ms. Clara Cheung]

R4 (K.P. Cheung)

Professor K.P. Cheung Representer
Mr. Chan Wai Yam Representer's representative

R7 (S. Leung)

Ms. S. Leung Representer

R9 (Hong Kong Alternatives)

Dr. Wai Kee Nang] Representer's representatives
Ms. Karen Loh]
Mr. Chik Wing Hong]

C1 (West Kowloon Cultural District Authority)

Dr. M.W. Chan]
Mr. Derek Sun]
Mr. Y.C. Ng] Commenter
Ms. Helen Lung]
Mr. Patrick Lam]
Mr. Colin Ward)
Mr. Sai Hung Ching)
Ms. Teresa Man)
Mr. Dickson Hui) Commenter's representatives
Ms. Winnie Wu)
Mr. Fred Brown)
Mr. Steven Ho)
Mr. Adam Lee)

95. The Chairman extended a welcome to the attendees and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the representations to be considered at the meeting.

96. With the aid of a powerpoint presentation, Mr. Tom Yip (Senior Town Planner/TWK, PlanD) made the following main points as detailed in the Paper:

Background

- (a) on 30.3.2012, the draft West Kowloon Cultural District (WKCD) Development Plan (DP) No. S/K20/WKCD/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). Upon the expiry of the two-month exhibition period, a total of 10 representations were received. On 8.6.2012, the representations were published for three weeks for public comments. Three comments were received;
- (b) the planning history, public engagement/consultation and basis for the DP were detailed in paragraph 2 of the Paper and summarized below:
 - (i) in April 2001, the West Kowloon Reclamation Concept Plan Competition was launched;
 - (ii) in 2003 to 2006, there was the Invitation for Proposals to the private sector for the development of WKCD. After a process of public consultation and subsequent revision to the development parameters, the Government discontinued the IFP process in February 2006 because none of the developers showed interest to pursue the WKCD project;
 - (iii) in April 2006, the WKCDA was established;
 - (iv) in October 2009 to 2011, a 3-stage public engagement (PE) was conducted for the WKCD development:
 - PE1 was for gauging the public's expectation on the planning of the WKCD;
 - PE2 was to invite public comments on the three conceptual plans (submitted by Foster+Partners, Rocco Design Architects Limited and Office for Metropolitan Architecture); and

- PE3 was to invite public comments on the Modified Conceptual Scheme (i.e. a refinement to the selected Foster+Partners' Conceptual Plan incorporating desirable features from the other two conceptual plans);
- (v) in March 2012, the draft DP was exhibited under the Town Planning Ordinance (the Ordinance); and
- (vi) in April 2012, the Yau Tsim Mong District Council and Harbourfront Commission were consulted and the comments received and responses were detailed in paragraph 2.12 of the Paper;

The West Kowloon Cultural District Development Plan

- (c) the key features of the West Kowloon Cultural District (WKCD) Development Plan (DP) were detailed in paragraph 3 of the Paper and the main points were highlighted below:

Development Parameters and Development Mix

- (i) with a development area of about 40.91 ha, the maximum gross floor area (GFA) permissible for the whole district was about 740,350m² based on a maximum plot ratio of 1.81 as established in previous consultation and the previous South West Kowloon OZP. The total GFA for residential use should not exceed 148,070m² or 20% of the total maximum GFA for the whole district;
- (ii) the land area zoned for "Open Space" ("O") use under the DP was 17.23 ha, including the Park at the headland zoned "O(1)" (the Park) and the Avenue and squares zoned "O(2)". The provision of open space for public use within various sub-zones of the "Other Specified Uses" annotated "Arts, Cultural, Entertainment and Commercial Uses" ("OU(ACECU)") zone amounted to a total of not less than 5.77 ha. The total provision of

public open space added up to 23 ha, including 3 ha of piazza area and a continuous waterfront promenade of not less than 20m in width. A minimum green coverage of 30% and 60% were stipulated for the whole WKCD and the Park respectively;

- (iii) a balanced development mix for the WKCD comprised the following components:

Development Mix	% of Total GFA
Arts and Cultural Facilities	About 35-40%
Retail/Dining/Entertainment	About 15-20%
Hotel/Office	About 20-25%
Residential	Not more than 20%
Government, Institution or Community	Not less than 1%
Total	100%

Building Height Restrictions

- (iv) developments within different land-use zones on the Plan were subjected to maximum building height restrictions (BHRs) as stipulated on the Plan, including one to three storeys for “O” zone, and building height (BH) profile of 30mPD, 33mPD, 40mPD, 50mPD, 70mPD and 100mPD for the “OU” zones;

Non-building Areas

- (v) a total of five non-building areas (NBAs) of different widths (at 8m, 12m and 15m) were designated in various zones to serve primarily as pedestrian ways, which also helped to facilitate air ventilation and improve visual permeability. The findings of the Air Ventilation Assessment (AVA) were taken into account in the designation of the NBAs. The NBAs were in a north-south alignment connecting Austin Road West with the waterfront. In

addition, the 'east-west' aligned Avenue and the Central Square to the south of the West Kowloon XRL terminus were important to facilitate air ventilation in the WKCD;

Implementation – Outline Development Plan

- (vi) the DP provided a broad land use framework within which a more detailed departmental Outline Development Plan (ODP) would be prepared in consultation with government departments concerned; and
- (vii) the ODP was a non-statutory plan which would be used as a basis for public works planning and site planning purpose. It would include information on detailed land uses, development parameters and boundaries of individual sites, green coverage, waterworks and drainage reserves, site formation levels, road alignment and dimensions, location of pedestrian facilities, public utility facilities as well as other building and engineering requirements. The ODP would serve as a guide for land transactions as well as to facilitate the development of the WKCD;

Subject of Representations

- (d) a total of 10 representations (R1 to R10) were received. Two were submitted by private companies (the Western Harbour Tunnel Co. Ltd. (WHTCL) (R1) and Austin Project Management Limited (R2); two were submitted by concern groups (the Central & Western Concern Group (R3) and Hong Kong Alternatives (R9) and the other six were submitted by individuals (R4 to R8, R10);
- (e) all of the representations raised objections or concerns on the DP. In particular,

- (i) R2 was related to the ‘Other Specified Uses’ annotated “Mixed Uses (1)” (“OU(MU)1”) and “Other Specified Uses” annotated “Arts, Cultural, Entertainment and Commercial Uses” (“OU(ACECU)1”) zones near the WHC tunnel portal; the “OU” zone covering the WHC ventilation building; and the “O(1)” zone covering the WHC;
- (ii) R4 put forward an alternative proposal for WKCD and its surrounding areas with emphasis on the use of underground space. R5 and R6 supported R4’s proposal; and
- (iii) R1, R3, R7 to R10 were in respect of the design and layout, open space provision, development mix, traffic connectivity and implementation of the DP;

Grounds of Representations and Responses

- (f) the major grounds of representations and responses were detailed in paragraphs 4.2 and 4.8 of the Paper respectively and summarised below;

General and Overall Concept

Under-utilization of Underground Space

- (g) the major grounds and responses relating to under-utilisation of underground space were:

Grounds of Representations

- (i) R4 submitted a proposal titled ‘HKSAR: A Green Metropolitan City of Culture, World Heritage, Mega Events’. The proposal was previously submitted to the WKCDA for consideration in October 2011;

- (ii) R4 considered that the DP had not adequately considered the full potential of the WKCD site, both underground and above ground space, as well as its surrounding areas including the harbour area around Hong Kong China Ferry Terminal and Yau Ma Tei Typhoon Shelter. R4 to R9 were of the view that there was under-utilization of the underground space;
- (iii) R4 to R6 also considered that the DP had not taken into account the potential synergy effect created by the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) project on the increased demand for large shopping malls. R4's proposal showed that an underground shopping area of about 200,000m² could be provided under the WKCD site;
- (iv) for the reclaimed land to the west of Yau Ma Tei, it was possible to relocate all the roads underground so that the ground floor space could be used for property developments and a large heritage park. At that location, underground shopping mall could also be provided (R4 to R6);
- (v) the large amount of income generated by the commercial uses in R4's proposal would provide sufficient funds to build and operate the WKCD project, without further need for government grant (R4 to R6);

Responses

- (vi) there was general public support to developing WKCD into a world-class integrated arts and cultural district. A variety of retail, dining and entertainment uses as well as office, hotel and residential developments were planned to create synergy and vibrancy to the district. To achieve such purpose, a balanced development mix, which was derived after careful financial assessment and public consultation, had been adopted in the DP

(R4 to R9);

(vii) the underground space in WKCD under the DP was well utilized to accommodate vehicular access, parking space and loading/unloading area of the district so that a vehicle-free and pedestrian-friendly environment could be created on ground level. There was no under-utilization of underground space (R4 to R9); and

(viii) with regard to R4's proposal for a large underground space and R5 and R6's support for the proposal, the responses were:

- the proposal represented a substantial increase in the total plot ratio of WKCD. The increase in the amount of shopping area would upset the balanced development mix in the DP and would deviate from the theme of developing the WKCD as an integrated arts and cultural district;
- the representer had not conducted detailed assessments to demonstrate the technical feasibility of its proposal, e.g. traffic and infrastructural capacity to accommodate the additional GFA, and the feasibility of having an extensive and multi-level underground area without conflict with the XRL underground station, WHC tunnel and various existing underground utilities;
- the shopping demand generated from the XRL travelers could be met by the existing and planned shopping areas in the surrounding areas, including those in Tsim Sha Tsui and above the Kowloon Station and the future West Kowloon XRL Terminus. Coupled with about 15 to 20% of the GFA of the WKCD to be used for retail, dining and entertainment purposes, there should be sufficient shopping facilities to meet the needs of the tourists and locals; and
- R4's proposal involved developments outside the boundary of WKCD, including the World Heritage Park at Yau Ma

Tei and the two Marine World Heritage Parks at the water areas of Yau Ma Tei Typhoon Shelter and south of WKCD, two cross-harbour tunnels for cable tram/bicycle, and two pedestrian/cycle bridges linking up WKCD and Tsim Sha Tsui Cultural Centre. The consideration of these proposals fell outside the scope of the DP;

Development mix

(h) the grounds of representation and responses relating to development mix were:

(i) grounds of representation: under the DP, about 59% of the GFA was used for property developments, i.e. hotel, office, residential, retail and restaurant uses, while only 41% was for cultural facilities. This disproportionate amount of property developments in WKCD was contrary to the public interests (R9). R7 considered that there should be no selling of land in WKCD to developers; and

(ii) responses: apart from arts and cultural facilities which would account for about 35% to 40% of the total GFA, a variety of retail, dining and entertainment uses as well as office, hotel and residential developments were planned to create synergy and vibrancy to the district. The balanced development mix was essential to bring vibrancy and diversity to WKCD, with a rich mix of art and culture, living, working, recreation and entertainment spaces. R9's proposal of deleting all hotel, office and residential uses was not supported (R9);

Design and Layout

(i) the major grounds and responses relating to design and layout were:

Grounds of Representation

- (i) wider building gaps and lower BHs would ensure better visual and air permeability in the area. The proposed NBAs with widths of 8m to 15m were not adequate to serve the purpose. Effective NBAs should be over 20m where possible. In addition to NBAs and BH restrictions, building gap should be imposed (R1 and R10);
- (ii) the Avenue, which was zoned “O(2)”, should be gently curved and undulating instead of straight as proposed in the DP. That would allow design flexibility for individual cultural facilities along the Avenue. The grid formation in the DP was rigid (R3);
- (iii) the design of the DP was rigid (R8);
- (iv) the maximum BH of the proposed hotel in the “OU(MU)1” zone should be reduced from 100mPD to 50mPD (R3);

Responses

Wider Building Gaps (R1 and R10)

- (v) the five NBAs under the DP were proposed mainly along the alleyways which ran from north to south across the sites linking up Austin Road West and the waterfront. The width of these north-south alleyways as shown in the DP had been widened by 112% to 121% as compared to the original design in the Modified Conceptual Plan to further enhance the wind environment and visual permeability of WKCD;
- (vi) according to the AVA conducted by the WKCDA, air ventilation performance within the WKCD site and that of the

surrounding areas was reasonable and the designation of these NBAs would facilitate south-westerly wind and sea breezes to flow through the WKCD development;

- (vii) in addition to the NBAs, the open space provided at the Central Square would also facilitate wind penetration from the waterfront area to Lin Cheung Road, whereas the east-west orientated Avenue would facilitate wind flow from the east through the WKCD site;
- (viii) the Chief Town Planner/Urban Design and Landscape of PlanD advised that although wider NBAs of over 20m might, by common sense, facilitate better air and visual permeability, the width of the NBAs required needed to be supported by AVA and balanced against other planning and design considerations;
- (ix) the representer had not provided any justification to substantiate why effective gap for NBAs should be over 20m;

The Straight Alignment of the Avenue

- (x) regarding R3's concern on the straight alignment of the Avenue, the HAB relayed WKCDA's view that the design of the Avenue was adopted from the Foster + Partners' Conceptual Plan, which gathered most support from the public during the PE exercise. The Avenue was part of the integrated open space network together with the Park and the waterfront. As curving designs would be incorporated in the Park and the waterfront promenade, the Avenue in a straight alignment would provide an interesting contrast for open space provision within WKCD (R3); and

Building Height (R3)

- (xi) a coherent BH profile of 50mPD, 70mPD and 100mPD was

adopted to introduce variations in BH in the WKCD, while respecting the views from the vantage points on Hong Kong Island, e.g. Sun Yat Sen Memorial Park and Star Ferry Pier at the Central Waterfront. The maximum BHR of 100mPD for the proposed hotel was considered not incompatible with the surroundings (R3);

Open Space and Landscape

- (j) the major grounds and responses relating to open space and landscape were:

Grounds of Representations

- (i) a highlight of the Foster + Partners' Conceptual Plan was the 'Great Park'. However, the 23 ha of open space had been reduced to 17 ha. A minimum area of public open space, other than piazzas and terrace gardens, should be specified. The Board should specify that there should be 23 ha of usable waterside and parkland areas (R3);
- (ii) the Park should be designed with grassed open areas and well-treed areas, and this would provide maximum flexibility for many types of activities, including ball games. A 20m-wide harbourfront walkway seemed excessively wide, but if it was done sensitively with a winding path and trees it could be acceptable. Strong night-time lights must be prohibited as harbour views at night relied on subdued lighting. There should be a landscape strategy to give guidance and avoid 'concrete park syndrome' found throughout Hong Kong (R3);
- (iii) the WKCD area had been barren for more than 15 years. Although a temporary promenade was built on the Site, the area was inaccessible and visitors-unfriendly. The Park should be

developed as soon as possible (R9);

- (iv) the squares in WKCD should be carefully designed, with a series of comfortable sitting areas. There might be difficulties to plant trees on concrete podium (R3);
- (v) a large amount of land in Hong Kong was already covered by country parks. There was no need for unnecessary tree planting and landscaping in the WKCD, which may result in breeding of mosquitoes (R7);

Responses

Public Open Space Provision

- (vi) the provision of not less than 23 ha of public open space had been maintained for the WKCD development. As stated in the Notes and ES of the DP, not less than 23 ha of open space would be provided within WKCD, that included 17.23 ha of open space designated as “O(1)” and “O(2)” zones on the Plan, and not less than 5.77 ha of open space that formed an integral part of the arts and cultural venues within various “OU(ACECU)” sub-zones. The total amount of open space of 23 ha was the same as the statutory requirement stipulated under the previous South West Kowloon OZP. All the open space areas would be open to the public and considered to be usable (R3);
- (vii) while a substantial part of the open space was concentrated in the Park, some open space was planned in the eastern and central parts of the district to serve the users of the arts and cultural facilities along the Avenue. The size of the Park under the DP was similar to that in the Foster + Partners’ Conceptual Plan (R3);

Design of the Park

- (viii) WKCDA would take up the management and operational activities for the Park, in particular:
- it would provide informal seating, which was designed for enjoying outdoor performances as well as leisure sitting out;
 - the Park with gentle sloping area was designed with lawn area and the tree planting for shading, which could allow for a variety of activities on the lawn area;
 - there would be clusters of tree planting along the 20m-wide waterfront promenade to soften the water's edge and also provide a leisurely waterfront environment;
 - sitting areas and viewpoints would be provided at intervals along the waterfront to facilitate enjoyment of the space; and
 - night time illumination would complement the surrounding environment as appropriate and it was not anticipated to create significant visual impact (R3);
- (ix) the landscape framework and landscape design principles for WKCD were highlighted in paragraph 7.2.3(a) of the Explanatory Statement (ES) of the DP. There was a hierarchical landscape network of park, avenue, piazzas and civic squares, waterfront promenade and terrace gardens for integrating arts, cultural, commercial, recreation and entertainment activities. Different design features and treatments would be incorporated in the open space area, taking into account various concerns and user requirements. Sufficient soil depth would be provided at podium level for the planting of trees (R3);

Request for Early Implementation of the Park

- (x) the WKCDA would commence the permanent works upon receipt of the land from the Government. Part of the Park with associated arts and cultural facilities was scheduled as the first batch of facilities in the Phase 1 development. As advised by HAB, the Park would be completed in phases starting from 2014 to 2015. The WKCDA was currently planning to implement the nursery for the Park. The nursery site with an area of 2 ha, including 1,000 trees with seasonal flowers and lawn area would be provided within the future park area of WKCD. The construction works of the nursery would commence in early 2013 (R9); and

R7's view about Unnecessary Tree Planting and Landscape

- (xi) the landscape design of the WKCD was intended for a green hub. The open space and landscape design received general public support in the PE exercise. Appropriate management and maintenance of the landscape would be undertaken by the WKCDA to avoid any hygiene problems (R7);

Transport Issues

- (k) the major grounds and responses relating to transport issues were:

Grounds of Representations

- (i) it was not good planning to have the proposed at-grade northern perimeter road around the WHC portal to serve the proposed hotel in the "OU(MU)1" zone. Instead, two flyovers across the WHC Toll Plaza with drop-off point near the Mega Performance Venue (MPV) should be adopted. The MPV

posed private and public transport as well as pedestrian accessibility concerns. There should be better transport and pedestrian connections around the area (R3);

- (ii) the underground station of the XRL had unfairly imposed itself onto the WKCD site and the WKCD was justified to have its own 'people-first' design (R3);
- (iii) proposals for water taxis, ferry and private boat access should be encouraged. The two ferry piers previously identified by WKCD should be included in the DP. Compliance with the Protection of the Harbour Ordinance (PHO) could be resolved during the construction stage with the support of the Government (R3);
- (iv) a tram line should be provided to connect WKCD with the Tsim Sha Tsui and Yau Ma Tei areas (R3);
- (v) the footbridge connections on the DP were intended to benefit the property developments at Kowloon Station and Austin Road and not to interfere with the road network. This was poor planning. A 'people-first' approach should be taken. A footbridge connecting Kowloon Park and WKCD should be designated on the DP (R3);

Responses

- (vi) the proposed northern perimeter road in the "OU(MU)1" zone - the road was located in the "OU(MU)1" zone at a different level from the main pedestrian thoroughfare and would not affect the open space provision to the public. The road was designed to serve the proposed commercial and hotel development in the "OU(MU)1" zone and the MPV. The aim was to provide a vehicle-free environment within WKCD at pedestrian level

(R3);

- (vii) XRL station development – the XRL was gazetted and authorized under the Railways Ordinance. The station that would occupy part of the underground space of the WKCD had been taken into account in the design of WKCD. There was sufficient underground space to accommodate the roads and transport and parking facilities of WKCD (R3);
- (viii) marine facilities – marine facilities like piers, landing steps, arts pontoons and viewing platforms were not shown in the DP as they might fall within the definition of reclamation and could be subject to the PHO. While these facilities were desirable features preferred by the public, WKCDA would need to work with relevant government bureaux/departments to investigate the technical feasibility and legal implication of these proposals at the detailed design stage. If these proposals were confirmed to be technically feasible and legally acceptable, they could be incorporated in the DP at a later stage (R3);
- (ix) R3's proposal for a tram line connecting with the surrounding areas - it was stated in paragraph 13.3 of the ES of the OZP that there would be a possible Environmentally Friendly Transport System (EFTS) in the WKCD. The EFTS could involve different transport modes such as e-bus, traveller and/or people mover. A reserve corridor for the possible EFTS was shown on Figure 5 of the ES. The type, mode of operation and routing would be subject to further technical and financial assessment by WKCDA at the detailed design stage. The WKCDA had previously explored the idea of providing a tram connection to the surrounding areas in the Conceptual Plan stage but it was found to be infeasible as it was difficult to find space to accommodate the tram alignment in the existing built-up areas of Tsim Sha Tsui and Jordan. However, other forms of

public transport facilities and pedestrian facilities would be planned to provide adequate connections to surrounding areas (R3); and

- (x) pedestrian connections - a network of pedestrian connections, including at-grade walkways, landscaped decks, footbridges and subways had been proposed based on the pedestrian demand study carried out by the WKCDA. A possible footbridge connection to Kowloon Park was shown on Figure 6 of the ES. Furthermore, pedestrian linkage with the surrounding areas was being investigated under an on-going traffic study commissioned by TD. In particular, TD in consultation with WKCDA, would further investigate the footbridge/subway connection to the Kowloon Park and Yau Ma Tei area as part of the traffic study e.g. subway connection to the MTR Jordan Station via Bowring Street;

Western Harbour Crossing (R2)

- (l) the major grounds and responses relating to the WHC were:

Grounds of Representations

- (i) the proposed hotel/commercial developments over and adjacent to the WHC tunnel portal within the “OU(MU)1” zone were unacceptable as they would impose additional loading on the tunnel roof and prevent unrestricted maintenance and repair access to the tunnel roof. The planned route of the EFTS over the tunnel had the same problem. Moreover, in case of fire in the tunnel, dense and acrid smoke would be dispersed out of the tunnel portal. The proposed hotel/commercial development would be affected and these high-rise buildings would severely constrain the dispersal of smoke;

- (ii) some essential utilities (e.g. power cable, fire water mains, control/communication cable) serving the WHC ventilation building were installed immediately to the east of the tunnel. These utilities were crucial for ventilation and fire-fighting in the tunnel. They should be fully protected with unrestricted access to WHTCL for maintenance and modification works;
- (iii) the three major WHC stormwater drainage outfalls within the WKCD area should not be disturbed. The location of the proposed MPV directly over the WHC Toll Plaza drainage outfall was unacceptable in terms of maintenance and security of operation;
- (iv) the construction of the proposed pedestrian Anchorage Bridge and the vehicle Austin Road Bridge (elevated), which required long duration of highway lane closure and traffic diversion, would result in severe traffic disruption to West Kowloon Highway within the WHC Tunnel Area, safety hazard to WHC users, uncertain security of WHC utilities and facilities, and serious reduction in vehicle throughput in the tunnel;

Responses

Technical Issues to be Addressed at ODP Stage

- (v) R2's representation in respect of the WHC tunnel was mostly technical in nature relating to the protection and maintenance of the tunnel area and related facilities and the possible implication on the operation of the tunnel. As these issues had to be studied at detailed design stage, it would not be appropriate to address these technical issues in the DP. Instead, they could be addressed when the more detailed ODP was prepared. The relevant technical, engineering, tunnel and utility reserve requirements could be included in the ODP in consultation with

concerned government departments;

- (vi) as clearly stated in the ES of the DP, works for WKCD should take into account the operation and maintenance of WHC and tunnel users. With due respect to this principle, WKCD had committed to working closely with WHTCL and related government departments on design and construction issues related to the safety and operation of WHC;

Loading on WHC Tunnel and Unrestricted Access to the Tunnel Roof

- (vii) Chief Highway Engineer/Kowloon, Highways Department (HyD) shared the view that developments and structures might impose adverse loading on the tunnel structures, and it should be ensured that no undue loading from any developments and facilities should be imposed on the tunnel structures and unrestricted access should be provided for the maintenance and repair works of the tunnel structures and facilities;
- (viii) as advised by HAB, WKCD had carried out preliminary engineering assessment of the area above the tunnel structure, and considered that the development should have no additional loading to the tunnel structure for the following reasons:
- the proposed hotel would be constructed with clear space over the WHC and induce no additional loading to the tunnel;
 - the EFTS was tentatively proposed to be in the form of e-buses. In the event of a tram or other transport modes being proposed, it would be designed such that there would be no additional loading on the tunnel; and
 - as structural slab directly above the tunnel was not required, access to the tunnel roof was possible;

Smoke Dispersal in Case of Fire

- (ix) the proposed hotel near the tunnel portal would be designed as a single-aspect building with no air intakes on the tunnel portal side, and the smoke would tend to disperse over a wide area. Director of Fire Services had no comment on WKCDA's response (see grounds of C1's comments below). Also, WHC utilities would be provided with structural protection and remain in-situ;

Essential Utilities

- (x) when the cables of the WHC facilities were to be replaced or upgraded in future, WKCDA would provide ducts along alternative routings agreed by WHCTL to facilitate the relocation;
- (xi) the relevant technical issues could be addressed at the detailed design stage and compliance with the tunnel protection and fire safety requirements was subject to the scrutiny of the relevant government departments, including the Fire Services Department, HyD and Buildings Department; and

Proposed Pedestrian Anchorage Bridge and Vehicle Austin Road Bridge

- (xii) regarding the Anchorage Bridge and Austin Road Bridge, they fell outside the boundary of the DP, and were shown in the Figures of the ES for indication and reference purposes. The implementation of the two bridges was subject to further study and feasibility assessment by WKCDA in consultation with WHTCL and concerned government departments. If implemented, the WKCDA and relevant government departments would ensure that the proposed construction works

would not adversely affect the operation of WHC;

Implementation and Funding

(m) the major grounds and responses relating to implementation and funding were:

- (i) grounds of representation - instead of relying on selling of land to developers to fund the cultural facilities, the Government should explore other possible alternatives. These included increasing the gross floor area (GFA) by providing underground commercial/retail developments as proposed by R4; as well as using contributions and donations to set up a Cultural Park Trust/Board to plan and oversee the cultural facilities and selling of the naming right of the Park and branding right of the cultural facilities as proposed by R9; and
- (ii) responses - under the WKCDA Ordinance, WKCDA was tasked with the responsibility of implementing the WKCD project from its planning to the operation stages and ensuring the financial sustainability of the project (R7 and R9). The funding issue, including the alternative funding sources as proposed by the representer, was outside the scope of the DP and not under the purview of the Board (R9);

Representer's Proposals and Responses

(n) the representers' proposals were summarized below:

- (i) R1 - effective gaps for NBAs should be over 20m;
- (ii) R2's proposals were:
 - to designate an NBA in the "OU(MU)1" zone (as shown on Drawing H-1 of the Paper) aligning with the tunnel

underneath with a 10m margin on each side of the tunnel so that no additional loading would be imposed on the roof of the tunnel and to ensure ongoing 24-hour availability of access to the tunnel roof for maintenance and repair;

- to designate a “Tunnel Reserve Area” (as shown on Drawing H-1 of the Paper) between the shoreline and R2’s proposed NBA at the “OU(MU)1” site, and aligning with the tunnel underneath with a 10m margin on each side of the tunnel;
- to adopt the existing drainage outfalls as drainage reserves that should be free of building works; or alternatively the outfalls could be diverted with appropriate capacity being assured;
- to remove the proposed Anchorage Bridge and Austin Road Bridge from the DP; and
- to establish a WHC protection zone with ongoing regular stakeholder interface meetings and appointment of an independent checking engineer by the WKCD to undertake detailed review and checking of the WKCD works at all interfaces with the WHC;

(iii) R4’s proposals were:

- to develop the WKCD site and its surrounding areas in accordance with his proposals titled ‘HKSAR: A Green Metropolitan City of Culture, World Heritage, Mega Events’ (as shown in Drawing H-2 of the Paper);
- to provide a large underground area under WKCD area with a total GFA of 660,000 m² for shopping and other uses to meet the tourists’ needs brought about by the XRL;
- to place all roads and WHC Toll Plaza underground to free up space above ground for the development of two mega World Heritage Parks, i.e. the WKCD World Heritage Park (45 ha) at the WKCD Site and Yau Ma Tei World Heritage Park (55 ha) at Yau Ma Tei reclaimed area;

- to develop an 8-ha World Heritage Olympic Plaza to the south of the XRL terminus within the WKCD for the holding of international mega events, e.g. Asian Games, World Expo, Olympic Games etc.;
 - two Marine World Heritage Parks were proposed, i.e. the Yau Ma Tei Typhoon Shelter Marine World Heritage Park (60 ha) at the Yau Ma Tei Typhoon Shelter and the Canton Road Marine World Heritage Park (16 ha) at the water area south of WKCD;
 - to build two pedestrian/bicycle bridges linking Kowloon Park to WKCD and Tsim Sha Tsui Cultural Centre/Clock Tower district respectively;
 - to build two cable tram/bicycle tunnels linking WKCD to Central Harbourfront and linking Tsim Sha Tsui Cultural Centre/Clock Tower district to Golden Bauhinia Plaza in Wan Chai; and
 - to develop a 'Harbourfront-Up-Peak Green Barrier Free & Bicycle Route' starting from the Central Harbourfront to the Peak;
- (iv) R5 and R6 supported R4's proposal;
- (v) R9 - to cancel all property developments for hotel, office and residential uses, keep all retail/restaurant developments underground, and reserve all above ground space for a cultural green park and for arts and cultural activities /developments; and
- (vi) R10 - to impose building gaps and NBAs with reference to AVA;
- (o) the responses to the representers' proposals were summarized below:
- (i) the responses to the proposals of R1 and R10 were summarized under the section on design and layout above (paragraph 96(i)) ;

the responses to R3's proposals were summarized under the sections on design and layout as well as open space and landscape above (paragraphs 96(i) and (j)); and the responses to R10's proposals were summarized under the section on transport issues above (paragraph 96(k));

- (ii) the responses to R2's proposals were:
- on the proposals to designate NBA and Tunnel Reserve Area on the DP, the response was that the relevant technical issues could be addressed by WKCDA at the detailed design stage in consultation with WHCTL and concerned government departments. The relevant requirements could be included in the ODP to ensure compliance with the requirement through the scrutiny of the relevant government departments; and
 - in respect of the proposed deletion of the proposed Austin Road Bridge and Anchorage Bridge, the response was that these bridges were shown on the figures of the ES of the DP for indicative purpose and were subject to further study by WKCDA; and
- (iii) the responses to R4's proposals were:
- the proposal for a large underground area would result in substantial increase in the plot ratio of WKCD and a change in the development mix with greater emphasis on shopping element. The concept was fundamentally different from the vision of WKCD, which was established after a series of design competition, technical assessments and public consultation, and had clear public acceptance;
 - in the absence of detailed technical assessments to demonstrate the technical feasibility of the proposal, e.g. the impacts of the increased development intensity on the traffic and infrastructure in the surrounding areas and the technical feasibility of having a large underground space

under WKCD and the reclaimed area to the west of Yau Ma Tei, and the construction of two cross-harbour tunnels for tram/cycle, the proposal was not supported; and

- the proposal also involved a number of proposed developments outside the WKCD area, which could not be addressed in the context of the DP;

Comments on Representations

- (p) three comments (C1 to C3) were received. One was submitted by WKCDA (C1), one by four members of the Democratic Alliance for the Betterment and Progress of Hong Kong Yau Tsim Mong Branch (C2), and one by Designing Hong Kong Limited (C3);
- (q) C1 provided detailed responses to the objections and concerns raised in the 10 representations; C3 was in support of R3, R4 and R9; and C2 raised concerns and comments on the traffic issues and had not specified the representation to which it was related;

Grounds of Comments

C1: West Kowloon Cultural District Authority

- (r) C1's grounds of comments were summarized below:

General and Overall Planning - Under-utilization of Underground Space

- (i) the WKCDA had undertaken a three-stage PE exercise to ensure that views from both the general public and stakeholders were collected in a structured way. The wide ranging views received were given full consideration during the formulation of the conceptual and DP for WKCD. As revealed from the Stage 3 PE Exercise completed in October 2011, there was strong support for the overall layout of the proposed DP as well as the early implementation of the project (R4 to R9);

- (ii) the concept underlying the DP was consistent with the inherent features of R4's proposal, such as flexible use of underground space to free up the ground level for public enjoyment, incorporation of green initiatives and provision of public space as far as possible. The underground space of WKCD was well utilized to accommodate vehicular access, parking space and loading/unloading area of the WKCD. Further use of underground space would be explored upon detailed design of individual facilities (R4 to R9);
- (iii) the development intensity and boundary of the WKCD as stipulated on the draft DP was proposed in accordance with the provision of the previous draft South West Kowloon OZP No. S/K20/26 as required under the WKCDA Ordinance. The proposal of R4 implied an increase in overall plot ratio beyond 1.81, which was not allowable under the DP (R4 to R9);

General and Overall Planning - *Development mix*

- (iv) the WKCD would accommodate arts and cultural venues for both performing and visual arts. In addition, a variety of retail, dining and entertainment uses as well as office, hotel and residential developments were planned to create synergy and vibrancy to the district. The development mix was essential to bring vibrancy and diversity to WKCD, with a rich mix of arts and culture, living, working, recreation and entertainment spaces both vertically and horizontally (R9);

Design and Layout

- (v) the NBAs on the DP were designated as a result of the findings of the AVA Study as well as other material considerations such as the provision of pedestrian ways, improvement on visual

permeability etc. In addition to the NBAs, the open space provided at the Central Square would also facilitate wind penetration from the waterfront area to Lin Cheung Road, whereas the east-west orientated Avenue would facilitate wind flow from the east through the WKCD site. In addition, buildings with permeable design would be encouraged during the detailed design stage. Hence, the current NBAs provision on the draft DP was considered sufficient and reasonable (R1 and R10);

Open Space and Landscape

- (vi) as stated in the ES of the Draft DP, not less than 23 ha of open space would be provided. This included 17.23 ha of open space designated as “O(1)” and “O(2)” zones on the DP. In addition, not less than 5.77 ha of open space would form an integrated part of the arts and cultural venues within various “OU(ACECU)” sub-zones for public enjoyment (R3);
- (vii) a landscape framework and landscape design principles had been incorporated into the ES of the DP. There was a hierarchical landscape network of park, avenue, piazzas and civic squares, waterfront promenade and terrace gardens for integrating arts, cultural, commercial, recreation and entertainment activities. Different design features and treatments would be incorporated in the open space area taking into account various concerns and user requirements involved (R3 and R7);
- (viii) on the implementation of the proposed Park, WKCDA was in the process to take up the available land in the future park area for temporary uses such as tree nursery, promenade, and art and cultural activities. Permanent work would be carried out upon formal land grant to WKCDA (R3);

Transport Issues

- (ix) the proposed northern perimeter road around the WHC portal was located in the “OU(MU)1” zone at a different level from the main pedestrian thoroughfare and would not affect the open space provision to the public. The aim was to provide a vehicle-free environment within WKCD (R3);
- (x) marine facilities like piers, landing steps, arts pontoons and viewing platforms were proposed to be built in the WKCD. These were not shown in the DP as water features were not covered by the DP and were subject to the requirements of the PHO, for which further investigation and feasibility study were required. The WKCDA would work with the relevant government bureaux/departments on the matter (R3);
- (xi) within WKCD, provision had been allowed for a possible EFTS. The type, mode of operation and routing would be subject to further study. A network of pedestrian connections, including at-grade walkways, landscaped decks, footbridges and subways had been proposed based on the pedestrian demand study carried out by the WKCDA. WKCDA would pay continuous effort to further enhance the internal and external connectivity of WKCD (R3);
- (xii) a number of road improvement works would be implemented and completed in year 2015. The transport provision had been studied under Traffic Impact Assessment (TIA) and was found to offer acceptable level of service (R8);

Western Harbour Crossing (R2)

- (xiii) WKCDA had continuous dialogues with WHTCL (R2) during

the preparation of the DP and the technical concerns raised were well noted. These would be resolved during the detailed design of the related facilities in WKCD. As explained in paragraph 16.4.4 of the ES of the DP, works for WKCD development should take into account the operation and maintenance of WHC and the tunnel users to avoid causing safety hazards to WHC; to avoid or minimize traffic disruption in the WHC tunnel area; to protect the WHC structures; and to ensure safe operation of the WHC;

- (xiv) regarding R2's proposals on the designation of NBA and Tunnel Reserve Area, NBAs were designated for the purpose to improve air ventilation and preserve necessary visual corridors rather than structural considerations which could be resolved technically. The proposed NBA was considered unnecessary. Designation of Tunnel Reserve Area on the DP was also considered not necessary. The tunnel area could be indicated on the ODP to be prepared. Exact drainage provision would be subject to detailed design of the related facilities. The diversion of these drains, if required, was relatively straightforward and such provision should not be escalated to a statutory constraint;
- (xv) the Anchorage Bridge for pedestrians shown in Figure 5 of the ES of the DP was for indicative purpose only and implementation of this bridge would be subject to detailed feasibility study. Safety precautions would be undertaken should the bridge be implemented as proposed; and
- (xvi) the Austin Road Bridge shown in Figure 6 of the ES was for indicative purpose and implementation of the bridge was subject to further study. This bridge was already planned and provided for during the original WHC construction. The piles and caps were in place together with the bridge connection point at Nga Cheung Road. The construction would need safety precautions

but these could be arranged such that disruption to WHC would be minimized. WKCDA would work closely with WHTCL and related government departments on design and construction issues related to the safety and operation of WHC;

C2 (Submitted by four members of the Yau Tsim Mong Branch of the Democratic Alliance for the Betterment and Progress of Hong Kong)

- (s) C2's grounds of comments were:
- (i) the significant traffic flow generated by the large number of general public and tourists attracted to the WKCD area, particularly when the crowd left the area after large-scale performances, would overload the road network in the area. The Government should implement proper traffic arrangement at the critical junction of Canton Road and Austin Road/Austin Road West. The proposed road connection to the Nga Cheung Road roundabout might not be effective. A more direct connection from WKCD to the northbound route of WHC traffic should be provided;
 - (ii) the pedestrian network should be extended to Jordan and Yau Ma Tei areas; and
 - (iii) with the development of various transport terminus and interchanges in the area, the planning of bus routes should be enhanced and the feasibility of transit arrangements should be studied. The proposal to provide bus lay-bys near the Nga Cheung Road roundabout and the MPV was supported;

C3 (Designing Hong Kong Limited)

- (t) C3's grounds of comments were:
- (i) to maintain consistency and quality commensurate with the

special status of the area as a 'cultural district', WKCDA should retain controls on all aspects of the implementation of the DP. The WKCDA should take on the role of incubator and to allow individual organizations to take on the development;

- (ii) detailed information to be included in the departmental ODP should be subject to public comment;
- (iii) the use of NBAs on development sites to create space for public passage would lead to unnecessary complications in the ownership and management of these passageways. Lot boundaries should be set back to create land reserves for public passageways and to make the area highly permeable for both pedestrians and cyclists;
- (iv) a review of the development mix was recommended in view of the lack of high-quality commercial space in the area;
- (v) cycling should be recognized formally in the DP as the preferred mode of transport in West Kowloon. Specific solutions for mass transit and pedestrian connectivity with the hinterland, e.g. Kowloon Park, Jordan, Yau Ma Tei, must be identified and set out for the public to comment on; and
- (vi) the breakwater of the former Yau Ma Tei Typhoon Shelter (i.e. the water area to the south of WKCD), currently used as a fire boat pier, and various piers and pontoons should be included into the DP;

Responses to Comments

- (u) C1's comments were WKCDA's detailed responses to the objections and concerns raised by the 10 representations, which were generally based on

the planning theme and design principles set out in the ES of the DP, were noted;

(v) the responses to C2's comments were:

- capacity of road network in the area: the Commissioner for Transport advised that based on the traffic assessments conducted by TD and WKCDA, with the implementation of the various recommended road improvement works, all the key road sections and junctions in the area, including the junction of Canton Road and Austin Road/Austin Road West, were forecasted to operate within capacity after the commissioning of WKCD and West Kowloon XRL Terminus development;
- pedestrian connections to Jordan and Yau Ma Tei - TD was studying the possible pedestrian linkages;
- the proposed road directly connecting the MPV and the northbound traffic of WHC - it would take up land currently occupied by the public cargo working area and affect the planning and design of the waterfront promenade; and
- bus route rationalization proposal - WKCDA would study the proposal at the detailed design stage and recommend to the relevant government departments the practical public transport proposals that would enhance the accessibility and connectivity between WKCD and the surrounding areas;

(w) the responses to C3's comments were:

- the view that WKCDA should retain specific controls over the implementation of WKCD was noted;
- designation of NBAs within private lots - the NBAs served as public passageways and would not form part of the development lots. Apart from serving as passageways, the NBAs would promote air and visual permeability;
- proposed review of the development mix for more high-quality commercial space - the current development mix was considered

appropriate having regard to the established planning theme of WKCD as an integrated arts and cultural district;

- cycling facilities - cycle paths/tracks would be provided in the Park. Extension of the facility to the other parts of WKCD would be subject to further study;
- inclusion of piers into the WKCD - see response to grounds regarding marine facilities above (paragraph 96(k)) ; and
- request for public consultation on the ODP - as advised by HAB, WKCD would listen to the views from the various stakeholders and the public in the design and development process; and

PlanD's Views

- (x) based on the responses to the grounds and proposals of the representations and commenters set out in paragraph 4.8 of the Paper and summarized above, PlanD did not support the representations.

97. The Chairman then invited the representers, commenters and their representatives to make their presentations.

R2 – Western Harbour Tunnel Co. Ltd.

(Mr. Thomson Ronald Ross, Mr. Keith Kong, Mr. Eric Pang, Mr. William Ho)

98. With the aid of a powerpoint presentation, Mr. Thomson Ronald Ross made the following main points:

- (a) the WHTCL was supportive of the development of the WKCD and had contributed positively to discussion during the formulation of the WKCD DP. The purpose of the representation was to highlight the aspects of the WKCD DP which according to WHTCL would have impacts on the safe operation and maintenance of the WHC;
- (b) the WHC was a critical element of the Hong Kong infrastructure and any disruption to the WHC would cause major traffic disruption in Hong

Kong. In accordance with the WHC franchise agreement and the WHC Ordinance, the WHTCL had to ensure the safe and reliable operation of WHC;

- (c) the major areas of concerns covered the impacts on the tunnel, utilities, drainage outfalls and the proposed Anchorage Bridge and Austin Road Bridge;
- (d) the concerns regarding the tunnel area were:
 - (i) the large U-shaped hotel development was proposed above the tunnel portal. Landscaping on raised level and internal roads were also proposed above the tunnel area;
 - (ii) the above developments/uses would exert excessive loading on the tunnel roof; affect 24-hour access to the tunnel roof for repair maintenance and emergencies; and affect dispersal of poisonous smoke in the case of fire and this would affect the occupiers of the hotel, the rescuers and tunnel users; and
 - (iii) their proposed amendments were to designate a non-building area above the tunnel portal and a tunnel reserve area above the tunnel (that would span from the tunnel portal to the waterfront);
- (e) the concerns regarding impacts on the critical utilities located between the tunnel portal and the ventilation buildings were:
 - (i) the large U-shaped hotel development was proposed above the tunnel portal. Landscaping on raised levels and internal roads were also proposed above the tunnel area;
 - (ii) the above developments/uses would pose risks in terms of power supply and fire mains; tunnel ventilation and fire-fighting capability. Disruption to the critical utilities might force the closure of the

tunnel and cause massive traffic disruption; and

- (iii) their proposed amendments were to designate a tunnel reserve area above the tunnel (that would span from the tunnel portal to the waterfront). Pre-approval would be required for all activities within the tunnel reserve and there should be no disturbance to the critical utilities;
- (f) the concerns regarding the impacts on the three drainage outfalls were:
- (i) the two drainage outfalls in the north and south were for drainage of the toll plaza and ventilation buildings and might be affected by buildings, transport facilities, utilities and landscaping in the DP. The drainage outfall in the middle would traverse the proposed site for the MPV;
 - (ii) the development proposed above the drainage outfalls would disturb the drainage system, cause risk of flooding and might disrupt tunnel operations; and
 - (iii) the proposed amendments were to designate drainage reserves for all three drainage outfalls. For the drainage outfall in the middle which might affect the MPV, the WHTCL was ready to consider drainage diversions;
- (g) the concerns regarding the impact of the proposed Anchorage Bridge were:
- (i) the proposed bridge would be a major footbridge that would involve construction across the approach roads to the toll plaza of the WHC and additional columns had to be placed in the toll plaza area;
 - (ii) the construction of the bridge would require lane closure,

significant and long-term traffic diversions, severe traffic disruption, reduced throughput to WHC and excavation works that would impact on the critical tunnel utilities; and

- (iii) their proposed amendments were to remove the Anchorage Bridge from the DP or to consider alternative form of construction, such as cable-stay bridge that would not require pier / columns to be built over the approach road or toll plaza area;
- (h) the concerns regarding the impact of the proposed Austin Road Bridge were:
- (i) the proposed bridge would be a structure to be built over the toll booths;
 - (ii) the construction of the bridge would require toll lane/booth closures, risk of damage to sensitive control systems, severe traffic disruption and reduced throughput to WHC; and
 - (iii) their proposed amendments were to remove the Austin Road Bridge from the DP or to consider alternative form of construction, such as cable-stay bridge;
- (i) he concluded the presentation and made the following main points:
- (i) the works of the WKCD impinged adversely on WHC activities and would prevent WHTCL from abiding by its commitment to the Government under the conditions of the WHC Franchisee Agreement and WHC Ordinance;
 - (ii) the DP was deficient in providing essential protection and safeguard to the integrity of the existing WHC facilities;
 - (iii) constructive recommendations were proposed to address the issues

of concern. Adoption of R2's proposals was essential to preserve the integrity of the existing infrastructure and safety of the public;

- (iv) a 'WHC' protection zone should be reserved on the DP, and this would be similar to protection zones normally designated for protection of MTR lines; and
- (v) WKCDA should appoint an independent checking engineer to verify proposed designs and supervise construction works.

[Ms. Winnie M.W. Wong returned to join the meeting at this point.]

R3 – Central & Western Concern Group

(Mr. John Batten, Ms. Clara Cheung)

99. With the aid of a powerpoint presentation, Mr. John Batten made the following main points:

- (a) he was the convenor of the Central & Western Concern Group and was personally involved in the art and cultural field;
- (b) the Central & Western Concern Group was concerned about urban planning matters. They had been involved in matters relating to the demolition of the Star Ferry Pier in Central, the planning proposals for the Police Married Quarters sites in Hollywood Road, Urban Renewal Authority's development at Peel Street/Graham Street, and lately the campaign for preservation of Government Hill and the West Wing of the previous Central Government Offices;
- (c) he envisaged some problems with the WKCD project and was concerned that the WKCD would not match with general public expectations;

Matters of Concern

- (d) the Park (within the “O(1)” zone) – there was no clear information as to what would be built inside the Park. From some illustrations as well as the model shown in the PE3 exercise, there would be some structures that were annotated as ‘freespace’ and ‘pavilion’. Such built structures would lower the green area in the Park. The Board should specify clearly in the Notes of the DP as to what would be built inside the Park. There was also no minimum coverage for grass and trees in the Park and it was difficult to assure that the Park would not turn out to be parks covered with concrete;
- (e) promenade – the DP proposed a 20m promenade along the perimeter of the Park. The Notes should specify that the promenade should have a maximum width of 20m. This could prevent the promenade to be turned into a roadway for people working inside the Park, as in the case of Kowloon Park and Victoria Park;
- (f) the U-shaped hotel around the WHC tunnel portal (within the “OU(MU)1” zone) – the hotel was subject to a maximum BHR of 100mPD. The illustration in the M+ Expression of Interest (EoI) document showed that the hotel would be a massive structure that would dominate the skyline as viewed from the Park. On the contrary, the model shown in the PE3 exercise showed that the hotel structure would be splitted up into a number of buildings with much lower building height compared to the latest illustration in the M+ EoI document;
- (g) no proper transport arrangement for the MPV – if the Austin Road Bridge was not built, there would be a major access and traffic problem for the MPV. Hence, WKCDA proposed a perimeter road around the U-shaped hotel on the side facing the WHC tunnel portal, that was a back-up solution if the Austin Road Bridge was eventually not built. The Board should not approve the DP that did not have any transport and

pedestrian linkages. If there was no proper road access to the MPV area, there might be major traffic jam after big events and people might have to walk a long way to a bus stop. Furthermore, according to some government documents, the perimeter road around the hotel would only be reserved for use by VIPs;

- (h) the Avenue – the Avenue should be designed to be curved rather than straight as shown in the DP;
- (i) cycling – it was good for the DP to make provision for cycling facilities. However, the WKCD had to be aware that it might be difficult to fit in cycling facilities when there was a mix of different users;
- (j) internal transportation – the length of the WKCD spanned 1.2 to 1.8km and internal transportation should be proposed to facilitate people to move around within the WKCD;
- (k) WHC tunnel portal area – he agreed with R4’s proposal to better utilise the area currently occupied by the approach roads and toll plaza to WHC for developments by relocating the roads underground. However, HyD would likely oppose to the proposal;

Proposed Amendments to the Development Plan

- (l) his proposed amendments to the DP were summarised below:
 - (i) the Park in the “O(1)” zone – to specify in the Notes of the “O(1)” zone that temporary structures were allowed for short periods only (say two weeks only); a minimum area of trees and grassed areas; that the waterfront promenade should have a maximum width of 20m; and that the park should be a non-building area;
 - (ii) the hotel in the “OU(MU)1” zone – the BHR of this zone should be amended to 50mPD and air ventilation corridors should be

provided to break down the U-shaped hotel structure;

- (iii) marine facilities – there was over whelming support from the public and the Harbourfront Commission for providing marine facilities in the WKCD. Piers/landing steps should be incorporated in the DP to enhance marine access to WKCD;
- (iv) traffic solutions – a proper road infrastructure and traffic management plan should be presented by TD and the WKCDA to the Board prior to approval of the DP;
- (v) perimeter road around the U-shaped hotel – this perimeter road should be deleted and other transport options should be considered;
- (vi) the “O(2)” zone – the Avenue within the “O(2)” zone should have a curved design. The proposed uncovered squares (such as Artist Square) might not be appropriate for Hong Kong’s extreme weather;
- (vii) MPV – the MPV should be deleted from the DP until a proper road and transportation infrastructure plan was proposed by TD and WKCDA; and
- (viii) on-site transportation – there should be provision of plans for on-site transportation, tramline, cycling etc. prior to approval of the DP.

[Mr. Timothy K.W. Ma left the meeting temporarily and Ms. Bernadette Linn returned to join the meeting at this point.]

R4 - K.P. Cheung

(Professor K.P. Cheung)

100. With the aid of a powerpoint presentation, Professor K.P. Cheung made the following main points:

- (a) he presented an alternative proposal ‘A Green Metropolitan City of Cultures, World Heritage, Mega Events’ in his representation. His proposal was a visionary long-term plan for West Kowloon and Hong Kong;

Underground Space

- (b) the DP had not taken into account the potential brought about by the XRL and would only utilise only about half of the development potential of underground floor space. The WKCD site was on reclamation and excavation would be cost effective. It was geotechnically feasible to build three basement levels;
- (c) an underground shopping centre with a retail GFA of two million square feet could be built in WKCD. The financial analyst, Mr. Lam Fan Keung, had also quoted his underground shopping centre proposal in a newspaper article. The underground shopping centre would meet the needs of visitors associated with the XRL. Similar underground shopping centres were being built in Shenzhen, Beijing and Macau;
- (d) with 50% more underground space for shopping and culture facilities, more space could be freed up above ground for large scale art installations;
- (e) the XRL would bring about a lot of development potential through integration with the Mainland. Hence, more underground space should be built in WKCD to capture such potential;

- (f) despite the total PR restriction of 1.81 on the DP, the development intensity should be allowed to be exceeded for provision of more underground space. Provision of more underground space would not create any adverse impacts on lighting and ventilation, visual impacts nor affect the amount of park space. More floor space could also be sustained by the transport facilities including in his proposal i.e. cross-harbour subways and an underground high-speed rail. The proposed underground development would also comply with fire safety requirements;
- (g) the two million square feet of shopping centre floor space would generate sufficient income to support the development and on-going management of the WKCD, and there would be no need for further funding from the Government;

Plaza and Heritage Parks

- (h) an 8-ha World Heritage Olympic Plaza was proposed to the south of the XRL terminus for holding international mega events. The plaza would be a unique landmark in Hong Kong as it would be the meeting point of two sun-dials (formed by the shadows of the International Commercial Centre and the Lantau Peak). In fact, sun dials could be established in different places in Hong Kong and sundial architecture was common in other countries;
- (i) two mega World Heritage Parks were proposed at the WKCD site (45 ha) and the Yau Ma Tei reclaimed area (55 ha);
- (j) two Marine World Heritage Parks were proposed at the Yau Ma Tei Typhoon Shelter (60 ha) and the Canton Road waterfront (16 ha);

[Mr. Timothy K.W. Ma returned to join the meeting at this point.]

Transport Plan

- (k) the following transport facilities were proposed:
- (i) bridges and subways for pedestrian and cyclists were proposed to provide connections to the Yau Ma Tei, Jordan and Tsim Sha Tsui MTR stations;
 - (ii) as the franchise agreement with the WHTCL would expire in 2023, there was opportunity for the Government to re-arrange the road area thereafter. His proposal included putting all approaching roads to the WHC underground to free up space above ground for developing the heritage parks. This would be similar to the concepts of the 'Big Dig Project' in Boston or the Millennium Park in Chicago. The underground shopping centre could also be extended into the West Kowloon area;
 - (iii) a monorail system was proposed to provide internal transportation within the WKCD and connections with the larger West Kowloon area in the north. The monorail might be on two levels and the width of the existing roads were wide enough to accommodate the monorail system;
 - (iv) to develop two cable tram-bicycle tunnels linking the WKCD to the Central Harbourfront and linking the Tsim Sha Tsui Cultural Centre to the Golden Bauhinia Plaza in Wan Chai; and
 - (v) to develop the 'Harbourfront-Up-Peak Green Barrier Free, & Bicycle Route', comprising a series of green bridges, staircases and lift towers, that would connect the Central Harbourfront with Peak;

[Dr. C.P. Lau arrived to join the meeting at this point.]

Conclusion

- (l) in his proposal, the above-ground areas for non-cultural and cultural uses would comply with the requirements in Legco Specifications for WKCD (July 2008). It was only necessary to adjust the locations of some cultural buildings in the DP;
- (m) his proposal would result in additional provision of underground cultural facilities, shopping and food court facilities and traffic facilities;
- (n) his proposal would allow WKCD to have strong financial base, good transport, more green space, more cultural space, places for holding mega events, underground shopping centre and a tourist attraction;
- (o) in terms of project finance, the basic grant was already sufficient. With the underground shopping centre, the WKCDA could obtain bank loans easily. The Government should not sell off the land in WKCD nor engage in public-private partnership scheme. With a good land use mix in the WKCD, it would be easy to solicit donations; and
- (p) his proposal was sustainable in economic, social and environmental terms.

R9 – Hong Kong Alternatives

(Ms. Karen Loh, Dr. Wai Kee Nang, Mr. Wong Wai Kwong)

101. With the aid of a powerpoint presentation, Ms. Karen Loh made the following main points:

- (a) the Hong Kong Alternatives was an advocacy group for WKCD to be a 100% cultural green park;
- (b) in the DP, 59% of the GFA was proposed for property developments

including hotel, office, residential as well as retail/dining/entertainment uses. Only 41% of the GFA was proposed for cultural facilities;

- (c) the Foster+Partner scheme emphasized a 'Mong Kok' replication. According to the schematic drawings, the concert hall and exhibition area would be buried under a high-rise building and the Avenue was far too narrow;

No Property Development in WKCD

- (d) as shown in the model of WKCD, the property developments along the northern site boundary would overshadow the cultural facilities. WKCD belonged to the people of Hong Kong and it should not be a place for property developments;
- (e) R9 had commissioned the University of Hong Kong to conduct public opinion polls about WKCD. The first opinion poll was conducted in 2006 which supported deleting the big canopy and the single developer approach as originally planned;
- (f) another public opinion poll was conducted in March 2011. The results showed that 69% of the respondents considered that there was insufficient open space and green parks in the urban areas of Hong Kong; 88% of the respondents desired Hong Kong to become a green and environment-friendly city; 54% of the respondents did not know that the WKCD area was originally planned for a cultural park; 84% of the respondents opposed the selling of land in the WKCD to developers to build luxurious flats; and 57% of the respondents agreed that funds for the WKCD development should not be solely reliant on revenue from selling land in WKCD;
- (g) WKCD was the last harbour frontier that belonged to the people of Hong Kong. Property development at WKCD was not acceptable;

WKCD Funding

- (h) it had been argued that selling the land for private property development was essential to financially sustain the WKCD. However, proceeds of public land auction would not be directly allocated to WKCD and might not be readily available for the development of the WKCD;
- (i) Legco's approved funding of \$21.6 billion should be sufficient for development of cultural facilities in WKCD. Hence, the only financing needs would be for maintaining the cultural facilities in WKCD. WKCD could consider forming a fund raising board to raise funds through public fund raising, corporate sponsorships, institutional donations etc.;
- (j) Professor K.C. Cheung's proposal of providing an underground shopping centre with two million square feet of GFA would yield reliable recurrent income;
- (k) when the franchise agreement with the WHTCL ended in 2023, the Government could consider decking over the area currently occupied by the WHC approach roads and toll plaza and developing above it. All the property developments (i.e. hotel, office, residential and commercial developments) currently proposed in WKCD could be relocated to the deck over the WHC area. This would solve the financial issues and raise a lot of money for the Government;

R9's Proposals

- (l) R9 requested the Board to consider eliminating the hotel, office and retail property development in WKCD so that the Site could be developed into a truly cultural green park. The Board might refer to R9's proposals for funding as an alternative to property development. With the latest ICAC case involving the WKCD, they appealed to the Board to defer a decision on the DP until after the court hearing; and

- (m) the Board should safeguard WKCD as a 100% cultural green park without property development as Hong Kong's legacy for generations to come.

[Mr. Benny Y.K. Wong left the meeting at this point.]

102. Dr. Wai Kee Nang continued with the presentation and made the following main points:

- (a) the WKCD was located in the densely populated West Kowloon area which had a population of 2 million, there was no justification to add a few thousand residents within the WKCD;
- (b) Hong Kong Alternatives generally agreed to the principles set down by the proposal of Prof. K.P. Cheung (R4);
- (c) R9's proposals were:
 - (i) the entire above ground space to be dedicated for a cultural green park;
 - (ii) the underground space (25m in depth) was to be developed as Hong Kong's future central transport and commercial/shopping hub as well as to accommodate the building services;
 - (iii) two cross-harbour rapid transit tunnels were to be built for relieving congestions of cross harbour traffic; and
 - (iv) the underground commercial/shopping hub should bring in reliable recurrent income; and adequate open space was needed close to the XRL terminus for effective dispersal of passengers;
- (d) in terms of funding and finance, the following points were made:
 - (i) there was no need for property development to raise funds for the WKCD;

- (ii) the Government had only allocated \$21.5 billion for development of art and cultural facilities in WKCD. That was only a very small amount in comparison to the huge government reserve. The \$21.5 billion should be the seed money that was non-refundable and non-recurrent;
 - (iii) the future WKCDA had to be a non-profit making organisation free from control and interference of the Government. Otherwise, it would affect its fund-raising ability;
 - (iv) the WKCDA should be financially self-sufficient, similar to the Chicago Millennium Park, the Tung Wah Hospital Groups and Po Leung Kuk;
 - (v) the future WKCDA should be responsible for its future financial management of its lands, properties and intellectual properties;
 - (vi) the seed money should be sufficient for the WKCDA to get started on the Cultural Green Park. There would be recurrent income from the two cross-harbour rapid transit, the underground commercial/business hub and underground car park;
- (e) the Foster+Partner Scheme was a property development project in disguise. The three conceptual schemes previously prepared were tainted with property developments due to the requirements specified by the Government (i.e. 20% of the GFA for residential developments and 50% of the building area of the Site for residential and commercial uses);
- (f) both the Chairman of the WKCDA and the Government had failed to disclose whether the WKCDA would maintain ownership of some or all of the properties in the WKCD;

Overseas Examples

- (g) it was a world trend for most major cities to move the above-ground road / railways underground;
- (h) parks that were significant city landmarks in other places were also free

of property developments. Examples of the parks included the Central Park in New York; Hyde Park, St. James Park and Regent Park in London; the Chicago Millennium Park; and the Botanic Park and Marina Bay Park in Singapore; and

Conclusion

- (i) WKCD should be the cultural park that belonged to the people in Hong Kong. The Government had no right to sell the people's land for property development.

R7 – S. Leung

(Ms. S. Leung)

103. With the aid of some powerpoint slides, Ms. S. Leung made the following main points:

- (a) Hong Kong was a densely built up city. The question to be asked was whether there was a genuine need to develop the WKCD site, but not how the Site should be developed. Nevertheless, if the Site had to be developed, a better scheme should be selected;
- (b) the Foster+Partner scheme was not a desirable scheme and had to be amended. She supported the scheme put forward by Prof. K.P. Cheung (R4), the 'INCUBE' scheme advocated by Mr. Lee King Hin and Hong Kong Alternatives (R9)'s proposals. As compared with the Foster+Partner's scheme, the latter schemes/proposals were more environment-friendly, less dense, and with more open space and landscaping;
- (c) tree planting was very costly in an urban area and there was no need to extensively plant trees in WKCD to create another waterfront country park. Hong Kong already had 70% of its land as country parks [*sic*];

- (d) the Board was urged to amend the DP so that more people would enjoy the WKCD;
- (e) she said that WKCDA should be well aware of public views raised about the problems of the WKCD scheme, such as underestimation of the potential of underground space. However, she had received an e-mail from the WKCDA replying to her e-mail, which still claimed that the scheme proposed under the DP was justified; and
- (f) the WKCDA had spent a lot of resources to conduct the public engagement exercise, it was not properly done. For example, advocates who put forth feasible alternative schemes like Prof. K.P. Cheung and Mr. Lee King Hin were not invited to present their ideas and concerns in PE3.

[Ms. Anita W.T. Ma arrived to join the meeting and Mr. Stanley Y.F. Wong left the meeting at this point.]

C1 – West Kowloon Cultural District Authority (WKCDA)

(Dr. M.W. Chan, Mr. Colin Ward, Mr. Sai Hung Ching, Mr. Dickson Hui, Mr. Fred Brown, Mr. Derek Sun, Mr. Y.C. Ng, Ms. Helen Lung, Mr. Patrick Lam, Ms. Teresa Man, Ms. Winnie Wu, Mr. Steven Ho, Mr. Adam Lee)

104. With the aid of a powerpoint presentation, the team made a presentation. Dr. M.W. Chan made the following main points:

Background

- (a) according to the West Kowloon Cultural District Authority Ordinance (Cap. 601), WKCDA was responsible for preparing a development plan for the WKCD. In preparing the DP, WKCDA should have regard to the views received in the public consultation;
- (b) a three-stage public engagement (PE) exercise was conducted between 2009 to 2011 to collect views from the public as the basis for drawing up

the DP. The Policy Research Institute of the Hong Kong Polytechnic University was commissioned to collect public views during the PE exercise. Multiple methods were used to collect public views, including public forums, focus groups, technical workshops, roving exhibitions, school tours, school talks as well as the use of internet, facebook and questionnaires. Written submissions were also received;

- (c) the Stage 1 of the PE exercise (PE1), which were held between October 2009 and October 2011, was to gauge the community's expectation on the planning of the WKCD. The WKCDA subsequently engaged three planning teams to develop conceptual plans based on the views received in the PE1 exercise;
- (d) during the PE2 exercise, which was held between August and November 2010, conceptual plans prepared by the three planning teams, (i.e. Foster + Partners, Rocco Design Architects Limited and Office for Metropolitan Architecture) were exhibited for public comments. In March 2011, the WKCDA endorsed the recommendation made by a selection panel, which had selected the Concept Plan prepared by Foster + Partners. Refinements were made to the conceptual plan by Foster + Partners, incorporating desirable features from the other two conceptual plans into the modified conceptual plan;
- (e) on the basis of the modified conceptual plan, a DP was prepared and exhibited for one month in October 2011 in the PE3 exercise. Members of the public and stakeholders were invited to submit their views on the proposed DP to the WKCDA. The mainstream views received in the PE3 were basically consistent with those in the previous two PEs;
- (f) the Board was consulted during the three-stage PE exercise on 30.10.2009, 22.10.2010 and 28.10.2011;

Latest Progress

- (g) there were public requests for early implementation of some land uses in the WKCD. The WKCDA had obtained a short term tenancy (STT) on in the headland area of the Site for conducting temporary activities;
- (h) after submission of the DP to the Board in December 2011, the WKCDA had engaged consultants to prepare the ODP. Design competition for the Xiqu Centre started in July 2012 and five designed teams were selected for the competition. Expression of Interest (EOI) submissions for the Park and associated promenade were being considered. EOI invitation for the design competition for M+ had just commenced. Activities were being organised on the Site;
- (i) the WKCDA was currently planning to implement the nursery for the Park so as to study the species of trees and flowers that were suitable to be grown in the Park;
- (j) various activities had been held in the WKCD site to increase the public knowledge of the place. These included the Hong Kong Wine and Dine Festival at the West Kowloon Promenade, the Bamboo Theatre for Xiqu held in the Chinese New Year of 2011, and mobile M+ held in places outside the WKCD. More activities were planned to be held at the end of 2012;

Implementation Programme

- (k) the arts and cultural facilities would be implemented in two phases as shown in Figure 1 in the ES of the DP. Parts of the Park and some arts and cultural facilities, including the Xiqu Centre, M+ and possibly the MPV were some of the facilities to be provided in Phase 1 (up to 2020). Various consultancy studies were already in progress and design of a number of venues were in more active progress, which included the Xiqu

Centre, M+, the Park, Lyric Theatre and Centre for Contemporary Performance; and

- (l) there were a number of existing facilities/ utilities on the Site. They included the existing Tsim Sha Tsui Fire Station Complex, saltwater pumping station No. 2, ventilation building of the WHC, the Airport Railway and its ventilation building, existing cooling mains to government offices, a storm drain and a box culvert. The interface with these existing facilities/utilities would be carefully handled in consultation with the relevant government departments and stakeholders in the detailed design stage.

105. Mr. Dickson Hui continued with the presentation and made the following main points:

The Development Plan

- (a) the WKCD DP was submitted to the Government in December 2011 and the draft DP was exhibited on 30.3.2012. The major development parameters in the draft DP complied with the development restrictions stipulated on the Site in the previous OZP. The Site had a total area of 40.91ha with a maximum permitted PR of 1.81, and residential GFA should be not more than 20% of the total GFA. In addition, not less than 23 ha of open space should be provided within the WKCD. The overall building height profile was subject to BHRs of 50mPD, 70mPD and 100mPD;

Response/Clarifications to Representations/Comments

Utilisation of Underground Space

- (b) the DP would fully utilise the underground space. Road and servicing facilities would be provided underground to free up the ground level for pedestrians. This would create a safe and vibrant environment above

ground;

- (c) basement level 1 would mainly be for providing roads, coach parking and car parking spaces. Basement level 2 would be for providing car parking spaces, including those for the WKCD and the XRL. Some cultural facilities would also be provided in the basement levels;
- (d) there would be vertical integration of WKCD facilities (the core arts and cultural facilities as well as the retail, dining and entertainment uses) with the public infrastructure as well as hotel, office and residential developments;

Non-building Areas

- (e) five NBAs, with widths ranging from 8m to 15m, had been incorporated in the DP. They would primarily serve as pedestrian ways and also help to facilitate air ventilation and improve visual permeability;
- (f) other than the NBAs, the open space provided at the north-south oriented Central Square (40m wide) and the east-west oriented Avenue (20m) were more important for enhancing air ventilation on the Site. In addition, buildings on each development site would adopt permeable architectural designs;

Environmental Friendly Transport System

- (g) provision had been allowed for a possible EFTS in WKCD. The EFTS might be in the form of e-bus, traveller or monorail in WKCD. The type, mode of operation and routing would be subject to further study; and
- (h) a possible internal e-bus corridor was reserved within the WKCD and possible external e-bus corridors connecting to the existing MTR stations were being further studied.

106. Mr. Sai Hing Ching continued with the presentation about the DP and made the following main points:

Impacts on the Western Harbour Crossing

- (a) with regard to the concern on the U-shaped hotel which was proposed to be built around the tunnel portal, there were modern construction methods that would avoid loading on the tunnel portal and reserve to allow access to the roof top for maintenance;
- (b) the foundations for the Austin Road Bridge had already been built and it would only require the addition of a vehicular deck. There were proven construction methods that would have no impact on the operations of the WHC during construction;
- (c) the Anchorage Bridge was to provide a direct pedestrian linkage with podium of Kowloon Station. Similarly, there were proven construction methods for this pedestrian bridge that would not impact on the operations of the WHC during construction; and
- (d) the WKCDA would further liaise with the WHTCL during detailed design stage to resolve the technical concerns and the safety and smooth operation of the WHC would not be compromised.

107. Dr. M.W. Chan concluded the presentation and said that the WKCDA would continue to work closely with the community on the way forward. Residential developments in the WKCD and retail/dining/entertainment facilities within the Park required planning application to the Board. The public could make comments according to the provisions under the Town Planning Ordinance.

108. As the presentations from the representers and their representatives had been completed, the Chairman invited questions from Members.

Question and Answer Session

Transport Issues

Road Network

109. Mr. Wilson Chan (DPO/TWK) responded to the comment made by R3 in his presentation that there was insufficient transport infrastructure to support the WKCD development. He said that TD conducted a traffic study in 2009 for the West Kowloon Area, taking into account the West Kowloon Terminus and WKCD developments. Road improvement works were proposed and were under construction. With the completion of those road improvement works, the local road network would be able to support the future traffic demand in the West Kowloon area. Mr. Fred Brown (traffic consultant of WKCDA) supplemented that subsequent to TD's traffic study for the West Kowloon area, the WKCDA had also conducted a TIA for the conceptual plan and DP of the WKCD. The updated TIA had confirmed that there would be sufficient road capacity to accommodate the WKCD development.

Pedestrian Connections

110. Mr. Wilson Chan (DPO/TWK) continued and said that with regard to the pedestrian connections with the existing hinterland areas in Jordan and Yau Ma Tei, TD was conducting a pedestrian connectivity study for the area. Possible pedestrian connections to the Jordan Road MTR station via a pedestrian subway at Bowring Road, as well as connections to the Kowloon Park, were being examined in TD's on-going study.

111. In response to a Member's question, Mr. Fred Brown supplemented that a comprehensive system of pedestrian connections was proposed with the aim of providing a traffic free pedestrian environment within WKCD and enhancing connections with the surrounding areas.

112. A Member asked whether there would be covered walkways or footbridges to provide connections between buildings; and whether facilities such as travellers would be provided to enhance accessibility within the district. In response, Mr. Colin Ward

(architectural consultant of WKCDA) said that the buildings would be designed with colonnades and arcades so that pedestrians could have the choice to walk around WKCD under some shade most of the time. However, the WKCDA was conscious not to create a shopping mall style of development at WKCD and the design would emphasize street life and shopping streets. There would also be two kilometers of drop-off area underground with drop-off points at all major performance venues. In addition, an EFTS that might be in the form of e-buses would provide convenient access for people within the WKCD.

Transport Facilities for the Mega Performance Venue

113. Mr. John Batten (R3) said that there was no explanation on the pedestrian route for visitors from the MPV to the nearby MTR stations. In addition, there was no confirmed view as to whether the Austin Road Bridge, which seemed to be an essential road infrastructure to support the MPV, would be implemented. His view was that the DP should not be approved until there was sufficient road infrastructure and a feasible transport management plan (covering pedestrian links). In the light of Mr. John Batten's comment, the Chairman asked WKCDA to explain the pedestrian facilities planned for the MPV.

114. In response, Mr. Fred Brown said that there would be pedestrian connections linking to the Kowloon Station and that included the proposed Anchorage Bridge. There would be bus lay-bys, taxi-stands and pick-up/drop-off areas at the MPV site. In addition, there would be around 400 car parking spaces. The MPV would also be served by the proposed EFTS that might be in the form of e-buses. Crowd dispersion had been assessed by computer simulation and it was found that the current design and proposed pedestrian / transport facilities would be able to handle the crowd dispersion from the MPV.

115. Mr. Fred Brown also provided clarification about a comment made by R3 that the Austin Road Bridge would only be for VIP use. He said that the Austin Road Bridge was proposed for use by all visitors most of the time and priority would be given to specific groups of people (such as performers / competitors) during major events. It would also provide the Police with more flexibility to carry out temporary transport management plans.

Mass Transit Railway Station

116. A Member asked whether it was possible to incorporate a mass transit railway (MTR) station at WKCD. In response, Mr. Fred Brown said that the WKCDA had studied but considered that it was not feasibility to add a MTR station within the WKCD. The main reasons were that it was generally not viable to build a station to serve a waterfront location (as half of the catchment area would be in the harbour with no developments); the WKCD was already close to the Austin Station which provided connections to West Rail as well as future connections to Kai Tak and Ma On Shan; the Kowloon Station on the Tung Chung Line was in the vicinity; and there were technical difficulties to provide additional rail connections from WKCD to the existing railway lines due to different site levels and configuration.

Interface with Western Harbour Crossing

Impact on Existing Drainage Outfalls and Utilities

117. The Chairman asked WKCDA how WHTCL's concerns about the adverse impacts on the WHC and its related utilities and existing drainage outfalls could be addressed. Mr. Sai Hing Ching (engineering consultant of WKCDA) said that there were standard procedures for temporary diversion or protection of drainage outfalls and utilities during construction works. During the detailed design stage, the WKCDA would liaise with the WHTCL and relevant government departments to resolve any interface issues.

Impact of Proposed Bridges

118. The Chairman said that the WHTCL had raised concerns that the construction of the proposed Austin Road Bridge and Anchorage Bridge would cause major disruption to traffic and vehicle throughput of WHC. He asked what approvals had to be obtained by WKCDA before commencement of the construction works. Mr. Sai Hung Ching said that a TIA had to be prepared to demonstrate that there would be no major traffic impacts on all road users. There would be on-going discussion with WHTCL and approval had to be obtained from relevant government departments, including TD and HyD, before

WKCDA could commence work on the proposed bridges. There was sufficient safeguard in the existing mechanisms for approval of construction works to ensure that relevant stakeholders' concerns would be fully addressed and there would be no unacceptable impacts.

119. Mr. Keith Kong (R2) said that they did not agree with the WKCDA's view that the proposed methods to construct the Anchorage Bridge and Austin Road Bridge, as shown in WKCDA's presentation, would not create negative impacts on the WHC. The WHTCL had continuous discussion with WKCDA since the Stage 1 PE and had clearly stated their views and concerns. The WKCDA had not provided sufficient technical details to WHTCL to justify their views that the two bridges would have no impact on the WHC. He understood that even site investigation had not been undertaken up to the present moment. Hence, the two bridges should be deleted from the DP.

Hotel at the WHC Portal

120. A Member asked whether air pollutants and traffic noise from the WHC would impact on the hotel users in the U-shaped hotel proposed around the tunnel portal. Mr. Colin Ward said that the hotel could be of a single-aspect design with rooms facing the park and the Hong Kong Island side and with utilities to be located on the side facing the tunnel portal, though there might still be the possibility to also provide rooms with views of the tunnel portal in detailed design. Mr. Sai Hung Ching supplemented that an Environmental Impact Assessment (EIA) was being prepared for the WKCD under the EIA Ordinance. Any environmental impacts would be addressed in that context.

121. The same Member asked about the BH of the hotel proposed at the tunnel portal and whether its visual impact had been assessed. Mr. Colin Ward said that the hotel fell within the area under BHR of 50mPD and 100mPD. Notwithstanding, the proposed hotel would not be too tall as the main purpose was to create a barrier around the tunnel portal to block the pollutants from the WHC so as to minimise impacts on users in the Park. Mr. Sai Hung Ching supplemented that a visual impact assessment (VIA) would be included in the EIA under preparation; sensitive visual receivers would be identified and the visual impact would be thoroughly assessed. During the preparation of the VIA, there would be close liaison with the PlanD.

Open Space and Landscaping

122. The same Member asked what special features would be incorporated into the design of the parks in WKCD. In response, Dr. M.W. Chan (representative of WKCDA) said that they had not commenced detailed landscape design of the parks. They would engage professional landscape architects and architects to design the parks in the detailed design stage. Their initial idea was to design the parks with an art and cultural theme and the WKCDA was committed to create parks with outstanding design in WKCD.

123. The same Member asked whether there would be some structures, including ventilation buildings and cultural facilities within the Park; and how these structures would be screened or integrated into the park design. In response, Dr. M.W. Chan said that there were two ventilation buildings for the WHC and the MTR within the Park. The proposed 'free space' at the south west of the Park (as shown in Plan H-5 of the Paper) would be designed to integrate with the Park. WKCDA had an intention to maximise the greening effects of the Park and the design would comply with the green coverage requirements under the DP.

124. Mr. John Batten (R3) said that it appeared that temporary pavilion structures would be placed in the Park. As pavilions would take up the open space in the Park, there should be a requirement that temporary structures should not be erected for more than two weeks. In response to the Chairman's question, Mr. John Batten indicated that the proposed two-week restriction for temporary uses might be included in the Notes of the DP. Furthermore, he said that it was unclear whether there would be any structure within the 'free space', as some drawings showed that there would be structure in the 'free space' while other drawings showed that there would be no structure therein. In response, Dr. M.W. Chan said that pavilions were intended to be movable structures to house visual and cultural events/displays, which could be held at different locations within the Park. The duration for erection of the pavilions would vary depending on the type of display and events being held.

125. Mr. Colin Ward said that the WKCDA endeavoured to create and manage a successful park in WKCD that would be unique to Hong Kong. A cultural dimension

would be instilled in the Park. The moving pavilions would allow visitors to have new experiences of the Park on different visits.

Waterfront Promenade and the Avenue

126. The Chairman asked the WKCDA to comment on a R3's proposal that the waterfront promenade should only have a maximum width of 20m and that the Avenue should be curved rather than straight.

127. Mr. Colin Ward said that the waterfront promenade should vary in width and a maximum width of 20m was agreeable. The waterfront promenade should allow people of Hong Kong to gain access to and enjoy being at the harbourfront. In fact, the waterfront promenade should comprise a series of spaces and the design should be integrated with the surrounding land uses, such as pavilions, arts, festivals, café and shops. The exact width of the waterfront promenade should be subject to detailed design.

128. With regard to whether the Avenue should be straight or curved, Mr. Colin Ward said that this was a subjective matter. The reason for proposing a straight alignment was to provide regular shaped land plots that would allow the future designers with maximum design flexibility. A straight alignment of the Avenue linking up the major squares would improve the legibility of the space for visitors. Dr. M.W. Chan said that in the initial Foster Scheme, the entire length of the Avenue was straight and of the same width. The DP was a compromised scheme with a straight Avenue which opened up into some intervening squares at the two ends and in the middle of the Avenue.

Provision of Marine Facilities

129. The Chairman asked the WKCDA to comment on the representers' proposal that marine facilities such as piers and landing steps should be proposed at WKCD. In response, Mr. Colin Ward said that various types of marine facilities, including landing steps, viewing platform, ferry piers, observation deck, floating pontoons etc. were important to enhance the viability of WKCD. Dr. M.W. Chan supplemented that while the WKCDA would try to provide marine facilities at WKCD, they were mindful of the need to comply with the PHO. The WKCDA was currently considering the feasibility of

providing temporary piers in WKCD.

R4's Proposal for Major Underground Space

130. The Chairman asked the WKCDA to provide comment on R4's proposal. Dr. M.W. Chan said that the development at WKCD was subject to a PR of 1.81 and R4's proposal would exceed this maximum PR restriction stipulated in the DP. Mr. Dickson Hui (planning consultant of the WKCDA) said that R4's proposal was mainly for a large underground shopping centre. However, there were a lot of shopping malls in the vicinity, including the Harbour City, Elements and the shopping centre in the future West Kowloon XRL Terminus development and viability of any major shopping mall, of the scale as proposed by R4, was in doubt. The shopping facilities to be provided within the WKCD would be in the form of shopping streets in a vehicle-free pedestrian environment.

131. Mr. Dickson Hui further said that as mentioned in his presentation, there would already be two levels of basement for car parking, loading/unloading facilities as well as some cultural facilities. If more shopping floor space was to be developed, an additional level of basement would be required. Given that shopping facilities would likely be located on the first basement level, the other transport facilities had to be provided within the lower basement floors. Such a design might not be a good design nor would it be environmental friendly.

132. Professor K.P. Cheung (R4) said that Mr. Lam Fan Keung, a famous financial analyst, had agreed with him that an additional two million ft² of retail floor space in WKCD was viable. In this regard, the consultant should conduct further research before commenting that his proposal might not be financially viable. Furthermore, the PR could be allowed to exceed the current restriction of 1.81 as the additional floor space would be provided underground, that would have no visual or air ventilation impacts and was feasible from the transport perspective. In response to the Chairman's question, Professor K.P. Cheung said that he did not have the resources to conduct a TIA for his proposal. However, his proposal for tunnel connections to Hong Kong Island was in-principle feasible. On the contrary, he considered that the transport arrangement proposed under the DP could not provide sufficient support for the WKCD.

133. A Member asked what percentage of the floor space at basement level 2 was used for car parking and transport facilities and whether there was any potential to provide some other uses in that level of basement. In response, Dr. M.W. Chan said that other than car park, some arts and cultural facilities as well as building services facilities were located at basement level 2. WKCDA was preparing the schematic design for the basement development and whether the basement could be enlarged would be examined.

Outline Development Plan

134. In response to a Member's question about the existing mechanisms that would ensure that works at WKCD would not affect the WHC and other utilities, the Chairman requested DPO/TWK to explain about other detailed plans that would be prepared to guide the future development of the WKCD. Mr. Wilson Chan said that a detailed departmental ODP would be prepared to guide development of the WKCD. The WKCDA had commissioned a consultant to prepare the detailed ODP. The ODP would provide details that would address the outstanding concerns of some representers, such as drainage reserves and detailed design requirements of individual lots. The PlanD and other relevant government departments would provide inputs during the preparation of the ODP. The PlanD would submit the ODP for endorsement by the Committee on Planning and Land Development (CPLD), which was an internal committee within the Government. All departments would observe the requirements in the approved ODP when implementing the WKCD project.

135. As Members had no further question, the government representatives, and the representers, commenters and their representatives were invited to leave the meeting room. They all left the meeting room at this juncture.

[Mr. Clarence W.C. Leung, Mr. H.F. Leung, Mr. Rock Chen and Mr. Sunny L.K. Ho left the meeting during the question and answer session.]

[The meeting was adjourned for a five minute break.]

Deliberation Session

136. The Chairman asked Members to consider the representations, taking into account all the written submissions and the oral representations made by the representers, commenters and their representatives at the meeting. Members also noted the documents tabled by R3, R7 and R9.

Representation of R2 (submitted by WHTCL)

137. Members noted that the concerns raised by WHTCL were mainly related to the possible adverse impacts of construction works for the WKCD and the bridges on the WHC. However, the WKCDA had explained in their presentation that approval of construction works for the WKCD and the bridges were subject to agreement by relevant government departments (including the TD and HyD) to ensure that there would not be unacceptable impacts on the safety and operations of the WHC. A Member agreed and said that the construction works at the WKCD had to be subject to approval under the relevant statutory provisions, such as the Buildings Ordinance, and that would ensure that the future construction works would not affect the safety of WHC. Relevant government departments would also ensure that there would not be unacceptable impacts on the operation of the tunnel. In the light of the above, Members agreed not to uphold R2.

Representation of R7 (submitted by S. Leung)

138. The Chairman said that R7 had indicated that there should be less development on the Site. Her comments that there should be more greening but it was not necessary for tree planting and landscaping to the effect of creating a 'country park' in WKCD were seemingly contradictory. The comments raised by R7 were general and it was unclear what her proposed amendments to the DP were. After discussion, Members agreed not to uphold R7.

Representations of R9 (submitted by Hong Kong Alternatives)

139. Members noted that R9's proposals were mainly related to the funding

methods for WKCD, whether land in the WKCD should be sold to private developers, the ICAC case and proposal for a rapid transit tunnel. The funding matters and the quoted ICAC case were not within the purview of the Board and the proposal for the rapid transit tunnel was not within the planning scheme boundary of the DP. After discussion, Members agreed not to uphold R9.

Proposal for Underground Shopping Centre

140. The Chairman invited comments on R4's alternative proposal for the WKCD which involved a massive underground shopping centre as well as large parks and plazas in the West Kowloon area. Members considered that the major development parameters presented in the DP was a consensus reached after a long and elaborate process of public engagement. Member should consider whether R4's proposal was in line with the vision to develop the WKCD into a world-class arts and cultural district.

141. In response to a Member's question about whether it was possible to further study the underground shopping centre proposal, other Members considered it important to take note of the planning history of the WKCD. Members noted that the Government's initial plans were to develop Grade A offices in the WKCD site. However, there were strong public objections to the Government selling the land in WKCD for pure commercial uses. After a long process of public engagement, the Government agreed to reserve the site for development of the WKCD for art and cultural uses. R4's proposal which involved major amendments to the proposal in the DP would require another round of public engagement. Given that a lot of efforts and public engagement had been involved in reaching the community consensus as currently shown in the DP, Members considered that the WKCD should proceed on the basis of the DP. As there were already many large shopping malls in the Tsim Sha Tsui and West Kowloon area, Members also considered that priority should be given to developing the Site into a world-class arts and cultural hub.

142. A Member asked whether there were implications of increasing floor space only below the ground level. The Secretary said that the land uses, development mix and development restrictions stipulated in the DP were the consensus reached after some ten years of discussion and public engagement. The proposal in the DP was also supported by relevant technical assessments on relevant aspects, such as traffic and environmental

impacts. Substantial increase in the floor spaces at the WKCD district, even if they were provided underground, would increase the vehicular and pedestrian traffic that might not be supported by the planned infrastructure. Even under the current proposed overall PR of 1.81, a lot of existing road junctions already needed to be improved. Members should consider whether the Board should reinvent the wheel for the WKCD proposal at this juncture.

143. The Chairman said that the public consensus was to develop a world class cultural district at WKCD with supporting uses, including retail, dining, entertainment, hotel and residential uses. The WKCDA had already explained that the basement levels would be for accommodating car parking, transport facilities, utilities and service facilities, and this would allow for pedestrian priority in the space above ground. In the light of the above, Members agreed that the development mix proposed in the DP was suitable and it was not necessary to further explore the feasibility of R4's proposal.

Detailed Design Matters

144. The Chairman said that R3's representation and proposals were concerned about structures that would be located within the Park, the design of the waterfront promenade and Avenue, green coverage and provision of marine facilities such as piers and landing steps. He continued and said that DPO/TWK had already explained that a detailed ODP would be prepared and specific details would be incorporated therein to ensure that the WKCD would not have adverse impacts such as traffic and environmental impacts. Comments and views from relevant government departments / bureaux would be incorporated into the ODP that would be submitted to the CPLD for endorsement. The CPLD was chaired by the Secretary for Development. The Secretary said that the DP was a broad land use plan and details such as drainage reserves would not be featured in the DP. It was already indicated in the ES that an ODP would be prepared to guide the development of WKCD. Members agreed that it was not appropriate to incorporate specific design details in a broadbrush land use plan.

145. The Chairman said that DPO/TWK had explained that the designation of NBAs in the DP had taken into account the findings of the AVA conducted for the WKCD. The design of the Park was also a matter for consideration during the detailed design stage.

In response to a Member's question, the Secretary said that to ensure good greening coverage in WKCD, the ES had specified a minimum green coverage of 30% and 60% for the WKCD and the Park respectively. A Member said that there should be specific requirements for more lawn area in the DP. The Secretary said that the proposal for providing more lawn areas in WKCD could be passed to WKCDA for their consideration in the preparation of the ODP.

146. After discussion, Members agreed that the Board should not uphold all the representations No. R1 to R10.

R1 and R10

147. After further deliberation, the Board decided not to uphold the representations of R1 and R10. Members then went through the suggested reasons for not upholding the representations as detailed in paragraph 6 of the Paper and agreed that they were appropriate. The reasons were:

- (a) the WKCD was planned to be developed into a world-class integrated arts and cultural district. The planning theme, development mix and intensity, and design principles for WKCD as stated in the draft DP were formulated after extensive public consultation. It would provide a broad land use framework to take forward the WKCD project; and
- (b) the five NBAs designated on the DP were to serve primarily as pedestrian ways, and to help promote air and visual permeability in the WKCD. In addition to the NBAs, there were other provisions in the DP, e.g. the open space at the Central Square, the east-west oriented Avenue and the permeable design of buildings, to facilitate air ventilation in the WKCD. These provisions were considered sufficient and adequate.

R2

148. After further deliberation, the Board decided not to uphold the representation of R2. Members then went through the suggested reasons for not upholding the

representation as detailed in paragraph 6 of the Paper and agreed that they were appropriate. The reasons were:

- (a) the WKCD was planned to be developed into a world-class integrated arts and cultural district. The planning theme, development mix and intensity, and design principles for WKCD as stated in the draft DP were formulated after extensive public consultation. It would provide a broad land use framework to take forward the WKCD project;
- (b) the draft DP set out the broad land use framework of the WKCD. The technical feasibility of developments above or around the WHC and its facilities were subject to technical assessment by WKCD at the detailed design stage and it was not appropriate to designate the NBA and tunnel reserve at this stage; and
- (c) the proposed Anchorage Bridge and Austin Road Bridge fell outside the boundary of the DP, and were shown in Figures 5 and 6 of the ES for indication and reference purpose. The implementation of them was subject to further study.

R3

149. After further deliberation, the Board decided not to uphold the representation of R3. Members then went through the suggested reasons for not upholding the representation as detailed in paragraph 6 of the Paper and agreed that they were appropriate. The reasons were:

- (a) the WKCD was planned to be developed into a world-class integrated arts and cultural district. The planning theme, development mix and intensity, and design principles for WKCD as stated in the draft DP were formulated after extensive public consultation. It would provide a broad land use framework to take forward the WKCD project;
- (b) as stated in the Notes and ES of the DP, not less than 23 ha of open space

would be provided within WKCD, including 17.23 ha of open space designated as “O(1)” and “O(2)” zones, and not less than 5.77 ha of open space within various “OU(ACECU)” sub-zones. They were all usable for public enjoyment;

- (c) the proposed northern perimeter road around the WHC Tunnel Portal to serve the proposed commercial and hotel development in the “OU(MU)1” zone, and the MPV and exhibition centre at the “OU(ACECU)1” zone were on a different level from the main pedestrian areas without affecting the open space provision;
- (d) marine facilities like piers, landing steps, arts pontoons and viewing platforms were not shown in the DP as they were subject to the requirements of the Protection of the Harbour Ordinance for which further investigation and feasibility study were required;
- (e) the WKCD would create a green hub not only for the district but also for Hong Kong as a whole. There would be a hierarchical landscape network of park, avenue, piazzas and civic squares, waterfront promenade and terrace gardens for integrating arts, cultural, commercial, recreation and entertainment activities. Different design features and treatments would be incorporated in the open space area, taking into account various concerns and user requirements involved;
- (f) provision had been made within WKCD for a possible Environmentally Friendly Transport System. The type, mode of operation and routing would be subject to further study; and
- (g) a network of pedestrian connections, including at-grade walkways, landscaped decks, footbridges and subways had been proposed to connect WKCD with the surrounding areas.

R4 to R8

150. After further deliberation, the Board decided not to uphold the representations of R4 to R8. Members then went through the suggested reasons for not upholding the representations as detailed in paragraph 6 of the Paper and agreed that they were appropriate. The reasons were:

- (a) the WKCD was planned to be developed into a world-class integrated arts and cultural district. The planning theme, development mix and intensity, and design principles for WKCD as stated in the draft DP were formulated after extensive public consultation. It would provide a broad land use framework to take forward the WKCD project (R4 to R8);
- (b) the underground space of WKCD under the DP was well utilized to accommodate vehicular access, parking space and loading/unloading area of the district so that a vehicle-free and pedestrian-friendly environment could be created on ground level. There was no under-utilization of underground space (R4 to R8);
- (c) the proposed provision of an additional GFA of 660,000m² underground in WKCD site for shopping and other purposes would result in a substantial increase in the total plot ratio of the WKCD and a change in the development mix with more emphasis on shopping element, which deviated from the established planning theme of an integrated arts and cultural district which had public support. In the absence of technical assessments, the technical feasibility of the representer's proposal was doubtful. Also, a number of features in the proposal fell outside the WKCD area and could not be addressed in the context of the DP (R4 to R6);
- (d) the WKCD would create a green hub not only for the district but also for Hong Kong as a whole. The open space and landscape provision in the DP received general public support in previous public consultation. Appropriate management and maintenance of the landscape would be

undertaken by the WKCDA (R7); and

- (e) an urban design framework had been set out in the DP. Concern on the design aspect would be addressed at the detailed design stage (R8).

R9

151. After further deliberation, the Board decided not to uphold the representation of R9. Members then went through the suggested reasons for not upholding the representation as detailed in paragraph 6 of the Paper and agreed that they were appropriate. The reasons were:

- (a) the WKCD was planned to be developed into a world-class integrated arts and cultural district. The planning theme, development mix and intensity, and design principles for WKCD as stated in the draft DP were formulated after extensive public consultation. It would provide a broad land use framework to take forward the WKCD project;
- (b) the underground space of WKCD under the DP was well utilized to accommodate vehicular access, parking space and loading/unloading area of the district so that a vehicle-free and pedestrian-friendly environment could be created on ground level. There was no under-utilization of underground space;
- (c) the overall development mix under the DP was balanced and conducive to achieving an integrated arts and cultural district. Apart from arts and cultural facilities, a variety of retail, dining and entertainment uses as well as office, hotel and residential developments were planned to create synergy and vibrancy to the WKCD;
- (d) the WKCDA would implement the proposals on the DP upon completion of the planning procedure and formal land grant. Part of the Park with associated arts and cultural facilities were scheduled as the first batch of facilities in Phase 1 of the WKCD development; and

- (e) the funding of the WKCD development was outside the scope of DP and not under purview of the Board.

[Ms. Anita W.T. Ma left the meeting temporarily at this point.]

152. The Chairman suggested that Agenda Item 5 and the procedural items should be discussed first. Members agreed.

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Consideration of Representation No. R1 and Comment No. C1

Draft South West Kowloon Outline Zoning Plan No. S/K20/27

(TPB Paper No. 9192)

[The meeting was conducted in Cantonese.]

153. As sufficient notice had been given to the representer and the commenter to invite them to attend the meeting, Members agreed to proceed with the hearing of the representation in the absence of the representer and the commenter who had indicated that they would not attend or had made no reply to the invitation to the hearing.

154. The following government representatives were invited to the meeting at this point:

Mr. Wilson Chan	District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), Planning Department (PlanD)
Mr. Tom Yip	Senior Town Planner/TWK, PlanD
Mr. C.H. Mak	Town Planner/TWK, PlanD

155. The Chairman extended a welcome and then invited the representatives of PlanD to brief Members on the representation to be considered at the meeting.

156. With the aid of a powerpoint presentation, Mr. Tom Yip (Senior Town Planner/TWK, PlanD) made the following main points as detailed in the Paper:

Background

- (a) on 30.3.2012, the draft South West Kowloon Outline Zoning Plan (OZP) No. S/K20/27 was exhibited for public inspection under section 7 of the Town Planning Ordinance (the Ordinance). The amendments were mainly to reflect the existing and planned road alignments, adjustments to the boundary of the West Kowloon Cultural District (WKCD) and the “Other Specified Uses” (“OU”) annotated “Western Harbour Crossing Toll Plaza” zone to tally with the gazetted Tunnel Area Plan of the Western Harbour Crossing (WHC), and the inclusion of the existing seawall into the area shown as WKCD;
- (b) during the two-month exhibition period, one representation was received. On 8.6.2012, the representation was published for public comments and, in the first three weeks of the publication period, one public comment was received;

The Representation

- (c) the representation (**R1**) was submitted by a member of the public, objecting to the entire OZP. In this regard, the objection to those parts of the OZP which were not the subject of amendment was considered not valid;
- (d) the representer had not provided any grounds of representation or proposal to meet the representation;

The Comment and the Grounds of the Comment

- (e) the comment (C1) was submitted by Mr. Yeung Tsz Hei, a Member of the Yau Tsim Mong District Council and the main grounds of the comment

were summarized below:

- (i) the Board should pledge to restrict the building heights of developments at the reclaimed land to the west of Ferry Street, i.e. the area covered by the South West Kowloon OZP, to below 40m to ensure the fresh air from the west could enter the core of the Yau Tsim Mong area;
- (ii) the reclaimed land to the west of the Yau Ma Tei Fruit and Vegetable Wholesale Market should be reserved for expansion of existing primary schools in the area and provision of low-rise indoor games hall with swimming pool;
- (iii) apart from the above uses and a new police station, land located between Man Wah Estate and Charming Garden should only be reserved for green area without building structure. This would preserve the only sea breeze corridor around Public Square Street and Waterloo Road to allow the incoming of westerly wind to Nathan Road; and
- (iv) additional land should be provided to build facilities with high local demand, including new school and various community facilities such as indoor games hall, library, community hall, swimming pool and study rooms;

Responses to the Representation and the Grounds of the Commenter

- (f) the responses to R1 was that the amendments incorporated in the OZP were technical in nature and mainly to reflect the existing and planned road alignments and the gazetted boundary of the WHC Tunnel Area as well as the inclusion of seawall area into the WKCD area. Since no justifications for the representation and no proposal had been put forward by R1, the amendments incorporated in the OZP were considered appropriate. The representer's objection to other parts of the OZP,

which were not the subject of amendments incorporated in the OZP, was considered not valid;

- (g) the response to C1 was that the comment was related to the general land use planning for the South West Kowloon area and was not specifically related to the amendments incorporated in the OZP, or the representation. Nevertheless, the commenter's views on restricting the building heights in the area and the provision of more green areas to facilitate the penetration of the westerly wind to the core of the Yau Tsim Mong area were noted and would be taken into account by PlanD in the further review of the OZP for incorporation of building height restrictions for the relevant zones. Also, adequate land had been reserved on the OZP for the provision of Government, institution or community (GIC) facilities to serve the local community, taking into account the requirements of the concerned government departments; and

- (h) PlanD's View - not to uphold representation No. R1.

[Mr. Roger K.H. Luk returned to join the meeting and Dr. W.K. Yau and Mr. Dominic K.K. Lam arrived to join the meeting at this point.]

Question and Answer Session

157. As Members had no question to raise, the government representatives were invited to leave the meeting room. They all left the meeting room at this juncture.

Deliberation Session

158. The Chairman asked Members to consider the representation, taking into account R1's submission. After deliberation, Members decided not to uphold representation No. R1 and agreed that the representation in respect of other parts of the OZP, which were not the subject of amendments incorporated in the OZP, were invalid.

R1

159. After further deliberation, the Board decided not to uphold the representation of R1. Members then went through the suggested reasons for not upholding the representations as detailed in paragraph 7 of the Paper and agreed that they were appropriate. The reasons were:

- (a) the amendments incorporated in the OZP were technical in nature and mainly to reflect the existing and planned alignment of roads and the gazetted boundary of the WHC Tunnel as well as the inclusion of the existing seawall area into the area shown as WKCD. In the absence of any justifications for the representation, the concerned amendments were considered appropriate; and
- (b) the representation in respect of other parts of the OZP, where were not the subject of amendments incorporated in the OZP, was not valid.

Procedural Matters

Agenda Item 9

[Open Meeting]

Information Note on the Draft Central District (Extension) Outline Zoning Plan No. S/H24/7
(TPB Paper 9189)

[This item was conducted in Cantonese]

160. The Secretary reported that on 16.3.2012, the draft Central District (Extension) Outline Zoning Plan (OZP) No. S/K24/7, incorporating amendments mainly to the Notes of the Plan in accordance with the revised Master Schedule of Notes to Statutory Plans (MSN) and the minor relaxation clause for building height restrictions (BHRs) for various zonings, was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, no representation was received.

161. The Central and Western District Council (C&WDC) and the Task Force on Harbourfront Developments on Hong Kong Island (TFHK) of the Harbourfront Commission (HC) were consulted on the amendments and written submissions were received from both consulted parties.

Written Submissions from C&WDC and TFHK of the HC

162. Both C&WDC and TFHK members did not have strong views on the proposed amendments to incorporate the revised MSN into the Plan.

163. Their comments on the incorporation of the minor relaxation clause for BHRs were summarized below:

- (a) as the new Central harbourfront occupied a prime waterfront location, there were no strong grounds for the incorporation of the minor relaxation clause for BHRs. The Government should clearly explain the rationale of incorporating the minor relaxation clause for BHRs;
- (b) there was no clear definition on what extent of building height relaxation would be considered as “minor”. The building height to be allowed for relaxation in the “Other Specified Uses” (“OU”) zones should be clearly stipulated;
- (c) the incorporation of such clause might encourage more applications for minor relaxation of building heights in the area. Subsequent to the incorporation of such minor building height relaxation clause, most of the waterfront sites might become commercial area in future;
- (d) it might not be appropriate to provide a blanket approval for minor height relaxation in the area. Applications for minor height relaxation should be considered on a case-by-case basis; and

- (e) there was also a supportive view that the imposition of the minor relaxation clause for BHRs would encourage more flexibility for innovative design.

Brief Responses to the views expressed by C&WDC and TFHK of the HC

164. The brief responses to the views expressed by C&WDC and TFHK of HC were detailed in paragraph 2 of the Paper and summarised below:

- (a) it was the practice of the Board that a minor relaxation clause of BHRs would be included in all OZPs to allow flexibility on the future design and to cater for specific site circumstances. In fact, similar minor relaxation clause for BHRs had already been incorporated in the Remarks of the Notes for “OU(Pier)” and “OU(Pier and Associated Facilities)” zones of the previously approved Central District (Extension) OZP No. S/H24/6. For consistency purpose, minor relaxation clause for the “Commercial” (“C”), “Comprehensive Development Area” (“CDA”), “Government, Institution or Community” (“G/IC”) and “Other Specified Uses” annotated “Waterfront Related Commercial and Leisure Uses” (“OU(WRCLU)”) zones had been incorporated in this round of OZP amendments;
- (b) there was no pre-determined percentage on what constituted ‘minor’, which would be dependent on site specific context and circumstances. The Board would determine each case on its individual merits;
- (c) according to the established practice of the Board, in considering an application for minor relaxation of BHRs, a number of considerations would be taken into account. These included the provision of innovative building design, better streetscape, separation between buildings to enhance air and visual permeability, good quality street level public urban space, building design to address specific site constraints in achieving the permissible development parameters under the Plan, and other factors such as tree preservation, landscape, visual amenities and planning merits that would bring about improvements to the townscape of the locality; and

- (d) a mere inclusion of the minor relaxation clause in the Notes would not result in a change of the harbourfront sites to a commercial area in future, as each site was governed by the respective zonings on the Plan. Each application for minor relaxation of the BHRs must be justified by individual planning and design merits for approval by the Board.

165. After further deliberation, Members noted the written submissions made by C&WDC and TFHK of the HC and the responses to these submissions.

Agenda Item 10

[Open Meeting]

Submission of the Draft Kwun Tong (South) Outline Zoning Plan No. S/K14S/17A under Section 8 of the Town Planning Ordinance to the Chief Executive in Council for Approval (TPB Paper No. 9190)

[This item was conducted in Cantonese.]

166. The Secretary said that the amendment to the OZP was related to a site at Sau Ming Road, Kwun Tong, for public rental housing (PRH) development by the Hong Kong Housing Authority (HKHA). The following Members had declared interests in this item:

- | | | |
|--|---|--|
| Mr. Stanley Y.F. Wong | - | being a member of the HKHA |
| Ms. Julia M.K. Lau | - | being a member of HKHA and owned some carparking spaces in Kwun Tong |
| Dr. W.K. Lo | - | being a member of the Building Committee (BC) and Tender Committee of HKHA |
| Mr. Jimmy Leung
(as Director of Planning) | - | being a member of the BC and Strategic Planning Committee (SPC) of HKHA |
| Ms. Bernadette Linn
(as Director of Lands) | - | being a member of HKHA |
| Mr. Eric Hui
(as Assistant Director (2)
of the Home Affairs
Department) | - | being an alternate member of the Director of Home Affairs who was a member of the SPC and Subsidised Housing Committee of HKHA |
| Mr. Dominic K.K. Lam |] | had business dealings with HKHA |

Mr. H.F. Leung]	
Ms. Janice W.M. Lai]	
Mr. Wilton W.T. Fok	-	being the consultant of a study for HKHA (completed in 2009)
Mr. Timothy K.W. Ma	-	owned a flat at Yuet Wah Street

167. Members noted that other than Mr. Jimmy C.F. Leung, Ms. Bernadette Linn and Mr. Dominic K.K. Lam, all other Members who had declared interests had either left the meeting or had tendered apologies for not attending the meeting. As the item was procedural in nature, Members agreed that the Members present who had declared interests could be allowed to stay in the meeting.

168. The Secretary briefly introduced the Paper. On 7.2.2012, the Chief Executive in Council (CE in C) referred the approved Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/16 to the Board for amendment under section 12(1)(b)(ii) of the Town Planning Ordinance (the Ordinance). On 23.3.2012, the draft Kwun Tong (South) OZP No. S/K14S/17, incorporating the rezoning of a site at Sau Ming Road from “Government, Institution or Community” to “Residential (Group A) 2” and other technical amendments to the Notes, was exhibited for public inspection under section 5 of the Town Planning Ordinance Ordinance.

169. During the two-month exhibition of the draft OZP, a total of four representations were received. On 1.6.2012, the Board published the representations for three weeks for public comment. A total of two comments were received. After giving consideration to the representations under section 6B(1) of the Ordinance on 31.8.2012, the Board noted one supporting representation and decided not to uphold the remaining three representations.

170. Since the representation consideration process had been completed, the draft OZP was ready for submission to the CE in C for approval in accordance with section 8 of the Ordinance. For submission to the CE in C, opportunity had been taken to update the Explanatory Statement (ES) to reflect the latest position of the draft OZP and the latest developments in the area.

171. After deliberation, the Board :

- (a) agreed that the draft Kwun Tong (South) OZP No. S/K14S/17A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) endorsed the updated Explanatory Statement for the draft Kwun Tong (South) OZP No. S/K14S/17A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 11

[Open Meeting]

Revised Hearing Arrangement for Consideration of Representations and Comments to Draft Kwai Chung Outline Zoning Plan No. S/KC/26
(TPB Paper No. 9198)

[This item was conducted in Cantonese.]

172. The following Members had declared interest in this item:

- | | |
|-------------------------|--|
| Ms. Janice W.M. Lai | her spouse owned a unit in Wonderland Villas in the area |
| Mr. Clarence W.C. Leung | his company was located in Kwai Chung |

173. Members noted that Ms. Janice W.M. Lai and Mr. Clarence W.C. Leung had left the meeting.

Background

174. The Secretary reported that on 20.4.2012, the draft Kwai Chung Outline Zoning Plan (OZP) No. S/KC/26 (the Plan) incorporating amendments mainly to impose building height restrictions (BHRs) on various development zones, to designate non-building areas (NBAs) and building gaps, and to recommend other zoning amendments was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance).

175. During the two-month exhibition period, a total of 13 valid representations were received. On 29.6.2012, the representations were published for public comments for three weeks until 20.7.2012, and 1,926 comments were received. A commenter (C166) subsequently wrote to the Town Planning Board (the Board) indicating that he had not submitted the comment. As such, there were a total of 1,925 valid comments.

Hearing Arrangements agreed on 31.8.2012

176. On 31.8.2012, the Board decided to consider the representations and comments in three groups as follows:

- Group 1: hearing of one representation (Representation No. 1 (R1)) relating to 4 electricity sub-stations;
- Group 2: collective hearing of six representations (R2 and R9 to R13) and the 170 related comments concerning the BHRs, NBAs and building gaps on various development zones. 169 of these comments were related to R9; and
- Group 3: collective hearing of six representations (R3 to R8) and the 1,756 related comments concerning the “Other Specified Uses” annotated “Container Terminal” zone .

Proposed Revised Hearing Arrangement

177. On 12.9.2012, the concerned representers and commenters were invited to

attend the hearing in accordance with section 6B(3) of the Ordinance. As at 27.9.2012, a total of 71 commenters related to R9 (i.e. concerning the BHRs imposed on a “Comprehensive Development Area” site on Cheung Wing Road) expressed interest in attending the hearing. It was estimated that a total of about 10 hours would be required for hearing their presentations.

178. In view of the above, it was suggested to separate R9 and the related comments from Group 2 and to form a new Group 4 to facilitate a more efficient hearing process. The proposed revised groupings were:

Group 2: collective hearing of five representations (R2, R10 to (revised) R13) and 1 related comment (C1) mainly regarding the BHRs, NBAs and building gaps of various development zones; and

Group 4: hearing of one representation (R9) and 169 related comments (C1758 to C1926) regarding the BHR imposed on a “Comprehensive Development Area” site on Cheung Wing Road.

179. After further deliberation, the Board agreed to the revised hearing arrangement for consideration of the representations and related comments under Groups 2 and 4 as detailed in in paragraph 2.1 of the Paper.

Agenda Item 7

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K12/39

Proposed House in "Government, Institution or Community" zone and area shown as 'Road', Lot 1663 (Part) in S.D. 2, Ngau Chi Wan Village, Kowloon
(TPB Papers 9195)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

180. The following representative from Planning Department (PlanD) and the applicant were invited to the meeting at this point:

- | | |
|-------------------|--|
| Miss Fiona Lung | - District Planning Officer/Kowloon (DPO/K), PlanD |
| Mr. Liu Koon Sing | - Applicant |

181. The Chairman extended a welcome and explained the procedures of the review hearing. Members noted the attachment to public comments No. 8, 15 and 18 (in the MPC Paper at Annex A of the Paper) was tabled. He then invited DPO/K to brief Members on the application.

182. With the aid of a powerpoint presentation, DPO/K presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for a 3-storey house (8.23m) with a gross floor area of 183.6m² on the Site with an area of 61.2m². About 62% of the site was zoned “Government, Institution or Community” (“G/IC”) and about 38% of the Site fell within an area shown as ‘Road’ on the approved Ngau Chi Wan Outline Zoning Plan (OZP) No. S/K12/16;
- (b) the Site was currently a vacant site located within the Ngau Chi Wan Village. The Site was accessible by footpath between existing temporary structures and was close to but not directly accessible by Wing Ting Road;
- (c) on 1.6.2012, the Metro Planning Committee (MPC) decided to reject the application and the reasons were:
 - (i) the “G/IC” zone was intended primarily for the provision of Government, institution or community (GIC) facilities serving

the needs of local residents and/or a wider district, region or the territory. The application was considered not in line with the planning intention of the “G/IC” zone;

- (ii) the application did not comply with the Town Planning Board Guidelines No. 16 for ‘Application for Development/Redevelopment within “Government, Institution or Community” Zone for Uses other than Government, Institution or Community Uses under Section 16 of the Town Planning Ordinance’, in that approval of the application in a piecemeal manner would frustrate the planning and development of GIC facilities to meet community needs and other institutional establishments in the district;
 - (iii) approval of the application would affect the implementation of the planned road project; and
 - (iv) approval of the application would jeopardize the land use planning of the area and set an undesirable precedent for other similar applications in the area;
- (d) on 5.7.2012, the applicant applied for a review of the MPC’s decision. The Applicant had submitted written representation in support of the review application and the main justifications were summarised in paragraph 3 of the Paper as follows:
- (i) the Site was a private old house lot. The Government designated the land as government use without notifying the applicant;
 - (ii) the Government planned to resume the land over twenty years ago. However, the commencement date of works had not been fixed and the land had not been resumed. The applicant had suffered losses as a result; and

- (iii) if the application was not approved, the Government should resume the land under the Lands Resumption Ordinance (Cap. 124); or if the application was approved, the applicant would be pleased to let the Government resume the land when required;

- (e) similar applications - three applications (Nos. A/K12/13, A/K12/20 and A/K12/35) covering two sites for house development within the subject "G/IC" zone were rejected by the MPC on 3.6.1994, 22.12.2000 and 9.3.2007 respectively. Application No. A/K12/35 was also rejected by the Board upon review on 15.6.2007. Approval of the application would set an undesirable precedent for other similar applications in the area;

- (f) departmental comments - comments from relevant government departments were detailed in paragraph 5 of the Paper as summarised below:
 - (i) the District Lands Officer/Kowloon East, Lands Department had no objection to the application. They also advised that Ngau Chi Wan Village was not a recognised village. LandsD would consider land resumption in case there was a need for public purpose, but he was not aware of such need and would not consider the applicant's request to resume the land at this time;

 - (ii) the Commissioner for Transport had reservation on the review application as the proposed house would affect the planned Wing Ting Road Extension reserved for accessing the adjoining GIC site development. However, there was no implementation programme for the access road;

 - (iii) District Office/Wong Tai Sin (DP/WTS) indicated that there was a strong demand for a community hall in Ngau Chi Wan;

 - (iv) Director of Social Welfare (DSW) confirmed that their intention

to set up welfare facilities in the future government project in Ngau Chi Wan Village was still valid at this stage; and

- (v) the other government departments consulted maintained their previous views of having either no adverse comment or no objection to the application;

- (g) public comments – a total of five public comments were received. One comment, submitted by the Chief Executive of Ngau Chi Wan Village Office, had no objection to the application. The other four comments opposing the application were submitted by the New Ngau Chi Wan Village Office, Ngau Chi Wan Retailers' Union and a public. Their grounds of the objection were that the proposed development was not in line with the planning intention for the site; there was inadequate "G/IC" land for provision of community facilities; the proposed house development would deprive the community of their needs for all kinds of public services and facilities; the proposed development would jeopardize the future development of the "G/IC" site in a comprehensive manner; developing the area shown as 'Road' for house use would create conflicts between pedestrians and cyclists and affect vehicular movements; the Village should be redeveloped in a comprehensive manner to upgrade the existing environment instead of allowing a piecemeal development of a single house; no detailed information had been provided regarding parking, loading/unloading facilities, emergency vehicular access for firefighting purpose, traffic generation and landscaping proposal on site; and the proposed house would have an adverse impact on the scale and character of the dwellings in the neighbourhood and affect the visual amenity of the area; and

- (h) PlanD's view - the PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper, which were summarised below:
 - (i) since the consideration of the s.16 application, there had been no

change in the planning circumstances. While the proposed house development was considered not incompatible with the adjacent area and would not have any significant environmental impact, the proposed house development was not in line with the TPB PG-No. 16 in the following aspects:

- the “G/IC” zone was intended primarily for the provision of G/IC facilities serving the needs of local residents and/or a wider district, region or the territory. It was also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments; and
 - as stated in the Explanatory Statement of the OZP, the “G/IC” site was reserved for development of a community hall and other government facilities;
- (ii) DO/WTS advised that there was a strong demand for a community hall in Ngau Chi Wan. Although there was no programme for the development of the planned community hall and other government facilities at the “G/IC” site, approval of the application in a piecemeal manner would affect the provision of G/IC facilities in the district on a long-term basis. In addition, DSW had confirmed their intention to set up a number of welfare facilities in the future government project in the Ngau Chi Wan Village;
- (iii) the application site also fell partly within an area designated as ‘Road’ on the OZP. C for T maintained his reservation on the application as the Site occupied a considerable portion of the future Wing Ting Road extension. The proposed house development would affect the implementation of the road project;

- (iv) three similar applications within the subject “G/IC” zone were all rejected by the MPC. Approval of the application would set an undesirable precedent for other similar applications in the area and jeopardize the land use planning of the area;
- (v) the applicant pointed out in the review application that he had suffered losses due to the “G/IC” zoning and the Government should resume the land if the site was required for G/IC uses. According to LandsD’s advice, once the implementation programme of the GIC facilities and planned access road was confirmed by the concerned departments, LandsD would resume the land required for public purpose in accordance with the relevant ordinance; and
- (vi) the application was largely objected by the public. They opined that the “G/IC” site should be developed for community and government uses to bring benefits to the local community; it should be redeveloped in a comprehensive manner instead of allowing piecemeal development of a single house which would jeopardize the future development of the “G/IC” site.

[Ms. Anita W.T. Ma returned to join the meeting at this point.]

183. The Chairman then invited the applicant to elaborate on the review application. Mr. Li Koon Sing made the following main points:

- (a) the house previously on the Site was built in 1897. The Site was a private old schedule building lot. In 1986, the house on the Site collapsed and in accordance with BD’s order, he had cleared the debris from the collapsed house;
- (b) he had applied to the Board for rebuilding the house several times but the applications were rejected. The main reason for rejecting the

application was that the Government needed to use the land for public facilities in future. However, 20 years had passed and there was still no programme for the planned uses and he had suffered losses;

- (c) even if the current application was approved, the Government could resume his land under the Lands Resumption Ordinance (Cap. 124), if required;
- (d) a small house of 600ft² would have no impact on the local residents. He considered that the local residents and the Ngau Chi Wan Retailers' Union did not have any right to object to his application; and
- (e) he requested Members to make a fair and just decision.

184. As the presentations were completed, the Chairman invited questions from Members.

185. Ms. Bernadette Linn (D of Lands) said that it was noted that the Site was located at the fringe of the "G/IC" zone whereas the previous rejected cases were located in more central locations within the subject "G/IC" zone. She asked whether it would be technically feasible for the community centre development to proceed in future if the planning application was approved and a house was built on the Site. In response, Miss Fiona Lung (DPO/K) said that on the OZP, the Site was partly located within a larger area zoned "G/IC" and about 38% of the Site was located within area shown as 'Road'. As compared to the other two rejected applications, the Site was located further away from the "Village Type Development" ("V") zone. She made reference to the Kowloon Planning Area No. 12 Ngau Chi Wan Outline Development Plan in Plan R-2 of the Paper, and said that the Site was partly located within the area reserved for a community centre/community hall that currently did not have an implementation programme. The Site also fell partly within an area designated as 'Road' on the ODP for the Wing Ting Road Extension and the proposed house development would affect the implementation of the road project in future.

186. In response to a Member's question, Miss Fiona Lung said that the existing Wing Ting Road did not connect to the Site and the road ended in an area to the north of

the Site. The road project mentioned by her during the presentation was for an extension of Wing Ting Road to provide a local road along the western boundary of the planned community centre/community hall. There was currently no programme for the road project.

187. A Member asked when the OZP was first gazetted and whether the collapsed house could be defined as an 'existing use' under the OZP; and why Lot. No. 1666 was highlighted on Plan R-2 of the Paper. In response, Miss Fiona Lung said that the first version of the Ngau Chi Wan OZP No. S/K12/1 was gazetted in 1985 and the Site was zoned "V" on the OZP at that time. She explained that towards the end of the 1980's, there was a plan to comprehensively improve the dilapidated conditions in the northern part of Ngau Chi Wan village which was mainly occupied by squatters. In 1988, a layout plan was prepared and the area was proposed to be resumed and developed for a community centre/community hall, open space and road improvement to serve local residents. The relevant District Council was also consulted on the layout plan. The area where the Site was located was rezoned to "G/IC" around 1990 on the basis of the layout plan. However, there was no programme for the proposed works. The purpose of annotating Lot. No. 1666 on Plan R-2 was because one of the public comments that objected to the planning application was concerned about the adverse air ventilation and visual impacts created by the subject application on the house at Lot. No. 1666.

188. A Member asked the applicant whether he lived in the previous house on the Site; whether he would live in the house to be built if the planning application was approved; and whether he was willing to return the land to the Government if it was needed for the community centre/community hall and road works in future. In response, Mr. Li Koon Sing said that the previous house on the Site was rented out. However, it was his intention that he and his family would live in the proposed house to be built on the Site. The Government had planned for the Wing Ting Road Extension since the 1980's but there was still no programme for carrying out the road extension project. If the Government had to resume his land in future under the Lands Resumption Ordinance (Cap. 124), he would be willing to return the land to Government.

189. In response to another Member's question, Miss Fiona Lung said that the area for re-siting the residents of the Ngau Chi Wan Village affected by the Choi Hung Mass

Transit Railway Station was located to the south of Lung Chi Path to the south of the Site. The application Site was not located within that village re-site area. The developments in the area where the Site was located were not in an orderly pattern and there were some illegal structures.

190. As Members had no question to raise, the Chairman thanked DPO/K and the applicant for attending the meeting. They all left the meeting at this point.

Deliberation

191. The Chairman said that the proposed house was not in line with the planning intention of the “G/IC” zone and the TPB PG-No. 16. A Member said that from the site photos shown in Plan R-3 of the Paper, the remaining floor slab of the collapsed house could still be seen. This Member asked whether the collapsed house would be considered as an existing house / existing use and whether the applicant would have the right to re-build the house.

192. As requested by the Chairman, the Secretary explained that no action was required to make the existing use of any land or building conform to the OZP until there was a material change of use or the building was redeveloped. She referred to the covering Notes of the Ngau Chi Wan OZP No. S/K12/16 and explained that ‘existing building’ and ‘existing use’ had very specific meanings under the OZP:

Existing Use of Land or Building (Paragraphs 3(c) and 4 of the covering Notes)

- (a) ‘existing use of any land or building’ meant:
- (i) before the publication in the Gazette of the notice of the first statutory plan covering the land or building,
 - a use in existence before the publication of the first plan which had continued since it came into existence; or
 - a use or a change of use approved under the Buildings Ordinance which related to an existing building; and

- (ii) after the publication of the first plan,
 - a use permitted under a plan which was effected during the effective period of that plan and had continued since it was effected; or
 - a use or a change of use approved under the Buildings Ordinance which related to an existing building and permitted under a plan prevailing at the time when the use or change of use was approved; and

- (iii) when a use or material change of use was effected or a development or redevelopment was undertaken, as always permitted in terms of the Plan or in accordance with a permission granted by the Board, all permissions granted by the Board in respect of the site of the use or material change of use or development or redevelopment should lapse; and

Existing Building (Paragraph 10 of the covering Notes)

- (b) ‘existing building’ meant a building, including a structure, which was physically existing and was in compliance with any relevant legislation and the conditions of the government lease concerned.

193. A Member said that according to the Secretary’s explanation, the current case did not fall within the definition of ‘existing use’ or ‘existing building’ under the OZP. The Secretary said that the current application was a redevelopment for a house on the Site and according to the OZP, it would need to comply with the prevailing “G/IC” zoning under the extant OZP.

194. The Chairman asked whether Members agreed that the application should be rejected as it was not in line with the planning intention of the “G/IC” zone and the TPB PG-No. 16 and the applicant had not put forth new justifications to support the application at the review. Members agreed.

195. 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 Paper and considered that they were appropriate. The reasons were:

- (a) the “G/IC” zone was intended primarily for the provision of GIC facilities serving the needs of the local residents as well as the general public. The application, which was solely for non-GIC use, was considered not in line with the planning intention of the “G/IC” zone;
- (b) the application did not comply with the TPB PG-No. 16 for ‘Application for Development/Redevelopment within “Government, Institution or Community” Zone for Uses other than Government, Institution or Community Uses under Section 16 of the Town Planning Ordinance’ in that approval of the application in a piecemeal manner would frustrate the planning and development of G/IC facilities to meet community needs and other institutional establishments in the district;
- (c) approval of the application would affect the implementation of the planned road project; and
- (d) approval of the application would jeopardize the land use planning of the area and set an undesirable precedent for other similar applications in the area.

Tuen Mun and Yuen Long District

Agenda Item 8

[Open Meeting (Presentation and Question Session only)]

Further Consideration of Review of Application No. A/TM/398

Proposed Columbarium in "Government, Institution or Community" zone, Portions of Blocks 1, 2 and 3 within Fat Yuen Ching Shea at Lots No. 759 (Part), 791 (Part) and 830 (Part) in D.D. 131, Tsing Shan Tsuen, Tuen Mun, New Territories
(TPB Papers 9194)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

196. Mr. Ivan C.S. Fu had declared interest in this item for having business dealings with TMA Planning and Design Limited, the planning consultant of the applicant. However, Mr. Fu had advised that he was not involved in the project. Members noted that Mr. Fu had left the meeting temporarily and agreed that his interest was indirect and could stay in the meeting and participate in the discussion when he returned to join the meeting.

197. The following government representatives and the applicant's representatives were invited to the meeting at this point:

Mr. W.W. Chan	-	District Planning Officer/Tuen Mun and Yuen Long (DPO/TM&YL), PlanD
Mr. Lee Hing Ah	-	Hong Kong Police Force, Assistant Divisional Commander (Castle Peak)
Mr. Li Ka Choi]	Applicant's representative
Mr. Kim Chin]	
Mr. Tang Kwok Fai]	
Miss Vicky Ma]	

198. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TM&YL to brief Members on the application.

199. With the aid of a powerpoint presentation, DPO/TM&YL presented the application and covered the following main points as detailed in the Paper:

Background

- (a) the applicant sought planning permission for columbarium use (with 9,160 niches and about 3,000 of them were occupied) at the Site, Fat Yuen Ching Shea, which fell within an area zoned "Government, Institution or Community" ("G/IC") on the Tuen Mun Outline Zoning Plan (OZP).

The proposed columbarium was located in three existing blocks of the Fat Yuen Ching Shea involving a total floor area of 299.3m²;

- (b) the application premises were within an existing temple compound. The area was mainly dominated by Government, institution or community (GIC) facilities including temples and other religious institutions. The application was rejected by the Rural and New Town Planning Committee (RNTPC) on 20.5.2011 mainly on the grounds regarding structural safety and means of escape;
- (c) at the section 16 stage, the applicant had proposed crowd and traffic management measures to minimise the number of visitors during the Ching Ming and Chung Yeung Festivals and their shadow periods. The measures included visit-by-appointment scheme to control the number of visitors during the festivals; provision of directional signs at the footpaths in the vicinity with staff along the pedestrian routes to guide visitors to the premises; an open-air car park to the northeast of the premises to provide parking spaces for the visitors; and to set the House of Rules to regulate the conduct of purchasers in the use of the niches including the visiting hours at the Ching Ming and Chung Yeung Festivals;
- (d) at the section 17 review stage, the Commissioner of Police (C of P) had reservation on the application after reviewing the current situation and taking into account the cumulative effect of other proposed columbarium developments in the vicinity. Noting that Yeung Tsing Road was a single carriageway 2-lane cul-de-sac road linking to Hing Choi Road, which was the only road connecting to other areas of Tuen Mun. There was concern on the public safety of other users in the area as any blockage along Yeung Tsing Road would jeopardise the swift arrival of emergency rescue vehicles to the Site. The C of P also doubted whether the management measures proposed by the applicant to even out the number of visitors to the premises were implementable;
- (e) on 23.3.2012, the Board considered the review of the application. Whilst the previous concerns regarding structural safety and means of escape of

the application premises had been addressed by the applicant at that meeting, the Board decided to defer the consideration of the application and to request the applicant to liaise with C of P for the submission of a traffic and crowd management plan (TCMP) during the Ching Ming and Chung Yeung Festivals to the Board for further consideration;

- (f) in the subject “G/IC” zone, there were a number of similar planning applications for columbarium uses as detailed in paragraph 3 of the Paper and summarised below:

Planning Application No.	Name of Premise (if applicable)	No. of Niches	Status (Date of Consideration by the Board)
A/TM/373 ^(a)	Filial Park	5,000	Approved (18.7.2008)
A/TM/415	Shan Gor	8,000	Rejected (8.6.2012)
A/TM/434	n/a	2,000	Rejected (18.5.2012)
A/TM/437 ^(b)	Shan Yuan	5,000	Approved (20.7.2012)
Note: (a) The subject premises was subject of planning application No. S/TM/255, 306 and 316. (b) The subject premises was subject of a revoked planning application No. S/TM/387			

- (g) on 10.8.2012, the applicant submitted a TCMP to re-activate the section 17 review application;

Crowd and Traffic Management Plan Proposed by Applicant

- (h) the applicant discussed with C of P on 16.4.2012 and came up with a revised TCMP. The proposed measures were summarised as follows:

- (i) closure of open car park during the Ching Ming and Chung Yeung Festivals - to ensure strict control of the car park (occupying lot No. 391 sA, sB and RP in D.D. 131) the following measures were undertaken:
- an agreement had been signed between the owner of lot No. 391 sA and sB in D.D. 131 and the applicant for leasing the two lots as car park for a period of two years until 30.4.2014;
 - an agreement had been signed between the car park operator for lot No. 391 RP in D.D. 131 and the applicant for sole use of the lot as car park during Ching Ming and Chung Yeung Festivals; and
 - according to the above agreements, the car park would not be arranged for hourly parking but would be used for loading/unloading of private vehicles, taxi, and parking of emergency vehicles during the Ching Ming and Chung Yeung Festivals;
- (ii) pedestrian/crowd management and control plan - the applicant's crowd management proposal included the provision of directional signs, staff assistance at road crossings, implementation of diversion arrangement, demarcation of pedestrian zones by traffic cones and clear signage to entrance and the ceremonial zone/route;
- (iii) regular review – the applicant would be prepared to submit the TCMP on a regular basis prior to the two festivals to C of P for review and monitoring; and
- (iv) patronage appointment – the details were as follows:
- about one month prior to the Ching Ming and Chung Yeung Festivals, short message service (SMS) and notification letters would be sent to patrons to advise them of the special arrangements, including the patronage appointment system which would be set up during the festival periods in order to distribute the arrivals of patrons; and
 - the patrons would be recommended and encouraged to use

public transport facilities to travel to and from the premises. The patrons would also be informed that no parking facilities would be provided during the Ching Ming and Chung Yeung Festival days;

- (i) according to the applicant, similar measures recommended in the TCMP proposal had already been put into practice in the past few years for better order and control. There had not been any complaints received and therefore the proposed measures were practicable and in fact were being implemented successfully;
- (j) the applicant also proposed that, if necessary, the Board might, in granting the approval, impose such planning condition requiring the submission of the 'pre-festival' TCMP for consideration and approval by C of P, failing which the planning permission (on recommendation of the C of P) could be revoked;
- (k) departmental comments - comments from relevant government departments were detailed in paragraph 5 of the Paper as summarised below:
 - (i) the Commissioner of Police (Tuen Mun District) (C of P (TM)) was concerned that once Yeung Tsing Road, the only road connecting to other areas of Tuen Mun, was blocked due to heavy traffic during the periods of Ching Ming and Chung Yeung Festivals, the residents and nearby organisations along the road would be affected. Notwithstanding, C of P had no objection to the application if the applicant's revised TCMP could be implemented;
 - (ii) the District Land Officer/Tuen Mun (DLO/TM) was of the view that the location of car park and loading/unloading zone were private lots not owned by the applicant and also outside the Site. Hence, the applicant might not be able to exercise any control

on closure of the car park and provision of loading/unloading zone if the said tenancies with the lot owner / car park operator at lot No. 391 sA and sB in D.D. 131 and lot No. 391 RP in D.D. 131 respectively were terminated/expired, or there was a change of ownership of the subject lots/car park. DLO/TM did not consider the inclusion of the crowd and traffic control measures in the lease conditions would be an appropriate/effective means to ensure/monitor proper implementation of measures; and

(iii) the other government departments consulted maintained their previous views of having either no adverse comment or no objection to the application;

(l) PlanD's view - the PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 5 of the Paper, which were summarised below:

(i) the submitted TCMP relied on the existing open-air car parks which were temporary only, and under tenancy from other car park operators and one of them would expire on 30.4.2014. Thus, there was no guarantee that the existing car park would be available to support the operation of the columbarium in future and there was uncertainty as to whether the measures in the TCMP could be implemented and enforced prior to the Government setting up of the licensing system for columbarium uses;

(ii) C of P had no objection to the application if the applicant's revised TCMP could be implemented. To address C of P's concerns, the applicant requested the Board to consider imposing an approval condition on the implementation of the TCMP. However, it should be noted that:

- there was no planning enforcement power by the Planning

Authority within the area covered by the Tuen Mun OZP under the Ordinance;

- as stated in the Notes of the Tuen Mun OZP, when a development or redevelopment was undertaken, planning permission granted by the Board should lapse. Hence, it would not be able to revoke the planning permission even if the applicant did not comply with the approval conditions after the columbarium started operation; and
- although enforcement of planning conditions could normally be assisted by other means such as Buildings Ordinance (BO), lease and licensing requirements, it should be noted that the proposed TCMP would not involve matters that require approval under the BO. From the land administration aspect, DLO/TM did not consider that including the applicant's proposal on the implementation of crowd and traffic management measures into the lease was an appropriate/effective means to ensure/monitor proper implementation of measures and to enforce its implementation;

(iii) the operation of the columbarium without resulting in unacceptable traffic impact during festival days hinged very much on the TCMP. From the above, there was no effective means to ensure the continuous implementation of the TCMP;

(iv) since the licensing authority for columbarium was yet to be set up, it was also premature to consider the feasibility and desirability of including the applicant's TMCP in the licence conditions. The enforceability of the TCMP after all the niches were sold was doubtful; and

(v) similar planning applications in other districts were rejected by the RNTPC or the Board upon review on the same ground that there was uncertainty on the implementability and enforceability of the traffic and crowd management measures proposed by the

applicants.

200. The Chairman then invited the applicant's representatives to elaborate on the review application. Members noted the speaking notes tabled by the applicant's representative.

201. Mr. Li Ka Choi made the following main points:

- (a) on 16.4.2012, the applicant had a meeting with the HKPF, Mr. Lee Hing Ah, to discuss the TCMP during the Ching Ming and Chung Yeung Festivals. After several rounds of correspondence, the HKPF considered the TCMP proposed by the applicant practical and implementable and had no objection to the application if the applicant's revised TCMP was implemented. The applicant was very confident that the revised TCMP could be implemented effectively;
- (b) their proposed TCMP was to handle the peak periods for visitors during the Ching Ming and Chung Yeung Festivals. Other than deploying more staff for crowd management, the applicant would disseminate the most updated information through members' newsletters, website and other means through the mobile telephone messaging. The applicant had also leased the open car park near the Site to ensure its closure to hourly parking and its use for temporary taxi drop-off / pick-up point during the two festivals. As the peak period only covered a few days, it was not difficult to implement the TCMP;
- (c) similar measures recommended in the TCMP had already been put into practice on the Site and had been reviewed every year. The measures in the TCMP would facilitate their daily operations and the Board could be reassured that the applicant would continue to implement the measures in the TCMP;
- (d) PlanD's view was that the open car park was temporary only as it was under tenancies from the land owners/ car park operators and one of

tenancy agreement would expire in 2014. As such, the TCMP could not be implemented with certainty. The applicant's response was that regardless of whom the car park operator would be, the applicant would continue to lease the open car park and agreements would be signed with the car park operators before the Ching Ming and Chung Yeung Festivals. Even if the land was no longer used for car parking, their TCMP would still be feasible as their proposal was to recommend closure of the car park during the two festivals and the applicant would remind their patrons not to drive to the premises during the two festivals. The general public would generally expect that there would be more people visiting the columbaria during the Ching Ming and Chung Yeung Festivals and should be more tolerant;

- (e) the proposed columbarium use in the Fat Yuen Ching Shea was in line with the planning intention of the "G/IC" zone. The Site was at a distance from sensitive residential uses as there were only a few schools in its vicinity. As visitors would mostly come to the premises during public holidays, there should be no land use conflict with the surrounding developments; and
- (f) other than the outstanding TCMP that was being addressed at this meeting, there was no outstanding technical problems and the Board should approve the application.

202. As the applicant's representative had completed his presentation, the Chairman invited questions from Members. In response to a Member's question, Mr. Li Ka Choi advised that the Fat Yuen Ching Shea owned about 5,000ft² of land within the subject "G/IC" zone. In response to another Member's question, Mr. Li Ka Choi said that the columbarium within the subject premises was under List B (i.e. private columbarium made known to the Lands Department and/or Planning Department that were not in compliant with the user restrictions in the land leases or the statutory town planning requirements).

203. The Chairman enquired about the current traffic conditions of Yeung Ching Road. Mr. Lee Hing Ah (HKPF) said that Yeung Ching Road only provided access to

several schools, an ICAC training centre, the Tuen Mun Children and Juvenile Home (Juvenile Home), the Tsing Shan Tsuen and a few village houses at San Shek Wan. The Chairman said that as the surrounding facilities might not operate during public holidays, the traffic generated by the proposed columbarium use during the Chung Yeung and Ching Ming Festivals might not have major impact on these neighbouring land uses. Mr. Lee Hing Ah agreed and said that there was currently not much traffic on Yeung Ching Road. However, there might be some impact on the Juvenile Home as the detained juvenile had to be transported daily to and from the Juvenile Home.

204. Mr. Kim Chan (the applicant's transport consultant) supplemented that there was currently little traffic on Yeung Ching Road and the road was often used by student drivers to practise driving or parking. He said that there were railings along Yeung Ching Road to prevent illegal parking encroaching onto the pedestrian pavement.

205. The Chairman asked whether there would be illegal parking problems on Yeung Ching Road, particularly near the roundabout at the northern end of Yeung Siu Hang, during the grave sweeping festivals. Mr. Lee Hing Ah said that currently there was no illegal parking problems on Yeung Ching Road as the residential developments were not located near the road. Their main concern was the traffic conditions during the Ching Ming and Chung Yeung Festivals and traffic control measures would need to be implemented. There might be a need for temporary road closure which would necessitate the closure of the open car park as proposed by the applicant. For visitors travelling by light rail, the closest stations were Lung Mun and Tsing Shan Tsuen stations. After getting off from the light rail, visitors had to cross the road. Hence, the proposed columbarium might create additional pedestrian / vehicular conflicts in the local area.

206. A Member asked about the existing traffic conditions on Yeung Ching Road during the Ching Ming and Chung Yeung Festivals, as there were some existing columbaria (around 10,000 approved niches) in the area. Mr. Lee Hing Ah said that the columbarium at Filial Park would be occupied next year and there were some 1,000 existing niches in Shan Yuan. There were not many visitors in the previous Ching Ming and Chung Yeung Festivals. However, if all the approved niches were fully occupied, traffic management and crowd control would need to be implemented.

207. As Members had no further question to raise, the Chairman thanked DPO/TMYL and the applicant's representatives for attending the meeting. They all left the meeting at this point.

Deliberation

208. A Member said that the applicant had not provided any new information to justify its case. The outstanding matter of concern was how to ensure that the proposed TCMP for the Ching Ming and Chung Yeung Festivals could be properly implemented, and in this case, the applicant did not own the open car park that was an integral part of the TCMP. The implementation of the TCMP might only be enforceable under the future columbarium licensing system and there was no means to enforce it as a planning approval condition. This Member considered that the applicant should wait for the licensing system to be put in place before re-submitting the planning application for the Board's consideration.

209. The Chairman said that the applicant proposed closure of an open car park in the area as part of its TCMP. However, that car park was not under the applicant's ownership and there was no certainty that the applicant would retain control on how the car park could be operated.

210. Another Member said that it was difficult to find land for columbarium uses. The application site was suitable for columbarium use as it was located in the vicinity of other religious institutions and other less sensitive uses such as schools and government facilities. Currently, there was not much traffic on Yeung Ching Road and there was no illegal parking problem. There would be administrative means to resolve concerns about disruption for traffic to and from the Juvenile Home. Whilst there might still be some doubts on the effectiveness of the TCMP, the problems that would occur only during the Ching Ming and Chung Yeung Festivals could be tolerated. In any case, it would be difficult to have a totally effective control even under the future licensing system for columbarium. This Member considered that the planning permission could be approved.

[Mr. Ivan S.C. Fu returned to join the meeting at this point.]

211. The Chairman said that although columbarium use on the Site might not be incompatible with the surrounding land uses, the implications of granting a planning permission at this juncture needed to be carefully considered. If a licensing system was in place in future, there would be proper arrangements in managing the niches if the licensee failed to fulfill the licensing conditions and the operation of the columbarium had to cease. However, if the applicant failed to comply with the planning conditions for an application for columbarium use and there was no licensing system, there was no existing mechanism to enforce the planning conditions.

212. Another Member also supported approving the application. This Member pointed out that the representative of HKPF was strongly against the planning application at the previous meeting held on 23.3.2012. However, after discussions with the applicant about a revised TCMP, the HKPF currently had no objection to the application. The application site was suitable for columbarium use as it would create little impact on its surrounding neighbours. The Board should not wait for the licensing system before approving planning applications for columbarium use taking into account the high demand for such facilities in the territory.

213. The Chairman said that the Board had recently rejected similar applications for columbarium uses in the vicinity of the Site. The access to these proposed columbaria were provided via Yeung Ching Road, and the applications were rejected on similar ground that there was no effective TCMP during the Ching Ming and Chung Yeung Festivals. The Board needed to be mindful of maintaining consistency in its decisions on similar applications.

214. In response to a Member's question, the Secretary advised that the subject "G/IC" zone was mainly occupied by temples and religious institutions, similar to Fat Yuen Ching Shea. This Member said that if the subject "G/IC" zone was considered suitable for accommodating columbarium uses, the Government should have an assessment of the maximum capacity of the road infrastructure and the maximum number of niches that could be accommodated therein. Possible transport improvement measures, such as the provision of bus stops or road improvements to Yeung Ching Road, might be considered. Such information or plans would be useful for the Board to consider the subject application as well as any future applications in the subject "G/IC" zone.

215. Another Member said that as with any existing cemeteries, it was inevitable to experience some traffic congestion during the Ching Ming and Chung Yeung Festivals. As long as the traffic would not create major adverse impacts on third parties that were not visiting the columbaria in the locality, it should be tolerated.

216. In response to the Chairman's enquiry, the Secretary said that the columbarium at Shan Yuan was the subject of a revoked planning permission that was subsequently approved by the RNTPC in July 2012 (Planning application No. A/TM/437). Another planning application No. A/TM/434 in the area was rejected by the RNTPC in May 2012 for similar rejection reasons as the subject application. There were also applications for columbarium uses in other areas that were rejected by the Board on the ground about uncertainty on the implementability and enforceability of the TCMP. When the Board considered the previous cases, the Board was well aware that the TCMP could not be enforced under the lease and there was no viable means to ensure continuous operation and management of the columbarium.

217. A Member said that the implementability of the TCMP was an issue for consideration. However, even with the licensing system, the issue of implementability of the TCMP would still persist. Furthermore, there would not be major adverse impacts even if the TCMP was not effectively implemented during the two festivals, and such situation could be tolerated. Another Member had a different view and said that it was the responsibility of the future licensing authority for columbarium uses, rather than the Board, to ensure the implementation of TCMP as the planning conditions to be imposed by the Board in this regard were unenforceable. The previous Member who spoke said that even if planning conditions regarding the TCMP could not be enforced, any impacts might only have to be tolerated for a few years before the licensing system was established by the Government.

218. A Member said that the Board should consider the maximum number of niches that could be supported in the subject "G/IC" zone. Yeung Ching Road was currently a cul de sac road with no turning facilities and cars might need to make u-turns along Yeung Ching Road causing disruption to traffic. However, if there were longer-term plans, say, for improving Yeung Ching Road into a through road, then the carrying capacity of the

area would greatly improved. In response, another Member made reference to Plan FR-4a and said that Yeung Ching Road was not too narrow.

219. Another Member said that the enforceability of the TCMP through the imposition of planning conditions would be doubtful. However, given the difficulty to identify sites which were suitable for columbarium use, the Board should be more tolerant on traffic and crowd management requirements during the Ching Ming and Chung Yeung Festivals. It was likely that the general public would also be more tolerant of traffic congestions during the two festivals.

220. The Chairman said that when making a decision on the subject application, the Board had to have regard to previous decisions made to reject similar applications in the locality or in other parts of the territory. A Member agreed and said that the Board had recently rejected a planning application for columbarium use also on similar traffic grounds. The site was also accessed by a dead-end road and there was similar concern that the applicant did not have a practical and enforceable solution to resolve the traffic problems during the Ching Ming and Chung Yeung Festivals. Given similar site circumstances, there was no justification to make a different decision on the subject application.

221. In response to the Chairman, the Secretary provided information about a rejected planning application No. A/TM/415 for columbarium use (with 8,000 niches) on a site in the vicinity, which was located closer to Yeung Ching Road. At the meeting held on 6.1.2012, Members had a long discussion about the case and the main issue of contention was whether the traffic and crowd management control measures proposed by the applicant could be enforced. The Board rejected the application and took the view that there was no existing mechanism, either statutory town planning or lease enforcement means, to ensure the continuous implementation of the proposed traffic and crowd management control measures. From the planning perspective, once the proposed project had commenced, the planning permission would lapse.

222. A Member said that many other applications for columbarium use were rejected on traffic impact ground and in those cases, the HKPF normally objected to the applications. However, for the subject application, the HKPF had no objection to the

review application and the TCMP proposed by the applicant. Given that the Site was suitable for columbarium use, the Board might approve the current case; and the case could be distinguished from previous cases as the HKPF had no objection to the application. The Secretary pointed out that HKPF raised no objection to the planning application on the condition that the proposed TCMP could be implemented. She also advised Members that the HKPF also had no objection to the planning application No. S/TM/415 at the review stage.

223. Mr. Jimmy C.F. Leung (D of Plan) said that at the meeting, the HKPF advised that Yeung Ching Road was currently not congested and if needed, they could implement temporary road closure measures at Yeung Ching Road. If the HKPF was willing to explore the closure of a section of Yeung Ching Road, say between the junction of Yeung Ching Road / Hing Choi Road and the existing access to the Site, that might be a practical way to address the traffic problems during the peak periods. A Member said that road closure might not be practical as that would result in Yeung Ching Road being closed on both ends of the road. The Member further said that traffic management measures would only be effective if the drop-off area was on government land, similar to the situation at Yuen Yuen Institute or the cemeteries in Chai Wan. In the subject case, the drop-off area was proposed in an open car park that was not in the applicant's ownership, the proposed TCMP was therefore, not feasible. Mr. Jimmy C.F. Leung said his suggestion was only one of many alternatives and the HKPF might be able to suggest a feasible road closure scheme for Yeung Ching Road.

224. The Chairman said that some Members' views that the area where the Site was located was suitable for columbarium use was noted. However, he reminded Members to be cautious when making a decision on the subject case having regard to the Board's previous decisions to reject similar applications, such as planning application No. A/TM/415, in the immediate vicinity of the Site. Mr. Jimmy C.F. Leung said that it was difficult to approve the subject application when the Board had rejected a similar application that was in the immediate vicinity and was closer to Yeung Ching Road. A Member considered that the application should be rejected as the existing columbarium was being operated illegally. Another Member said that a comprehensive plan to handle the traffic issues arising from all columbaria in the subject "G/IC" zone should be devised by all the operators before the applications were submitted to the Board for consideration.

225. Another Member reiterated the view that the application should be considered sympathetically as the location was suitable for columbarium use, and any traffic congestion during the Ching Ming and Chung Yeung Festivals should be tolerated. Ms. Bernadette Linn said that the only outstanding technical matter was about the traffic arrangements during the Ching Ming and Chung Yeung Festivals. In this regard, the HKPF had advised that, if necessary, road closure could be considered. Hence, there appeared to be no strong reason to reject the application on traffic grounds.

226. The Secretary said that the Board might consider deferring decision on the application for another time to allow the PlanD to discuss with the HKPF about the traffic impact of the other similar planning applications for columbarium use (including planning applications No. S/TM/434 and S/TM/415 proposing 2,000 niches and 8,000 niches respectively). It would be necessary for HKPF to ascertain whether Yeung Ching Road had sufficient capacity or whether feasible traffic and crowd management measures could be implemented during the Ching Ming and Chung Yeung Festivals to cater for the visitors of the columbaria in the surrounding area.

227. In response to the Chairman's question, the Secretary said that TD could be asked to provide an assessment on the maximum number of niches that could be supported by Yeung Ching Road. If TD confirmed that there was sufficient capacity to accommodate the subject application and the two other planning applications for columbarium use as mentioned in paragraph 227 above with a total of around 20,000 niches, then the Board could consider approving the current application and PlanD might inform the applicants of the previously rejected cases to re-submit their applications for the Board's consideration. Mr. Jimmy C.F. Leung said that if there was insufficient road capacity to accommodate all niches in the above mentioned planning applications, consideration could be given to distribute the remaining capacity amongst the three applications.

228. A Member agreed to defer a decision on the application as it would allow the Board to have an overview about the capacity of columbarium use in the subject "G/IC" zone on traffic terms. Another Member suggested that the relevant departments should examine the feasibility to improve Yeung Ching Road, such as providing an additional

access to the main road in the south side near the Juvenile Home. If Yeung Ching Road could be improved in such manner, then it should greatly improve the capacity to accommodate more columbarium in the subject "G/IC" zone. Another Member opined that the Site might not be too far from the LRT stations that could provide an option for public transport to the subject premises.

229. After further deliberation, the Board decided to defer a decision on the application pending a review by relevant government departments (including TD and HKPF) on the maximum road capacity at Yeung Ching Road, and the traffic and crowd management measures during the Ching Ming and Chung Yeung Festivals.

Agenda Item 12

Any Other Business

[Open Meeting]

230. There being no other business, the meeting closed at 8:40pm.