

**Minutes of 1161st Meeting of the
Town Planning Board held on 19.1.2018**

Present

Permanent Secretary for Development
(Planning and Lands)

Ms Bernadette H.H. Linn

Chairperson

Professor S.C. Wong

Mr Lincoln L.H. Huang

Vice-Chairperson

Mr H.W. Cheung

Professor K.C. Chau

Dr Wilton W.T. Fok

Mr Sunny L.K. Ho

Mr Patrick H.T. Lau

Ms Christina M. Lee

Mr Stephen H.B. Yau

Dr F.C. Chan

Mr David Y.T. Lui

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Dr C.H. Hau

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Deputy Director (1), Environmental Protection Department
Mr Elvis W.K. Au

Director of Lands
Mr Thomas C.C. Chan

Principal Assistant Secretary (Transport 3),
Transport and Housing Bureau
Mr Andy S.H. Lam

Chief Engineer (Works), Home Affairs Department
Mr Martin W.C. Kwan

Director of Planning
Mr Raymond K.W. Lee

Deputy Director of Planning/District
Ms Jacinta K.C. Woo

Secretary

Absent with Apologies

Mr Ivan C.S. Fu

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr H.F. Leung

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Professor T.S. Liu

In Attendance

Assistant Director of Planning/Board

Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board

Mr Kepler S.Y. Yuen

Senior Town Planner/Town Planning Board

Mr Jeff K.C. Ho

Agenda Item 1

[Open meeting]

Confirmation of Minutes of the 1160th meeting held on 5.1.2018

[The item was conducted in Cantonese.]

1. The Secretary reported that the draft minutes of the 1160th meeting held on 5.1.2018 were sent to Members on 19.1.2018 and tabled at the meeting. Subject to no proposed amendments by Members on or before 22.1.2018, the minutes would be confirmed without amendments.

[Post-meeting Note: As at 22.1.2018, no proposed amendments to the draft minutes were received.]

Agenda Item 2

[Open meeting]

Matters Arising

[The item was conducted in Cantonese.]

(i) The Court of First Instance's Judgment on the Judicial Review lodged by Jonnex International Limited against the Metro Planning Committee's Decision in respect of Section 12A Application No. Y/H3/6 for Proposed Amendment to the Approved Sai Ying Pun and Sheung Wan Outline Zoning Plan No. S/H3/29 (HCAL 130/2015) _____

2. The Secretary reported that the following Members had declared interests on the item for owning properties in Sai Ying Pun / Sheung Wan area or having business dealings with Kenneth To & Associates Limited (KTA), consultant of the judicial review (JR) applicant:

Mr Patrick H.T. Lau - having current business dealings with KTA

Mr Stephen L.H. Liu - his company owning an office unit at Queen's Road Central

3. As the item was to report the court judgment on the JR application, the meeting agreed that the above Members could stay in the meeting.

4. The Secretary reported that the JR application was lodged by Jonnex International Limited against the decision of the Metro Planning Committee (MPC) of the Town Planning Board (the Board) made on 17.4.2015 to reject a section 12A application No. Y/H3/6 for proposed amendment to the approved Sai Ying Pun and Sheung Wan Outline Zoning Plan No. S/H3/29. The applicant proposed to rezone the application site at 1-7, Tak Sing Lane, Sai Ying Pun from “Open Space” and “Pedestrian Precinct/Street” to “Residential (Group A)23” with a stipulation of building height restriction of 120mPD.

5. On 12.1.2018, the Court of First Instance (CFI) handed down its judgment allowing the JR application and ordered that the Board should pay the cost of the applicant. In gist, the JR application was allowed on two grounds: (i) procedural irregularity for the MPC to take into account the Vice-Chairperson’s remark on ‘orientation of the proposed building’ in arriving at its decision; and (ii) Wednesbury unreasonableness in the rejection reason regarding ‘undesirable precedent’. The Court ordered that the relevant decision of the MPC was quashed and the decision had to be remitted to the MPC for reconsideration. A copy of the judgment had been sent to Members before the meeting.

6. The Secretariat of the Board was studying the judgment and seeking legal advice. Application for appeal to the Court of Appeal should be lodged within 28 days of the CFI’s decision (i.e. by 9.2.2018). Members’ views on the way forward would be sought in due course.

7. Members noted the CFI’s judgement and the Secretary would represent the Board in all matters in relation to the JR and take follow up actions in consultation with Department of Justice.

(ii) Comment on Confirmed Minutes of the 1159th Town Planning Board Meeting held on 15.12.2017

8. The Secretary reported that as the item was related to the comments from the RHL

Surveyors Limited (RHL), the following Members had declared interests on the item:

Mr H.F. Leung - RHL had made donation to the Department of Real Estate and Construction in the Faculty of Architecture of the University of Hong Kong where he was working

Ms Janice W.M. Lai - family member owning a house at Cheung Po Tsuen, Kam Tin South

9. Members noted that both Mr H.F. Leung and Ms Janice W.M. Lai had tendered apologies for being unable to attend the meeting.

10. The Secretary reported that a letter was received by the Secretariat on 17.1.2018 from RHL, the representative of the applicant of the review application No. A/YL-KTS/732, proposing amendments to paragraph 10(a) of the confirmed minutes of the 1159th Town Planning Board (the Board) meeting.

11. Members noted that the minutes served to record the meeting proceedings of the Board including the gist of the presentation by the participants, discussion and deliberation of the Board. The oral presentation made by the representative of the applicant at the meeting had been considered by the Board in deciding the review application. The minutes were not a verbatim record but to reflect the key messages put across by relevant parties at the meeting. Unless the amendments proposed by RHL pointed to any factual inaccuracy in the minutes as confirmed by the Board on 5.1.2018, according to normal practice the confirmed minutes would not be amended and the Board would just note the proponent's views.

12. After deliberation, the meeting noted RHL's views on the confirmed minutes of the 1159th meeting of the Board and agreed not to amend the confirmed minutes.

(iii) Information Note and Hearing Arrangement for Consideration of Representations and Comments on the Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No. S/HSK/1

13. The Secretary reported that the item was related to representations and comments for the Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (HSK OZP) No. S/HSK/1. The draft HSK OZP involved zoning of sites for proposed public housing developments by the Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA). The following Members had declared interests on the item, for being associated/having business dealings with HD/HKHA, Masterplan Limited (Masterplan) (R1), Mass Transit Railway Corporation Ltd. (MTRCL) (R14) and Percy Thomas Partnership (HK) Limited (Percy) (R109), or affiliated with the World Wide Fund for Nature Hong Kong (WWF-HK) (R8), the Conservancy Association (CA) (R117), the co-founder and Chief Executive Officer of Designing Hong Kong Limited (DHKL) (R17) and the Hong Kong Bird Watching Society (HKBWS) (C11):

Mr Raymond K.W. Lee - being a member of the Strategic Planning Committee
(*as Director of Planning*) (SPC) and Building Committee of HKHA

Mr Thomas C.C. Chan - being a member of HKHA
(*as Director of Lands*)

Mr Martin W.C. Kwan - being an alternate member for the Director of Home
(*as Chief Engineer (Works), Home Affairs Department*) Affairs who was a member of SPC and Subsidized Housing Committee of HKHA

Mr H.F. Leung - being a member of the Tender Committee of HKHA
and a convenor of the Railway Objections Hearing Panel

Ms Janice W.M. Lai - having current business dealings with HKHA and
MTRCL, and her spouse was a shareholder of a company which owned two pieces of land in Ha Tsuen

Mr Patrick H.T. Lau - having current business dealings with HKHA,

MTRCL and Percy

- Mr Thomas O.S. Ho - having current business dealings with HKHA and MTRCL, personally knowing the co-founder and Chief Executive Officer of DHKL
- Mr Ivan C.S. Fu - having current business dealings with MTRCL and Masterplan, and past business dealings with HKHA
- Dr C.H. Hau - having current business dealings with HKHA; being a member of HKBWS; a life member of CA and his wife is the Honorary Secretary of the Board of Directors of CA; and a past member of the Conservation Advisory Committee of WWF-HK
- Mr K.K. Cheung] their firm having current business dealings with
Mr Alex T.H. Lai] HKHA and MTRCL
- Mr Stephen L.H. Liu] having past business dealings with HKHA and
Mr Franklin Yu] MTRCL
- Professor S.C. Wong - being a member of the Advisory Committee for
(Vice-chairperson) Accredited Programme of MTR Academy
- Dr Lawrence W.C. - his spouse being a civil servant of HD but not
Poon involved in planning work
- Mr Peter K.T. Yuen - being a member of the Board of Governors of the
Hong Kong Arts Centre which had collaborated
with MTRCL on a number of arts projects

14. Members agreed that as the item was procedural in nature, the above Members who were present at the meeting were allowed to stay in the meeting.

15. The Secretary reported that on 1.12.2017, the Board agreed to the hearing arrangement for consideration of representations and comments of the draft HSK OZP. The representation hearing sessions were scheduled for 30.1.2018, 1.2.2018 and 7.2.2018 tentatively.

16. On 17.1.2018, the representative of one of the representors (R105) wrote to the Secretary of the Board to withdraw the representation. According to section 6E(1) and 6E(3) of the Town Planning Ordinance (the Ordinance), any person who made any representation might by notice in writing to the Board withdraw the representation before the representation was considered at a meeting and the representation withdrawn should be treated as not having been made. According to section 6E(3)(b) of the Ordinance, any comment made in respect of the withdrawn representation should thereafter be treated as not having been made. A total of 48 comments related to representation R105 were received during the statutory publication period. Amongst them, one comment, C6, was partially related to R105 whereas the remaining 47 comments, C333 to C379 were specifically related to R105.

17. The Board noted that representation R105 and comments C6(part) and C333 to C379 were treated as not having been made in accordance with sections 6E(1), 6E(3) and 6E(3)(b) of the Ordinance. The relevant commenters would be informed of the above in writing.

Sha Tin, Tai Po & North District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-MUP/128

Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone, Lot 440 S.D in D.D. 37, Man Uk Pin Village, Sha Tau Kok

(TPB Paper No. 10377)

[The item was conducted in Cantonese.]

18. The Secretary reported that Dr C.H. Hau had declared interest on the item for

owning properties in the North District. Members agreed that Dr C.H. Hau could stay in the meeting as his property did not have a direct view of the application site.

Presentation and Question Sessions

19. The Secretary reported that the applicant had indicated that he would not attend the meeting.

20. Ms Jessica H.F. Chu, District Planning Officer/ Sha Tin, Tai Po & North, Planning Department (DPO/STN, PlanD), was invited to the meeting at this point.

21. The Chairperson extended a welcome and briefly explained the procedure of the review hearing. She then invited DPO/STN, PlanD to brief Members on the review application.

22. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu, DPO/STN, PlanD briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10377 (the Paper).

[Miss Winnie W.M. Ng arrived to join the meeting during DPO/STN's presentation.]

23. As the presentation of DPO/STN was completed, the Chairperson invited questions from Members.

24. A Member asked whether the location of land owned by Tso Tong mentioned by the applicant was available. In response, Ms Jessica H.F. Chu said that no such information was available but PlanD had information on location of private and government land in the vicinity of the site.

25. As Members had no further question, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application. The Chairperson thanked the representative of PlanD for attending

the meeting. Ms Jessica H.F. Chu left the meeting at this point.

Deliberation Session

26. Members noted that there was no major change in the planning circumstances since the consideration of the application by the RNTPC. Members generally considered that there was no reason to overturn the decision of the RNTPC and the review application should be rejected for the same reasons.

27. After deliberation, the Board decided to reject the application on review for the following reasons:

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” zone in the Man Uk Pin area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the “Village Type Development” zone of Man Uk Pin Village where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.”

Agenda Item 4

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese.]

28. There being no other business, the meeting was closed at 9:25 a.m.