

**Minutes of 1168th Meeting of the
Town Planning Board held on 13.4.2018**

Present

Permanent Secretary for Development
(Planning and Lands)
Ms Bernadette H.H. Linn

Chairperson

Professor S.C. Wong

Vice-Chairperson

Mr Lincoln L.H. Huang

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Dr F.C. Chan

Mr David Y.T. Lui

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

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

Assistant Director (Regional 3)
Lands Department
Mr Edwin W.K. Chan

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

Chief Traffic Engineer (New Territories West)
Transport Department
Mr Patrick K.H. Ho

Director of Planning
Mr Raymond K.W. Lee

Deputy Director of Planning/District
Miss Fiona S.Y. Lung

Secretary

Absent with Apologies

Mr Stephen H.B. Yau

Dr Frankie W.C. Yeung

Dr Jeanne C.Y. Ng

In Attendance

Assistant Director of Planning/Board

Ms April K.Y. Kun

Chief Town Planner/Town Planning Board

Mr Kepler S.Y. Yuen (p.m.)

Senior Town Planner/Town Planning Board

Mr Raymond H.F. Au (a.m.)

Mr T.C. Cheng (p.m.)

Opening Remarks

1. The Chairperson said that this was the first meeting of the Town Planning Board (the Board) for the term 2018-20. She introduced the nine new Members, Mr Stanley T.S. Choi, Mr L.T. Kwok, Mr Daniel K.S. Lau, Ms Lilian S.K. Law, Mr K.W. Leung, Professor John C.Y. Ng, Dr Jeanne C.Y. Ng, Professor Jonathan W.C. Wong and Mr Ricky W.Y. Yu, and extended a welcome to them. Members noted that Dr Jeanne C.Y. Ng had tendered apologies for being unable to attend the meeting.

Agenda Item 1

Confirmation of Minutes of the 1167th Meeting held on 23.3.2018

[The item was conducted in Cantonese.]

2. The Secretary reported that the draft minutes of the 1167th meeting held on 23.3.2018 were sent to Members on 13.4.2018 and tabled at the meeting. Subject to no proposed amendments by Members on or before 16.4.2018, the minutes would be confirmed without amendments.

[Post-meeting Note: As at 17.4.2018, no proposed amendments to the draft minutes were received.]

Agenda Item 2

Matters Arising

[The item was conducted in Cantonese.]

(i) **Approval of Draft Outline Zoning Plan**

[Open Meeting]

3. The Secretary reported that on 27.3.2018, the Chief Executive in Council approved The Peak Outline Zoning Plan (OZP)(renumbered as S/H14/13) under section 9(1)(a) of the Town Planning Ordinance. Members noted that the approval of the said OZP was notified in the Gazette on 6.4.2018.

(ii) Reference Back of Approved Plans

[Open Meeting]

4. The Secretary reported that on 13.3.2018, the Chief Executive in Council referred the approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6 and the approved Tsing Yi OZP No. S/TY/28 to the Town Planning Board for amendment under section 12(1)(b)(ii) of the Town Planning Ordinance. Members noted that the reference back of the above two OZPs was notified in the Gazette on 23.3.2018.

(iii) New Town Planning Appeals Received

(a) Town Planning Appeal No. 3 of 2018

Proposed House (New Territories Exempted House (NTEH) – Small House) in “Green Belt” (“GB”) Zone, Lots 362 S.A ss.1 and 362 S.A ss.2 in D.D. 22, Lai Chi Shan Village, Tai Po, New Territories

(Application No. A/TP/628)

[Open Meeting]

5. The Secretary reported that the appeal site was located in Tai Po. The following Members had declared interests on the item:

Mr H.W. Cheung - owning a flat at Heung Sze Wui Street, Tai Po

Dr Frankie W.C. Yeung - his company owning a flat at On Chee Road, Tai Po

Dr Lawrence W.C. Poon - co-owning with spouse a house in Lung Mei Tsuen, Ting Kok, Tai Po

Mr Daniel K.S. Lau - owning a property at Ma Wo Road, Tai Po

6. As the item was to report the Town Planning Appeal Board (TPAB)’s receipt of a new town planning appeal case and no discussion was required, Members agreed that the

above Members could stay in the meeting. Members noted that Dr Frankie W.C. Yeung had tendered apologies for being unable to attend the meeting.

7. The Secretary reported that a Notice of Appeal was received by the Appeal Board Panel (Town Planning) on 23.3.2018 against the decision of the Town Planning Board (the Board) on 5.1.2018 to reject on review an application No. A/TP/628 for proposed house (New Territories Exempted House (NTEH) – Small House) within “Green Belt” (“GB”) zone on the Tai Po Outline Zoning Plan.

8. The application was rejected by the Board for the reasons that (a) the proposed development was not in line with the planning intention of “GB” zone; (b) the proposed development did not comply with the Town Planning Board Guidelines No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’; (c) the proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories; (d) land was still available within the “Village Type Development” zone of Lai Chi Shan; and (e) approval of the application would set an undesirable precedent for other similar applications within “GB” zone.

9. Members noted that the hearing date of the appeal was yet to be fixed and agreed that the Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

- (b) Town Planning Appeal No. 4 of 2018
Proposed House (New Territories Exempted House (NTEH) – Small House) in
“Agriculture” (“AGR”) Zone, Lot 440 S.D in D.D. 37, Man Uk Pin Village,
Sha Tau Kok, New Territories
(Application No. A/NE-MUP/128)
[Open Meeting]

10. The Secretary reported that a Notice of Appeal was received by the Appeal Board Panel (Town Planning) on 27.3.2018 against the decision of the Town Planning Board (the Board) on 19.1.2018 to reject on review an application No. A/NE-MUP/128 for proposed house (New Territories Exempted House (NTEH) - Small House) within “Agriculture”

("AGR") zone on the Man Uk Pin Outline Zoning Plan. The application was rejected by the Board for the reasons that (a) the proposed development was not in line with the planning intention of "AGR" zone; and (b) land was still available within the "Village Type Development" zone of Man Uk Pin Village.

11. Members noted that the hearing date of the appeal was yet to be fixed and agreed that the Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

(iv) Abandonment of Town Planning Appeal

Town Planning Appeal No. 4 of 2017

Proposed Comprehensive Development for Office, Shop and Services, Eating Place, Place of Recreation, Sports or Culture (Fitness Centre or Art Gallery) and Private Club Uses, and Minor Relaxation of Building Height Restriction for Phase 2B of Redevelopment of Taikoo Place

(Application No. A/H21/143)

[Open Meeting]

12. The Secretary reported that the subject appeal was lodged by Taikoo Place Holdings Limited which was a subsidiary of Swire Properties Limited (Swire) and that the appeal site was located in Quarry Bay. The following Members had declared interests on the item:

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|---------------------|--|
| Mr Thomas O.S. Ho | - having current business dealings with Swire and owning a flat at Taikooshing |
| Mr Ivan C.S. Fu | - having current business dealings with Swire |
| Mr Stephen L.H. Liu | - had past business dealings with Swire |
| Dr C.H. Hau | - being an Honorary Associate Professor and Principal Lecturer of the School of Biological Science of HKU and his department had |

received donations from Swire Trust before

- Dr Lawrence K.C. Li - being the Treasurer of the Hong Kong Polytechnic University (PolyU) and PolyU had received donation from Swire before
- Professor S.C. Wong - co-owning with spouse a flat in Kornhill
(*Vice-Chairperson*)
- Mr Wilson Y.W. Fung - co-owning with spouse a flat in Taikooshing
- Mr Martin W.C. Kwan - co-owning with spouse two flats in
(*Chief Engineer (Works), Taikooshing*
Home Affairs Department)
- Mr Elvis W.K. Au - co-owning with spouse two flats in
(*Deputy Director of Taikooshing*
Environmental Protection(1))

13. As the item was to report the abandonment of a town planning appeal and no discussion was required, Members agreed that the above Members could stay in the meeting. Members noted that Dr Lawrence K.C. Li and Professor S.C. Wong had not yet arrived at the meeting.

14. The Secretary reported that an appeal had been abandoned by the appellant of his own accord. Town Planning Appeal No. 4/2017 was received by the Appeal Board Panel (Town Planning) on 21.6.2017 against the decision of the Town Planning Board on 24.3.2017 to reject on review an application for proposed comprehensive development for office, shop and services, eating place, place of recreation, sports or culture (fitness centre or art gallery) and private club uses and minor relaxation of building height restriction for Phase 2B of redevelopment of Taikoo Place at a site zoned “Comprehensive Development Area” on the approved Quarry Bay Outline Zoning Plan No. S/H21/28.

15. The appeal was abandoned by the appellant on 26.3.2018. On 28.3.2018, the Appeal Board Panel (Town Planning) formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations of the Town Planning Ordinance.

(v) Updated Appeal Statistics
[Open Meeting]

16. The Secretary reported that as at 12.4.2018, 13 appeals were yet to be heard and one appeal's decision was outstanding. Details of the appeal statistics were as follows :

Allowed	36
Dismissed	152
Abandoned/Withdrawn/Invalid	199
Yet to be Heard	13
Decision Outstanding	1
<hr/> Total	401

(vi) [Confidential Item] [Closed Meeting]

17. The item was recorded under confidential cover.

18. As the applications under Agenda Items 3, 4 and 5 were similar in nature and the application sites were located in close proximity, the Chairperson suggested that the items could be considered together. Members agreed.

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-KTS/759

Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone, Lots 191 S.B ss.2 and 192 S.E ss.1 in D.D. 113, Cheung Po, Kam Tin, Yuen Long

Agenda Item 4

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-KTS/760

Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone, Lot 191 S.B ss.3 in D.D. 113, Cheung Po, Kam Tin, Yuen Long

Agenda Item 5

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-KTS/761

Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone, Lots 191 S.B ss.4 and 191 S.C ss.1 in D.D. 113, Cheung Po, Kam Tin, Yuen Long

(TPB Paper No. 10412)

[The meeting was conducted in Cantonese.]

19. The Secretary reported that the following Members had declared an interest on the items:

Mr K.K. Chueng]	their firm having current business dealings with
Mr Alex T.H. Lai]	the applicants of applications No. A/YL-KTS/760 and A/YL-KTS/761 and their representative

20. As Mr K.K. Cheung and Mr Alex T.H. Lai had no involvement in the subject applications and their interests were indirect, Members agreed that they could stay in the meeting.

Presentation and Question Sessions

21. Members noted that the applicants and the applicants' representative had indicated that they would not attend the meeting.

22. The following representative from the Planning Department (PlanD) was invited to the meeting:

Ms Maggie M.Y. Chin - District Planning Officer/Fanling, Sheung Shui
& Yuen Long East District (DPO/FS&YLE),
PlanD

23. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited DPO/FSYLE, PlanD to brief Members on the review applications.

24. With the aid of a PowerPoint presentation, Ms Maggie M.Y. Chin briefed Members on the background of the review applications including the consideration of the applications by the Rural and New Town Planning Committee (RNTPC) of the Board, departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10412 (the Paper).

25. The Chairperson invited questions from Members. Members had no question on the review applications.

26. As Members had no question to raise, the Chairperson said that the hearing procedure for the review applications had been completed. The Board would further deliberate on the review applications. The Chairperson thanked DPO/FS&YLE, PlanD for attending the meeting, and she left the meeting at this point.

Deliberation Session

27. Noting that the applicants had not submitted any written representation in support of the review applications and had not attended the meeting, a Member enquired about the basis for considering the review applications. The Secretary explained that under section 17 of the Town Planning Ordinance (TPO), where an applicant was aggrieved by a decision under section 16 or 16A, the applicant might apply for a review of the Board's decision and

submit further information in support of the review. On a review application, the applicant or his/her authorized representatives might attend a meeting before the Board and should be given an opportunity to make representation under section 17(3). If the applicant or his/her authorized representative did not attend the review hearing, the Board might proceed with the review. In the present cases, although the applicants had not submitted any written representation in support of the review applications and had not attended the meeting, the Board was duty bound to consider the review applications in accordance with the provisions of the TPO. The Chairperson supplemented that since the composition of the full Board was different from that of the RNTPC which considered an application at the section 16 stage, the full Board might have different views on the same application.

28. Another Member asked whether the consideration of review applications would be adjourned to accommodate the schedule of the applicant. The Secretary said that in accordance with the provisions of the TPO, the Board should consider a review application within three months on receipt of the application. The applicant would be notified of the meeting date well in advance. If the applicant was not able to attend the review hearing due to personal reasons, he/she might authorize a representative to attend on his/her behalf. That said, in cases where the applicant had submitted further information which warranted publication for public comments, or the Board was satisfied that there were reasonable grounds to defer the consideration of the application upon request of the applicant, the consideration of the application would be rescheduled.

29. Turning to the review applications in question, the Chairperson said that Members should assess whether there were grounds that warranted a departure from the RNTPC's decisions. Members considered that as the applicants had not submitted any further information in support of the review applications, and there was no major change in the planning considerations and assessments since the consideration of the applications by the RNTPC, there was no strong justification which warranted a departure from the RNTPC's decisions of rejecting the applications.

30. After deliberation, the Board decided to reject the applications on review for the following reasons:

“ (a) the proposed Small House developments are not in line with the

planning intention of the “Agriculture” zone which is to retain and safeguard good quality agricultural land for agricultural purposes. It is also intended 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 Cheung Po and Tai Wo which 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 more orderly development pattern, efficient use of land and provision of infrastructure and services.”

[Mr Alex T.H. Lai left the meeting temporarily at this point.]

Agenda Item 6

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-TKLN/6

Temporary Retail Shop, Canteen and Ancillary Office for a Period of 3 Years in “Recreation” and “Green Belt” Zones, Lot 387 S.B RP (Part) in D.D. 78, Tsung Yuen Ha, Ta Kwu Ling (TPB Paper No. 10413)

[The meeting was conducted in Cantonese.]

31. The Secretary reported that the following Member had declared interests on the item:

Mr Alex T.H. Lai - his father co-owning with two other persons two lots of land in Ping Che, Ta Kwu Ling

32. Members noted that Mr Alex T.H. Lai had left the meeting temporarily.

Presentation and Question Sessions

33. Members noted that the applicant had indicated that he would not attend the meeting.
34. The following representative from the Planning Department (PlanD) was invited to the meeting :

Mr Tim T.Y. Fung - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD

35. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited DPO/STN, PlanD to brief Members on the review application.
36. With the aid of a PowerPoint presentation, Mr Tim T.Y. Fung 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 Board, departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10413 (the Paper).

[Mr Thomas O.S. Ho and Mr Franklin Yu arrived at the meeting during the presentation of DPO/STN, PlanD]

37. The Chairperson invited questions from Members.

PlanD's View

38. A Member asked whether the application was recommended to be approved by PlanD at the section 16 stage. In response, Mr Tim T.Y. Fung, DPO/STN, said that at the section 16 stage, PlanD did not support the application as the applicant had not provided adequate justifications for a departure from the planning intention of the "Recreation" ("REC") and "Green Belt" ("GB") zones, and had not submitted traffic impact assessment (TIA) to demonstrate that the development would have no adverse traffic impact on the surrounding areas. The application was rejected by the RNTPC for reasons stated in paragraph 1.2 of the Paper. At the section 17 stage, the applicant submitted a TIA in support of the review application. Upon reviewing the TIA and taking into account that the proposed temporary uses were only for three years, the Commissioner for Transport (C for T) considered that the

application could be tolerated from the traffic engineering point of view. Having taken into account the relevant information including the public comments, the written justifications and further information submitted by the applicant in support of the review application and the departmental comments, PlanD considered that the subject temporary uses could be tolerated for a period of three years.

The Subject Development

39. Some Members raised the following questions:

- (a) whether food licence/permit had been granted to the subject canteen;
- (b) whether the subject canteen was being used by other members of the public apart from the workers and staff of construction site of the Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP); and
- (c) whether the subject canteen could continue to operate if planning permission was not granted by the Board.

40. In response, Mr Tim T.Y. Fung made the following main points:

- (a) no food licence/permit had been granted by the Food and Environmental Hygiene Department to the subject canteen, as normally the securing of planning permission (if required) was a prerequisite for the granting of such a licence/permit. The applicant might apply for a food/restaurant business if planning permission was granted;
- (b) the subject development was mainly to serve the staff and workers from the LT/HYW BCP construction site which was within walking distance. While it might also provide convenience for the nearby villagers, it was unlikely that other members of the public would pay visit to the canteen near a construction site; and
- (c) the unauthorised uses of the Site for eating place and service provision were subject to enforcement action. An Enforcement Notice (EN) against the

unauthorised development (UD) was issued to the relevant parties on 22.9.2017 which expired on 22.12.2017. The enforcement case was being assessed for further action in accordance with the established procedures.

41. A Member followed up and asked whether there was a grace period for instigating prosecution action against the UD. Mr Raymond K.W. Lee, Director of Planning (D of Plan), said that as a general practice, upon expiry of the EN, PlanD would conduct further site inspections which usually took about two to three months to collect evidence on the offence before prosecution action would be instigated.

'Destroy First, Build Later'

42. The Chairperson and some Members raised the following questions:

- (a) when the subject application was submitted and when the development under application commenced operation; and
- (b) whether the subject application was regarded as 'destroy first, build later' case, and whether such cases would be approved by the Board.

43. In response, Mr Tim T.Y. Fung made the following main points:

- (a) the subject planning application was received in February 2017, before site formation works for the subject development was first identified by PlanD in mid-2017. Consideration of the application had been deferred once during the section 16 stage at the request of the applicant for preparation of further information to address departmental comments;
- (b) 'destroy first, build later' cases generally referred to those cases in which the sites involved high conservation and/or ecological values and had been illegally filled up prior to obtaining planning approval for development, in the hope that the Board would give favourable consideration to the application on the ground that the affected area no longer had conservation and/or ecological values;

- (c) the character of the Site and the adjoining areas had changed substantially after the commencement of construction works for the LT/HYW BCP facilities. As part of the Site had already been used as a works area in 2014 and only a small portion of the Site (about 14%) fell within the “GB” zone, the application could be distinguished from those ‘destroy first, build later’ cases; and
- (d) taking into account that the uses under application were temporary in nature which would not jeopardise the long-term planning intention for the area, and that the development could provide catering services to meet the needs of the construction workers; the development was not incompatible with the surrounding environment; the development was not expected to generate significant adverse water quality, traffic and landscape impacts on the surrounding areas, PlanD had no objection to the application.

Approval Conditions

44. Some Members raised the following questions:

- (a) what the rationale was for imposing time-limits for compliance of approval conditions, and whether the time-limits could be extended;
- (b) how the wastewater generated from the subject development would be handled, and whether the applicant would be able to comply with the relevant approval conditions (g) and (h) as stipulated in paragraph 8.2 of the Paper; and
- (c) by referring to approval condition (k) as stipulated in paragraph 8.2 of the Paper, what the meaning of ‘amenity area’ was and how the implementation of the required reinstatement work by the applicant could be ensured.

45. In response, Mr Tim T.Y. Fung made the following main points with the aid of the visualiser:

- (a) depending on the circumstances of each case, upon granting of planning approval, appropriate conditions would be imposed requiring the submission

and/or provision of improvement/mitigation measures such as in terms of sewage treatment facilities, drainage facilities and fire service installations. The applicant was required to fulfill such approval conditions by a specified date. That said, there was provision under the TPO for application for extension of time (EOT) for complying the approval conditions and each EOT application would be considered based on its individual merits;

- (b) according to the applicant, the sewage water generated from the temporary development had been diverted to a septic tank and soakaway system built in accordance with the standard of village type house within the eastern part of the Site and the septic tank system would be maintained regularly. While the Director of Environmental protection (DEP) had raised concern on the potential water quality impact caused by the temporary canteen, he had no objection to the temporary development provided that approval condition(s) were imposed on the submission and implementation of the design of septic tank and soakaway system and/or other wastewater treatment facilities for the temporary canteen. If the above planning conditions were not complied with by the applicant by the specified date, the planning approval, if given, would cease to have effect and be revoked without further notice; and
- (c) generally speaking, the required reinstatement works included the removal of hard paving and planting the site with grass. The purpose was mainly to request the applicant to tidy up the site upon the termination of the temporary use. PlanD would follow up with the applicant on the fulfillment of the reinstatement clause when appropriate.

46. The Chairperson remarked that the requirement of reinstatement works might also be stipulated under the land administration mechanism.

LT/HYW BCP Facilities

47. The Chairperson and some Members raised the following questions:

- (a) whether the LT/HYW BCP was within the Frontier Closed Area (FCA) of restricted access;
- (b) the number of workers working on the LT/HYW BCP construction site;
- (c) when the construction works for the LT/HYW BCP facilities would be completed; and
- (d) whether there were other infrastructure projects which would be carried out in the area.

48. In response, Mr Tim T.Y. Fung made the following main points with the aid of the visualiser and some PowerPoint slides:

- (a) while the LT/HYW construction site was restricted for public access, the subject area was no longer within the FCA upon implementation of the third stage of the reduction of the FCA in 2016;
- (b) according to the Architectural Services Department, some 2,000 workers and staff were currently working on the LT/HYW BCP construction site;
- (c) it was estimated that major works of the LT/HYW BCP project would be completed by end 2018. As the project would be subject to a one-year warranty period, some workers would still be required to work on the LT/HYW BCP site; and
- (d) in association with the LT/HYW BCP project, other road projects including the “Widening of Eastern Section of Lin Ma Hang Road between Tsung Yuen Ha and Lin Ma Hang” would also be carried out in the area.

Other Catering Facilities

49. The Chairperson and some Members raised the following questions:

- (a) why the similar application within the “GB” zone to the west of the Site was approved, and whether that approved temporary canteen was in operation;
- (b) the number of eating places in the vicinity of the LT/HYW BCP site; and
- (c) whether planning permission was required for convenience stores selling pre-packed lunch boxes.

50. In response, Mr Tim T.Y. Fung made the following main points with the aid of the visualiser and some PowerPoint slides:

- (a) since 2014, parts of the “GB” zone in the vicinity of the LT/HYW BCP had already been used for works areas on a temporary basis. The similar application No. A/NE-TKLN/4 for temporary canteen and ancillary office within the “GB” zone to the west of the Site was approved with conditions by the RNTPC in 2016 mainly on the grounds that the development could provide catering services to meet the needs of the construction workers; the development was not incompatible with the surrounding environment; and the development was only temporary in nature that would not jeopardise the long-term planning intention of the “GB” zone;
- (b) according to the site visits conducted by PlanD in February and March 2018, the approved temporary canteen under application No. A/NE-TKLN/4 was not in operation. As the planning permission for that application was still valid until 2019 and the approval conditions had been complied with, the operation of the temporary canteen could resume without obtaining further approval from the Board;
- (c) apart from the canteen under application, there was no other eating place in the vicinity of the LT/HYW BCP construction site. As the canteen could only provide catering services for about 100 workers at one time, workers and staff of construction site had also relied upon delivery service for lunch. It was unlikely that they would travel to the Fanling/Sheung Shui new town for lunch given the long travel time and infrequent public transport services; and

- (d) planning permission for 'shop and services' use was required within the "REC" zone for convenience stores.

Long-term Planning

51. Some Members raised the following questions:

- (a) whether there was any plan for reviewing the land uses of the area;
- (b) what the long-term planning intention was for the Site and the surrounding areas;
and
- (c) whether there was any plan to extend the public sewerage network to the area.

52. In response, Mr Tim T.Y. Fung made the following main points:

- (a) in preparing the OZPs for those areas previously included in the FCA, the recommendations of the relevant planning studies had been taken into account. The land use zonings on the subject OZP had already reflected the prevailing planning intention for the area;
- (b) a major part of the Site and its adjoining area fell within an area zoned "REC" on the OZP. With a total area of about 100 hectares, the "REC" zones on the OZP were designated taking account of the eco-tourism and recreational resources in the area including Pak Fu Shan, Heung Yuen Wai and the hiking/heritage trails. The planning intention of the "REC" zone was primarily for low-density recreational developments for the use of the general public and to encourage the development of active and/or passive recreation and tourism/eco-tourism; and
- (c) currently public sewerage connection was not available for the Site. The Government would consider to extend public sewerage connection to the area when appropriate.

53. As Members had no further questions to raise, 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 DPO/STN, PlanD for attending the meeting, and the latter left the meeting at this point.

Deliberation Session

54. Members noted that the case was one involving the applicant having started the operation before planning permission was granted, rather than a 'destroy first, build later' case. There were no explicit rules stipulating that applications involving the premature commencement of operations could not be approved by the Board. While the subject development had commenced before planning approval was obtained, it took place in mid-2017 after submission of the planning application in February 2017. The review application should be considered by the Board taking into account all the relevant planning considerations, the justifications provided by the applicant as well as the departmental and public comments.

55. Mr Raymond K.W. Lee, D of Plan, said that 'destroy first, build later' cases generally referred to those cases in the rural New Territories which involved sites of conservation interests and had been illegally filled up and/or with vegetation removed, prior to obtaining planning approval for development in the hope that the Board would give favourable consideration to the application as there would no longer be anything worth protecting and conserving on the site. In 2011, the Board issued a press release on the approaches to deter 'destroy first, build later' activities. For a planning application with the site involved in an UD such as illegal land/pond filling, the Board would take into account the condition of the site after reinstatement when considering the application.

56. Members noted that the character of the Site and the adjoining areas had changed substantially after the commencement of construction works for the LT/HYW BCP facilities and part of the Site had already been used as a works area in 2014. Members also noted a similar application for temporary canteen in the "GB" zone to the west of the Site was approved in 2016 as the development could provide catering services to meet the needs of the construction workers. As for the subject application, it was rejected by the RNTPC mainly

due to failure to demonstrate that the development would have no adverse traffic impact. Upon reviewing the TIA submitted by the applicant at the section 17 stage and taking into account that the proposed temporary uses were only for three years, C for T had no adverse comment on the application.

57. A Member said that the application could be distinguished from those typical 'destroy first, build later' cases as it was submitted to the Board before the development commenced and the Site was not of high ecological value which should be protected. The provision of a temporary canteen in the vicinity of the LT/HYW BCP construction site was not unreasonable as it could provide catering services for the construction workers. As demonstrated in the TIA submitted by the applicant, the traffic impact of the subject development was insignificant. In view of the above and given the temporary nature of the development, the review application was supported. The Member also opined that a pragmatic approach should be adopted in considering similar application for temporary uses in the future. The view was shared by several other Members.

58. Another Member said that the consideration of the application should focus on the land use aspect. The enforcement of any unauthorised activities on the Site should be a separate matter under the purview of the concerned departments. The Member supported the review application.

59. A Member said that given the scale of the LT/HYW BCP project, the provision of additional catering facilities to serve the construction workers was not unreasonable and could be supported. The view was shared by several other Members. Some Members also opined that the provision of supporting and ancillary facilities including canteens for construction workers should be considered in the early planning stage of major infrastructural projects especially in the rural areas. The Chairperson said that while the provision of catering facilities within construction sites might be required under the concerned infrastructural projects, provision of supporting facilities outside construction sites could be provided by private operators subject to market conditions and compliance with the relevant government requirements. That said, the views of Members would be conveyed to relevant departments for reference and consideration.

60. With regard to environmental improvement of rural areas, the Chairperson informed that a Countryside Conservation Office had recently been set up under the Environmental Protection Department to coordinate conservation and revitalisation projects that would conserve the natural and cultural resources while promoting sustainable economic activities in the countryside.

61. Another Member said that the Site was considered more suitable for locating a temporary canteen when compared with the approved similar application in the “GB” zone. Notwithstanding that, the Government should liaise with the operator of the approved temporary canteen for resuming operation to serve the construction workers. In response to the enquiry of the Member, the Chairperson said that in general, the validity period of a planning permission for temporary uses started from the date of the approval of the planning application. That said, if the planning application was approved, the owner(s) of the Site should apply to the District Lands Office for a short term waiver, the commencement date of which would be dated back to the first date of occupation and subject to payment of waiver and administrative fees counting from that date.

62. A Member said that although the Site fell within the “REC” and “GB” zones, it was located amidst a construction site and works areas and the development did not involve any tree felling or vegetation clearance. As the development was temporary in nature for a period of three years, the long-term planning intention of the Site would not be jeopardised. Given that the temporary canteen could bring about convenience to the construction workers and that concerned government department had no adverse comments on the application, the Member supported the review application.

63. A Member opined that by applying for planning permission and preparing a TIA, the applicant had demonstrated good will to operate a proper canteen facility. The Member asked as the application was rejected by the RNTPC and one of the grounds was not in line with the planning intention, whether the Board could approve the application on review given there was no change in circumstances in terms of planning intention. The Chairperson said that on review, the Board could have a different view on the application from the RNTPC after balancing the relevant planning considerations and taking into account the further information from the applicant, the departmental and public comments, and the latest planning circumstances.

64. A Member said that since the development was temporary in nature, the long-term planning intention of the Site would not be jeopardised. Although the development had commenced before obtaining planning approval, the development did not bring about any detrimental impact on the natural environment.

65. Another Member said that as the development involved unauthorised building works, the liability of fire risks might also be a relevant consideration in determining the application. The Chairperson said that the operator should be held liable for any risks that would take place in the subject site/premises.

66. A Member said that the consideration of planning application should focus on the land use aspect of the Site. As for the technical issues, reference could be made to the professional advice tendered by the concerned government departments. Should the subject application be approved by the Board, it would be subject to a number of conditions and the concerned government departments would monitor the compliance of those conditions and other relevant government requirements.

67. The Chairperson summed up the discussion and said that the need for catering facilities in the vicinity of the LT/HYW BCP construction site was recognised by Members. Although the development was not in line with the planning intention of the “REC” and “GB” zones, given that the development was mainly to serve the practical needs of staff and workers working on the LT/HYW BCP construction site, not incompatible with the surrounding environment and would not result in adverse impacts on the surrounding areas, the approval of the application on a temporary basis for a period of three years would not jeopardise the long-term planning intention of the “REC” and “GB” zones. As for traffic impact, upon reviewing the TIA submitted by the applicant, C for T considered that the application could be tolerated from the traffic engineering point of view.

68. Members then went through the approval conditions as stated in paragraph 8.2 of the Paper and considered that they were appropriate.

69. After deliberation, the Board decided to approve the application on review on a temporary basis for a period of three years until 13.4.2021, on the terms of the application as

submitted to the Board and subject to the following conditions :

- “ (a) no operation between 5:00 p.m. and 8:00 a.m. on weekdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the submission of drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.10.2018;
- (d) in relation to (c) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.1.2019;
- (e) the submission of proposals for fire service installations and water supplies for fire-fighting within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.10.2018;
- (f) in relation to (e) above, the implementation of proposals for fire service installations and water supplies for fire-fighting and within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.1.2019;
- (g) the submission of the design of septic tank and soakaway system and/or other wastewater treatment facilities within 6 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 13.10.2018;
- (h) in relation to (g) above, the provision of septic tank and soakaway system and/or other wastewater treatment facilities within 9 months from the date of planning approval to the satisfaction of the Director of Environmental

Protection or of the Town Planning Board by 13.1.2019;

- (i) if any of the above planning conditions (a) or (b) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if any of the above planning conditions (c), (d), (e), (f), (g) or (h) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (k) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.”

70. The Board also agreed to advise the applicant to note the advisory clauses as set out at Annex G of the Paper.

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

[Mr Alex T.H. Lai returned to join the meeting and Mr David Y.T. Lui left the meeting at this point.]

Hong Kong District

Agenda Item 7

[Open Meeting]

Review of Application No. A/H6/83

Proposed Minor Relaxation of Plot Ratio and Building Height Restrictions for Residential Development in “Residential (Group B) 1” and “Residential (Group C)” Zones, 56 Tai Hang Road, Hong Kong (Inland Lot 8832 RP)

(TPB Paper No. 10414)

71. The Secretary reported that the review application was withdrawn by the applicant of his own accord.

Agenda Item 8

[Open Meeting]

Consideration of Proposed Amendments to the Draft Wan Chai Outline Zoning Plan No. S/H5/27

(TPB Paper No. 10415)

[The meeting was conducted in Cantonese.]

72. The Secretary reported that the proposed amendments were formulated upon review of the draft Wan Chai Outline Zoning Plan (OZP) in order to give effect to the Court's orders in respect of two judicial reviews (JRs) lodged by the Real Estate Developers Association of Hong Kong (REDA) and by Leighton Property Company Limited and Lee Theatre Realty Limited (LTT), both were subsidiaries of Hysan Development Co. Ltd (Hysan). The following Members had declared interests on the item for owning properties in the Wan Chai area; and/or having affiliation/business dealings with Hysan:

- | | |
|------------------------------|---|
| Mr Thomas O.S. Ho | - having current business dealings with Hysan |
| Mr Stephen L.H. Liu | - had past business dealings with Hysan |
| Mr David Y.T. Lui | - co-owning with spouse a flat at Star Street |
| Miss Winnie W.M. Ng | - her company owning an office at Queen's Road East, Wan Chai |
| Mr Stephen H.B. Yau | - his office is located at Southorn Centre, Wan Chai |
| Mr Ricky W.Y. Yu |] Lee Hysan Foundation had sponsored some |
| Mr L.T. Kwok |] of their projects before |
| Professor Jonathan W.C. Wong |] |
| Ms Lilian S.K. Law | - being an ex-Executive Director and committee member of The Boys' & Girls' |

Clubs Association of Hong Kong and Lee Hysan Foundation had sponsored some of the activities of the association before; and her spouse serving an honorary post at Ruttonjee Hospital

73. Members noted that Mr Stephen H.B. Yau had tendered apologies for not being able to attend the meeting. Members also noted that Mr David Y.T. Lui had already left the meeting and Miss Winnie W.M. Ng had not yet arrived at the meeting. As Messrs Thomas O.S. Ho and Stephen L.H. Liu had no involvement in Hysan's sites and the interests of Mr Ricky W.Y. Yu, Mr L.T. Kwok, Professor Jonathan W.C. Wong and Ms Lilian S.K. Law were remote/indirect, Members agreed that they could stay in the meeting.

74. Members agreed that he could stay in the meeting.

Presentation and Question Sessions

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

Mr Louis K.H. Kau - District Planning Officer/Hong Kong
(DPO/HK), PlanD

Mr Anthony K.O. Luk - Senior Town Planner/Hong Kong (STP/HK),
PlanD

76. The Chairperson invited the representatives of PlanD to brief Members on the Paper.

77. With the aid of a PowerPoint presentation, Mr Louis K.H. Kau, DPO/HK, PlanD briefed Members on the proposed amendments, including their background, the general implications of the Sustainable Building Design Guideline (SBDG) on building profile, the building height (BH) concept on the current OZP, the proposed BH restrictions (BHRs), review of air ventilation measures, visual and urban design considerations, government's responses to REDA and LTT's original representations and the proposed amendments to the

OZP as detailed in the TPB Paper No. 10415 (the Paper). The review of BHRs had been conducted for all commercial, “Residential (Group A)”, Residential (Group B)”, “Residential (Group E)” and “Other Specified Uses” annotated “Mixed Use” (“OU(Mixed Use)”) zones. For “Government, Institution or Community” (“G/IC”), “Residential (Group C)” and other “OU” zones, they were not included in this round of review.

[Mr Ivan C.S. Fu and Mr Alex T.H. Lai left the meeting during the presentation of DPO/HK, PlanD]

78. The Chairperson said that the review of the draft Wan Chai OZP was to give effect to the orders of the Court subsequent to two JRs and related appeals allowed by the Court, which required the Board’s decisions on the representations submitted by REDA and LTT in respect of the draft OZP No. S/H5/26 be remitted to the Board for reconsideration. According to the judgments, while the Court held that the Board had power to impose development restrictions including BHRs, non-building area (NBA), building gap (BG) and setback (SB) requirements on statutory plans, the general implications of the SBDG on the development intensity of the sites had not been duly taken into account by the Board in making the previous decisions on the said representations. She continued to say that taking into account the relevant Court judgments and upon review of the subject OZP based on the same approach adopted for other OZPs also subject to the court decisions, PlanD had proposed amendments to the development restrictions on the OZP. The Board was invited to consider whether those proposed amendments were suitable for publication under the Town Planning Ordinance (TPO). Subject to the agreement of the Board, the amended OZP incorporating the proposed amendments would be published for public inspection and the stakeholders and the general public could make representations and comments in accordance with the relevant provisions of the TPO at a later stage. She then invited questions and comments from Members.

[Dr Lawrence W.C. Poon left the meeting at this point.]

Imposition of Development Restrictions

79. A Member enquired about the legal basis for imposing development restrictions on the OZP. In response, Mr Raymond K.W. Lee, Director of Planning (D of Plan), said that pursuant to section 3 and 4 of the TPO, the Board could undertake the systematic preparation of

draft plans for the lay-out of such areas of Hong Kong and make provision for different land uses as well as types of building suitable for erection therein. In that regard, the Court had held in a number of JRs and related appeals that it was within the power of the Board to impose development restrictions including BHRs, NBA, BG and SB requirements on statutory plans.

BHRs

80. A Member asked whether there was any plan to review the BHRs of the government, institution and community (GIC) sites. In response, Mr Louis K.H. Kau, DPO/HK, PlanD, said that GIC developments had specific functional and design requirements to suit their operational needs. For example, there was standard design for school developments which was of eight storeys. Since the GIC clusters in Wan Chai, particularly in the Morrison Hill area, had provided spatial and visual relief amidst the densely built environment, their current BHRs were proposed to be maintained mainly to reflect their existing BHs as recommended by the air ventilation assessments undertaken in 2010 and 2018. As there had been no substantial change in the planning circumstances since the OZP review in 2010 and in accordance with the same approach adopted for the review of other OZPs subject to court decisions, a general review of the BHRs for the “G/IC” zone was considered not necessary at the current stage. Should there be any known or committed development or redevelopment proposals with policy support for individual GIC sites, the BHRs of the concerned sites could be revised accordingly.

Development Intensity

81. Some Members raised the following questions:

- (a) for those sites where the maximum plot ratio (PR) or gross floor area (GFA) was not stipulated on the OZP, what the basis of control on development intensity was; and
- (b) whether the proposed relaxation of BHRs would have any implication on development intensity and traffic impact.

82. In response to Members’ questions, Mr Louis K.H. Kau and Mr Raymond K.W. Lee made the following main points:

- (a) for those sites with no maximum PR/GFA stipulated on the OZP, their development intensity was subject to the control under the Buildings Ordinance; and
- (b) under the OZP review in 2010, a number of development restrictions including BHRs, NBA, BG and SB requirements had already been incorporated into the Wan Chai OZP. The proposed amendments under consideration by the Board were premised upon a review of those development restrictions in response to the Court's ruling that SBDG was a relevant consideration in formulating the restrictions, and on the basis of revised assumptions. The proposed amendments did not involve any changes to the permissible development intensity, and hence the traffic implications should remain the same.

Air Ventilation

83. Some Members raised the following questions:

- (a) whether the air ventilation impact of the development restrictions on a 3-dimensional basis had been assessed;
- (b) whether the proposed relaxation of BHRs had allowed flexibility for building design measures such as elevated podium and sky garden for improving air penetration and urban porosity;
- (c) noting that some NBA/BG requirements were proposed to be deleted, whether the adoption of SBDG measures in individual sites were sufficient to serve the air ventilation objectives in a wider context; and
- (d) why the NBAs and BGs between Fleming Road and Stewart Road were proposed to be deleted.

84. In response to Members' questions, Mr Louis K.H. Kau made the following main points with the aid of some PowerPoint Slides and the visualiser:

- (a) the Wan Chai District was characterised by high development density with tall buildings and narrow streets. In general, given the high BH to street width (H/W) ratio of up to about 1 to 4, it was difficult for the wind from the roof top level to reach the street level and BH would not be the key consideration for the pedestrian wind environment of the area. While a general increase in BH for the commercial, mixed uses and residential sites on the OZP would further elevate the already high urban canopy, the adoption of SBDG's design measures in future would enhance building permeability, particularly around the low zone. Together with the existing and future wind penetration along major air paths following the road network and open areas, impact of the wind shadow on the pedestrian wind environment would be alleviated;
- (b) based on the revised assumptions set out in Annex E of the Paper, the BHRs on the OZP had been reviewed to ensure that they were generally sufficient to accommodate the development intensity permitted under the OZP while allowing certain flexibility for the incorporation of design elements including SBDG to improve the overall built environment;
- (c) during the OZP review in 2010, a stepped BH concept with height bands of 20m increments had been introduced in the Wan Chai area to facilitate downwash effect. Given the high development density of the area with high concentration of tall buildings and narrow streets, further increase in the variation of BHRs and/or widening of streets to facilitate air penetration might be impractical;
- (d) should there be any development/redevelopment proposal adopting good building design measures resulted in an exceedance of BHR, minor relaxation of the BHR might be considered by the Board upon application under section 16 of the TPO. Each case would be considered based on its individual merits;
- (e) while the general wind environment of the city would be improved in the long run when the number of redeveloped buildings following SBDG increased

gradually, the beneficial effect of SBDG measures could be localised. As such, the imposition of NBA/BG requirements at strategic locations was still necessary to maintain major air paths or create inter-connected air paths of district importance. For those NBAs and BGs which would not serve as district air paths in the area, they were proposed to be deleted; and

- (f) in the extant draft OZP, NBAs were designated along the eastern and western boundaries of the Ex-Wan Chai Police Station site, Ex-Wan Chai Police Married Quarter site, and BGs were imposed on the eastern and western boundaries of the Lockhart Road Municipal Services Building site and the eastern boundary of the Hennessy Road Government Primary School site so as to break up the line of building blocks along those streets upon redevelopment to facilitate some penetration of sea breeze and localised air movement. However, the wind entrance to these air paths had been partially blocked by the existing high-rise developments to the north, and might not be able to serve as district air paths in the area. Upon reviewing the OZP and the air ventilation measures, it was recognised that there were alternative building design measures including SBDG that could serve similar air ventilation purpose for the locality. Given that all the concerned sites were under government control, consideration could be given to incorporating building design measures under SBDG in the future land sale documents and/or development/redevelopment proposals to facilitate wind penetration in the north-south direction.

Review of Other OZPs

85. Some Members asked whether other OZPs with BHRs and NBA/BG/SB requirements imposed would also be subject to review. In response, Mr Louis K.H. Kau said that PlanD would progressively review other OZPs with BHRs and NBA/BG/SB requirements imposed. While priority would be accorded to those OZPs which were subject to court decisions, other OZPs with BHRs and NBA/BG/SB requirements imposed would also be reviewed when opportunity arose subject to availability of resources. Mr Raymond K.W. Lee, D of Plan, supplemented that in the interim, should there be any development or redevelopment proposals which had exceeded the BHRs on the OZPs after incorporating SBDG's design measures, there were provisions for application for minor relaxation of the BHRs under section

16 and amendments to the OZPs under section 12A of the TPO. Those applications would be considered by the Board based on individual merits.

Visual Impact

86. A Member asked whether the ridgeline behind Wan Chai would be preserved and whether the proposed relaxation of BHRs would protrude into the ridgeline.

87. In response to the Member's questions, Mr Louis K.H. Kau made the following main points with the aid of PowerPoint slides:

- (a) according to the Urban Design Guidelines promulgated in 2003, the main goal of BH profile was to protect and enhance the relationship of the city and its natural landscape context, particularly to its ridgelines/peaks. In order to preserve views to ridgelines/peaks and mountain backdrop with recognised importance around Victoria Harbour, for any new development/redevelopment proposals, a 20% building free zone below the ridgelines would need to be maintained when viewing from a number of key and popular vantage points;
- (b) as shown in the photomontages (Plans 9A and 9C) prepared based on the key vantage points from Tsim Sha Tsui (Hong Kong Cultural Complex) and Kai Tak Cruise Terminal Park, the proposed BHRs would not affect the views to the ridgelines to be preserved nor protrude into the 20% building free zone; and
- (c) as for the views from other vantage points such as the West Kowloon Cultural District (photomontage in Plan 9B), the view of the ridgeline would also not be affected as the revised BHRs would still be lower than most of the existing buildings in the area.

88. The Chairperson summed up the discussion and said that subject to the agreement of the Board, the OZP incorporating the proposed amendments would be published under section 7 of the TPO. The stakeholders and the public could submit representations on the OZP to the Board during the statutory plan exhibition period. Any representation received would be considered according to the provision of the TPO.

89. After deliberation, the Board agreed:
- (a) that the draft Wan Chai OZP No. S/H5/27A at Annex B1 of TPB Paper No. 10415 (to be renumbered as S/H5/28 upon exhibition) and its Notes at Annex B2 of TPB Paper No. 10415, drawn up based on the proposed amendments to the draft Wan Chai OZP, were suitable for exhibition under section 7 of the TPO; and
 - (b) to adopt the revised Explanatory Statement (ES) at Annex B3 of TPB Paper No. 10415 for the draft Wan Chai OZP No. S/H5/27A as an expression of the planning intentions and objectives of the Board for the various land use zonings of the OZP and the revised ES would be published together with the draft OZP.

[The meeting was adjourned for lunch break at 1:00 p.m.]

90. The meeting was resumed at 2:10 p.m. on 13.4.2018.

91. The following Members and the Secretary were present at the resumed meeting:

Permanent Secretary for Development (Planning and Lands) Ms Bernadette H.H. Linn	Chairperson
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Professor S.C. Wong	Vice-Chairperson
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Mr Lincoln L.H. Huang

Mr H.W. Cheung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Mr Wilson Y.W. Fung

Dr C.H. Hau

Dr Lawrence K.C. Li

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

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

Chief Engineer (Works)
Home Affairs Department

Mr Martin W.C. Kwan

Assistant Director (Regional 3)
Lands Department
Mr Edwin W.K. Chan

Director of Planning
Mr Raymond K.W. Lee

Sai Kung & Islands District

Agenda Item 9

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/I-CC/22

Proposed Religious Institution (Temple) and Columbarium (within a Religious Institution) in “Green Belt” Zone, Lot 4 (Part) in D.D. Cheung Chau, Cheung Chau (TPB Paper No. 10416)

[The meeting was conducted in Cantonese.]

92. The Secretary reported that the following Members had declared interests on the item for owning a flat in Cheung Chau or having business dealings with Ove Arup & Partners Hong Kong Limited (Arup) and AGC Design Limited (AGC), the consultants of the applicant :

Professor S.C. Wong (Vice-chairperson)	-	being a traffic consultant and personally having current business dealings with Arup
Mr Ivan C.S. Fu	-	having current business dealings with Arup and AGC
Mr K.K. Cheung]	their firm having current business dealings
Mr Alex T.H. Lai]	with Arup and AGC
Mr Franklin Yu	-	had past business dealings with Arup
Mr Lincoln L.H. Huang	-	being a shareholder and director of a company that owned a flat in Lung Tsai Tsuen

93. Members noted that Mr Ivan C.S. Fu, Mr K.K. Cheung and Mr Alex T.H. Lai had left the meeting. As the flat owned by Mr Lincoln L.H. Huang’s company was not located near the application site and Professor S.C. Wong and Mr Franklin Yu had no involvement in

the subject application, their interests were indirect and Members agreed that they could stay in the meeting.

Presentation and Question Sessions

94. The following representative from the Planning Department (PlanD) and the applicant's representatives were invited to the meeting :

Ms Donna Y.P. Tam - District Planning Officer/Sai Kung
& Islands (DPO/SK&Is)

Wong Wai Tsak Tong (WWTT)]
Mr Wong Kwok Kwong]
Mr Ernest Cheung]
Arup] applicant's representatives
Ms Theresa W.S. Yeung]
Ms Natalie M.Y. Leung]
Mr Ken S.F. Lai]

95. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited DPO/SK&Is, PlanD to brief Members on the review application.

96. With the aid of a PowerPoint presentation, Ms Donna Y.P. Tam 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, planning considerations and assessments as detailed in TPB Paper No. 10416 (the Paper).

97. The Chairperson then invited the applicant's representatives to elaborate on the review application.

98. With the aid of a PowerPoint presentation, Ms Theresa W.S. Yeung, the applicant's representative made the following main points :

- (a) the clan WWTT settled in Cheung Chau during the Qing Dynasty, and they followed the teaching of the clan to contribute to the community as much as possible, e.g. offering land for building schools and giving free rice to the poor. WWTT's wish was to build a small temple with ancillary columbarium for 300 niches on their own land for their clan as well as the general public. The temple was to follow WWTT's religious belief in worshipping Kwun Yum and the ancillary columbarium was to let their clan members to rest in peace after death;
- (b) the application site for the proposed Kwun Yum temple was owned by WWTT. It was located next to Cheung Chau Cemetery, Cheung Chau Crematorium and Columbarium, and Cheung Chau Catholic Cemetery. Cheung Chau Christian Cemetery was located on the northern part of the island. There were cemeteries and columbaria with different religious background in the territory but a cemetery blessed by Kwun Yum was lacking. The proposed religious institution (i.e. Kwun Yum temple) with ancillary columbarium was needed;
- (c) the proposed religious institution cum columbarium would be a single-storey building with a built-over area of about 150m² to minimize the building footprint and site formation. A semi-open design would be adopted to enable air and sunshine penetration and to blend in with the natural environment. A Kwun Yum statue of about 3m tall would be placed outdoor. Comparing with the adjacent Cheung Chau Cemetery, the scale of the proposed development was insignificant;
- (d) about 54% of all private columbaria would be provided within the religious institution. There was no specific zoning for columbarium use on all OZPs and 'Columbarium (within a religious institution or extension of existing columbarium only)' would only be permissible in "Green Belt" ("GB") zone on application to the Board;
- (e) most of the land within the "GB" zone in Cheung Chau was government land. However, the application site falling within "GB" site, adjacent to the

existing Cheung Chau Cemetery, and away from the residential area was privately owned. The proposed development at the application site was most logical and reasonable;

- (f) the government departments concerned had no adverse comment in respect of traffic/crowd management, environment, urban design and visual, nature conservation, fire safety, water supply, heritage, geotechnical, drainage and marine aspects;
- (g) the applicant had the following responses to PlanD's view on the planning intention of the "GB" zone :
 - (i) planning permissions had been given for various developments within "GB" zone in Cheung Chau, in particular, a residential development with a plot ratio (PR) of about 1.31. In comparison, the impact of the proposed religious institution with a PR of about 0.11 was insignificant. The fact that the proposed columbarium could only be permissible in the "GB" zone on application to the Board was already a strong justification in itself as it would not be permissible anywhere else;
 - (ii) there were quite a number of approved applications, as shown in the PowerPoint slides, for religious institution and ancillary columbarium within the "GB" zone throughout Hong Kong. The respective land area within the "GB" zone and the number of niches involved in those cases were far greater than that proposed in the current application. The planning intention of "GB" should not be applied broadly to reject the subject review application. The unique condition of the application site, scale of development, technical feasibility and impacts on the surrounding environment and residential area should be considered instead;
 - (iii) as stated in paragraph 5.3.8 of the Paper, there was no adverse comment from the Director of Agriculture, Fisheries and Conservation on the application in terms of ecological impact;

- (h) regarding the rejection reason for not complying with the Town Planning Board Guidelines (TPB PG-No. 10) on planning application for development within “GB” zone, the proposed development had met the criteria of the Food and Health Bureau in considering columbarium development, i.e. on an outlying island, being a district-based columbarium development scheme, located next to an existing cemetery and away from residential area. There was no alternative private land available in Cheung Chau within a “GB” zone adjacent to the existing Cheung Chau Cemetery;

- (i) regarding the access arrangement and impact on ferry services, the application site was accessible via three public footpaths leading to the existing Cheung Chau Cemetery and then via two 180m/190m long footpaths within the cemetery. The public footpaths as well as the access within the cemetery were open to the public all year round. Although part of the access within the cemetery encroached onto the applicant’s land, the applicant had not raised any objection to the encroachment over their land. The level of service of the public footpaths and access within the cemetery was considered smooth, even after taking into account the proposed religious institution and ancillary columbarium. The Transport Department (TD) considered that the crowd management proposal for the proposed development was acceptable while the Police had no objection after reviewing the crowd management and public safety issue. The spare capacity of ferry services was greater than the additional demand generated by the proposed development and TD considered that the increased demand in ferry services would not reach an unacceptable level; and

- (j) in view of the above, any precedent thus created would not be an undesirable one. Moreover, each planning application should be assessed on its individual merits and the approval of the current review application should not bind the Board to approve any other similar applications. This approach was in line with the Appeal Board’s findings in considering the Town Planning Appeal No. 6 of 2015 regarding a proposed columbarium development in Pun Uk in Nam Sang Wai, Yuen Long.

99. As the presentation from DPO/SK&Is, PlanD and the applicant's representative had been completed, the Chairperson invited questions from Members.

100. The Chairperson and some Members had the following questions for the applicant's representatives :

Information on Precedent Cases

- (a) the reasons for not submitting the information on precedent cases prior to the meeting;

WWTT and Cheung Chau

- (b) whether those land used for building hospital, school and other facilities were owned/managed by WWTT and the land transaction process involved ;
- (c) the total number of clan members of WWTT and how many were living in Cheung Chau;
- (d) whether WWTT was a non-profit-making charitable organization, the hierarchy of management of WWTT and the mechanism to settle disputes that might arise from niches allocation to the WWTT clan or the public;
- (e) whether WWTT owned any other land in Cheung Chau and whether those land were suitable for the proposed religious institution and columbarium;

Proposed Religious Institution and Columbarium

- (f) whether the proposed religious institution and columbarium was to serve the WWTT clan or the public;
- (g) whether clan members of WWTT would have priority over the public in niche allocation in the proposed columbarium, whether WWTT could

undertake that their clan members would not apply for public niches before full occupation of the 300 niches, and the basis for setting the price of a niche;

- (h) the need for an additional Kwun Yum Temple as there were already temples of different religious backgrounds in Cheung Chau, and the reason for adopting an unconventional design for the temple by putting the Kwun Yum statute outdoor;
- (i) the reason for proposing a religious institution as a meeting place for WWTT in such a remote location uphill, noting that the existing Tsz Tong of WWTT at Tai San Street already served such a purpose; and
- (j) how the proposed number of niches was derived and whether WWTT would accept a religious institution without a columbarium.

101. In response, Ms Theresa W.S. Yeung and Mr Wong Kwok Kwong, representatives of the applicant made the following points :

Information on Precedent Cases

- (a) apart from the precedent cases quoted in the presentation, all justifications and details of technical assessments had been submitted at the s.16 planning application stage. As the reports of these technical assessments were voluminous, it would be better to present the relevant points to the Board at the meeting;

WWTT and Cheung Chau

- (b) WWTT's history in Cheung Chau could be dated back to the Qing Dynasty when their ancestors leased land in Cheung Chau for farming. The Government recognized the land right of WWTT and praised WWTT for their contribution in releasing their land for building Cheung Chau Fong Pin Hospital, Kwok Man School and other facilities in Cheung Chau;

- (c) Kwok Man School involved 3 lots, which were transferred to an association of Dongguan for operation and management of the school. According to records of the Land Registry, one of those lots (i.e. Lot 92 RP) was still under the ownership of WWTT. The site of Cheung Chau Fong Pin Hospital was a regrant site in exchange of Lot 340. The site was transferred to Cheung Chau Residents' Association, the predecessor of Cheung Chau Rural Committee. The land ownership and the management of the land concerned could not be traced;
- (d) it was the tradition of the New Territories villages to only count the adult male descendants of the clan. However, the current 1,000 or so members of WWTT had included female descendants as well as children. It was estimated that only about 50 of them were still living in Cheung Chau;
- (e) WWTT was set up as a 'Tong' in accordance with the New Territories Ordinance although the clan did not have the indigenous village status. It was not a non-profit making/charitable organization. The four managers of WWTT would represent WWTT to liaise and negotiate with the Government on issues concerning the clan. Those managers were appointed by the Executive Committee of WWTT, while members of the Executive Committee were appointed by election of clan members. The Chairman of the Executive Committee could also be appointed as a manager of WWTT. The Executive Committee of WWTT was the decision maker and would vote in making decisions on matters including future allocation of niche places in the proposed columbarium if the application was approved. The four managers of WWTT would execute the decision of the Executive Committee;
- (f) WWTT owned other land in Cheung Chau, mostly in the northern part with a longer walking distance. The application site located adjacent to Cheung Chau Cemetery, which was served by paved footpaths with public toilets and sitting areas en-route, was considered more suitable for the proposed religious institution and columbarium;

Proposed Religious Institution and Columbarium

- (g) it was their clan's tradition to worship Kwun Yum and the existing Tsz Tong, where a Kwun Yum statue was placed, was too small to accommodate more than 1,000 clan members. The proposed religious institution and columbarium was to meet the needs of both the WWTT clan and the public;
- (h) Cheung Chau Cemetery was only for residents of Cheung Chau, who had lived on the island for a certain period of time. Many people now living in Cheung Chau were not eligible for a burial or niche place there. If the application was approved, the WWTT clan could apply for a niche place there instead of in the public cemetery. Notwithstanding that the proposed columbarium was intended for the clan of WWTT, members of the public could also apply for a niche place there;
- (i) the Executive Committee of WWTT would need to agree on the fee for a niche place, which was yet to be determined. Nevertheless, the fee should be the same for both clan members of the WWTT and the public;
- (j) their clan wanted to have a proper Kwun Yum Temple of their own as a meeting place, although it would also be open to the public. The 10 feet tall Kwun Yum statue would be placed outdoor so that the public could see the statue. There would be temple chambers indoor for worshipping;
- (k) the proposed number of 300 niches was the decision of the Executive Committee. The proposed religious institution was the main focus of the application and the number of niches in the columbarium, which was only an ancillary use, could be taken as the minimum requirement; and
- (l) WWTT considered that the columbarium should form part and parcel of the proposed religious institution, despite its ancillary nature.

102. The Chairperson and some Members had the following questions for DPO/SK&Is :

Information on Precedent Cases

- (a) whether PlanD was aware of and in a position to verify and comment on the information on precedent cases presented by the applicant at the meeting;
- (b) whether the precedent cases were related to construction of new religious institution with columbarium or whether they involved approval of new columbarium within an existing religious institution or extension of an existing columbarium;

Cheung Chau Cemetery and Columbarium

- (c) whether Cheung Chau residents had any burial rights similar to other indigenous villages in the New Territories;
- (d) the information on supply and demand for columbarium facilities in Cheung Chau;
- (e) whether Cheung Chau Cemetery/Columbarium could be further extended;

Land Use Zoning and Planning Permission

- (f) whether columbarium was permitted in other landuse zonings on the OZP and the difference between 'Cemetery' and 'Columbarium';
- (g) whether all planning applications for cemetery or columbarium use within the "GB" zone would be recommended for approval; and
- (h) under the Private Columbaria Ordinance, whether planning permission for the proposed columbarium was still required, whether a stand-alone columbarium would be permissible within the "GB" zone, whether an application for 'Columbarium (within a Religious Institution or extension of existing Columbarium only)' use would require that the religious institution

was an existing building; and whether the proposed religious institution and columbarium in the current application could be considered as separate components.

103. In response, Ms Donna Y.P. Tam made the following points :

Information on Precedent Cases

- (a) technical assessments on various aspects such as traffic, crowd management, road access, ferry services and environment impacts were submitted by the applicant at the planning application stage, which had been assessed by government departments and considered by the RNTPC. However, information on land ownership pattern and the reasons for choosing the application site was not detailed in the submission, nor the information on precedent cases. As the information on precedent cases was only presented at the meeting, she could not fully verify whether the precedent cases quoted in the applicant's presentation were relevant to the subject application;
- (b) the precedent cases quoted were not located within the Islands District and the accuracy of those cases needed to be verified. However, it was noted that a number of those precedent cases quoted involved addition of/extension of existing columbarium in existing religious institutions or involving existing columbarium within religious institutions;

Cheung Chau Cemetery and Columbarium

- (c) there was no indigenous village in Cheung Chau and local villagers would not have any burial right or burial ground similar to other indigenous villages in the New Territories. Nevertheless, residents who lived in Cheung Chau for over 10 years would be eligible to apply for a grave/niche in Cheung Chau Cemetery/Columbarium. The Cheung Chau Cemetery/Columbarium would also serve the indigenous villagers living on other outlying islands;

- (d) according to the Food and Environmental Hygiene Department (FEHD), about 1,000 niches was added to the Cheung Chau Columbarium in 2013. Another 1,400 niches would be added in the Cheung Chau Columbarium Extension Project scheduled for completion by Q3 2018. The provision would be able to meet the demand for columbarium up to 2026. As only less than half of the land within the “OU(Cemetery)” zone allocated to FEHD had been developed for cemetery and columbarium use, there was scope for further cemetery and columbarium extension, if considered necessary;

Land Use Zoning and Planning Permission

- (e) the existing Cheung Chau Cemetery was zoned “Other Specified Uses” annotated “Cemetery” (“OU(Cemetery)”) on the OZP. Both ‘Cemetery’ and ‘Columbarium’ were always permitted within the “OU(Cemetery)” zone;
- (f) according to the Private Columbaria Ordinance, all private columbarium would need to apply for relevant licence or exemption for its operation. A licence would be required for the proposed columbarium under the current application, if approved by the Board on review. According to the Notes of the OZP for the “GB” zone, planning application could be made to the Board for columbarium use provided that it was located within a religious institution or it was an extension to an existing columbarium. The current application was for a religious institution (i.e. Kwun Yum Temple) and a columbarium within it; and
- (g) the planning intention of “GB” zone was primarily to define the limits of development areas by natural features and to protect the natural landscape. There was a general presumption against development within the “GB” zone. For development proposed within the “GB” zone, the above planning intention, the condition of the site and its surrounding area, and the criteria set out in the Town Planning Board Guidelines regarding development within “GB” should be considered carefully.

104. Regarding the Private Columbaria Ordinance, the Chairperson supplemented that private columbarium applying for a licence would have to conform to the land use on the OZP and the conditions of the lease. The proposed columbarium would also need to comply with the requirements of other legislations and government regulations.

105. As Members had no further question to raise, 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 DPO/SK&Is, PlanD, and the applicant's representatives for attending the meeting. They all left the meeting at this point.

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

Deliberation Session

106. Members noted that as there was a general presumption against development within the "GB" zone, the applicant had to provide strong justification to support the review application.

107. The Chairperson said that a number of approved applications were quoted as precedents during the presentation of the applicant's representative, which were not submitted before the meeting for PlanD's verification. It would not be possible for PlanD's representative to give instant response in this respect, and there was no detailed information in hand on the background/reasons for approving those cases.

108. Mr Raymond K.W. Lee, Director of Planning, said that the cases quoted were mostly related to applications for columbarium within existing religious institutions, which were different from the review application for a new religious institution and columbarium within that religious institution. Although application No. A/ST/665 quoted might be of similar nature, each application would need to be considered on its own merit and the Board would not be bound to approve any subsequent applications without considering the relevant site context. Members generally considered that those cases quoted by the applicant's representative were not relevant to the current application which involved construction of a

new religious institution and columbarium, and further verification of the details of those cases was not required.

109. A Member stated that the applicant could not demonstrate why a new temple to worship Kwun Yum was needed while there were other temples (including one for worshipping Kwun Yum) in Cheung Chau. Also, it was still unclear whether the ancillary columbarium within the proposed religious institution was to cater for the need of WWTT or the general public. Another Member added that no strong planning justification was provided to demonstrate to the Board that the proposed religious institution and columbarium were needed.

110. Two other Members opined that while there was an overall societal demand for columbarium, there was adequate land within the “OU(Cemetery)” zone for cemetery and columbarium extension. Moreover, there was doubt on whether the applicant’s representative could act on behalf of WWTT in making the application as an objection letter signed by 62 members of WWTT was received during s.16 planning stage. The governance of WWTT and the intention of proposing the religious institution and a columbarium within it were not clear. Members generally agreed that the applicant failed to demonstrate that there was a need for the proposed development within the “GB” zone.

111. Members also noted that the applicant’s claim that the “GB” zone was the only zoning that would permit columbarium development. Indeed, such a use was always permitted within the “OU(Cemetery)” zone. The applicant had previously submitted an application to rezone a larger area including the site to “OU(Columbarium)” and it was rejected by the RNTPC.

112. Members generally considered that no strong justification was submitted by the applicant which warranted a departure from the RNTPC’s decision of rejecting the application. The meeting then went through the rejection reasons.

113. As it was stated in paragraph 5.3.2 of the Paper that TD considered that the additional demand for ferry services generated from the proposed development would not reach an unacceptable level, and that the pedestrian traffic generated by the 300 niches in the proposed ancillary columbarium was insignificant comparing with the number of niches in the

existing Cheung Chau Columbarium and its extension project, Members agreed that the recommended rejection reason (c) regarding access arrangement and public ferry services should be deleted and condition (d) should be suitably adjusted.

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

- “(a) the proposed development was not in line with the planning intention of the “Green Belt” (“GB”) zone, which was primarily intended for defining the limits of development areas by natural features and to protect the natural landscape, as well as to provide passive recreational outlets for local population and visitors. There was a general presumption against development within this zone. There were no strong justifications to warrant a departure from this planning intention;
- (b) the proposed development does not comply with the Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within “GB” Zone under section 16 of the Town Planning Ordinance’ in that the applicant failed to demonstrate that the proposed development at the application site was essential and that no alternative sites were available; and
- (c) approval of the proposed development would set an undesirable precedent for similar applications within the “GB” zone on the Outline Zoning Plan. The cumulative impact of approving such similar applications would have adverse effect on the integrity of the existing “GB” zone and result in general degradation of the natural environment and rural landscape character.”

Procedural Matters

Agenda Item 10

[Confidential Item] [Closed Meeting]

115. This item was recorded under confidential cover.

Agenda Item 11

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

Any Other Business

116. There being no other business, the meeting was closed at 4:10 p.m.