

**Minutes of 1174th Meeting of the
Town Planning Board held on 25.5.2018**

Present

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

Chairperson

Mr Lincoln L.H. Huang

Mr H.W. Cheung

Mr Sunny L.K. Ho

Dr F.C. Chan

Mr David Y.T. Lui

Mr Peter K.T. Yuen

Dr Lawrence W.C. Poon

Mr Wilson Y.W. Fung

Mr Alex T.H. Lai

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Professor John C.Y. Ng

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

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

Director of Lands
Mr Thomas C.C. Chan

Director of Planning
Mr Raymond K.W. Lee

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

Secretary

Absent with Apologies

Professor S.C. Wong

Vice-Chairperson

Mr Ivan C.S. Fu

Mr Stephen H.B. Yau

Dr Frankie W.C. Yeung

Mr Philip S.L. Kan

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Mr K.K. Cheung

Dr C.H. Hau

Mr Thomas O.S. Ho

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

Dr Jeanne C.Y. Ng

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

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

In Attendance

Assistant Director of Planning/Board
Ms April K.Y. Kun

Chief Town Planner/Town Planning Board
Mr Kepler S.Y. Yuen

Senior Town Planner/Town Planning Board
Mr Eric C.Y. Chiu

Agenda Item 1

[Open meeting]

Confirmation of Minutes of the 1172nd Meeting held on 11.5.2018

[The item was conducted in Cantonese.]

1. The Secretary reported that the draft minutes of the 1172nd meeting held on 11.5.2018 were sent to Members on 25.5.2018 and tabled at the meeting. Subject to no proposed amendment by Members on or before 28.5.2018, the minutes would be confirmed without amendments.

[Post-meeting Note: As at 28.5.2018, no proposed amendment to the draft minutes was received.]

Agenda Item 1A

[Open meeting]

Confirmation of Minutes of the 1158th Meeting held on 10.5.2018

[The item was conducted in Cantonese.]

2. The minutes of the 1158th Meeting held on 10.5.2018 were confirmed without amendments.

Agenda Item 2

[Open meeting]

Matters Arising

[The item was conducted in Cantonese.]

- (i) Judicial Review lodged by Designing Hong Kong Limited against the Decision of the Town Planning Board in respect of the Draft Central District (Extension) Outline Zoning Plan No. S/H24/8

3. The Secretary reported that the judicial review (JR) was lodged by Designing Hong Kong Limited (DHKL) against the decision of the Town Planning Board (the Board) not to amend the draft Central District (Extension) Outline Zoning Plan No. S/H24/8 in respect of the Central Military Dock site.

4. On 19.4.2018, DHKL's appeal against the Court of Appeal's judgment regarding its application for Protective Cost Order (PCO) was heard by the Court of Final Appeal (CFA). On 15.5.2018, the CFA handed down its judgment dismissing the appeal and made no order as to costs. A copy of the CFA's judgment had been sent to Members. In gist, the CFA held that:

- (a) an applicant should properly and fully explain his financial position to justify a claim for exceptional treatment in applying for a costs order;
- (b) the whole rationale of a PCO was to ensure that proceedings in which points of great public importance arise, would not be stifled through a lack of financial means. Financial ability or inability was important;
- (c) the financial resources of the respondent was a relevant consideration in arriving at a fair and just outcome. Even where the respondent to an application for a PCO was funded by the public purse, this was not to say there was no prejudice in the event it was unable to recover costs; and
- (d) in examining the financial ability of an application for PCO, it was legitimate, where the applicant was a corporation, to inquire not only as to the assets belonging to the company, but also to other sources of funding to which the company would have access. In the present case, the directors and the Chief Executive Officer were unwilling to provide details of their financial ability, and in the absence of such details the PCO should not be granted as a matter of overall fairness and justice.

5. Members noted CFA's judgement and agreed that the Secretary should represent the Board in all matters in relation to the JR and the follow up actions in consultation with the Department of Justice.

- (ii) Judicial Review lodged by the Real Estate Developers Association of Hong Kong against the Decisions of the Town Planning Board in respect of the Draft Wan Chai Outline Zoning Plan (OZP), Draft Mong Kok OZP, Draft Yau Ma Tei OZP and Draft Ngau Tau Kok and Kowloon Bay OZP

6. The Secretary reported that the judicial review (JR) lodged by the Real Estate Developers Association of Hong Kong (REDA) was allowed by the Court of First Instance (CFI) on 3.2.2015. Pursuant to the court order, the Town Planning Board's (the Board) decisions on REDA's representations in respect of the four draft Outline Zoning Plans (i.e. Wan Chai, Ngau Tau Kok and Kowloon Bay, Mong Kok and Yau Ma Tei) were quashed and the decisions were to be remitted to the Board for re-consideration. Both the Board and REDA had appealed against the CFI's judgment. On 11.4.2018, both parties filed an application for dismissal of the Board's and withdrawal of REDA's appeal by consent with the Court of Appeal (CA). On 12.4.2018, the CA granted leave for disposal of the appeals except for the costs issue. The sealed copy of the court order was issued on 19.4.2018.

7. Members noted that the appeals in relation to REDA's JR had been disposed of.

Tuen Mun and Yuen Long West District

Agenda Item 3

[Closed Meeting (Deliberation)]

Consideration of Representations and Comments in respect of the Draft Lau Fau Shan & Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/8, Draft Ping Shan OZP No. S/YL-PS/17, Draft Tin Shui Wai OZP No. S/TSW/13, Draft Lam Tei and Yick Yuen OZP No. S/TM-LTYYY/9 and Draft Ha Tsuen Fringe OZP No. S/YL-HTF/11

(TPB Paper No. 10379)

[The item was conducted in Cantonese.]

Deliberation Session

8. The meeting noted that the hearing session for the draft Lau Fau Shan & Tsim Bei Tsui

(LFS) Outline Zoning Plan (OZP) No. S/YL-LFS/8, draft Ping Shan (PS) OZP No. S/YL-PS/17, draft Tin Shui Wai (TSW) OZP No. S/TSW/13, draft Lam Tei and Yick Yuen (LTYY) OZP No. S/TM-LTYY/9 and draft Ha Tsuen Fringe (HTF) OZP No. S/YL-HTF/11 (five draft OZPs) was conducted collectively in one group on 9.3.2018 and the relevant minutes were confirmed at the meeting of 23.3.2018.

9. The meeting agreed that as Professor John C.Y. Ng had not attended the hearing session of the five draft OZPs held on 9.3.2018, he could stay in the meeting but should refrain from participating in the discussion.

10. The Secretary said that Members' declaration of interests on the item, as shown on the visualizer, was made at the hearing session of the meeting on 9.3.2018. Dr C.H. Hau had declared an interest for being a life member of Conservancy Association (CA) and his wife was the Honorary Secretary of the Board of Directors of CA (R2 on the five draft OZPs), and Mr Thomas O.S. Ho had declared an interest for personally knowing the co-founder and Chief Executive Officer of Designing Hong Kong Limited (R3 on the HTF OZP).

11. Members noted that Mr Thomas O.S. Ho and Dr C.H. Hau had tendered apologies for being unable to attend the meeting.

Deliberation

12. To facilitate deliberation, the Secretary briefly recapitulated the background in respect of representations/comments on the five draft OZPs as follows:

- (a) the five draft OZPs, together with the draft Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/1 (HSK OZP), were exhibited on 26.5.2017. The major amendments to the five draft OZPs were to excise areas covered by the five draft OZPs for incorporation into the draft HSK OZP; renamed the Ha Tsuen OZP to HTF OZP; and rezoned a piece of land (about 0.64ha) to the north-west of Fung Kong Tsuen on the HTF OZP from "Comprehensive Development Area" to "Residential (Group D)"; and

- (b) during the plan exhibition periods, a total of 14 representations and 10 comments were received.

13. The Secretary then went through the major points made by the representers and commenters in their written and oral submissions, and the responses of relevant government departments, as recorded in the relevant TPB paper and the minutes of meeting.

14. Members noted that all representations and comments were related to land use proposals on the HSK OZP for the HSK NDA. These proposals had been duly considered by the Town Planning Board (the Board) together with other representations under the HSK OZP separately in the 1162nd meeting held earlier on 25.5.2018.

15. After further deliberation, the Board decided not to uphold all representations (R1 to R2 of LFS OZP, R1 to R2 of PS OZP, R1 to R2 of TSW OZP, R1 to R5 of LTYY OZP and R1 to R3 of HTF OZP), and agreed that the five draft OZPs should not be amended to meet these representations for the following reason :

“all representations are related to the Hung Shui Kiu New Development Area and have been considered by the Board in the context of its consideration of the corresponding representations of the draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No. S/HSK/1. The decisions made by the Board in respect of those corresponding representations should equally apply to the five draft OZPs.”

Agenda Item 4

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese]

16. There being no other business, the meeting was closed at 1:00 p.m..