

**Minutes of 1209th Meeting of the
Town Planning Board held on 27.9.2019**

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 Sunny L.K. Ho

Mr Stephen H.B. Yau

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 Wilson Y.W. Fung

Dr C.H. Hau

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

Ms Lilian S.K. Law

Dr Jeanne C.Y. Ng

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

Director of Lands
Mr Thomas C.C. Chan

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

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

Director of Planning
Mr Raymond K.W. Lee

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

Absent with Apologies

Mr Ivan C.S. Fu

Dr Frankie W.C. Yeung

Mr K.K. Cheung

Mr Thomas O.S. Ho

Mr Daniel K.S. Lau

Mr K.W. Leung

Professor John C.Y. Ng

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

In Attendance

Assistant Director of Planning/Board

Ms April K.Y. Kun

Chief Town Planner/Town Planning Board

Mr Kevin C.P. Ng

Senior Town Planner/Town Planning Board

Miss Annie H.Y. Wong

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1208th Meeting held on 13.9.2019

[The item was conducted in Cantonese.]

1. The draft minutes of the 1208th Meeting were sent to Members before the meeting and tabled at the meeting. Subject to no proposed amendment by Members on or before 30.9.2019, the minutes would be confirmed without amendment.

[Post-meeting Note: The minutes were confirmed on 2.10.2019 without amendment.]

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

- (i) Section 16A Application No. A/K7/111-1

2. The Secretary reported that a letter dated 16.9.2019 from Carmel Secondary School (CSS) addressed to the Chairperson of the Town Planning Board (TPB) and both Vice-chairmen of TPB and the Metro Planning Committee (MPC) of TPB was received. The letter was tabled at the meeting. The letter was related to a section 16A planning application (No. A/K7 /111-1) submitted by the Hong Kong Polytechnic University (PolyU) for amendments to the approved section 16 scheme for campus extension development at a site on Chung Hau Street in Ho Man Tin. CSS expressed disappointment at the consultation practice for section 16A application and accused the Secretariat being dismissive in handling their concern without drawing TPB's attention to its earlier letters. CSS had been involved in the previous section 12A application, outline zoning plan amendment, and section 16 application processes of PolyU's campus extension project through submitting comments/representations to TPB in accordance with the provision of the Town Planning Ordinance (the Ordinance).

3. The Secretary said that an earlier letter dated 16.7.2019 from CSS requesting TPB to investigate why local consultation had not been carried out for PolyU's section 16A application was received and reported to MPC on 16.8.2019. MPC Members noted that the application had been processed in accordance with the Ordinance and the relevant TPB Guidelines and agreed the Secretary to give CSS a reply on behalf of TPB. After the report to MPC, the Secretariat received another letter dated 16.8.2019 from CSS raising the same concern. The Secretary sent a reply to the two CSS letters on 21.8.2019.

4. The Secretary pointed out that section 16A of the Ordinance provided for minor amendments to a development proposal where planning permission was granted under sections 16, 17 or 17B of the Ordinance. The TPB Guidelines for Class A and Class B Amendments to Approved Development Proposals (TPB PG-No. 36B) set out the types of amendments that were to be processed under section 16A of the Ordinance. Due to the nature of section 16A applications which did not involve major changes to approved scheme, there was no requirement under the Ordinance for publication of the application for public consultation, and TPB had delegated its authority to the Director of Planning to consider section 16A planning applications.

5. At this juncture, Dr Lawrence K.C. Li and Mr Stephen L.H. Liu declared that they were the Deputy Chairman and a member of the Council of the PolyU respectively. As the item was to report the receipt of a letter from the public and how the letter would be handled, Members agreed that both of them could stay in the meeting but they might wish to refrain from participating in the discussion nonetheless, for the avoidance of doubt.

[Messrs Wilson Y.W. Fung, Alex T.H. Lai and Stephen L.H. Liu arrived to join the meeting at this point.]

6. Members were satisfied that PolyU's section 16A application had been processed by the Planning Department in accordance with the Ordinance and the relevant TPB Guidelines, and approved by the Director of Planning under the delegated authority of TPB. Members were well aware of the contents of CSS's earlier letters. The Secretariat did not bypass TPB and the Secretary's reply to CSS on 21.8.2019 had clearly explained the provision under section 16A of the Ordinance and TPB PG-No. 36B. Members noted

CSS's views on section 16A application procedure and agreed the Secretary to reply CSS's letter dated 16.9.2019 on behalf of TPB.

(ii) Proposed Revisions to Guidance Notes for Applications Submitted under Sections 12A and 16 of the Town Planning Ordinance

7. The Secretary reported that a Paper on the item was submitted to propose revisions to the 'Guidance Notes of Application for Amendment of Plan under Section 12A of the Town Planning Ordinance' and 'Guidance Notes of Application for Permission under Section 16 of the Town Planning Ordinance'. While the hearing arrangements of representations, comments and further representations had been included in the Guidance Notes for Outline Zoning Plan (OZP) amendments, the proposed revisions were to align the arrangements to set out the hearing arrangements for section 12A application and section 17 review in the Guidance Notes.

8. The proposed revisions were mainly to reflect the existing arrangements for confirming the attendance and the applicant's oral submission at the meeting, and to append the house rules inside the meeting room for the attendees to observe. Guidelines for application for renewal of permission for temporary use/development in respect of the requirements on timing of submission and provision of documentary proof for completion of fire services installations were also provided. The revised Guidance Notes would be available at the Board's website.

9. Noting from the letter from Carmel Secondary School (CSS) reported under Matters Arising (i) above, a Member remarked that the public might not be familiar with the difference in handling section 16 applications and section 16A applications in that there was no statutory public consultation required under the Town Planning Ordinance for the latter. The Chairperson suggested that to distinguish the difference in the practice as raised above, the section 16A application procedures should be set out in the relevant Guidance Notes wherever appropriate.

10. Members agreed to the draft revised Guidance Notes at Appendices 1 and 2 of the Paper with immediate effect.

(iii) New Town Planning Appeal Received

Town Planning Appeal No. 6 of 2019

Proposed House (New Territories Exempted House – Small House) in “Residential (Group E)” and “Village Type Development” Zones, Lots 190 S.D RP & 190 S.E in D.D. 130, San Hing Tsuen, Lam Tei, Tuen Mun, New Territories
(Application No. A/TM-LTY Y/362)

Town Planning Appeal No. 7 of 2019

Proposed House (New Territories Exempted House – Small House) in “Residential (Group E)” Zone, Lots 190 S.D ss.2 and 190 S.Q in D.D.130, San Hing Tsuen, Lam Tei, Tuen Mun, New Territories
(Application No. A/TM-LTY Y/363)

11. The Secretary reported that two Notices of Appeal were received by the Appeal Board Panel (Town Planning) on 12.9.2019 against the decisions of the Town Planning Board (the Board) on 9.8.2019 to reject on review two applications (No. A/TM-LTY Y/362 and 363) for a proposed house (New Territories Exempted House – Small House) at each of the sites zoned “Residential (Group E)” (“R(E)”) and “Village Type Development” (“V”) on the Approved Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTY Y/10.

12. The review applications were rejected by the Board for the reasons that land was still available within the “V” zone and it was considered more appropriate to concentrate Small House development close to the existing village cluster within the “V” zone; and the proposed developments were in close proximity to the proposed public housing development currently under a feasibility study. Approval of the application will impose constraints to the planning for the proposed public housing development.

13. 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) Updated Appeal Statistics

14. The Secretary reported that as at 23.9.2019, eleven appeals were yet to be heard.

Details of the appeal statistics were as follows :

Allowed	36
Dismissed	161
Abandoned/Withdrawn/Invalid	203
Yet to be Heard	11
Decision Outstanding	0
<hr/> Total	<hr/> 411

Kowloon District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26

Re-Consideration of Representation No. 2

(TPB Paper No. 10575)

[The item was conducted in Cantonese and English.]

15. The Secretary reported that the reconsideration of Representation No. 2 (R2) in respect of the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 was related to the Court's judgment on a judicial review (JR) case and the JR application was lodged by the Real Estate Developers Association of Hong Kong (REDA) which was the representer (R2). The following Members had declared interests on the item for having affiliation/business dealings with REDA, Masterplan Limited (Masterplan) which was REDA's representative for submitting the representation, the Institute of Future Cities of the Chinese University of Hong Kong which was the Planning Department's consultant of the Air Ventilation Assessment (AVA) in respect of the OZP, the Hong Kong Baptist University (HKBU) which rented a property for the campus of the Academy of Visual Arts at Kwun Tong Road, and/or an organisation providing social services in Ngau Tau Kok and Kowloon Bay:

- | | | |
|------------------------------|---|---|
| Mr Ivan C.S. Fu | - | having current business dealings with Masterplan and developers which were members of REDA |
| Professor John C. Y. Ng | - | being a fellow of the Institute of Future Cities |
| Mr L.T. Kwok | - | his employing organization having a number of service units located in Ngau Tau Kok and Kowloon Bay |
| Mr K.K. Cheung |] | their firm having current business dealings with HKBU |
| Mr Alex T.H. Lai | | |
| Ms Sandy H.Y. Wong | - | being a Council Member of HKBU |
| Professor Jonathan W.C. Wong | - | being an employee of HKBU |
| Mr Stephen H.B. Yau | - | being the Chairman of the Social Work Advisory Committee of the Advisory Committee of the Department of Social Work in HKBU |
| Mr Philip S.L. Kan | - | being a former member of the Court of HKBU |

16. Members noted that Messrs Ivan C.S. Fu and K.K. Cheung, Professor John C.Y. Ng and Professor Jonathan W.C. Wong had tendered apologies for not being able to attend the meeting. As the interests of Messrs Alex T.H. Lai, Stephen H.B. Yau and Philip S.L. Kan were considered indirect, Members agreed that they should be allowed to stay in the meeting. Members noted that Ms Sandy H.Y. Wong, whose interest was considered indirect, had not yet arrived at the meeting. As Mr L.T. Kwok's employing organisation had no property interests in Ngau Tau Kok and Kowloon Bay and he had no involvement in any land use planning activities in the area, Members agreed that he should be allowed to stay in the meeting.

17. The following government representatives and the representer's representative were invited to the meeting:

Government Representatives

Planning Department (PlanD)

Ms Johanna W.Y. Cheng - District Planning Officer/Kowloon (DPO/K)

Ms Sandy S.K. Ng - Senior Town Planner/Kowloon

Representer

R2 – REDA

Mr Ian Brownlee - Representer's representative

18. The Chairperson extended a welcome and briefly explained the procedure of the rehearing. She said that PlanD's representatives would be invited to brief Members on the representation. The representer's representative would then be invited to make oral submissions. A question and answer (Q&A) session would be held after the representer's representative had completed the oral submission. Members could direct their questions to the government representatives and representer's representative. After the Q&A session, the representer's representative and the government representatives would be invited to leave the meeting. The Board would deliberate on the representation in their absence and inform the representer of the Board's decision in due course.

19. The Chairperson then invited PlanD's representatives to brief Members on the representation.

20. With the aid of a PowerPoint presentation, Ms Johanna W.Y. Cheng, DPO/K briefed Members on the background of the representation, including the background of the amendments, the grounds/views/proposals of the representer, planning assessments and PlanD's responses to the representation as detailed in TPB Paper No. 10575 (the Paper).

[Ms Sandy H.Y. Wong, Miss Winnie W.M. Ng and Mr Franklin Yu arrived to join the meeting during the presentation.]

21. The Chairperson then invited the presenter's representative to elaborate on the representation.

R2 – REDA

22. With the aid of a PowerPoint presentation, Mr Ian Brownlee made the following main points:

- (a) REDA submitted Representation No. 2 (R2) in January 2011. Two submissions of supplementary information (SI) were made by REDA in 2018 (SI 2018) and 2019 (SI 2019) before the reconsideration. As a general principle, REDA was concerned about the fairness and sustainability of the planning and development system in Hong Kong for good quality development rather than any particular site. The points made in R2 including the building height restrictions (BHRs) that were set unnecessarily low; the negative impact of the proposed non-building areas (NBAs) on the development rights of private land owners without compensation; and the inadequate justification for NBAs and building gaps (BGs) imposed on the OZP were still relevant;
- (b) with reference to TPB Paper No. 10397 dated 9.3.2018, SI 2018 pointed out that the AVA conducted in 2010 (AVA 2010) included in the TPB Paper had not been updated to take account of the changed circumstances over the past 8 years. SI 2018 had reviewed the relevant court judgments of the JR case lodged by the Oriental Generation Limited (OGL) in respect to Kai Tak Mansion on the subject OZP and the JR lodged by the Hysan Group (Hysan) in respect of the Causeway Bay OZP and Wan Chai OZP respectively;
- (c) the main points of the abovementioned judgments relevant to the current rehearing included: the Board needed to make sufficient inquiries to ensure procedural fairness; restrictions imposed should pursue a legitimate aim; the Board should have a rational justification for the restrictions imposed; options should be explored in the AVA; and restrictions imposed should be backed up

by cogent evidence. It revealed a problem that the prevailing guidelines on conducting AVA did not include the requirement of exploring options;

- (d) the Court's judgment also stated that restrictions imposed should be reasonably necessary and requisite proportionality should be demonstrated as it would impose impact on the development right on private land. The progressive 4-step assessment prescribed in the Court of Final Appeal's judgment should be adopted by the Board to balance societal benefits and the right on private land. For example, the extent of public gain was not identified under the 3m NBAs along the main roads;
- (e) the Court also ruled that the Sustainable Building Design Guidelines (SBDG) were a relevant consideration. The interface between the application of SBDG and imposing restrictions on the OZP needed to be considered. If ventilation could be improved by the application of design requirements under SBDG, then imposing restrictions on the OZP was not necessary;
- (f) in response to TPB Paper No. 10515 dated 25.1.2019, SI 2019 pointed out that the updated AVA (AVA 2019) comprised two scenarios but the planning restrictions imposed due to AVA 2010 were exactly the same for most parts of the OZP under the two scenarios. There were no alternatives assessed and therefore the requirements in the Court's judgments had still not been followed;
- (g) the methodology adopted in all AVAs for amendments to OZPs was stated in paragraph 4.24 of the Paper. The Courts found the methodology unsound. Contrary to what was stated in the Paper, it was not necessary to assess all options for all sites but only the options presented by the representer;
- (h) regarding Wang Chiu Road and Wang Kwong Road, there was no justification for the 3m wide NBAs on both sides of those roads were of 24m wide and it had been indicated in many studies that a street of 15m wide was already a significant wind gap. The AVA 2019 did not justify why an extra 6m width was essential to achieve a public benefit. Besides, the

photomontage on Plan H-7b in the Paper had wrongly indicated that the 3m NBA was outside the lots. Without exploring other options and alternative planning restrictions, the AVA 2019 failed to respond to the Court's judgments;

- (i) the BHRs of 60 or 100mPD at Telford Garden were illogical with higher building heights in the surrounding and thereby creating a valley-like height profile in the area. It failed to reinforce a landmark focal point around the Kowloon Bay MTR Station and was imposed based on the existing building heights which were limited by the former Kai Tak airport height restrictions. PlanD also did not explore the BHRs of 100 or 120mPD for Telford Garden which had been proposed by REDA taking into account the site characteristics and the character of the neighbourhood. Under the BHRs as proposed by REDA, the number of buildings could be reduced by half and wider space around the buildings for better air ventilation could be created while the permitted gross floor area (GFA) remained unchanged and the BGs would not be needed. This would give incentive for redevelopment to improve the area. PlanD ignored the direction of the Court and provided no cogent information for the retention of the BHRs or BGs;
- (j) given that there was inadequate cogent information in PlanD's assessment, the Board should direct PlanD to carry out further study in accordance with the Court's direction and the points aforementioned; and
- (k) to conclude, the BHRs at Telford Garden should be relaxed to 100 or 120mPD and the BGs should be removed; the NBAs on Wang Chiu Road and Wang Chau Road should be removed as they were not adequately justified; and the proposed restrictions at Mega Box should be removed as they were completely unjustified.

23. As the presentations of PlanD's representatives and the representer's representative had been completed, the Chairperson invited questions from Members.

24. At this juncture, the Secretary reported that Mr Stephen H.B. Yau had declared interest on this item as his organisation had property in the Ngau Tau Kok and Kowloon Bay area and he had therefore left the meeting during the presentation of the representer's representative and he would abstain from this particular agenda item.

PlanD's Review and the AVAs

25. The Chairperson and some Members had the following questions:

- (a) whether the development intensities permitted under the OZP could be achieved with the imposed development restrictions;
- (b) the Court's judgment on the JR case lodged by REDA in respect to the OZP;
- (c) whether the proposed restrictions were justified by the AVAs; and
- (d) in the Court's judgment, whether there were requirements for an AVA to explore alternative option or to carry out quantitative analysis, and any criteria to determine what 'adequate assessment' was in carrying out an AVA.

26. In response, Mr Ian Brownlee, the representer's representative confirmed that the permitted plot ratios (PRs)/GFAs under the OZP could be achieved with the proposed development restrictions as stipulated on the subject OZP but the restrictions would affect the quality of the building design. Regarding the Court's judgments, it was a group of judgments on the JR cases lodged by OGL, Hysan and REDA which should be considered collectively. The Court made a point on cogent evidence that the restrictions should be justified by scientific assessments, requisite proportionality should be demonstrated and options should be examined in the AVA.

27. In response, with the aid of PowerPoint slides, Ms Johanna W.Y. Cheng made the following main points:

- (a) as stated in Footnote 5 of the Paper, REDA's JR was allowed on the grounds of specific procedural unfairness, the Board's failure to make sufficient

inquiries in relation to REDA's representations including the effect of SBDG, air ventilation and building height profile; and the Board taking minor relaxation into account in not upholding the representations;

- (b) following the methodology adopted in the reviews with respect to the Wan Chai and Mong Kok OZPs, AVA Expert Evaluations (AVA EEs) were carried out for the subject OZP following the Technical Circulars on AVAs promulgated by the Government. The Board had been briefed on the findings of the review and AVA EE was considered an appropriate methodology for district-wide assessment in supporting the restrictions on the OZP. Carrying out quantitative AVA analysis to assess different options in a district-wide context was not practical as there were infinite options and combinations for all restrictions covered under an OZP; and
- (c) regarding the Court's judgment in respect of the requirement of alternative option in an AVA, the judgment was made on the JR case lodged by OGL in relation to a specific site, namely, Kai Tak Mansion. An indicative scheme for the Kai Tak Mansion site was included in the AVA 2010 and the judgment made the point that only one alternative was explored under the AVA 2010 but no other options were considered. However, such requirement for an alternative option on an OZP basis was not made in the judgment related to REDA's JR case, which also did not indicate any specific criteria of 'adequate assessment' for an AVA. A key ruling in the judgment on REDA's JR was about the Board's duty to make sufficient inquiries. Cogent justifications to justify the proposed restrictions on the subject OZP had been produced which included the BHR review and the AVA EEs.

The Site of Telford Garden and Telford Plaza (the Telford Site)

28. The Vice-chairperson and some Members had the following questions:

- (a) the considerations of the proposed BHRs of 60 and 100mPD at the Telford Site;

- (b) the rationales of the BH profile at the Telford Site and its surroundings;
- (c) the wind environment at the Telford Site;
- (d) the background of low development intensity at the Telford Site and whether the BHRs at the Telford Site could be relaxed; and
- (e) any provision under the planning system for processing redevelopment proposals not conforming with OZP restrictions but with merit.

29. In response, with the aid of PowerPoint slides, Ms Johanna W.Y. Cheng made the following main points:

- (a) the purpose of the current review on the restrictions was to examine whether the development intensities permitted under the OZP would be achievable under the planning restrictions taking into account the implications of SBDG. The existing domestic and non-domestic PRs of the Telford Site were about 2.5 and 1.6 respectively (based on the area of the subject “Other Specified Uses” zone) which were relatively low. Given that the BHRs of 60 and 100mPD at the Telford Site which were already 10m higher than the existing residential buildings and reflected the building height of the existing office buildings, the permitted GFAs could be adequately accommodated within the BHR and BG requirements;
- (b) the BHRs at the Telford Site followed the BH profile concept in the three sub-areas of the OZP from urban design point of view. The BH concept for the Kowloon Bay sub-area was intended to create a discernible townscape for Kowloon Bay Business Area (KBBA) with a BHR of 170mPD in the southern part as a business node and stepping down to three lower height bands of 100mPD, 120mPD and 140mPD in the northern and eastern parts. The Telford Site was located at the lower height band in this sub-area under the overall BH profile. Across Kwun Tong Road further east to the Telford Site, the BH profile for the residential developments mainly followed the natural topography stepping up gradually eastward and northward towards

Jordan Valley and the foothill of Kowloon Peak generally following the natural topography;

- (c) in terms of the wind environment, the annual prevailing winds of the area were mainly from the northerly quadrant and easterly quadrant while the summer winds mainly came from the easterly quadrant and southerly quadrant. The AVA revealed that the Telford Site with a large area of more than 10 ha had weakened the winds from the easterly quadrant to reach the centre of KBBA. The proposed BGs running in east-west and north-south directions would facilitate easterly and southerly prevailing winds. The BGs generally linked up the surrounding roads to form air paths to achieve the intended air ventilation performance of district significance;
- (d) the development at the Telford Site included a residential development atop a railway depot, a public transport interchange (PTI) with some commercial facilities. Its development intensity in terms of maximum GFA was specified in the lease. The current review confirmed that the permissible GFA stipulated on the OZP would be achievable following the BHR/BG requirements without relying on minor relaxation. For any redevelopment of the site, it might be difficult to meet the prescriptive SBDG requirements due to the need to accommodate the special functional requirements (railway depot and PTI) and a performance-based design alternative approach with support of a quantitative AVA would likely be required; and
- (e) should there be any redevelopment scheme submitted, it would need to be considered taking into account the overall BH profile in the area, the justifications and technical assessments supporting the application, the requirement of the railway depot and PTI, and other relevant planning considerations. Subject to the nature of the proposed land uses and the development parameters under the redevelopment proposal, a section 16 planning application or, for substantial changes, a section 12A rezoning application would be required.

NBAs along Wang Chiu Road

30. Some Members had the following questions:

- (a) the impact of NBAs along Wang Chiu Road on the private development right and achievement of design merits; and
- (b) clarification on the NBAs shown on Plan H-7b.

31. In response, with the aid of PowerPoint slides, Ms Johanna W.Y. Cheng, DPO/K made the following main points:

- (a) the proposed 3m-wide NBAs would not impose unreasonable design constraints on individual development sites as they had average lot size of 0.4 ha and minimum site depth of about 40m. Under assumptions adopted for the review of the OZPs taking into account SBDG, a minimum BH of 108mPD could already accommodate a development with PR of 12. The BHRs of 120mPD, 140mPD and 170mPD imposed at these development sites with a 3m-wide NBA were sufficient to allow design flexibility; and
- (b) Plan H-7b in the Paper presented the NBA requirement on a photo and there might appear to be some visual distortion. However, as clearly shown on Plan H-4c, the NBAs were designated within the lots. Besides, the site photos on Plan H-7c illustrated the difference between a completed development incorporating and another completed development without the 3m-wide NBA.

BGs

32. The Chairperson referred to paragraph 4.20(b)(iii) of the Paper, on the reasons for the proposed deletion of BG at Mega Box: (i) the open spaces to the north and west of the Mega Box site allowing good air penetration in the locality; (ii) the considerable design constraints resulted from the BG cutting through the middle of the site; and (iii) alternative permeable design measures under SBDG serving similar localised air ventilation purpose. In response to the Chairperson's enquiry on whether the second reason was applicable to other sites that

was subject to R2's representation, with the aid of PowerPoint slides, Ms Johanna W.Y. Cheng, DPO/K said that the site with similar BG proposed was the bus depot site sandwiched between Wang Chiu Road and Wang Kwong Road. However, since the bus depot site was sizable with an area of 2.1 ha and with wide frontage, the imposition of the BG would not cause design constraint. In addition, the BG at the bus depot together with the other two BGs to its immediate south would serve as effective air paths to extend the existing air paths at Sheung Yee Road northwards to Lam Hing Street with the effect to facilitating penetration of the southerly prevailing winds. Hence, the BG at the bus depot site should be retained for the reason to improve the wind environment in the district.

The East Kowloon Cultural Centre (EKCC)

33. In response to some Members' enquiry on information of EKCC and its implication on the proposed BHRs, Ms Johanna W.Y. Cheng, DPO/K said that EKCC under construction was a district-based civic centre for cultural performance. A BHR of 40mPD was stipulated for the EKCC site on the OZP. In view of the proximity of the EKCC to the Telford Site, Ms Cheng said that the lower BHRs as specified on the OZP would be more compatible than the more relaxed BHRs as proposed by R2.

34. As Members had no further questions to raise, the Chairperson said that the rehearing procedure for the presentation had been completed. The Board would further deliberate on the representation and inform the representer of the Board's decision in due course. The Chairperson thanked the representer's representative and the government representatives for attending the meeting. They left the meeting at this point.

[Messrs Alex T.H. Lai and Stanley T.S. Choi left the meeting during the Q&A session.]

Deliberation Session

35. The Chairperson said that pursuant to the Court's judgment, the reconsideration of R2 was held and the Board had the duty to inquire. The representer's representative confirmed that the proposed restrictions could accommodate the development intensities permitted under the subject OZP, and that the representation was intended to illustrate and facilitate better alternative design of developments. The Board should decide whether

PlanD's recommendation of deleting the BG at Mega Box and retaining other proposed restrictions were acceptable. If the proposed amendment was agreed by the Board, the statutory procedure of inviting further representations in respect of the proposed deletion would be carried out.

36. Mr Andy S.H. Lam, Principal Assistant Secretary (Transport) 3, the Transport and Housing Bureau provided further background information of the Telford Site that, similar to other railway lines in Hong Kong, the housing development atop the railway depot and the PTI was a rail-plus-property development. In the event that the site would be redeveloped in future, maintaining the operation of the railway depot to support public transport services should be the prime consideration. The Chairperson said that in the event that there was a redevelopment proposal at the Telford Site with the development parameters exceeding those stipulated on the OZP, the proposal would be subject to the Board's scrutiny in accordance with the provision under the Town Planning Ordinance (the Ordinance).

37. As invited by the Chairperson, Mr Raymond K.W. Lee, the Director of Planning supplemented that pursuant to the Court's judgments on the JR cases lodged by Hysan and REDA in respect of the Causeway Bay, Wan Chai and Mong Kok OZPs, relevant reviews on the OZP restrictions had been conducted. The key points were related to the Board's duty to inquire and the consideration of SBDG in determining the development restrictions. To address the later point, PlanD had conducted reviews of the development restrictions on these OZPs. The major principles which had been adopted in the reviews included relaxing the proposed restrictions as far as justifiable if the permitted development intensities could not be accommodated after taking into account SBDG; and retaining the NBAs/BGs if they were of district-wide significance but removing the restrictions if they were of local significance only and where the localised wind environment could be improved through the application of SBDG requirements. These principles were followed in the review for the Causeway Bay, Wan Chai and Mong Kok as well as the subject Ngau Tau Kok and Kowloon Bay OZP. Regarding the AVA, it had been an established practice to conduct AVA EE as a qualitative analysis for a district-wide review. The BH profile concept in the three sub-areas of the OZP to form the structure of the proposed BHRs was a relevant consideration to determine the development restrictions.

38. Members noted the background of REDA's JR case in respect of the subject OZP and the rationale for imposing development restrictions on the subject OZP. Members considered that the reconsideration of the representation should focus on whether R2's objections were justified and the development restrictions should be removed or relaxed as proposed by R2. Members considered the AVA EE as a qualitative analysis for a district-wide assessment was suitable while quantitative sites specific study with hypothetical alternative design options might not be meaningful. The review findings that the development restrictions could accommodate the development intensities stipulated on the subject OZP taking into account the implications of SBDG was also noted. Members also agreed that the principle of retaining NBA and BG restrictions with district-wide significance and removing those restrictions where localised wind environment could be improved through SBDG was followed in the subject review. As such, the proposed deletion of the BG at Mega Box was supported.

39. With regard to the Telford Site, given the above findings and principles, Members were generally of view that the relaxation of BHRs was not justified, while some Members considered that other considerations such as land use optimisation, enhancing local character for a long term planning vision could be relevant in considering the future redevelopment of the site.

40. After deliberation, the Board decided that the OZP should be amended to partially meet the representation by deleting the BG for "OU(B)2" zone shown in Annex VIIIa of the Paper and amending the Notes of the "OU(B)2" zone by deleting Remarks (4) as indicated in Annex VIIIb of the Paper. In tandem with the proposed amendments to the Plan, the Explanatory Statement should also be revised correspondingly. The amended OZP would be published for further representation under section 6C(2) of the Ordinance for three weeks and the Board would consider the further representations, if any, in accordance with the provisions of the Ordinance.

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

[Miss Winnie W.M. Ng left the meeting at this point.]

[Mr Stephen H.B. Yau returned to join the meeting at this point.]

Tuen Mun & Yuen Long West District

Agenda Item 4

[Open Meeting]

Review of Application No. A/HSK/67

Proposed Social Welfare Facility (Private Elderly Home) and Residential Institution (Senior Citizen Housing) in “Government, Institution or Community” Zone and an area shown as ‘Road’, Lot 793 in D.D. 124, and Lots 70, 71, 72, 73, 74, 75, 76, 77, 215 RP and 216 in D.D. 127, Ping Shan, Yuen Long

(TPB Paper No. 10576)

[The item was conducted in Cantonese.]

41. The Secretary reported that BMT Asia Pacific Ltd. (BMT) was one of the consultants of the application. Mr Thomas O.S. Ho had declared interest on the item as his firm had past business dealings with BMT and involving concrete business and he had tendered apologies for not being able to attend the meeting.

42. The following representative of the Planning Department (PlanD) and the applicant’s representatives were invited to the meeting:

Government Representative

Mr David Y.M. Ng - District Planning Officer/ Tuen Mun
& Yuen Long West (DPO/TM&YLW)

Applicant’s Representatives

PlanArch Consultations Ltd

Ms Betty S.F. Ho] Applicant’s Representatives
Ms H.Y. Cheung]

43. The Chairperson extended a welcome and briefly explained the procedure of the review hearing. She then invited DPO/TM&YLW to brief Members on the review application.

44. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TM&YLV briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the TPB Paper No. 10576 (the Paper).

45. The Chairperson then invited the applicant's representatives to elaborate on the review application. With the aid of a PowerPoint presentation, Ms Betty S.F. Ho made the following main points:

[Mr Franklin Yu and Dr Lawrence K.C. Li left the meeting at this point.]

- (a) the portion of the application site (the Site) falling within the "Government, Institution or Community" ("G/IC") zone was proposed for a private elderly home and senior citizen housing. It only occupied a small portion of the whole "G/IC" zone (about 0.22 ha out of 7.28 ha). The southern portion of the Site would be surrendered to the Government for developing the planned road and schools;
- (b) there would be a planned hospital including polyclinic/specialist clinic within the "G/IC" zone. While the need of medical services in the Hung Shui Kiu New Development Area (HSK NDA) was noted, the proposed development would be compatible with the planned use of the "G/IC" zone and would not cause any adverse impact on the provision of medical services;
- (c) the proposed development providing 200 bed spaces of private elderly home and 56 units of senior citizen housing could contribute to meet the great demand of elderly homes and senior citizen housing in Hong Kong due to aging population. By jointly providing two proposed uses in the same block, it would be conducive to the concept of social inclusion;
- (d) the proposed elderly home and senior citizen housing would take up 59% and 41% of the total gross floor area (GFA) respectively. Since more than half

of the total GFA would be used for G/IC purpose, it would comply with the requirements of the Town Planning Board Guidelines TPB-PG No. 16 on ‘Application for Development/Redevelopment within “Government, Institution or Community” Zone for Uses other than Government, Institution or Community Uses under Section 16 of the Town Planning Ordinance’;

- (e) the proposed elderly home would be privately operated. The Director of Social Welfare supported the setting up of a Residential Care Homes for the Elderly (RCHE) on a self-financing basis provided that there would be no financial implications (capital and recurrent) to the Government. Other government departments had no comment or adverse comment on the application from various perspectives including environmental, drainage, urban design and landscape, etc.;
- (f) the managers of the concerned Tso/Tong agreed in principle the proposed development. While owners’ consent was not a planning consideration, the written consents would all be obtained after the approval of the application since some of them were not in Hong Kong;
- (g) while the Secretary for Food and Health (SFH) commented that the hospital site area would be reduced due to the application, and relaxation of building height restriction would be required to ensure adequate area for the hospital development, reference should be made to the site requirement for hospital under the Hong Kong Planning Standards and Guidelines (HKPSG);
- (h) according to the HKPSG, based on the planning population of 218,000 for the HSK NDA and the standard of 5.5 beds per 1,000 persons, the required provision in the planned hospital should be about 1,199 beds. The planned hospital would provide 1,500 beds in accordance with the ‘Second Ten-Year Hospital Development Plan’. Taking 80m² per bed in accordance with the HKPSG and the polyclinic cum general clinic into account, the total required GFA for the planned hospital would be about 129,112m². With reference to Tin Shui Wai (TSW) Hospital and North Lantau Hospital, the plot ratios (PR) were only about 3 and 1.6 respectively. By applying a plot ratio of 3, the site

area required for the planned hospital would be about 4.3 ha. Even if a larger site should be reserved for design flexibility, a site of 5 ha was considered adequate. It was unnecessary to reserve an area of 7.28 ha for the proposed hospital. There should be adequate room to accommodate the proposed development under the application within the “G/IC” zone without adversely affecting the development of the planned hospital; and

- (i) the proposed development would contribute to the provision of elderly facilities and help meeting the great demand of both medical services and elderly facilities and optimising the use of scarce land resources. With regard to the constraint that the application would pose to the planned road, it should be noted that the proposed development would only occupy a frontage of about 30m along the planned road with a length of 850m. Alternative design of the road access could be worked out to give way for the proposed development.

46. As the presentations of PlanD’s representative and the applicant’s representatives had been completed, the Chairperson invited questions from Members.

The Planned Hospital and its Implementation

47. The Chairperson, Mr Raymond K.W. Lee, the Director of Planning and some Members raised the following questions:

- (a) whether the planned hospital in HSK NDA was a Government-led development, and any implementation programme;
- (b) the implementation programme of HSK NDA and when the Site would be resumed for site formation works; and
- (c) noting that the need of hospital beds was not questioned by the applicant, whether there was any truth that a smaller site after accommodating the proposed use would still be sufficient for the planned hospital.

48. In response, with the aid of PowerPoint slides, Mr David Y.M. Ng, DPO/TM&YLW made the following main points:

- (a) the hospital development planned at the “G/IC” zone included a hospital and polyclinic/specialist clinic. It was a Government-led project and had been included in the Food and Health Bureau’s ‘Second Ten-Year Hospital Development Plan’ between 2026 and 2035;
- (b) the Site fell within Stage 3 of HSK NDA project. The detailed implementation programme and detailed design for the project were being formulated by the Civil Engineering and Development Department (CEDD). With the completion of Stage 1 of the project, the first population intake of HSK NDA was scheduled for 2024. Other stages of development, including the hospital project, would be carried out afterwards. Subject to detailed design, land resumption, site formation and other works would take 5 to 6 years or more; and
- (c) while the detailed design of the planned hospital was not yet available, SFH had adverse comments on reducing the area of the planned hospital site, which was about 6.5 ha as shown on the Outline Development Plan of HSK NDA. If the reserved area was reduced to accommodate the proposed development, the number of storeys for the hospital development might need to be increased and the building height restriction of 80mPD on the OZP might have to be relaxed to accommodate the planned floor areas of the hospital.

Provision of GIC Facilities

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

- (a) the planning standards of a hospital;
- (b) while the applicant claimed the planned hospital site was excessive, any cross-reference of the site area of other hospitals in the same cluster of the planned hospital;

- (c) the planned demand and provision of RCHEs in HSK NDA; and
- (d) whether the proposed development could be accommodated in any other sites of HSK NDA.

50. In response, with the aid of PowerPoint slides, Mr David Y.M. Ng, DPO/TM&YLW made the following main points:

- (a) according to the HKPSG, the standards for provision of hospital facility was 5.5 beds per 1,000 persons and each bed had an occupied area of 80m². The HKPSG had not specified any standard on site area for hospital development. In respect of a polyclinic and general clinic, the standards on site area were about 4,700m² and 2,200m² respectively;
- (b) same as the planned hospital in HSK NDA, Tuen Mun Hospital and TSW Hospital fell within the New Territories West (NTW) cluster under the Hospital Authority. Tuen Mun Hospital with a site area of about 9.29 ha provided about 1,900 beds while TSW Hospital with a site area of 1.33 ha provided about 300 beds. According to the 'Second Ten-Year Hospital Development Plan', expansion of Tuen Mun Hospital and TSW Hospital would be carried out to cater the increasing demand of medical services in the NTW;
- (c) 627 beds for RCHE would be required in HSK NDA based on a planned population of 218,000 in accordance with the standard of 21.3 beds per 1,000 persons aged 65 or above under the HKPSG. Two existing RCHEs at Ha Tsuen providing a total of about 263 beds would be retained under the planning of HSK NDA. In addition, there would be three planned RCHEs including one in the northern part of the NDA providing about 100 beds as well as one along Castle Peak Road and one near Hung Uk Estate providing 250 beds each. With the total planned provision of 863 beds, there would be a surplus in the provision of RCHEs; and

- (d) ‘Social Welfare Facility’ use was a column 1 use in the “Residential (Group A)” (“R(A)”) zone on the OZP. There were various “R(A)” zones planned in HSK NDA to accommodate such use.

51. Regarding the planned provision of RCHEs in HSK NDA, Ms Betty S.F. Ho, the applicant’s representative supplemented that according to the prevailing policy of the Social Welfare Department promoting ‘aging in place’, the target users of the newly provided RCHEs would be the elders requiring intensive care. The proposed elderly home was intended to serve other elders to fill the niche of the market.

The Development Proposal

52. In response to Mr Raymond K.W. Lee, the Director of Planning’s enquiry on how the senior citizen housing development would operate and whether the proposed 56 housing units would be available for sale in the property market, Ms Betty S.F. Ho, the applicant’s representative said that the housing units would be available for sale in the property market. The elders aged 65 or above would be the target users. In response to the Chairperson’s enquiry on the eligibility of occupants, Ms Betty S.F. Ho said that the households of the senior citizen housing would be restricted to the elders aged 65 or above but anyone could buy and sell the housing units in the property market.

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

- (a) how to enforce the eligibility requirement of elders aged 65 or above and how to ensure any subsequent property transactions would only be made between the eligible elders;
- (b) whether the applicant had experience in operating an elderly home and whether the proposed development would be operated by non-profit making organisation;
- (c) the design of the senior citizen housing and any ancillary facilities that would be provided;

- (d) noting that the proposed elderly home was always permitted in the “G/IC” zone, if the application was approved by the Board, whether the planning permission would only cover the proposed senior citizen housing; and
- (e) whether the proposed senior citizen housing, being a facility with housing units available for sale in the property market as proposed by the applicant, should be regarded as ‘Residential Institution’ use or whether it should be regarded as ‘Flat’ use.

54. In response, Ms Betty S.F. Ho, the applicant’s representative made the following main points:

- (a) it could be written in the Deed of Mutual Covenant (DMC) that the households of the housing units would be restricted to persons aged 65 or above. While senior citizen housing developments available for sale in the private property market were limited, there was a case in the New Territories to include restrictions in the DMC that property transactions were only allowed with consents from persons specified in the DMC. Should the eligibility criteria including age limit be set out in the DMC, the property transactions of the housing units would fall within the senior citizen housing market;
- (b) the applicant had no experience in operating an elderly home but the applicant’s business partner had. While the detailed operation plan had not been formulated, the proposed elderly home would either be operated by the applicant or an organisation with such experience. For the senior citizen housing, though the units would be available for sale in the property market, they would be managed by a single company; and
- (c) the senior citizen housing units would adopt the concept of universal design for elderly. There would be some communal area for recreation purpose. The nursing station at the elderly home might be shared for use by the senior citizen housing occupants.

55. In response, Mr David Y.M. Ng, DPO/TM&YLW made the following main points:
- (a) there were senior citizen housing developments in Tseung Kwan O, Ngua Tau Kok and North Point provided by the Hong Kong Housing Society. Occupants were subject to eligibility criteria including age limit and asset limit;
 - (b) the proposed private elderly home was regarded as ‘Social Welfare Facility’ which was Column 1 use in the subject “G/IC” zone while the proposed senior citizen housing was presented in the application as ‘Residential Institution’ which was Column 2 use requiring planning permission from the Board. Since the development proposal under the application involved both uses, the planning permission should cover the whole scheme if granted. Should the application be approved, the relevant building plans and land exchange application should follow the approved scheme; and
 - (c) according to the Definition of Terms (DoT) used in the statutory plans, ‘Residential Institution’ use referred to the residences managed by an organisation. For the senior citizen housing units available for sale to individuals in the property market, such use should be regarded as ‘Flat’ use.

56. The Secretary supplemented that according to the DoT, ‘Residential Institution’ meant any institution established within a building which was wholly owned and managed or operated by a body or organisation and which provided residential accommodation for persons who meet the eligibility criteria as prescribed by the body or organisation.

Land Ownership and Implementation of the Proposal

57. In response to the Chairperson and some Members’ questions on land ownership of the Site and the procedure in obtaining consents from the managers of the Tso/Tong, Mr David Y.M. Ng, DPO/TM&YLW said that amongst the 11 lots within the Site, Lot 793 in D.D. 124 and Lots 72 and 216 in D.D. 127 were held under the name of Tso/Tong. The consent of the respective District Officer, on behalf of the Secretary for Home Affairs, was required before a registered manager of Tso/Tong might sell any land registered in the name

of such Tso/Tong and unanimous consent of the members of the concerned Tso/Tong should be obtained. Land exchange application should then be made to the Lands Department.

58. In response, Ms Betty S.F. Ho, the applicant's representative made the following main points:

- (a) the applicant owned some of the land of the Site. Consents of developing the Site for the proposed uses had been obtained from some of the lot owners; and
- (b) the applicant would seek consent from the managers of Tso/Tong, which would take less than 2 years, upon obtaining approval for the application. The operator of the existing concrete batching plant at the Site would then be informed for site clearance. It would take about 6 to 7 years for completion of the development and obtaining license for the operation of the proposed elderly home.

Surroundings of the Site

59. In response to a Member's question on whether the industrial uses in the surroundings of the Site were covered by planning permissions, Mr. David Y.M. Ng, DPO/TM&YLW said that the area was previously zoned as "Industrial (Group D)" ("I(D)"). Industrial uses were Column 1 use in the "I(D)" zone which were always permitted.

60. 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 the government representative and the applicant's representatives for attending the meeting. They all left the meeting at this point.

[Dr. C.H. Hau and Messers Andy S.H. Lam, Wilson Fung and Stephen L.H. Liu left the meeting during the Q&A session.]

Deliberation Session

61. The Chairperson said that the application was rejected by the RNTPC and the reason was set out in paragraph 1.2 of the Paper. The Site was located within an area planned for Government projects. According to the information provided by the applicant's representative at the meeting, the programme of the proposed development was uncertain and it was unclear how the project would tie in with the development programme of HSK NDA.

62. Members considered that the proposed development was at a strategic location of the subject "G/IC" zone which would impose adverse impact on the design of the planned hospital and hence the public interest would be adversely affected. There was no strong justification to deviate from the Government's planned development of a hospital in the area. The applicant might consider putting forth the development proposal at alternative sites planned or permitted for the proposed development in the HSK NDA. There was no ground to warrant a departure from the RNTPC's decision. Even if one were to assume that the proposed development would be implemented in the short to medium term as a transitional use pending clearance of the area for further stages of HSK NDA including the hospital project, there would be interface problem when the surrounding areas, in particular the area to the north of the Site, were currently occupied by open storage and industrial uses to be phased out in the context of the NDA development. Members generally agreed that the proposed uses were neither in line with the planning intention of the "G/IC" zone in the medium to long term nor compatible with the existing industrial uses in the surroundings in the short to medium term. The Chairperson suggested that the comment regarding compatibility in the short to medium term should also be a rejection reason, in addition to the rejection reason recommended by PlanD under paragraph 8.1 of the Paper.

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

- “(a) the Site falls mainly within a “Government, Institution or Community” zone reserved for a planned hospital and specialist clinic/polyclinic. There is no strong justification for the proposed development which may adversely affect the planned development; and

- (b) the proposed uses are incompatible with the surrounding storage and industrial uses in the short to medium term.”

[Dr Jeanne C.Y. Ng, Professor T.S. Liu and Ms Sandy H.Y. Wong left the meeting at this point.]

Fanling, Sheung Shui & Yuen Long East District

Agenda Item 5

[Open Meeting]

Request for Deferment of Review of Application No. A/YL-ST/547

Temporary Container Vehicle Park with Ancillary Facilities (including Site Office and Storage) for a Period of 3 Years in “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” Zone, Lot 769 RP (Part) in D.D.99 and Adjoining Government Land, San Tin, Yuen Long

(TPB Paper No. 10581)

[The item was conducted in Cantonese.]

64. The Secretary reported that the applicant’s representative requested on 3.9.2019 for deferment of the consideration of the review application for two months so as to allow time for the applicant to prepare further information (FI) to address departmental comments.

[Mr Elvis W.K. Au left the meeting at this point.]

65. After deliberation, the Board agreed to defer a decision on the review application, as requested by the applicant, pending the submission of FI by the applicant. The Board also agreed that the review application would be submitted to the Board for consideration within three months upon receipt of FI from the applicant. If the FI submitted by the applicant was not substantial and could be processed within a shorter time, the review application could be submitted to an earlier meeting for the Board’s consideration. The Board also agreed to advise the applicant that the Board had allowed two months for preparation of submission of FI, and no further deferment would be granted unless under very special circumstances.

Agenda Item 6

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

66. There being no other business, the meeting was closed at 1:05 p.m.