

**Minutes of 909<sup>th</sup> Meeting of the  
Town Planning Board held at 9.00 am on 25.4.2008**

**Present**

Permanent Secretary for Development  
(Planning & Lands)  
Mr. Raymond Young

Chairman

Dr. Greg C. Y. Wong

Vice-chairman

Mr. Stanley Y.F. Wong

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Professor David Dudgeon

Mr. Edmund K.H. Leung

Professor N.K. Leung

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. B.W. Chan

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Mr. Maurice W.M Lee

Mr. Rock C.N. Chan

Mr. Timothy K.W. Ma

Principal Assistant Secretary (Transport)  
Transport and Housing Bureau  
Ms. Ava Chiu

Deputy Director of Environmental Protection  
Dr. Michael Chiu

Director of Lands  
Miss Annie K.L. Tam

Director of Planning  
Mrs. Ava Ng

Deputy Director of Planning/District  
Miss Ophelia Y.S. Wong

Secretary

**Absent with Apologies**

Mr. Alfred Donald Yap

Mr. Tony C.N. Kan

Professor Bernard V.W.F. Lim

Ms. Sylvia S.F. Yau

Ms. Maggie M.K. Chan

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Dr. James C.W. Lau

Professor Edwin H.K. Chan

Dr. Winnie S.M. Tang

Dr. Ellen Y.Y. Lau

Assistant Director (2), Home Affairs Department  
Ms. Margaret Hsia

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

Chief Town Planner/Town Planning Board

Mr. C.T. Ling (a.m.)

Ms. Christine K.C. Tse (p.m.)

Senior Town Planner/Town Planning Board

Ms. Teresa L.Y. Chu (a.m.)

Mr. Tony Y.C. Wu (p.m.)

**Agenda Item 1**

[Open meeting]

Confirmation of Minutes of the 908<sup>th</sup> Meeting held on 11.4.2008

[The meeting was conducted in Cantonese.]

1. The minutes of the 908<sup>th</sup> meeting held on 11.4.2008 were confirmed without amendment.

**Agenda Item 2**

[Open meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

(i) Reference Back of OZP

2. The Secretary reported that on 8.4.2008, the Chief Executive in Council referred the following approved Outline Zoning Plans to the Board for amendment under section 12(1)(b)(ii) of the Ordinance:

- (a) Tsim Sha Tsui OZP No. S/K1/11; and
- (b) Tsz Wan Shan, Diamond Hill and San Po Kong OZP No. S/K11/22.

3. The reference back of the approved OZPs for amendment had been notified in the Gazette on 18.4.2008.

[Mr. Nelson W.Y. Chan, Mr. Maurice W.M. Lee, Mr. Felix W. Fong and Professor David Dudgeon arrived to join the meeting at this point.]

**Agenda Item 3**

[Open Meeting. Presentation and Question Sessions Only.]

Consideration of Representations in Respect of the

Draft North Point Outline Zoning Plan No. S/H8/20  
(TPB Paper No. 8059-8062)

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Group 1

Representations 1-6 and 10-26, Comments 1 and 2

Group 2

Representations 1, 27-114 and 116

Group 3

Representation 115, Comments 1 and 2

Group 4

Representations 7-9

**Hearing for Group 1 - Representations R1-6, R10-26 and Comments C1 and C2**  
**(TPB Paper No. 8059)**

[The meeting was conducted in Cantonese.]

4. The following Members had declared interests on this item:

Mrs. Ava S.Y. Ng the Director of Planning	Owned a property in Cloud View Road
Dr. Greg Wong	Owned a property in Shell Street
Mr. K.Y. Leung	Owned a property in Maiden Court, Cloud View Road
Mr. B.W. Chan	Owned a property in Braemar Hill Mansion
Dr. James Lau	Owned a property in Braemar Hill Road
Dr. Daniel To	Being a Member of Eastern District Council (EDC), where its Works and Development Committee (WDC) had been consulted on the OZP amendments on 19.7.2007
Dr. Ellen Lau	Being the representer of R1 who generally supported the proposed amendments
Mr. Nelson Chan	Being a member of the North Point Kai Fong Association

5. As the locations of the properties owned by Mrs. Ava Ng, Dr. Greg Wong, Mr. B.W. Chan and Dr. James Lau were related to some of the Group 1 representations, they were

not allowed to participate in the hearing of Group 1 representations. As the location of the property owned by Mr. K.Y. Leung was not directly related to the Group 1 representations and Mr. Nelson Chan's interest was remote, they should be allowed to stay in the meeting. It was noted that Dr. Daniel To and Mr. B.W. Chan had tendered apologies for not being able to attend the morning session of the meeting. Dr. James Lau and Dr. Ellen Lau had tendered apologies for not being able to attend the meeting.

[Mrs. Ava Ng and Dr. Greg Wong left the meeting at this point.]

6. The Chairman informed the meeting that representer for R25 in Group 1, Ms. Shek Lai-lin, wrote a letter to the Secretary on 23.4.2008 complaining about insufficient time to study the documents, Paper No. 8059, due to late delivery and requested to adjourn her hearing for 14 days. Ms. Shek also indicated that her representative would attend the meeting to make submission to the Board. A copy of Ms. Shek's letter dated 23.4.2008 was tabled at the meeting for Members' consideration.

7. The Chairman said that as R25 requested for deferment for 2 weeks, there could be two options in dealing with R25's request in accordance with established practice, one was to defer the hearing of R25 to the next meeting three weeks later on 16.5.2008 while proceeding with hearing of other Group 1 representations in this meeting, and the second option was to give the other Group 1 representers present a choice similar to R25, but in both options the deliberation would be postponed to the next meeting after all Group 1 representations were heard.

8. Members generally had no objection to the deferment and raised the following questions/comments:

- (a) impact on the meeting schedule and plan making process;
- (b) since the attendance of Members might not be the same for the two meetings if the hearing of some of the representations were deferred, whether adjournment of hearing was legally in order; and
- (c) the second option was preferred so as to give the other representers and their representatives the equal treatment of adjournment.

9. The Chairman replied that the deferment would not adversely affect the schedule of plan-making process of the OZP and the adjourned cases could be heard in the

next meeting. The Secretary said that based on previous legal advice, such adjournment was acceptable as relevant information/documents and minutes of meeting would be provided to Members to enable them to understand fully the earlier discussion and to assist in the deliberation. For the sake of fairness, Members agreed to solicit the views of individual Group 1 representers present whether to proceed with the hearing at this meeting or to adjourn the hearing to the next meeting.

#### Presentation and Question Session

10. The following government team including representatives from the Planning Department (PlanD) and consultants were invited to the meeting at this point:

Ms. Brenda Au	- District Planning Officer/Hong Kong (DPO/HK), PlanD
Ms. Phoebe Chan Mr. Tom Yip	) Senior Town Planners/HK (STPs/HK), ) PlanD
Ms. Claudine K. Y. Lee	- Allied Environmental Consultants Ltd.

11. The following Group 1 representers and their representatives were also invited to the meeting:

R2	
Mr. Li Yin Tai	- Representer's representative
R10	
Ms. Ho Ka Po	- Representer's representative
R11	
Mr. Paul Zimmerman	- Representer's representative
R12	
Mr. James Lo Yuen Ho Ms. Alice Leung	) Representer's representatives )
R24	
Mr. Siu Ka Fai	- Representer

R26

Mr. Kenneth To ) Representers' representatives  
Ms. Veronica Luk )

R3

Ms. Lam Chui King - Representer

R22

Mr. Chow Siu Keung - Representer's representative

R25

Mr. Siu Choi Pai - Representer's representative

R6

Ms. Kwok Wai Yee )  
Ms. Cheung Kwai Fan ) Representers' representatives  
Mr Ng Chun Wo )

[Miss Annie Tama and Mr. Leslie H.C. Chen arrived to join the meeting at this point.]

12. The Chairman informed the representers and their representatives that the representer for R25 had requested for adjournment of hearing to the next meeting (which was on 16.5.2008) to allow more time to study the TPB papers. He asked whether other representers/their representatives would also seek similar adjournment. After consulting all the representers and their representatives, R2, R10 and R26 preferred to be heard in the meeting while others requested to be heard on 16.5.2008.

13. Having regard to the views of representers/their representatives and the reason for adjournment, the Board agreed to defer the hearing of the representations of Group 1 to 16.5.2008, except for R2, R10 and R26, the hearing of which would be held at this meeting. The deliberation of the representations would however be deferred until the completion of the whole hearing process. All the representers and their representatives accepted such arrangements.

14. In response to a request from some representers who had opted for adjournment to stay in the meeting to hear the presentation and questioning session of R2, R10 and R26, the



Chairman said they should leave the meeting but were welcome to view the hearing process in the Public Viewing Room.

[The representers and representatives of R11, R12, R24, R3, R4, R22, R25 and R6 left the meeting at this point.]

15. The Chairman extended a welcome and briefly explained the hearing procedures. The hearing would proceed with the presentation and questioning session of R2, R10 and R26 as agreed while the decision would be deferred to the next meeting after hearing of the remaining Group 1 representations.

16. He then invited Ms. Brenda Au, DPO/HK, to brief Members on the background of representations. Ms. Au tabled the replacement pages (page 2 of Annex IV on Gist of Air Ventilation Assessment of the North Point Area, pages 1 and 12 of Annex VI on Proposed s6C(2) Amendments, Annex V and P-4 and plan for Information Note i.e. Plan No. R/S/H8/21-A1) and additional plans (Plans H-20 and H-21) for Members' information. With the aid of a powerpoint presentation, Ms. Au briefed Members on the Paper and made the following main points:

#### Background

- (a) on 8.6.2007, the draft North Point Outline Zoning Plan (OZP) No. S/H8/20, incorporating mainly amendments to impose building height restrictions for various development zones and some zoning amendments, was exhibited for public inspection under s5 of the Town Planning Ordinance (the Ordinance). Upon the expiry of the two-month exhibition period, a total of 116 valid representations were received. On 24.8.2007, the Board published the representations for three weeks for public comments and two valid comments were received;
- (b) further to the Air Ventilation Assessment (AVA) by expert evaluation (EE) submitted to the Metro Planning Committee (MPC) on 11.5.2007, a Wind Tunnel Testing (WT) had been undertaken. It was concluded that the proposed height restrictions would not have any major problem on the overall air ventilation, except a few areas with planned or committed developments might experience some reduction in ventilation condition mainly due to buildings layout upon redevelopment. To minimize the negative ventilation

impact in these areas, future developments were encouraged to adopt suitable design measures, including lower podium height, greater permeability of podium, provide gaps between buildings, non-building area to create air path and minimize blocking of air flow through positioning building towers, and podiums to align with prevailing wind directions. The findings had been taken into account in formulating the building height restrictions;

### Representations

- (c) the 23 Group 1 representations were submitted by various parties. They included the following 3 representations:
- R2 submitted by the Incorporated Owners of Summit Court was against the rezoning of 38 Ming Yuen Western Street from “GB” and “G/IC” to “R(A)4” and building height of 140mPD for the “R(A)4” zoning;
  - R10 submitted by Green Sense was generally in support of the imposition of building height restrictions in North Point and requested for more stringent restrictions, review of development intensity and building layout;
  - R26 submitted by Silver Rich Ltd. and Fook Hang Trading Co. Ltd. against the building height restriction of 140mPD for the New Eastern Terrace site;

### Grounds of Representations

#### R2

- (d) the proposed building height of 140mPD for the representation site would give rise to possible wall effect, reduction of air ventilation and sunlight penetration to residents at Tin Hau Temple Road. This would have adverse impact on the quality of life;

#### R10

- (e) generally in support of the building height restrictions. To safeguard the objectives for environmental protection and comply with requirements for waterfront development, it would be necessary to stipulate in the OZP the separation distance between buildings to avoid wall effect, to adopt a

comprehensive approach in formulating planning proposals for long-term development for the area, and to review the density and disposition of buildings in the district to provide better planning control;

R26

- (f) the OZP should be amended to reflect the building heights of 147.95mPD and 151.25mPD as shown on the approved building plans for the New Eastern Terrace. The approved scheme would not cause adverse impact to the neighbourhood. The building height bands was generalized without regard to the site conditions and unable to allow flexibility for environmental friendly design;
- (g) the representers proposed to increase the building height from 140mPD to 152mPD to reflect the previously approved development scheme; or further to 160mPD to achieve a stepped height profile with building height diversity in the area and design flexibility. As indicated in the visual impact assessment (VIA) submitted by the representer, the increase of height to 152/160mPD would not create adverse visual impact. It would be a trade off for small building footprints, green visual corridors and would avoid wall effect;

Representers' Proposals

- (h) R2 had no proposed amendments. R10 and R26 had the following proposals:

R10

- to incorporate requirements on separation distance between buildings to avoid wall effect;
- to reduce the building height restrictions of 100mPD, 120mPD, 130mPD and 140mPD by 20m, i.e. to 80mPD, 100mPD, 110mPD and 120mPD respectively;

R26

- to increase the building height restrictions from 140mPD to at least 152mPD to reflect the previously approved development scheme or 160mPD to achieve a stepped height profile;

### Comments

- (i) there were two comments. C1 (same as R9 covered in Paper No. 8062) opposed to the proposals for more stringent building height restrictions. C2 commented on the building height profile along the waterfront areas and made suggestions on planning matters relating to improvement on pedestrian access of the Fortress Hill MTR station and relocation of a latrine and refuse collection point at Oil Street;

### Assessment of Representations

#### R2 and R10

#### *Rationale of Building Height Restrictions*

- (j) the incorporation of building height restrictions on OZPs were to provide better planning control and to meet public aspirations for a better environment. Priority was accorded to sites along waterfront and areas subject to great redevelopment pressure. The restrictions were mainly to prevent adverse impact of excessively tall or out-of-context buildings, with regard to the urban design considerations for stepped height profile and ridgeline protection, constraints on infrastructure capacity, and to strike a fair balance between public interest and private development rights. Such restrictions did not preclude future PR control if justified;
- (k) the height restrictions followed a stepped height concept, i.e. lower building height along the waterfront with progressive increase in height landwards, taking account of urban design principles, building profile, topography, site constraints, local characteristics, development potential and air ventilation;
- (l) while OZPs set out the planning framework, development control and detailed implementation of development on individual sites particularly building design were subject to requirements under the Buildings Ordinance and lease conditions. Buildings Department had been examining building design matters such as separation between buildings in their recent study;
- (m) the building height control had taken into account various factors including AVA. The latest AVA based on Wind Tunnel Testing, had proposed additional measures for incorporation into the OZP. While R10 suggested further height reduction, more stringent control might pose constraints on

future developments/redevelopments. The current restrictions had struck a balance between public interest and private development rights;

R2

Objection to Rezoning of “G/IC” Sites to Residential Use

- (n) rezoning of No. 38 Ming Yuen Western Street from “G/IC” and “GB” to “R(A)4” was to take forward the Board’s approval of rezoning to reflect the existing residential use. The “G/IC” zoning was obsolete subsequent to the demolition of previous secondary school and completion of the existing 26-storey residential building (Minster Court). Due to the constraint of Ming Yuen Western Street, it had been rezoned to “R(A)4” precluding commercial uses on lower floors to avoid traffic problems. The rezoning of a small portion of the “GB” zone was a technical amendment to rectify boundary discrepancy. The amendments would not have any adverse impact on the provision of community facilities nor the vegetation in the green belt;

R26

Objection to Building Height Restrictions for New Eastern Terrace

- (o) the restriction of 140mPD for New Eastern Terrace had taken account of various factors including the existing building profile, topography, local characteristics into consideration while still accommodating the existing development intensity with allowance for design flexibility, hence its redevelopment potential would not be affected. To provide flexibility for innovative design, minor relaxation of the height restrictions might be considered through the planning permission system on individual merits;
- (p) the Chief Town Planner/Urban Design and Landscape of PlanD considered that the VIA submitted had not addressed the visual impact on the immediate neighbourhood;

PlanD’s Views on Representers’ Proposals

- (q) PlanD’s views and assessment of the representers’ proposals were set out in paragraph 4 of the TPB Paper No. 8059;and

- (r) based on the above assessments, the Plan should be amended to partially meet R10 and not amended to meet R2 and R26. The proposed s.6C(2) amendments to the Plan and its Notes were set out in para 6.1 of the Paper.

17. Ms. Brenda Au then showed the Board an animated fly-through presentation on the visual impacts of development in North Point OZP area from different view angles.

18. The Chairman then invited the representers and their representatives to elaborate their representations in the arranged order.

#### R2 – Mr. Li Yin Tai

19. Mr. Li Yin Tai made the following main points:

- (a) according to the paper, 38 Ming Yuen Western Street (Minster Court) was rezoned from “Green Belt” (“GB”) and “G/IC” to “R(A)4”. But the actual size and location of the original “G/IC” site and the relevant sites affected were not clearly indicated in the paper. It was not sure if the “G/IC” site for the existing service reservoir was rezoned;
- (b) Minster Court was currently under demolition. As the existing building should have exhausted the permitted PR, the rezoning might allow higher intensity for redevelopment thus giving rise to taller buildings and adverse impact to the residents of Summit Court;
- (c) the height control of 140mPD for “R(A)4” zone was based on rigid and generalized height band concept without regard to resident’s perception; and
- (d) given the high density and compact development in North Point, it was not desirable to relax the building height restriction.

20. Ms. Brenda Au referred Mr. Li Yin Tai and Members to Plan H8/20-2 H-2. She explained that rezoning of Minster Court was to reflect a previous rezoning proposal approved by the Board and the existing residential use. With the completion of the 26-storey Minster Court, the “G/IC” zoning was no longer appropriate. The site was rezoned to “R(A)4” for pure residential use so as to avoid traffic on the narrow Ming Yuen Western Street. The service reservoir site and the green belt to the southwest of the representation site were not part of the rezoning exercise.

R10 – Ms. Ho Ka Po

21. Ms. Alice Leung made the following main points:

- (a) whilst Green Sense generally supported the building height restrictions and regulation of waterfront development, government should also ensure implementation of such restrictions through other appropriate controls, including stipulation of separation distance between buildings on OZP to avoid wall effect and further reduction by 20m of the proposed building height restrictions; and
- (b) it would be necessary to adopt a comprehensive approach in formulating the current planning proposals for long-term development for the area. In a broader context, there should be a review on the density and disposition of buildings for development and redevelopment to provide better planning control in other areas. Whilst development should not be constrained, the quality of living of the residents should be respected. High rise towers incompatible with the surroundings and the waterfront, such as the high rise hotel near King Wah Road, were undesirable.

R26 – Mr. Kenneth To, Mr. David Fok and Ms. Kitty Wong

22. With the aid of a powerpoint presentation, Mr. Kenneth To made the following points:

- (a) the New Eastern Terrace, located on a 29m platform, was elongated in shape with steep slope behind. It was covered by a set of approved building plans with buildings at a PR 8, comprising 2 towers of 33 and 34-storeys at 147.95mPD and 151.25mPD respectively, with a storey height of 3.15m (instead of the normal 2.8m) and a building gap of 19m;
- (b) given the slope at the back and the buildings in the neighbourhood, e.g. the adjoining Dragon Court at a lower level, Park Tower and a new hotel, the scheme would not result in excessively tall or out-of-context buildings nor constitute adverse impact to the surroundings. The blanket 140mPD height band at this slopping area would likely result in a monotonous height profile with uniform flat-top buildings which was undesirable from visual

perspective;

- (c) given the site constraints, usual design with more efficient footprint was not suitable. The 140mPD restriction could not allow green design and was too stringent for a 110m absolute building height, unless with larger footprints, no building gap and less desirable built-form. Even with the 152mPD in the approved scheme, excavation for car park entrance and utilities was required;
- (d) subsequent to the representer's recent acquisition of part of the land in the front along Dragon Road, there would be a chance for an integrated scheme. One option would comprise 1 lower tower (80mPD) at the front for compatibility with the adjoining Tin Hau Temple, and 2 taller towers at the subject site with extra storeys reaching a height of 157mPD and 160mPD respectively;
- (e) the VIA submitted showed that the height increase from 140mPD to 152/160mPD would not create adverse visual impact but provide design merits, such as smaller footprints, green visual corridors and avoidance of wall effect. On the contrary, a height limit of 140mPD would create larger footprints with 3 towers and a less desirable scheme, and
- (f) the representers further proposed to increase the building height to 160mPD. This would achieve stepped height profile with building height diversity in the overall context and flexibility for desirable design. Allowing a 12-20m increase would be a trade-off for varied built-form, without adverse visual impact. Hong Kong was not built on flat area and development was dominated by high-level buildings. The generalized building height bands with little regard to the actual site conditions and level difference were too restrictive allowing little flexibility for innovative design. A more proactive approach should be adopted in this case.

[Mr. K.Y. Leung left the meeting temporarily at this point.]

23. In response to the query from a Member regarding specific analysis for height of individual buildings, Ms. Brenda Au replied that the wind tunnel testing in the AVA was intended to be an overall area based assessment. Ms. Claudine K.Y. Lee supplemented that



the consultancy focussed on the wind impact at a broad district level for the North Point area. Site specific analysis could not be undertaken within the scale of their physical model which was 1:750.

24. As Members had no further questions to raise and representers and their representatives had no further submission, the Chairman inform the representers and their representatives that the presentation and questioning session was duly completed and the Board would deliberate on the representations at the next meeting on 16.5.2008 pending the completion of all the hearing procedures. Representers would be informed of the Board's decision in due course. The Chairman thanked the representers, their representatives and the Government team representatives for the presentations and they all left the meeting at this point.

[The meeting was adjourned at 11.15am for a 5 minute break and reconvened at 11.20 am.]

25. A Members noted that the Group 1 representations would be heard in two hearings and deliberation would be held in the next meeting on completion of all hearings. In this regard, if there were different members present in each meeting, those only attending the first meeting might not have the chance to express their views. Moreover, there might not be a chance for Members not present in both meetings to discuss the representations as a group. The Chairman replied that all the presentation, questions raised and comments made by Members at this meeting would be recorded in the minutes for reference by Members who would be present in the hearing of the remaining Group 1 representations at the next meeting. The Chairman asked the Secretary to supplement on the legal basis of the arrangements for hearing of representations at separate meetings.

26. The Secretary said that according to previous legal advice sought on several occasions, the Board could proceed with the hearing at different meetings. Such arrangements was legally proper so long as relevant papers and minutes recording the presentation of representations and Members' views were provided to Members to enable them to understand fully the arguments put forth by all relevant parties. Regarding attendance, comments and views of Members in the first meeting would be recorded in minutes for the benefit of those present in the next meeting. For those Members attending only the first meeting, they could express their views which would be recorded and made available to the other Members present in the next meeting to provide a basis for informed deliberation, the outcome of which would present a corporate decision of the Board as a

whole.

27. In reply to a query from another Member, the Chairman said it would not be advisable to deliberate on the three representations heard at this meeting based on previous legal advice. The Secretary supplemented that as the presentation and submissions of other representers in the next meeting might have a bearing on representations heard in this meeting, it would be appropriate to make deliberation and a decision in the next meeting.

28. Notwithstanding, the Board agreed that Members might express their comments on the representations heard at this meeting, which would be recorded for consideration at the next meeting. The meeting then proceeded to closed meeting for Members' comments.

#### Comment Session

29. A Member opined that in view of the requests for adjournment, whether improvement could be made to ensure timely delivery of documents to allow sufficient time for representers to study and prepare responses to the papers. The Secretary apologized to Members and the representers for the late delivery of papers for this hearing due to the longer than expected time for completion of the AVA study. The engagement of consultants stationed in Canada for the AVA study required additional time for liaison, coupled with the time taken for revisions to the physical models in relation to changes in parameters, hence the papers could not be completed and delivered as pledged. She added that on some occasions where a large number of representations were involved, the normal delivery schedule, i.e. issue of papers to representers 7 days before hearing, might not be adhered to and the Secretariat would give prior notice to relevant parties concerned. Steps would be taken to ensure that papers would be issued in time in future. The Chairman also said that such delay should not recur in future.

30. Members had the following views on the three representations:

- (a) the Green Sense had made a valid point as to whether building height restrictions alone would be sufficient to regulate the built-form or additional measures would be required on OZP to avoid wall effect; and
- (b) for R26, the representer asked for extra height relaxation of the whole site on the ground that he was in anticipation of acquiring the land in front. It was noted that the representer could still proceed with the building plan approved

before the imposition of building height restriction on the OZP, and minor relaxation could be considered on application subject to demonstration of sufficient merit. Hence it would not be appropriate to consider the proposed increase in building height at the current juncture which would have implications on realization of the general height bands/stepped height concept and accord height control of the whole area.

31. Members also considered that the possibility should be explored to engage local experts and universities instead of overseas consultants to take up the AVA study so as to avoid delay.

32. The Secretary responded with the following main points:

- (a) as development control in HK mainly involved the Buildings Ordinance (BO) and lease control, the OZP might not be the most suitable tool for control of design of individual buildings. The OZP set out the planning framework including broad land use zonings and development restrictions, detailed implementation particularly building design was subject to requirements under the BO and lease conditions. In formulating building height control, a number of assumptions had been taken into account, including provision of carpark, podium, storey height and coverage; and
- (b) the Hong Kong University of Science and Technology also provided consultancy services for AVA study but they were fully booked due to the large number of projects requiring such study.

33. Another Member asked whether the distance between buildings would be included in BD's study on sustainable building design and whether site coverage would be stipulated on OZP as a means to control building footprint. The Chairman advised that building separation was included in the study on building design to be released for consultation. As the issue of distance between building would be a contentious matter amongst relevant stakeholders and hinged on a number of considerations, including ventilation, lighting and visual quality, it would be further examined within the Administration before being taken forward. In response to a Member's question on the control of site coverage, the Secretary explained that site coverage was considered in two aspects. Under the Buildings Ordinance, site coverage control was in accordance with the height of buildings, i.e. up to a maximum coverage ranging from 33.33% to 40% for

residential buildings of over 61m in height and from 60% to 65% for commercial buildings of over 61m in height. Site coverage was normally not stipulated in the OZPs for high density developments in urban area which had already been subject to control under the BO. In some rural areas and low density developments in the urban area, both building height and site coverage would be included in the OZPs for areas planned for low or medium density development to exercise better planning control on the development bulk and intensity. The lease conditions would also be drawn up on the basis of OZP in respect of building height and site coverage.

34. The Chairman concluded that the above Members' comments and views would be recorded in the minutes for reference by the Members in the next meeting in the deliberation of all Group 1 representations.

[Dr. Greg Wong and Mrs. Ava Ng returned to join the meeting at this point.]

**Hearing for Group 2 – R1, R27-R114, R116**  
**(TPB Paper No. 8060)**

[The meeting was conducted in Cantonese.]

Presentation and Question Session

35. The following Members had declared interests on this item:

Mrs. Ava S.Y. Ng the Director of Planning	Owned a property in Cloud View Road
Dr. Greg Wong	Owned a property in Shell Street
Mr. K.Y. Leung	Owned a property in Maiden Court, Cloud View Road
Mr. B.W. Chan	Owned a property in Braemar Hill Mansion
Dr. James Lau	Owned a property in Braemar Hill Road
Dr. Daniel To	Being a Member of Eastern District Council (EDC), where its Works and Development Committee (WDC) had been consulted on the OZP amendments on 19.7.2007
Dr. Ellen Lau	Being the representer of R1 who generally

supported the proposed amendments

Mr. Nelson Chan

Being a member of the North Point Kai Fong Association

36. As the locations of the properties owned by Mrs. Ava Ng, Dr. Greg Wong and Mr. K.Y. Leung were not directly related to any amendment items and Group 2 representations, while Mr. Nelson Chan's interest was remote, they should be allowed to stay in the meeting. For Mr. B.W. Chan and Dr. James Lau, as their properties were related to some of the Group 2 representations, they were not allowed to participate in the deliberation of Group 2 representations. It was noted that Mr. B.W. Chan and Dr. Daniel To had tendered apologies for not being able to attend the morning session of the meeting. Dr. James Lau and Dr. Ellen Lau had tendered apologies for not being able to attend the meeting.

37. The following government team including representatives from the Planning Department (PlanD) and Transport department (TD) were invited to the meeting at this point:

Ms. Brenda Au	- District Planning Officer/Hong Kong (DPO/HK), PlanD
Ms. Phoebe Chan	) Senior Town Planners/HK (STPs/HK),
Mr. Tom Yip	) PlanD
Mr. Li Wai	) Transport Department
Ms. Choy Man Yee	)

38. The following representers and their representatives were also be invited to the meeting:

R27 and R28

Mr. Kenneth To	) Representer's representatives
Mr. David Fok	)
Mr. Kelvin Leung	)
Ms. Rebecca Chan	)

R32, R33, R34, R37-41, R44-45

Mr.Kong Chi Nan	) Representers' representatives
Mr. Lo See Wah	)

R43

Mr. Lo See Wah - Representer

R29

Mr. Chong Pui Wah - Representer

R55

Mr. Lee Chun Fai ) Representer

Ms. Chan Sui Ying )

R61

Mr. Wong Kui Tak ) Representer

R96

Mr. Yeung Ching Man - Representer's representative

39. The Chairman extended a welcome and briefly explained the hearing procedures. He said that sufficient notice had been given to all the representers. Except those who indicated that they would attend the meeting, some had made no reply or indicated that they would not attend. Members agreed to proceed with the hearing in the absence of the remaining representers. He then invited Ms. Brenda Au, DPO/HK to brief Members on the background of Paper. With the aid of some plans, Ms. Au did so as detailed in the Paper and made the following main points:

#### Representations

- (a) 89 opposing representations (R27-114 and 116), majority in form of standard letters, were submitted by residents and concerned parties of Kai Yuen Street. The representations objected to:
- rezoning of a site covering Kai Yuen Street and adjoining areas from “Residential (Group A)” (“R(A)”) to “Comprehensive Development Area (2)” (“CDA(2)”) and to an area shown as ‘Road’ under Amendment Items B1 and B2; and
  - stipulation of building height (BH) and development restrictions for the “CDA(2)” zone;

There was also one additional representation (R1) generally in support of the Amendments Items B1 and B2 which was covered by TPB Paper No. 8059 in Group 1;

#### Grounds of Representations

- (b) designation of various sites as a single “CDA(2)” zone had ignored different site characteristics, topographic constraints, ownership pattern and site assembly for redevelopment. The height restriction would limit design flexibility and discourage redevelopment;
- (c) the “CDA(2)” would deprive owners of their right for redevelopment of individual lots while it would be difficult to achieve a satisfactory MLP under a single “CDA(2)”. The zoning restrictions would deter prospective developers from proceeding with acquisition of the properties, cause potential loss in property value and planning blight;
- (d) it was not clear how the ‘Road’ alignment was drawn up. It would affect the development rights of adjoining properties;
- (e) there was no public consultation before the amendments and district-wide consultation should be made to solicit local views;

#### Representers’ Proposals

- (f) the representers had made the following proposed amendments:

##### R27 and 28

- to amend the “CDA” zoning by dividing it into 4 sub-zones, “CDA(2)”, “CDA(3)”, “CDA(4)” and “CDA(5)” for redevelopment on their own;
- to excise No. 5 Kai Yuen Lane (i.e. Wai Oi Mansion) from the “CDA(2)” zoning and revert to its former “R(A)” zoning;
- to amend the building height restriction for Upper and Lower Kai Yuen Lane from 120mPD to 140mPD;
- to omit the PR restriction of 8 under the “CDA(2)” zone and allow the maximum development intensity or potential subject to that permissible under the Building (Planning) Regulations (B(P)R);
- to add a remark to the Notes of the proposed “CDA” sub-zones to include requirement on road widening proposal for each individual parcel upon

redevelopment without unfairly affecting the interest of contributors to road widening;

R29-31, 46-69 and 97

- to revert the zoning of Upper Kai Yuen Lane to “R(A)” zoning (R29);
- to apply the 140mPD to the entire area zoned “CDA(2)” (R30 and 31);
- to delete the amendments relating to Kai Yuen Street and the “CDA(2)” zoning;

R96

- to retain the “R(A)” zone or to divide into smaller “CDA” zones;
- to reinstate provisions for ‘Hotel’, ‘Residential Institution’ and ‘Shops and Services’ uses as allowed under the “R(A)” zone;
- to amend paragraph 8.4.2 of the Explanatory Statement (ES) to clarify the term “pro-rata” and on the acceptability of redevelopment without the desired road improvement works completed; and
- to rectify contradiction in paragraph 8.4.3 of the ES that applications for redevelopment were required only to demonstrate that Kai Yuen Street can be improved, as compared to that in paragraph 8.4.1 stating that applications would only be approved after the required traffic/road improvements were actually in place;

Assessment of Representations

Land Status and Traffic Impact Assessment

- (g) all representation sites were under private ownership. Whilst those in the eastern and southern portions were virtually unrestricted lease, those in the western portion were mainly subject to restrictions on site coverage and building height under lease (not exceeding 6 storeys or 30 m);
- (h) the Traffic Impact Assessment (TIA) by Transport Department (TD) concluded that Kai Yuen Street was constrained by sub-standard access and junction capacity. Plot ratio (PR) 8 was considered to be the maximum for redevelopment subject to implementation of traffic improvement scheme and street widening, with upper section of Kai Yuen Street widened to a 7.3m carriageway with 2.75m footpaths on both sides. An indicative alignment was indicated on the OZP;



Rationale for Designating Single “CDA(2)” Zone

- (i) Kai Yuen Street, being narrow, winding, steep and without proper footpath, was the only access in the area but constrained by adjoining developments at Tsat Tsz Mui Road/Tin Chui Street with limited scope for junction improvement. Building plans for residential developments with the maximum permissible PR permitted under the previous “R(A)” zone in this area were rejected, mainly on traffic grounds including undesirable vehicular/pedestrian traffic and pedestrian safety. Based on the TIA, redevelopment to PR 8 would be subject to implementation of traffic improvement scheme and street widening to standard requirements;
- (j) the planning intention of “CDA(2)” zone for comprehensive development/redevelopment was primarily for residential uses. Inclusion of all lots was to secure road improvement/widening for pedestrian safety and comprehensive redevelopment up to PR 8. It provided a means for co-ordinated development, to restructure and improve the existing road pattern, encourage site amalgamation and ensure appropriate control on the scale and design of redevelopment;
- (k) the TPB Guidelines No. 17 for “*Designation of “Comprehensive Development Area” (“CDA”) Zones and Monitoring the Progress of “CDA” Developments*” allowed phased development in “CDA” zone if the planning intention and comprehensiveness of the whole development could be retained, remaining phases would be self-contained, and development potential of unacquired lots would not be adversely affected;

Designation of the ‘Road’ Zone for Widening of Kai Yuen Street

- (l) the indicative road alignment was shown as ‘Road’ on the OZP, subject to detailed design at implementation. Alternative alignment could be submitted in the MLP, with a TIA to demonstrate that the traffic concerns would be addressed;

Building Height Restrictions

- (m) building height control was imposed to meet public aspirations for compatible environment, avoid out-of-context developments, preserve local

character and ridgeline views and maintain a stepped height profile. The 2-tier height restrictions, i.e. 120/140mPD on the east and west of Kai Yuen Street, was in line with the height bands proposed for North Point area. It had taken into account the site conditions and findings of the Expert Evaluation of Air Ventilation Assessment (AVA) confirmed by a Wind Tunnel Testing. The open space between Tin Chiu Street/Man Hong Street and adjoining low-rise facilities was retained to improve ventilation;

*Development Rights and Property Value*

- (n) the OZP parameters would allow a higher development potential compared with the more restrictive lease entitlements for majority of sites on the western portion. The “CDA(2)” zoning would ensure comprehensive development, provision of infrastructure and road widening to improving future living environment. Hence, the property value would unlikely be adversely affected;

*Lack of Prior Public consultation*

- (o) the amendments were presented to the Works and Development Committee (WDC) of the Eastern District Council and members generally supported the imposition of building height restrictions. Public consultation was conducted during exhibition of the OZP to avoid premature release of intended planning controls, which might prompt developers/landowners to accelerate submission of development/redevelopment proposals before the statutory control came into effect, thereby nullifying the effectiveness of such restrictions. The statutory plan making process had provided opportunities for the public to express their views and be heard by the Board.

*Views on Representers' Proposals*

*Designation of the “CDA(2)” into further sub-zones*

- (p) the “CDA(2)” zoning was appropriate to ensure that development/redevelopment would be undertaken in a comprehensive manner and that necessary road improvement/widening works, infrastructure provision, and aspects on visual, environmental and air ventilation were properly addressed. Designation of the “CDA(2)” zone into smaller sub-zones would defeat the purpose and hence not recommended;

- (q) redevelopment of all building lots in the “CDA(2)” zone would induce additional traffic on the existing Kai Yuen Street. If individual lots were allowed to proceed with redevelopment on their own, future technical assessments of the traffic impacts and improvements might not be able to address the overall traffic concerns of the area in a co-ordinated and comprehensive manner. Subdivision into smaller sub-zones was not recommended. On traffic and infrastructure, the western, eastern and southern portions should form an integral part of the “CDA(2)” zone to ensure better planning control over redevelopment, including a better road layout;

*Excision of Wai Oi Mansion from “CDA(2)” Zone*

- (r) Wai Oi Mansion, on the eastern middle section of Kai Yuen Street, was included in the “CDA(2)” zone with the intention to secure improvement/widening of the upper section of Kai Yuen Street to ensure pedestrian safety and redevelopment up to a PR of 8 in a comprehensive manner. The proposed excision was not supported;

*Relaxation of building height restriction for Lower and Upper Kai Yuen Lane from 120mPD to 140mPD*

- (s) the height restriction of 120mPD east of Kai Yuen Street was in line with the overall height bands of the surrounding areas, in keeping with the profile of neighbouring sites to the east and with regard to the site topography;

*Deletion of plot ratio restriction in “CDA(2)” Zone*

- (t) PR8 was considered in the TIA as the maximum acceptable development intensity from road capacity perspective, subject to road improvement and widening. To facilitate road upgrading and provide flexibility for innovative design of particular sites, minor relaxation of PR restriction may be considered by the Board through the planning permission system on individual merits;

*Reversion to “R(A)” Zone*

- (u) the “R(A)” zoning would not provide adequate planning control to address the traffic/infrastructure issues for development/redevelopment. Some non-domestic uses permitted as of right on the lower floors of “R(A)” zone

might induce additional traffic;

Deletion of area shown as 'Road'

- (v) the 'Road' area was to ensure comprehensive road improvement and widening to cater for development/redevelopment. The alignment for road improvement/widening for upper Kai Yuen Street on the OZP was tentative and subject to detailed design while alternative road alignment could be proposed in the MLP to demonstrate the traffic acceptability from redevelopment;

Amendments to the Notes and Explanatory Statement

- (w) in view of the physical and traffic constraints, it was considered not suitable to include uses which would pose unnecessary traffic constraints. TD considered the traffic generated from these uses could increase traffic resulting in traffic problems. The proposed reinstatement of 'Hotel', 'Residential Institution' and 'Shop and Services' uses was not in keeping with the residential neighbourhood;
- (x) phased implementation of the road widening scheme might be considered subject to satisfactory demonstration in the MLP with supporting TIA. The proposed amendments to the Notes to include the sub-zones and requirement on road widening for each parcel would not be considered necessary;
- (y) as stated in the ES for the "CDA(2)" zone, development potential would be taken into account on a "pro-rata" basis, such that earlier phase redevelopment would not compromise the interests of later phases. As such elaboration was set out in the TPB Guidelines No. 17, amendments to the ES was not necessary; and
- (z) paragraph 8.4.1 of the ES was to clarify that redevelopment to PR8 would only be allowed subject to the implementation of traffic/road improvement. Paragraph 8.4.3 reiterated that the applicant would be required to demonstrate under MLP that traffic concerns were adequately addressed; and
- (aa) based on the above assessment, the representations should not be upheld.

40. The Chairman then invited the representers and their representatives to elaborate on their representations in the pre-arranged order.

[Mr. K.Y. Leung rejoined the meeting at this point.]

R27 and 28 – Mr. Kenneth To

41. With the aid of a powerpoint presentation, Mr. Kenneth To made the following main points:

- (a) the representations were against the “CDA(2)” zone and boundary as well as the height restriction. As site assembly of the representation site at Upper and Lower Kai Yuen Lane were near completion, he proposed to sub-divide the “CDA(2)” zone into 3 sub-zones instead of 4, i.e. combining “CDA(2)” and “CDA(3)” originally proposed by the representers;
- (b) the revised proposed “CDA(2)” zone was 1.5ha, with 6,020m<sup>2</sup> on the western portion and 9,280 m<sup>2</sup> on the eastern portion. The eastern portion, except for the 33 year old Wai Oi Mansion with 16 storeys and 40 owners, was mostly acquired by the representers. The western portion, comprising 29 buildings and 238 owners, was not yet acquired by the representers;
- (c) the “CDA(2)” site was larger than some “CDA” sites, such as Ma Tau Kok and some URA schemes which was backed up by ordinance to facilitate resumption. There would be great difficulty in site assembly;
- (d) despite the planning intention for comprehensive development, the rezoning had not taken topographic and site constraints into account. The revised road scheme proposed by the representers could still achieve road widening without affecting the Wai Oi Mansion, i.e. with a standard 7.3m road and 2.75m footpath through setback into their site. It was doubtful whether Wai Oi Mansion should be included in the “CDA(2)” zone, thus imposing difficulty on implementation ;
- (e) although not definitive, the indicative road alignment on OZP would affect the representers’ proposed scheme and thus the future development potential on both sides. As a rough estimate, it would result in a loss of about 739m<sup>2</sup> floor area/90 units on the eastern portion on Upper/Lower Kai Yuen Lane and a gain of 597m<sup>2</sup> to the western portion;
- (f) the proposed scheme would comprise 2 high-rise and 1 low-rise blocks on

their 6280 m<sup>2</sup> lots with PR 8 including road widening. The design had taken into account topographic conditions, with low-rise and recreational facilities located on the eastern side to tie in with the MTR protection zone. The central landscaped podium was raised by 9m to avoid the sunken effect due to adjoining high rise buildings and for better ventilation. The other two 28-storey blocks were 136mPD high with a 15m building gap. However, under the 120mPD limit, it was not possible to achieve the ventilation effect and varied built-form while the building bulk would be increased. It was therefore prudent to subdivide the “CDA(2)” and relax the building height to 140mPD, which also allowed implementation of road widening and innovative design;

- (g) the representers’ revised road proposal would not prejudice the rest of the “CDA(2)” development. One feasible option was to provide an escalator on the eastern stone wall for pedestrians, hence allowing both sides to reach PR 8 and 140 mPD. The representers’ TIA, similar to TD’s assessment, concluded that such parameters were acceptable. The ventilation performance in part of the western portion, being in sunken location surrounded by high rise buildings, was undesirable which reiterated the significance for better design to improve air flow; and
- (h) with only 41% ownership of the entire site, it was not certain if the representers were in the position to draw up a full MLP affecting the land interests of the remaining 60% of owners. Given the lack of development programme, there was concern on development certainty. Subdivision of the “CDA(2)” would eliminate the acquisition problem and ensure manageable parcels to expedite redevelopment, without compromising the interests of other owners. As considerable effort had been spent in site assembly, the current rezoning would further delay the representers’ redevelopment project which was not desirable.

R32, 33, 37-41, 44-45 – Mr. Kong Chi Nan and Mr. Lo See Wah

42. Mr. Kong Chi Nan made the following main points:

- (a) the BH restriction would limit the intensity and design for future redevelopment. The PR was constrained by the substandard Kai Yuen

Street but the constraint would be resolved if Kai Yuen Street could be connected to Pak Fuk Road;

- (b) future redevelopment could only proceed through comprehensive site assembly rather than piecemeal acquisition. The area was served by the substandard Kai Yuen Street with a narrow stepped footpath on one side, hence resulting in congestion which affected pedestrian safety. The situation was further aggravated by the current demolition work in Lower Kai Yuen Lane. As Bedford Gardens was not served by separate EVA except through the same road, blockage of Kai Yuen Street would render the residents of Bedford Gardens at risk in case of emergency situations; and
- (c) they objected to the BH and PR restrictions and insisted that redevelopment must be undertaken in a comprehensive manner.

R43 – Mr. Lo See Wah

43. Mr. Mr. Lo See Wah said that Mr. Kong Chi Nan had already presented his views and he had no more points to supplement.

R29 – Mr. Chong Pui Wah

44. Mr. Chong Pui Wah made the following main points:

- (a) the meeting was convened hastily even though their representation had been submitted 8-9 months ago. As the English version of document was made available only a few days ago while the Chinese version was received the day before, there was insufficient time to study the information; and
- (b) according to para 4.11 of the paper, the amendment would not have impact on the development rights but it was uncertain if any valuation exercise had been undertaken. There was no information on comparison of land value between the “CDA(2)” zoning and the “R(A)” zoning. Whilst an existing vacant site adjoining Tanner Gardens could be taken as a proxy for estimating the land value of the previous “R(A)” zoning, it would be difficult to find any comparable case for “CDA(2)”. Upper Kai Yuen Lane had been wholly acquired privately while Lower Kai Yuen Lane, currently under acquisition, would soon be able to meet the criteria for compulsory sale for

redevelopment under s545 of the Land (Compulsory Sale for Redevelopment) Ordinance. Such compulsory sale would be made based on the valuation of the development potential of individual lots alone rather than the development potential of combining all the land in Upper and Lower Kai Yuen Lane, which would be significantly different. The conclusion that development rights would not be affected was too generalized and not in line with the intention of s545. He objected to the “CDA(2)” zoning.

R55 – Mr. Lee Chun Fai and Ms. Chan Sui Ying

45. Mr. Lee Chun Fai and Ms. Chan Sui Ying said they would not make any presentation.

R61 – Mr. Wong Kui Tak

46. Mr. Wong Kui Tak said he would not make any presentation.

R96 – Mr. Yeung Ching Man

47. Mr. Yeung Ching Man made the following main points:

- (a) whilst urban renewal was to improve the living environment and enhance economic benefit, recent planning was not in line with such intention and it would generate wall effect due to reduction of building height, thus worsened air ventilation. The restriction of building height would discourage high buildings but create blocks with larger footprints and little gaps in between, thus leading to further deterioration in the quality of life. He therefore objected to the restrictions on building height.

[Mr. Rock C.N. Chen left the meeting at this point.]

48. The Members raised the following questions to PlanD:

- (a) regarding the concern of R27 and R28, whether phased development could be implemented as part of the MLP;
- (b) whether Wai Oi Mansion needed to be acquired for implementation of the representers’ current redevelopment scheme; and
- (c) any consideration to connect Kai Yuen Street with Pak Fuk Road to address



the current traffic problem and constraint on redevelopment? Would it be possible to include such a connection in future redevelopment scheme?

49. Ms. Brenda Au made the following responses:

- (a) phased development in the “CDA” zone was allowed as set out in the TPB Guidelines No. 17, provided the representer could demonstrate that the planning intention and comprehensiveness of the whole development would be retained, remaining phases would be self-contained, and development potential of unacquired lots would not be adversely affected;
- (b) as the representers’ proposal could be undertaken in phases, it was not absolutely necessary for Wai Oi Mansion to be acquired. But it would be up to the developer to demonstrate how it could be integrated in the MLP without impact on the later phase development, supported with TIA and other assessments; and
- (c) connection of Kai Yuen Street with Pak Fuk Road was proposed by some representers. The feasibility of such link was not certain as private land and the Bedford Gardens would be affected and there was a level difference. There was currently no plan for such road connection, but applicants could take but on such proposal on future redevelopment of the area.

50. In response to the queries from the representers’ representatives of R28 and R29 regarding difficulty in securing the consent of owners in the western portion and how the area shown as ‘Road’ on OZP could be taken into account in the calculation of PR and GFA, Ms. Brenda Au replied that the developer had also proposed a scheme which included properties on both sides of the road. Phased development would be viable according to Guidelines No. 17 subject to the demonstration of acceptability of redevelopment proposal in terms of traffic, ventilation and layout in the MLP. It would be up to the developer to demonstrate in the MLP submission that later phase development would not be adversely affected, based on TIA and other assessments. Should the developer intend to proceed with the early phase development under MLP, the remaining owners could have a choice, i.e. either to follow or revise the original MLP in future, albeit taking the early phase as given in formulating their own MLP and subsequent assessments. Notwithstanding that the maximum PR 8 was only allowed for the “CDA(2)”zone, the OZP had provision for minor relaxation on individual merits. It would be up to the applicant to demonstrate whether additional bonus PR and

GFA could be granted on traffic and relevant planning grounds.

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

51. One Member raised the following questions to both the representers of R28 and R29 and PlanD:

- (a) due to the western adjoining toe wall and abutting developments around the junction of Kai Yuen Street and Tanner Road, widening would be difficult for this bottleneck. According to the OZP, the upper roundabout of the indicative alignment would encroach into the representers' site and the southern area. The representers' proposed adjustment to the road alignment was intended to avoid the encroachment into part of their site and shift the proposed run in/out for the eastern portion to facilitate early implementation of their redevelopment proposal, but without giving due consideration to future widening of the remaining road section and provision of the turning area. Such arrangement might impose further constraint to the future widening of Kai Yuen Street;
- (b) whether private land or right of way was involved in the current Kai Yuen Street;
- (c) whether the representation site for R27 and R28 was under unrestricted lease and whether lease modification would be required for redevelopment; and
- (d) according to s22 of the Buildings Ordinance, extra PR/ GFA bonus would be granted for surrender of private land for road widening. In this regard, the ultimate development of the "CDA(2)" zone might exceed the stipulated PR of 8 which might resulting in excessive scale of development generating adverse traffic impact.

52. Mr. Kenenth To made the following responses:

- (a) the TIA submitted by the representers, after taking into account no widening at the junction and Wai Oi Mansion as well as designing the proposed access point at the lower end of their site (i.e. near Wai O Mansion), concluded that the traffic impact of their proposed scheme the whole area was acceptable. The existing road already provided sufficient turning space at the upper end

for emergency vehicles. No additional flow would be generated by their redevelopment which might impose impact on the upper section as all traffic to their site would only use the lower section of Kai Yuen Street. It would be up to the later phase developer to demonstrate the need for widening of the Kai Yuen Street and provision of roundabout at the upper end;

- (b) it would be possible for the representer to claim extra PR for dedication of private land for road use under the existing practice; and
- (c) regarding bonus PR, it was important to ensure that sufficient means should be provided under the OZP for minor relaxation.

53. Ms. Brenda Au made the following responses:

- (a) the junction constraint was recognized in the OZP. According to the TIA, even with road widening only a maximum PR 8 was allowed having full regard to the capacity limit of the junction;
- (b) the existing Kai Yuen Street was a public road and future claims for extra PR due to road dedication would be addressed under the provision of Buildings Ordinance;
- (c) according to the lease conditions, the representation site at Upper and Lower Kai Yuen Lane were virtually unrestricted. Lease modification would be subject to whether specific relaxation of clauses under lease was required;
- (d) although allowance for bonus PR under BPR 21(1)(2) might be specified in some OZPs, such provision was not stipulated in the subject OZP especially due the traffic constraints. Notwithstanding, minor relaxation of PR restrictions may be considered by the Board on individual merit. Hence any claim for bonus PR in respect of dedication of private land for road widening would be subject to planning permission.

54. Mr. Li Wai of TD supplemented that the proposed alignment on the OZP was indicative and alternative options could be put forth as part of the MLP. In the case of phased development, the TIA would need to specify in detail which sections of the road could be widened, and how the traffic impacts for other sections without widening in early phases could be resolved in the interim prior to longer term development.

[Mr. W.M Chan and Mr. Maurice W.M Lee left the meeting at this point.]

55. As Members had no further questions to raise the Chairman thanked the representers, After the questioning session, the Chairman informed the representers and their representatives that the presentation and questioning session was duly completed and the Board would deliberate on the representations in their absence and inform the representers of the Board's decision in due course. The representers and their representatives and the Government team representatives for the presentations all left the meeting at this point.

#### Deliberation Session

56. The Chairman said Members should consider the representations in the light of the presentations and the assessment of the representers' proposals.

#### R27 and R28

57. Members were generally in support of the planning intention of the "CDA(2)" zoning for comprehensive redevelopment and expressed the following views:

- (a) given the scale of the "CDA(2)" and uncertainty in securing the consent of remaining land owners, single redevelopment might not be realized within a short period of time;
- (b) notwithstanding the difficulty in site assembly, splitting the site into smaller parcels to enable individual projects to proceed independently might not necessarily resolve the issue nor able to achieve the planning intention for comprehensive redevelopment and road improvement;
- (c) some other representers, especially the small owners, had expressed concern in their submissions that if partial redevelopment were allowed, the prospective developer might not continue with site assembly thus they would be left out in the redevelopment process. Also, unless taken as a single package, it would not be easy to improve the entire road system;
- (d) the developer could still proceed with phased development based on their proposal without having to acquire the remaining 60% of the private lots, provided they could ensure comprehensive development and safeguard the interests of the individual owners. There were previous cases where

“CDA” projects were realized by phases;

- (e) since site assembly for the representation site had almost completed, there was a need to provide incentives to expedite redevelopment of their site and avoid planning blight within the “CDA” zoning;
- (f) to resolve the conflict amongst stakeholders, consideration could be given to allow concession if the developer could undertake the road improvement so as to achieve a win-win scenario to the benefit of the private sector, the community as well as the government; and
- (g) the representer could still take forward his project on the eastern side of the road, so long as the interests of other owners were not compromised. Further sub-division would not be necessary in view of the allowance for phased development under the relevant TPB Guidelines.

[Miss Annie Tam left the meeting at this point.]

58. The Chairman reiterated that that previous building plans submitted for the same area had been rejected on traffic grounds. In this regard, notwithstanding the representation site had been almost fully acquired, building plans might not be approved for similar reason. The “CDA(2)” zoning would ensure implementation of road improvement/widening proposal would actually facilitate redevelopment up to a maximum PR 8.

59. The Secretary supplemented that as an ongoing mechanism to update the progress of “CDA” zoning, all “CDA” sites would be reviewed after three years of designation so that problematic cases could be reviewed and, if necessary, to be rezoned to other appropriate uses. As reiterated by TD, the indicative road alignment on the OZP had taken into account the topographic considerations and was intended to provide a basis for detailed design. Alternative options could be put forth by developers as part of the MLP submission.

60. The Chairman concluded and Members agreed that there was not sufficient justification to amend the plan to meet or partially meet representations R27 and R28.

R29, R32, R33, R34, R37-R41, R43, R44-R45, R55, R61 and R96

61. The Chairman remarked that the remaining representaters mainly comprising residents and owners were concerned that the “CDA(2)” and requirement for a MLP might deprive their right for redevelopment and affect their interests.

62. One Member said that some representers were concerned that imposition of building height restriction might deter the developers' further effort in acquiring their properties for redevelopment. As the maximum building height on the eastern and western part would be 120/140mPD respectively and a MLP for comprehensive development was required, their interests would unlikely be compromised and their concerns should have been adequately addressed.

63. The Chairman also pointed out that one representer raised concern on the effect of the proposed amendment on the development right of his property and there was a lack of information on the property value related to the change from the "R(A)" to "CDA(2)" zone. As redevelopment within the "CDA(2)" to PR 8 would allow a higher development potential as compared with the more stringent lease entitlements for the majority of sites on the western portion, the development rights of the representer had not been compromised. Given that the "CDA(2)" zoning would ensure comprehensive development, provision of infrastructure and road widening to improve the future living environment, the property value would unlikely be adversely affected. There was also consensus amongst Members that property value was not a relevant planning considerations.

64. The Chairman concluded that the representations in Group 2 should not be upheld. Members agreed.

#### R27 and R28

65. After further deliberation, the Board decided not to uphold representations No. 27 and 28 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the "CDA(2)" zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the "CDA(2)" zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The proposal for sub-division of the

“CDA(2)” zone, and the excision of Wai Oi Mansion from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly;

- (c) phased development of the “CDA(2)” zone and phased implementation of the road widening/traffic improvement measures might be considered subject to the technical assessments and full justifications in the MLP submission under the planning permission system;
- (d) the building height restriction of 120mPD for Upper and Lower Kai Yuen Lane was in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation aspects and upon striking a balance between the public aspirations for a better environment and meeting the private interests; and
- (e) to facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of the plot ratio and building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits.

Residents and Concerned Parties of Upper Kai Yuen Lane  
R29

66. After further deliberation, the Board decided not to uphold Representation No. 29 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging

site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly;

- (c) phased development of the “CDA(2)” zone and phased implementation of the road widening/traffic improvement measures might be considered subject to the technical assessments and full justifications in the MLP submission under the planning permission system; and
- (d) the “CDA(2)” zoning permit development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

#### R71-82

67. After further deliberation, the Board decided not to uphold Representations No. 71-82 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by



restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly;

- (c) phased development of the “CDA(2)” zone and phased implementation of the road widening/traffic improvement measures might be considered subject to the technical assessments and full justifications in the MLP submission under the planning permission system;
- (d) the ‘Road’ designation of Kai Yuen Street on the OZP was essential to ensure that the road improvement and widening works would be implemented in a comprehensive manner with any development/redevelopment. The road alignment shown on the OZP was tentative and subject to detailed design. An alternative road alignment might be proposed by an applicant upon submission of a traffic impact assessment under the MLP at the planning application stage to address the requirement for road improvement works and road widening to cater for future redevelopment in the area;
- (e) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits; and
- (f) the “CDA(2)” zoning permitted development/redevelopment up to a

maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights

### R91

68. After further deliberation, the Board decided not to uphold Representation No. 91 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits; and
- (c) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of

particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

R92

69. After further deliberation, the Board decided not to uphold Representation No. 92 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the ‘Road’ designation of Kai Yuen Street on the OZP was essential to ensure that the road improvement and widening works would be implemented in a comprehensive manner with any development/redevelopment. The road alignment shown on the OZP was tentative and subject to detailed design. An alternative road alignment might be proposed by an applicant upon submission of a traffic impact assessment under the MLP at the planning application stage to address the requirement for road improvement works and road widening to cater for future redevelopment in the area;
- (c) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits; and

- (d) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

#### R93 and R94

70. After further deliberation, the Board decided not to uphold Representations No. 93 and 94 for the following reasons:

- (a) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits; and
- (b) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better

living environment and meeting private development rights.

R95

71. After further deliberation, the Board decided not to uphold Representation No. 95 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly; and
- (c) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits.

Residents and Concerned Parties of No. 10-54, Kai Yuen Street  
R46-69

72. After further deliberation, the Board decided not to uphold Representations No.

46- 69 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly;
- (c) phased development of the “CDA(2)” zone and phased implementation of the road widening/traffic improvement measures might be considered subject to the technical assessments and full justifications in the MLP submission under the planning permission system; and
- (d) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

R70

73. After further deliberation, the Board decided not to uphold Representation No. 70

for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly;
- (c) the ‘Road’ designation of Kai Yuen Street on the OZP was essential to ensure that the road improvement and widening works would be implemented in a comprehensive manner with any development/redevelopment. The road alignment shown on the OZP was tentative and subject to detailed design. An alternative road alignment might be proposed by an applicant upon submission of a traffic impact assessment under the MLP at the planning application stage to address the requirement for road improvement works and road widening to cater for future redevelopment in the area;
- (d) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board

through the planning permission system. Each proposal would be considered on its individual merits; and

- (e) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

#### R90

74. After further deliberation, the Board decided not to uphold Representation No. 90 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits; and
- (c) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road



improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

R100-101

75. After further deliberation, the Board decided not to uphold Representations No. 100-101 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly; and
- (c) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be

considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

Residents and Concerned Parties relating to the Kai Yuen Street Comprehensive Development Area

R30, R31 and R99

76. After further deliberation, the Board decided not to uphold Representations No. 30, 31 and 99 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly;
- (c) the ‘Road’ designation of Kai Yuen Street on the OZP was essential to ensure that the road improvement and widening works would be implemented in a comprehensive manner with any development/ redevelopment. The road alignment shown on the OZP was tentative and subject to detailed design. An alternative road alignment might be proposed by an applicant upon submission of a traffic impact assessment under the MLP at the planning application stage to address the requirement for road improvement works and road widening to cater for future

redevelopment in the area;

- (d) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits; and
- (e) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

R32-45

77. After further deliberation, the Board decided not to uphold Representations No. 32-45 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and

design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly;

- (c) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits; and
- (d) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

R83-89

78. After further deliberation, the Board decided not to uphold Representations No. 83-89 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)”

zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;

- (b) the 'Road' designation of Kai Yuen Street on the OZP was essential to ensure that the road improvement and widening works would be implemented in a comprehensive manner with any development/redevelopment. The road alignment shown on the OZP was tentative and subject to detailed design. An alternative road alignment might be proposed by an applicant upon submission of a traffic impact assessment under the MLP at the planning application stage to address the requirement for road improvement works and road widening to cater for future redevelopment in the area;
- (c) the building height restrictions for the "CDA(2)" zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits; and
- (d) the "CDA(2)" zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights.

79. After further deliberation, the Board decided not to uphold Representation No. 96 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum plot ratio (PR) of 8 for the area was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment up to the maximum allowable PR of 8 for the area in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the old urban area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” would defeat the planning intention for development/redevelopment of the area in a comprehensive manner with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation aspects properly;
- (c) phased development of the “CDA(2)” zone and phased implementation of the road widening/traffic improvement measures might be considered subject to the technical assessment and full justifications in the Master Layout Plan (MLP) submission under the planning permission system;
- (d) the ‘Road’ designation of Kai Yuen Street on the OZP was essential to ensure that the road improvement and widening works would be implemented in a comprehensive manner with any development/redevelopment. The road alignment shown on the OZP was tentative and subject to detailed design upon submission of a traffic impact assessment under the MLP at the planning application stage to address the requirement for road improvement works and road widening to cater for future redevelopment in the area;
- (e) the areas abutting Kai Yuen Street was intended to be a residential

neighbourhood. Uses that would attract additional traffic to the locality should not be encouraged due to the road capacity constraints. The Representer's proposed amendment to the Notes to reinstate the provision of 'Hotel', 'Residential Institution' and 'Shop and Services' uses was not appropriate;

- (f) for the basis of "pro-rata" calculation of development potential as stated in the Explanatory Statement, it referred to situations where phased development was allowed by the Board, the development potential of the unacquired lots within the "CDA(2)" zone should not be absorbed in the early phases of the development, and access to these lots should be retained, and the land interest of individual owners should not be adversely affected. Such elaboration was already provided in the Board's Guidelines No. 17 and amendments to the Explanatory Statement was not necessary; and
- (g) as regards the concern on the intention stated in paragraphs 8.4.1 and 8.4.3 of the Explanatory Statement, it should be clarified that redevelopment would only be allowed on the condition that the required traffic/road improvement works would be implemented. Redevelopment could be allowed to the maximum PR of 8 only if the traffic issues arising from the development could be addressed by the implementation of the traffic/road improvement works. In considering the MLP and planning application under the "CDA(2)" zone, the Board might incorporate the implementation of the traffic improvement works as a condition of planning permission.

R97, R103-113 and 116

80. After further deliberation, the Board decided not to uphold Representations No. 97, 103-113 and 116 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the "CDA(2)" zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the "CDA(2)" zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging

site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly;

- (c) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits;
- (d) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights; and
- (e) the amendments to the North Point OZP involved the imposition of building height and development restrictions. It was inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt submission of development proposals before the statutory planning control was in place and it would nullify the



effectiveness of the development control. There was a due process under the Town Planning Ordinance for representations to be submitted and considered by the Board.

R98

81. After further deliberation, the Board decided not to uphold Representation No. 98 for the following reason:

the 'Road' designation of Kai Yuen Street on the OZP was essential to ensure that the road improvement and widening works would be implemented in a comprehensive manner with any development/ redevelopment. The road alignment shown on the OZP was tentative and subject to detailed design. An alternative road alignment might be proposed by an applicant upon submission of a traffic impact assessment under the MLP at the planning application stage to address the requirement for road improvement works and road widening to cater for future redevelopment in the area.

R102

82. After further deliberation, the Board decided not to uphold Representation No. 102 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the "CDA(2)" zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the "CDA(2)" zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/ redevelopment of the area primarily for residential uses. The proposal for sub-division of the "CDA(2)" zone from the "CDA(2)" zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and

air ventilation impacts properly;

- (c) phased development of the “CDA(2)” zone and phased implementation of the road widening/traffic improvement measures might be considered subject to the technical assessment and full justifications in the Master Layout Plan (MLP) submission under the planning permission system;
- (d) the building height restrictions for the “CDA(2)” zone were appropriate and were in line with the overall building height bands adopted for the North Point area, taking into account the site topography, local character, visual quality and air ventilation upon striking a balance between public aspirations for a better environment and meeting private development rights. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits;
- (e) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights; and
- (f) the amendments to the North Point OZP involved the imposition of building height and development restrictions. It was inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt submission of development proposals before the statutory planning control was in place and it would nullify the effectiveness of the development control. There was a due process under the Town Planning Ordinance for representations to be submitted and considered by the Board.

R114

83. After further deliberation, the Board decided not to uphold Representation No. 114 for the following reasons:

- (a) Kai Yuen Street was subject to traffic constraints in terms of sub-standard road and limited junction capacity. A maximum PR of 8 for the “CDA(2)” zone was appropriate in order to secure the road widening/improvement works of Kai Yuen Street to ensure pedestrian safety and for redevelopment in a comprehensive manner;
- (b) the “CDA(2)” zoning served to facilitate co-ordinated development, by restructuring the road patterns/alignment in the area as well as encouraging site amalgamation and ensuring appropriate control on the overall scale and design of the redevelopment. The intention was for comprehensive development/redevelopment of the area primarily for residential uses. The proposal for sub-division of the “CDA(2)” zone from the “CDA(2)” zone would defeat the planning intention for comprehensive development/redevelopment of the area with the provision of various infrastructure facilities and to address the traffic, visual, environmental and air ventilation impacts properly;
- (c) the “CDA(2)” zoning permitted development/redevelopment up to a maximum plot ratio of 8 subject to the implementation of traffic/road improvement works was to address the traffic concerns arising from future redevelopment. To facilitate the upgrading of Kai Yuen Street and to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of building height restrictions might be considered by the Board through the planning permission system. Each proposal would be considered on its individual merits. The restrictions had struck a balance between addressing community aspirations for a better living environment and meeting private development rights; and
- (d) the amendments to the North Point OZP involved the imposition of building height and development restrictions. It was inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt submission of development proposals before

the statutory planning control was in place and it would nullify the effectiveness of the development control. There was a due process under the Town Planning Ordinance for representations to be submitted and considered by the Board.

**Hearing for Group 3 – R115 and Comments C1 and C2**  
**(TPB Paper No. 8061)**

[The meeting was conducted in English.]

Presentation and Question Session

84. The following Members had declared interests on this item:

Mrs. Ava S.Y. Ng the Director of Planning	Owned a property in Cloud View Road
Dr. Greg Wong	Owned a property in Shell Street
Mr. K.Y. Leung	Owned a property in Maiden Court, Cloud View Road
Mr. B.W. Chan	Owned a property in Braemar Hill Mansion
Dr. James Lau	Owned a property in Braemar Hill Road
Dr. Daniel To	Being a Member of Eastern District Council (EDC), where its Works and Development Committee (WDC) had been consulted on the OZP amendments on 19.7.2007
Dr. Ellen Lau	Being the representer of R1 who generally supported the proposed amendments
Mr. Nelson Chan	Being a member of the North Point Kai Fong Association

85. As the locations of the properties owned by the above Members were not directly related to any amendment items and the Group 3 representation and Mr. Nelson Chan's interest was remote, they should be allowed to stay in the meeting. It was noted that Mr. B.W. Chan and Dr. Daniel To had tendered apologies for not being able to attend the morning session of the meeting. Dr. James Lau and Dr. Ellen Lau had tendered apologies for not being able to attend the meeting.

86. The following representatives from the Planning Department (PlanD) were invited to the meeting at this point:

Ms. Brenda Au	- District Planning Officer/Hong Kong (DPO/HK), PlanD
Ms. Phoebe Chan Mr. Tom Yip	) Senior Town Planners/HK (STPs/HK), ) PlanD
Ms. Katy Fung	- Senior Town Planner/Special Duties (STP/SD), PlanD

87. The following representers and their representatives were also be invited to the meeting:

Mr. I.T. Brownlee	) Representer's representatives
Mr. Paul Zimmerman	)

88. The Chairman extended a welcome and briefly explained the hearing procedures.

89. Mr. I.T. Brownlee requested for deferment of the hearing as more time would be required to study the documents and requested for more information to be provided by PlanD, including the Air Ventilation Assessment report and visual impact assessment report for the Oil Street site as mentioned in the paper. He also mentioned about discrepancy in open space provision in the paper. As Mr. Brownlee had not contacted PlanD on such request, the Chairman suggested that he provide to PlanD a list of information required for their consideration. Pending the availability of information to be provided to the representer's representatives, Members considered that the hearing should be deferred to the next meeting on 16.5.2008. Mr. Brownlee agreed to such arrangement.

90. The Chairman thanked the representer's representatives and PlanD's representatives for attending the meeting and they all left the meeting at this point.

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

**Hearing for Group 4 – R7-9**  
**(TPB Paper No. 8062)**

[The meeting was conducted in Cantonese.]

Presentation and Question Session

91. The following Members had declared interests on this item:

Mrs. Ava S.Y. Ng the Director of Planning	Owned a property in Cloud View Road
Dr. Greg Wong	Owned a property in Shell Street
Mr. K.Y. Leung	Owned a property in Maiden Court, Cloud View Road
Mr. B.W. Chan	Owned a property in Braemar Hill Mansion
Dr. James Lau	Owned a property in Braemar Hill Road
Dr. Daniel To	Being a Member of Eastern District Council (EDC), where its Works and Development Committee (WDC) had been consulted on the OZP amendments on 19.7.2007
Dr. Ellen Lau	Being the representer of R1 who generally supported the proposed amendments
Mr. Nelson Chan	Being a member of the North Point Kai Fong Association
Messrs. Donald Yap and Raymond Chan	) Have business connection with Henderson ) Land Development Co. Ltd., the holding company of Glory United Development Ltd., which was one of the Group 4 representers, i.e. R7

92. As the locations of the properties owned by the above Members were not directly related to any amendment items and the Group 4 representations and Mr. Nelson Chan's interest was remote, they should be allowed to stay in the meeting. It was noted that Mr. B.W. Chan, Dr. Daniel To and Raymond Chan had tendered apologies for not being able to attend the morning session of the meeting. Mr. Donald Yap, Dr. James Lau and Dr. Ellen Lau had tendered apologies for not being able to attend the meeting.

93. The following government team including representatives from the Planning Department (PlanD) were invited to the meeting at this point:

Ms. Brenda Au

- District Planning Officer/Hong Kong

(DPO/HK), PlanD

Ms. Phoebe Chan ) Senior Town Planners/HK (STPs/HK),  
Mr. Tom Yip ) PlanD

Ms. Katy Fung - Senior Town Planner/Special Duties  
(STP/SD), PlanD

94. The Chairman said that sufficient notice had been given to all the Group 4 representers but they had not replied or indicated they would be represented at the meeting. Members agreed to proceed with the hearing in the absence of the representers. He then invited Ms. Brenda Au, DPO/HK to brief Members on the background of Paper. With the aid of a powerpoint presentation, Ms. Au did so as detailed in the Paper and made the following main points:

#### Representations

- (a) the submissions were submitted by Glory United Development Ltd., Mr. Sun Kwok Kee and Mr. Ho King Ho. The representations supported the amendments to the Notes of the OZP for the incorporation of 'Flat' use under Column 2 of the "CDA(1)" zone;

#### Grounds of Representations

- (b) the "CDA(1)" zone, being surrounded by existing residential sites and the Oil Street site planned for commercial and residential use, was suitable for commercial and/or residential purposes. Previous planning restriction on the site for commercial uses only was not appropriate. The amendment was strongly supported as it permitted the provision for 'Flat' use within the "CDA(1)" zone, which allowed greater flexibility without causing any incompatibility in land uses;
- (c) development intensity of residential developments was lower than that of commercial developments. The inclusion of 'Flat' use under Column 2 of the Notes for the "CDA(1)" zone was strongly supported;
- (d) most sites on both sides of Victoria Harbour were planned for non-residential purposes, namely offices and hotels, making the waterfront stagnant after working hours. Allowing 'Flat' use in the "CDA(1)" zone would give greater diversity in land uses and vibrancy on the waterfront land,

hence strongly supported;

Representers' Proposals

- (e) the representers did not put forth any proposals; and
- (f) the supportive representations were noted and no amendment to the Plan was considered necessary.

95. As Members had no questions to raise, the Chairman thanked PlanD's representatives for the presentation and they all left the meeting at this point.

Deliberation Session

96. After further deliberation, the Board noted the supportive representations and no amendment to the Plan was considered necessary.

97. The meeting was adjourned at 1.30pm for lunch.



98. The meeting resumed at 2:30 p.m.
99. The following Members and the Secretary were present after the lunch break:
- |   |               |
|---|---------------|
| Mr. Raymond Young   | Chairman      |
| Dr. Greg C.Y. Wong  | Vice-Chairman |
| Mr. Nelson W.Y. Chan  |               |
| Mr. Edmund K.H. Leung   |               |
| Dr. Daniel B.M. To  |               |
| Mr. B.W. Chan   |               |
| Mr. Raymond Y.M. Chan   |               |
| Mr. Felix W. Fong   |               |
| Deputy Director of Environmental Protection<br>Dr. Michael Chiu |               |
| Director of Planning<br>Mrs. Ava S.Y. Ng                        |               |

#### **Agenda Item 4**

[Open Meeting (Presentation and Question Session only)]

Section 16A Review of Application No. A/K10/199-1

Extension of Time for Commencement of Approved Development –

Proposed Comprehensive Residential Development with Retail Shops in

“Comprehensive Development Area (2)” zone, 5 and 7 Mok Cheong Street and

70-78 Sung Wong Toi Road, Ma Tau Kok

(TPB Paper No. 8082)

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[The meeting was conducted in English.]

#### **Presentation and Question Session**

100. The following representatives of the Government and the applicant were invited to the meeting:

Mr. Nicholas Cooney	- Outside Counsel
Mr. Eric Yue	- District Planning Officer/Kowloon (DPO/K), Planning Department (PlanD)
Ms. Grace Chan	] Department of Justice (DoJ)
Ms. Keena Wong	] Department of Justice (DoJ)
Mr. Philip Dykes, SC	)
Mr. Newman Lam	)
Mr. Shum Cheuk Pan	)
Ms. Lau Hau Mui, Janice	)
Mr. Anthony Kwok	) Applicant's representatives
Ms. Irene Tam	)
Mr. Tsui Tack Kong	)
Mr. Or Tak Chor	)
Mr. Joseph Lee	)

101. The Chairman extended a welcome and invited the representatives of the Government to brief Members on the application.

102. Mr. Nicholas Cooney said that the applicant had submitted further information (FI) in respect of the review application including a skeletal submission on 24.4.2008 and a supplemental submission tabled at the meeting. He requested the Board to defer the hearing of the application for about two months to allow time for the PlanD to assess and make responses to the FI.

103. Mr. Nicholas Cooney carried on to elaborate the grounds of the request for deferral as follows

- (a) the skeletal submission on 24.4.2008 contained allegations against the PlanD for its conduct in processing the applicant's building plan submission in respect of the approved development. The PlanD was alleged to have deliberately delayed making comments on the building plans until after the lapse of the planning permission. There were also allegations against the PlanD for abuse of power and collusion with the

Buildings Department to manipulate time in processing the building plans, resulting in the applicant's failure to commence the approved development before the lapse of the planning permission;

- (b) three legal arguments were provided in the FI, viz, the Board had the power under s.16A of the Town Planning Ordinance (the Ordinance) to extend the time for commencement of the approved development notwithstanding that the planning permission had lapsed; the draft Ma Tau Kok Outline Zoning Plan (OZP) No. S/K10/19 exhibited after the granting of the original planning permission was irrelevant to the Board's consideration of the review application; and the Board's Guidelines on Extension of Time for Commencement of Development (TPB PG-35A) was in breach of s.16A of the Ordinance; and

[Mr. Y.K. Cheng arrived to join the meeting at this point.]

- (c) the allegations and legal arguments as mentioned above had not been raised by the applicant until the skeletal and supplemental submissions were made. Neither had they been quoted by the applicant as the grounds of the review application. PlanD did not have sufficient time to assess the issues, give instruction to the DoJ and prepare responses to assist the Board's consideration of the application.

104. Mr. Philip Dykes said that he concurred with Mr. Cooney's request for deferral but wished to make the following points

- (a) while the gist of the legal arguments made by Mr. Cooney generally reflected the applicant's submissions, the first and third arguments were in fact related;
- (b) the new requirements imposed under the current OZP, which was a draft plan under the Ordinance, should not be used as a ground for rejection of a planning permission which was granted under the previous OZP which was an approved plan;

- (c) the allegation against the PlanD for its conduct in processing the applicant's building plan submission was also raised in the applicant's appeal lodged to the Building (Appeal) Tribunal against the Building Authority's rejection of the building plans. The PlanD should be aware of the allegation even before the applicant submitted the FI on 24.4.2008. The applicant had undertaken reasonable actions in complying with the approval conditions. That was recognized by the PlanD and was reflected in the Paper.

105. Members had no question on the request for deferral. The Chairman informed the representatives of the Government and the applicant that the Board would consider the request in their absence and inform them of the decision afterwards. They all left the meeting temporarily at this point.

#### Deliberation Session

106. The Chairman asked for Members' views on whether the PlanD's request for deferral of the hearing for about two months could be acceded to. The Secretary said that a period of about two months would normally be required by the PlanD to consult Government departments, make response on the FI and prepare the supplementary paper covering the FI for distribution to Members and the applicant before the meeting.

107. A Member asked whether the Board could adjourn the hearing to a date to be fixed. The Chairman said that a deferment without specifying a time limit might not be acceptable to the PlanD and the applicant. Furthermore, it seemed that a period of two months was acceptable to both parties.

108. Another Member said that a deferral period of two months would be acceptable if it was sufficient for the PlanD to make responses on the FI. The Secretary said that a period of two months as suggested by Mr. Nicholas Cooney was based on PlanD's instruction.

[Miss Annie Tam arrived to join the meeting at this point.]

109. After deliberation, Members decided to agree to the PlanD's request for deferral of the hearing of the review application for a period of about two months. Members also agreed that if the PlanD's response was available in less than two-month time, the hearing of the application should be resumed earlier, subject to the agreement of the applicant.

110. The Chairman then invited the representatives of the Government and the applicant back to meeting to inform them of the Board's decision. The representatives returned to the meeting at this point and the remaining part of this item was conducted in open meeting.

111. The Chairman informed the representatives of the Board's decision as detailed in paragraph 109 above. Mr. Philip Dykes agreed to the Board's decision on the understanding that the applicant would be given reasonable time to make response on the PlanD's assessment of the FI before the hearing was conducted. The Chairman said that the actual date of the hearing should be fixed at the consent of both parties.

112. The Chairman thanked the representatives of the Government and the applicant for attending the meeting. They all left the meeting at this point.

### **Agenda Item 5**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K18/247

Proposed School (Tutorial School) in "Residential (Group C)1" zone, 10 Somerset Road, Kowloon Tong (NKIL 859)

(TPB Paper 8081)

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[This meeting was conducted in Cantonese.]

### **Presentation and Question Session**

113. Mr. Eric Yue, District Planning Officer/Kowloon, Planning Department (DPO/K, PlanD), and Mr. Luk Kwan Hung, Nelson, the applicant, were invited to the

meeting at this point.

114. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited Mr. Eric Yue to brief Members on the background to the application.

115. With the aid of a Powerpoint presentation, Mr. Eric Yue presented the application and covered the following aspects as detailed in the Paper:

- (a) the Metro Planning Committee (MPC) rejected the application on 4.1.2008 for the reason that there was insufficient information in the application to demonstrate that the proposed tutorial school, without the provision of a separate access, was compatible with other permitted uses, such as residential use, within the same building and the subject site;
- (b) the details of the application site and the applicant's proposal as set out in paragraph 1 of Annex A of the Paper and the further written representation submitted by the applicant in support of the review application as summarized in paragraph 3 of the Paper;
- (c) departmental comments – the relevant Government departments maintained their previous views on the application. The Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD) advised that he had no objection to the application if the application premises was limited to the ground floor only. Furthermore, the subject building was a 2-storey pre-war single staircase building and pursuant to the Building (Planning) Regulation and the Code of Means of Escape, the upper floor of the building should not be used for any occupancy other than domestic or office use;
- (d) three public comments were received during the statutory publication period. All commenters objected to the application due to concerns mainly on possible nuisances to the neighbourhood and traffic, environmental and security problems to be caused by the proposed

tutorial school, incompatibility with the planning intention and the existence of too many schools in the area; and

- (e) PlanD's view – PlanD did not support the application for reasons as detailed in paragraph 7 of the Paper. The proposed tutorial school did not comply with the Town Planning Board Guidelines No. 40 for Application for Tutorial School under Section 16 of the Town Planning Ordinance in that there was insufficient information to demonstrate that the proposed school use was compatible with the other uses permitted as of right in the “Residential (Group C)1” zone, such as residential use, within the same building, and would not cause any disturbance and nuisance to possible residents in the site. There was also no effective means to safeguard against future extension of the tutorial school to the 1/F of the building. A similar application (No. A/K18/241) on G/F of a 2-storey building in Kowloon Tong was rejected upon review by the Board on 21.9.2007 for reason of incompatibility with other permitted uses within the same building and the site.

116. The Chairman then invited the applicant to elaborate on the application.

117. Mr. Luk Kwan-hung, Nelson made the following points:

- (a) he had clearly indicated that the proposed tutorial school use would be confined to the G/F of the subject building, and the 1/F would be left vacant. It was not justified to reject the application for reasons of incompatibility with possible residential use on the 1/F and possible extension of school use onto the 1/F;
- (b) the proposed tutorial school was compatible with the neighbouring uses in terms of building height. It would also bring about improvements to the local environment;
- (c) the staircase leading to the 1/F from the outside of the building as shown in Plan A-5 of Annex A of the Paper was maintained only for carrying out

cleaning works at the 1/F. Since the 1/F of the building would be left vacant, the requirement under the Town Planning Board Guidelines to provide a separate access to the domestic portion of the same building was irrelevant to the application;

- (d) there were only four objections to the application raised by neighbouring residents. Given the small scale of the proposed tutorial school, the objectors' concerns on possible nuisances and traffic, environmental and security problems were not justified. Relevant Government departments had no objection to the application;
- (e) the application site had previously been used by an international school for more than eight years. No complaints against the school operation had been received; and
- (f) the rejection of the similar application No. A/K18/241 should not be taken as a precedent for rejecting the current application since each case should be considered on its own merits.

118. Members had the following questions:

- (a) whether the applicant had checked the status of the existing staircase to address the comment of CBS/K, BD in paragraph 5.2.2(c)(ii) of the Paper;
- (b) the number of students that the proposed tutorial school would accommodate;
- (c) whether the whole building including G/F and 1/F was rented by the applicant and whether the landlord had any objection to the applicant's proposal to block the existing staircase to 1/F; and
- (d) whether there was any difference between the current application and the rejected similar application No. A/K18/241.



119. In response to Members' questions (a) to (c), Mr. Luk Kwan-hung, Nelson made the following points:

- (a) upon obtaining planning permission from the Board, he would proceed with the application for school registration during which BD would advise him the detailed building safety requirement. The status of the staircase would be sorted out at that stage;
- (b) it was estimated that the proposed tutorial school would accommodate not more than 38 students at any one time; and
- (c) the whole building including G/F and 1/F was rented out to the applicant. The landlord had no objection to block off the staircase to the 1/F.

120. In response to question (d) above, Mr. Eric Yue said that the current application was similar to Application No. A/K18/241. In both cases, the proposed schools were located on the G/F of pre-war buildings and the 1/F of the buildings would be left vacant and the existing staircases linking G/F and 1/F would be blocked off.

121. As the applicant had no further comment to make and Members had no further question, the Chairman informed him that the hearing procedures for the review application had been completed. The Board would further deliberate on the application in his absence and inform him of the Board's decision in due course. The Chairman thanked Mr. Eric Yue and Mr. Luk Kwan-hung, Nelson for attending the meeting. They left the meeting at this point.

#### Deliberation Session

122. A Member said that the subject building had previously been used by an international school for a long time without causing significant nuisances in the area. Sympathetic consideration should be given to the current application for a school of a reduced scale. The Chairman said that the previous school use was not covered by any planning permission granted by the Board.

123. Some Members considered that the concern on interface problems could be addressed if the 1/F of the building was kept vacant as proposed by the applicant. The Chairman said that since the site was zoned “R(C)1”, residential use at 1/F was permitted as of right even though the applicant had no intention to put it to residential use at this point in time. The Secretary added that the concern on mixed use and interface problems was also raised by Members in considering the rejected similar application No. A/H18/241. In that application, Members generally considered that there was insufficient information in the submission to demonstrate that the mixed use and interface problems would not occur and hence the application should be rejected.

124. Some Members asked whether the application could be approved with a condition prohibiting residential use at 1/F. Mrs. Ava Ng said that such condition would not be appropriate since the site was zoned “R(C)1” and residential use was permitted as of right. The Secretary said that the possibility of imposing an approval condition to prohibit mixed use had also been discussed when the Board considered Application No. A/H18/241. Members generally accepted that such condition should not be imposed.

125. The Secretary said that the concern on mixed use and interface problems would be addressed if both 1/F and 2/F of the building were used as school. To allow school use at 1/F, the applicant had to demonstrate to BD the structural adequacy of the building and that there was a proper means of escape for 1/F. However, the applicant would have difficulty to resolve the problems as the application premises was a pre-war building and there was no official building record. Noting that Members were generally sympathetic to the current application, the Secretary suggested that the PlanD should co-ordinate with the concerned departments, including BD and Education Bureau, to consider if a feasible solution could be worked out. Members generally agreed to this suggestion.

126. After deliberation, the Board decided to defer a decision on the review application and requested PlanD to discuss with the relevant Government departments to work out a solution.

127. Members noted that the applicant for Agenda Item 9 had arrived and agreed to advance the consideration of that item.

**Agenda Item 9**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-HT/520

Temporary Open Storage of Construction Machinery with Ancillary Storage Facility for a Period of 2 Years in “Village Type Development” zone, Lots 18RP(Part) in DD 124 and Adjoining Government Land, Ha Tsuen, Yuen Long  
(TPB Paper 8083)

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[The meeting was conducted in Cantonese.]

Presentation and Question Session

128. The following representatives of the Government and the applicant were invited to the meeting at this point:

Mr. Wilson So	- District Planning Officer/Tuen Mun & Yuen Long, Planning Department (DPO/TMYL, PlanD)
Mr. Wong Kwok-kay )	Representatives of the Applicant
Ms. Tse Chor-man )	

129. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited Mr. Wilson So to brief Members on the background to the application.

130. With the aid of some plans and drawings, Mr. Wilson So presented the application and covered the following aspects as detailed in the Paper:

- (a) the Rural and New Town Planning Committee (RNTPC) rejected the application on 14.12.2007 for reasons that continuous occupation of the site for the applied use was not in line with the planning intention of the “Village Type Development” (“V”) zone and the development was not in line with the Town Planning Board (TPB) Guidelines No. 13D for Application for Open Storage and Port Back-up Uses;

- (b) the further written representation submitted by the applicant in support of the review application as summarized in paragraph 3 of the Paper;
- (c) departmental comments – the relevant Government departments maintained their previous views on the application. The Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the site and along Ping Ha Road;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer (Yuen Long); and
- (e) PlanD's view – PlanD did not support the application for reasons as detailed in paragraph 7 of the Paper. The applied use was not in line with the TPB Guidelines No. 13D in that there were adverse departmental comments and it was not in line with the intention of Category 4 areas which was to encourage the early phasing out of non-conforming uses. Although the site was the subject of three planning approvals (Applications No. A/YL-HT/102, 332, 396) for the same use, it was clearly stated in the last two approvals that the approvals were to provide time for the applicant to identify a suitable site for relocation. Sufficient time had been allowed for, but the applicant had not provided sufficient information on why relocation to alternative site could not be made. In this regard, there was no strong justification that merited the granting of further approval to the application.

131. The Chairman then invited the applicant's representatives to elaborate on the application.

132. Mr. Wong Kwok-kay made the following points:

- (a) he had made much effort to identify a suitable site for relocation but in vain. The proliferation of unauthorized developments in the area

indicated that there was insufficient land suitable for open storage use. Even if he moved out from the site, other unauthorized business would move in immediately;

- (b) he had been operating his business on the site for almost 20 years. The surrounding area was occupied mainly for open storage and workshop activities with no residential uses. In the past, his business included vehicle repairing, which had ceased in recent years. The current use was for storage purpose and hence the nuisances to the surrounding area had thus been reduced to a minimum; and
- (c) he had already complied with the conditions of the previous planning approvals and there was no adverse environmental impact on the neighbouring areas.

133. Members had the following questions:

- (a) whether there was any residential use in the vicinity of the site;
- (b) whether the applicant would carry out vehicle repairing activities on the site;
- (c) why the applied use was not an 'existing use' ('EU'), i.e. the use in existence before the gazette of the first statutory plan in respect of the area; and
- (d) whether the applied use was for the storage of the applicant's own machinery or other's at the payment of fees.

134. In response to question (a) above, Mr. Wilson So made the following points:

- (a) as shown on Plan R-2 of the Paper, there were two residential dwellings located to the southwest and northwest of the site but the area in the immediate surrounding of the site was occupied mainly by

open storage and workshop uses;

- (b) the site was zoned “V” which was intended primarily for development of Small Houses by indigenous villagers. The “V” zone was designated having regard to a number of factors such as Small House demand, physical features and infrastructural provisions in the area; and
- (c) open storage and workshop uses were not compatible with the planning intention of the “V” zone but were tolerated if they were ‘EU’. According to the PlanD’s record, the ‘EU’ at the application site included vehicle repairing and hence the applied use for open storage was not an ‘EU’.

135. In response to Questions (b) and (c) above, Mr. Wong Kwok-kay said that he no longer undertook vehicle repairing activities on the site. The site was only used for the storage of his own machinery and related equipment and materials. Comparing with the vehicular repairing activities, the possible nuisances to the surrounding area as a result of the applied use should be minimal.

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

#### Deliberation Session

137. Members generally considered that the proposed open storage use would generate less nuisance to the area as compared with the previous use which involved vehicle repairing activities. Given that the surrounding area was occupied mainly by open storage and workshop uses and no complaints against the open storage use had been received in the past years, sympathetic consideration could be given to the application.

138. Dr. Michael Chiu said that sympathetic consideration had been given by the Board to the previous applications No. A/YL-HT/332 and 396 which were approved on a temporary basis for a period of 12 months and 2 years respectively with a view to allowing time for the applicant to relocate the open storage use. Mrs. Ava Ng said that the proposed use under Applications No. A/YL-HT/332 and 396 was the same as the current application.

139. After deliberation, the Board decided to approve the application on review on a temporary basis for a period of two years until 25.4.2010, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions:

- (a) no night-time operation from 5:00 p.m. to 9:00 a.m. was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays was allowed on the site during the planning approval period;
- (c) no vehicle repairing activities were allowed on the site during the planning approval period;
- (d) no vehicle exceeding 5.5 tonnes as proposed by the applicant was allowed for the operation of the site during the planning approval period;
- (e) the existing drainage facilities implemented under the previous approved Application No. A/YL-HT/396 should be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities approved under Application No. A/YL-HT/396 within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 25.7.2008;
- (g) the submission of tree preservation and landscape proposals within 3 months from the date of planning approval to the satisfaction of the

Director of Planning or of the Town Planning Board by 25.7.2008;

- (h) in relation to (g) above, the implementation of tree preservation and landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 25.10.2008;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (e) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (j) if any of the above planning conditions (f), (g) or (h) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (k) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

140. Members also agreed to advise the applicant to:

- (a) note that an approval period of 2 years was granted in order to allow time for the applicant to relocate the current use on the site to other suitable location;
- (b) resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (c) note the comments of the District Lands Officer/Yuen Long that the lots under application were Old Schedule Agricultural Lots held under the Block Government Lease under which no structures were allowed to be erected without prior approval from his Office and that short term waiver



and short term tenancy should be applied to regularize the unauthorized structures and occupation of Government land on site;

- (d) follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection;
- (e) note the comments of the Chief Engineer/Land Works, Civil Engineering Development Department to ensure that no Government land within the proposed project limit of project item No. 7710CL “Hung Shui Kiu Development, Stage 2 – Widening of Tin Ha Road and Tan Kwai Tsuen Road”, which was scheduled to commence in early 2009, was included in the application, and to note that ingress/egress via Tin Ha Road to/from the site might be affected during the construction period of the widening of Tin Ha Road and the applicant should not be entitled for any compensation thereof; and
- (f) note the comments of the Assistant Commissioner for Transport/New Territories that the land status of the track and access road leading to the site should be checked with the lands authority and that the management and maintenance responsibilities of this track and access road should be clarified, and the relevant lands and maintenance authorities should be consulted accordingly.

### **Agenda Item 6**

[Open Meeting (Presentation and Question Session)]

Review of Application No. A/K20/102

Proposed Alfresco Dining Facilities (Amendments to an Approved Master Layout Plan) in “Comprehensive Development Area” zone, Podium Roof Level, Union Square, Airport Railway Kowloon Station, 1 Austin Road West, West Kowloon Reclamation (TPB Paper 8080)

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[The meeting was conducted in English.]

141. The Secretary said that the application was submitted by the Mass Transit Railway Corporation Limited (MTRCL) and Ms. Ava Chiu had declared an interest for being a subordinate of the Secretary for Transport and Housing who was a non-Executive Director of the Board of MTRCL. Members noted that Ms. Chiu had tendered apologies for not attending the meeting.

Presentation and Question Session

142. The following representatives of the Government and the applicant were invited to the meeting at this point:

Mr. Y.S. Lee	- District Planning Officer/Tsuen Wan and West Kowloon, Planning Department (DPO/TWK, PlanD)
Mr. Louis Kau	- Senior Town Planner/Tsuen Wan and West Kowloon, PlanD
Mr. Ian Brownlee	)
Mr. Steve Yiu	)
Ms. Linda Li	)
Mr. Angus Cheng	)
Ms. Betty Leong	)
Mr. Clayton Tam	)

Representatives of the Applicant

143. The Chairman extended a welcome and explained briefly the procedures of the review hearing. He then invited the representatives of the Government to brief Members on the background to the application.

144. With the aid of a Powerpoint presentation, Mr. Louis Kau presented the application and covered the following aspects as detailed in the Paper:

- (a) the applicant sought planning permission for amendments to an approved Master Layout Plan (MLP) for proposed alfresco dining facilities on the podium roof level of the Airport Railway (AR) Kowloon Station which involved mainly the conversion of about 321 m<sup>2</sup> of private open space to

an area for alfresco dining use. On 18.1.2008, MPC approved the proposed amendments on a temporary basis for a period of 3 years subject to conditions including, inter alia, that the operation hours of the proposed alfresco dining facilities should be restricted from 7 a.m. to 11 p.m. daily (condition (a)) and if the above planning condition was not complied with, the approval hereby given should cease to have effect and should be revoked immediately without further notice (condition (c)). The applicant applied for a review of the MPC's decision on imposing the above conditions and granting the planning approval on a temporary basis for a period of 3 years;

- (b) the applicant had not submitted any written representation in support of the review application;
- (c) departmental comments – no objection was raised by the relevant Government departments on the application;
- (d) during the statutory publication period, nine public comments were received. Three commenters objected to the application due to concerns on the reduction of open space and possible nuisance, safety and hygiene problems to be caused by the alfresco dining facilities. One of them indicated that the proposed alfresco dining use might be acceptable if all passageways or footpaths from the application premises to the podium of the AR Kowloon Station were blocked off, more restrooms at the area occupied by the passageways were provided, and live-band or loudspeaker system was not allowed at the open area near the premises. Four commenters supported the application on the grounds that it would provide more choice for the residents, no nuisance was anticipated with sound security measures and there were already sufficient regulatory measures to address the concerns on nuisance and environmental pollutions. One commenter supported the imposition of the approval conditions. The remaining commenter had no adverse comment on the review application. According to the District Officer (Yau Tsim Mong), the concerned Yau Tsim Mong District Councillor also raised objection to

the application and considered that a 3-year approval period was appropriate and the restriction on operation hours was vital.

- (e) PlanD's views – PlanD did not support the review application for reasons as detailed in paragraph 8.1 of the Paper. The restriction on operation hours of the proposed alfresco dining facilities was one of the appropriate measures to minimise the potential nuisance to the local residents. In order to monitor the operation of the proposed alfresco dining facilities and the effectiveness of any management measures to minimise the potential nuisance, it was considered appropriate to grant the approval on a temporary basis for a period of three years.

145. The Chairman then invited the representatives of the applicant to elaborate on the application.

146. With the aid of a Powerpoint presentation and an outline of arguments tabled at the meeting, Mr. Ian Brownlee made the following points:

- (a) by giving approval to the original section 16 application, the MPC had recognised that the application premises was generally suitable for alfresco dining use. However, the approval on a temporary basis for a period of only three years and the approval conditions (a) and (c) for restricting the operation hours of the proposed alfresco dining facilities were unnecessary, unreasonable and would cause practical difficulties on the operation of the facilities;
- (b) the application involved a change of only 321m<sup>2</sup> of open space to alfresco dining area. Such area was annotated as 'outside seating area annexed to restaurants' and was counted as commercial gross floor area (GFA) on the approved building plans. It was also included into the total GFA where land premium had been paid to the Government;
- (c) conditions (a) and (c) were imposed by the MPC to address public concerns about the potential noise nuisance to local residents that might

be caused by the alfresco dining facilities. However, there had also been a significant number of submissions in support of the applicant's proposal, which reflected significant public demand for alfresco dining facilities;

- (d) the alfresco dining area was located over 100m from the residential developments nearby. Furthermore, the area was well contained and screened off by the restaurant pavilions and landscape features. No complaint on noise had been received since the operation of the alfresco dining facilities in October 2007. Given the special design, location and distance from the residential developments, the facilities would unlikely create significant nuisance to local residents and the restriction on operation hours was considered not necessary;
- (e) there were other forms of control which were adequate and more appropriate than imposing planning conditions to address the potential nuisance. These included:
  - (i) the shopping centre management – the applicant had adopted a sophisticated form of management for the whole of the commercial podium, including 24-hour security service. The tenancy agreements between the applicant and the restaurant operators also required the operators to comply with all relevant laws and not to cause nuisance to other tenants and nearby residents. The applicant would enforce such requirements rigorously;
  - (ii) Noise Control Ordinance (NCO) – the noise impact assessment included in the MLP submission had demonstrated that the alfresco dining use would not cause noise nuisance to the nearby residential developments and the Director of Environmental Protection (DEP) had advised that noise emitted from isolated noisy events at the alfresco dining area was amenable to the NCO. When the application was considered at the MPC meeting, DEP advised that if there was noise nuisance caused by the operation of the alfresco dining facilities after 11 p.m, the local residents could make

complaints to the police or EPD. It was noted from paragraph 5.2.2 of the review Paper that DEP had no comment on the application as there was no environmental issue contained in the application;

- (iii) Dutiable Commodities (Liquor) Regulations – drinking of alcohol at the application premises should not be a matter of concern for the Board as it was controlled under the liquor licence issued by the Liquor Licensing Board. The granting of Liquor Licence was subject to public objection and hearing. The control was much more stringent and appropriate than that through planning conditions;
  - (iv) Public Health and Municipal Services Ordinance – a food licence issued by the Director of Food and Environmental Hygiene (DFEH) would be necessary for an outdoor seating area (OSA) of a restaurant. As stated in paragraph 5.2.3 of the Paper, DFEH had no objection to the review application and advised that any application for OSA would be referred to the Home Affairs Department for public consultation. Food licence might not be granted if there was public objection. Such control was much more relevant and reasonable than that through planning conditions;
- (f) condition (c) concerning revocation of the planning approval due to non-compliance with condition (a) was unreasonable for the following reasons:
- (i) it was harsh and unfair to decide in advance the consequence of non-compliance with condition (a) especially without giving the applicant a chance to be heard;
  - (ii) the condition was highly uncertain for enforcement since there was no indication as to the standard and authority for determining whether the condition had been complied with;
  - (iii) it was uncertain as to what must not be carried out in the

application area outside the specified operation hours;

- (g) the restrictions on operation hours would cause inconvenience to those people who visited the restaurants after work, shopping or after going to cinemas. If the alfresco dining facilities were not allowed to operate beyond 11 p.m, people might move into the adjacent public open space areas which were closer to the residential areas;
- (h) deleting conditions (a) and (c) would allow flexibility on the operation hours to meet the demand to be generated by the opening of the hotels and offices in AR Kowloon Station;
- (i) the temporary approval to allow monitoring of the operation of the dining facilities was not necessary as the operation would be subject to control by DEP, Liquor Licensing Board, DFEH, Police and the applicant as the landlord and manager of the commercial centre. The imposition of a 3-year temporary permission would cause undue hardship to the applicant in getting new tenants and also to the existing restaurant operators due to the uncertainty in operation; and
- (j) the Board should only consider whether the premises was suitable for alfresco dining in the context of the MLP and should not try to assume the responsibilities of other authorities.

147. Miss Annie Tam asked whether the tenancy agreements mentioned by the applicant as a means to monitor the restaurant operation referred to the agreements between the applicant and the restaurant operators and not the lease granted by the Government. Mr. Ian Brownlee replied in the affirmative.

148. As the representatives of the applicant had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures for the review application had been completed. The Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the representative of the PlanD and the applicant for attending the

meeting. They all left the meeting at this point.

### Deliberation Session

149. A Member said that since the application site was located in close proximity to some residential developments, it was not unreasonable to restrict the operation hours of the alfresco dining facilities to not later than 11 p.m.

150. A Member said that the Liquor Licensing Board had received strong objections from the local residents when the restaurant operators applied for Liquor Licence. At that time, the applicant claimed that there would not be outdoor dining facilities. Another Member said that imposing planning conditions to restrict the operating hours was a more objective and certain way of control on the potential nuisance to the local residents. The Chairman said that even though there were other means of control, the Board could still impose conditions to restrict the operation hours should it consider that appropriate.

151. Dr. Michael Chiu clarified that according to the Hong Kong Planning Standards and Guidelines, general commercial uses like restaurants were not classified as noise emitters and hence the issue of noise impact was not raised in the previous MLP submission. However, noise emitted from isolated noisy events at the alfresco dining area was amenable to the NCO. Upon the enquiry by the Chairman, Dr. Chiu said that complaints on noise nuisances caused by restaurant operations after 11 p.m. would be enforced by the Police.

152. Miss Annie Tam asked whether it was the standard practice to revoke a planning permission immediately without giving further notice should the applicant fail to comply with the approval condition. The Secretary answered in the affirmative.

153. After deliberation, the Board decided to reject the review application and the reasons were:

- (a) the potential nuisance brought to the local residents was a major concern that needed to be addressed. The restriction on operation hours of the proposed alfresco dining facilities from 7a.m. to 11p.m.



under approval condition (a) was one of the appropriate measures to minimise the potential nuisance; and

- (b) in order to monitor the operation of the proposed alfresco dining facilities and the effectiveness of any management measures to minimise the potential nuisance, it was considered appropriate to grant the approval on a temporary basis for a period of three years.

154. The Board also agreed that the original planning approval for the proposed alfresco dining facilities as given by the MPC on 18.1.2008 would remain valid on a temporary basis for a period of three years until 18.1.2012, and the original approval conditions (a) to (d) and advisory clauses (a) to (c) as stated in paragraphs 1.3 and 8.2 of the Paper should be retained.

### **Agenda Item 7**

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations in respect of the Draft Wong Nai Chung Outline Zoning Plan No. S/H7/13

(TPB Paper No. 8076)

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[The meeting was conducted in Cantonese.]

155. Dr. Daniel B.M. To and Mr. B.W. Chan declared interests in this item for personally knowing Mr. Lau Hing Tat, Patrick, the representative of Representer No.1. Members agreed that the interests were indirect and Dr. To and Mr. Chan could stay at the meeting during the discussion and determination of the representations.

156. The Chairman said that Representers No. 2 to 14 had indicated not to attend the hearing or made no reply. As sufficient notice had been given to the representers, Members agreed to proceed with the hearing of the representations in the absence of the said representers.

Presentation and Question Session

157. The following representatives from the Government and Representer No. 1 were invited to the meeting at this point:

- |                             |  |
|-----------------------------|--|
| Ms. Brenda Au               | - District Planning Officer/Hong Kong, Planning Department (DPO/HK, PlanD) |
| Mr. Tom Yip                 | - Senior Town Planner/Hong Kong, PlanD                                     |
| Mr. Lau Hing Tat, Patrick ) | Representatives of Representer No. 1                                       |
| Mr. Lui Chi Wai, Stanley )  |  |

158. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited the representatives of the Government to brief Members on the background to the representations.

159. With the aid of a Powerpoint presentation, Ms. Brenda Au presented the case and covered the following aspects as detailed in the Paper:

Subject of Representations

- (a) the 14 representations on the draft Wong Nai Chung Outline Zoning Plan (OZP) No. S/H7/13 were submitted in two standard letters with substantially the same content;
- (b) Representation No.1 was submitted by the Happy Valley Residents' Association which:
  - (i) supported the rezoning of a piece of land within the hockey field of the Hong Kong Football Club from "Other Specified Uses" ("OU") annotated "Race Course" to "OU" annotated "Sports and Recreation Club" (Amendment Item A); and
  - (ii) objected to the rezoning of a piece of land within the petrol filling station (PFS) at 50 Sing Woo Road from "Government,

Institution or Community” (“G/IC”) to “OU(PFS)” (Amendment Item B) and the rezoning of an area covering Kwai Sing Lane from “OU(PFS)” and “G/IC” to ‘Road’ (Amendment Items C1 and C2);

- (c) Representations No. 2 to 14 were submitted by individual residents of Sherwood Court in Happy Valley who objected to Amendment Item B.

#### Grounds of Representations

- (d) Representer No. 1 had not elaborated on the grounds of its support of Amendment Item A;
- (e) on the objection to Amendment Items B, C1 and C2, Representer No. 1 raised the following points:
  - (i) the two PFSs at Sing Woo Road were very close to residential developments, youth centre and elderly centre in the area and would have adverse environmental, health and safety impacts on these uses; and
  - (ii) although the PFSs had existed in the area for a long time, they were incompatible with surrounding land uses and contradictory to the policy objective of the Government in creating a quality city and quality life. The Board should review the OZP with a view to achieving the said objective;
- (d) The grounds of Representations No. 2 to 14 were the same as those of the part of Representer No. 1 on the objection to Amendment Item B as stated above;

#### Representers’ proposals

- (e) Representer No. 1 proposed to rezone the representation sites under

Amendment Items B, C1 and C2 to “G/IC” or “Open Space” (“O”);

- (f) Representers No. 2 to 14 had not proposed any amendment to meet their representations;

Assessment of Representations

- (g) the PFSs at Sing Woo Road were the only PFSs serving the Wong Nai Chung area, and had been in operation since 1978 before the completion of some of the adjacent residential developments including Sherwood Court. Amendment Item B was merely to reflect the current use of the site;
- (h) PFSs were subject to control under the Dangerous Goods Ordinance and the location, layout, fire service installations and safety distance of a PFS had to comply with the requirements laid down by the Director of Fire Services (D of FS). The distance between the filling points of the PFSs and the nearby elderly centre/youth centre and the nearest residential building was about 14.8m and 19m respectively, which was greater than the minimum distance of 12m set by the D of FS for separation between a filling point and a domestic premises/premises for vulnerable population, e.g. school, residential home for elderly and hospital;
- (i) operation of PFSs was subject to the control of relevant pollution control ordinances, including the Air Pollution Control Ordinance. The subject PFS was equipped with a vapour recovery system (VRS) to minimize possible release of volatile organic compounds. There would not be significant environmental and health impacts;
- (j) the rezoning of Kwai Sing Lane to ‘Road’ is to reflect the existing road. The rezoning would not have any material change to the use of the site or generate adverse impacts on the surrounding area;

- (k) Representer No.1's proposal to rezone the representation sites under Amendment Item B, C1 and C2 to "G/IC" or "O" was considered not appropriate for the following reasons:
- (i) there was already a surplus of 2.88ha of public open space in the Wong Nai Chung area;
  - (ii) the representation site under Amendment Item B was too small to accommodate any "G/IC" facility;
  - (iii) Kwai Sing Lane was a public road serving the two PFSs at Sing Woo Road and the adjacent residential developments; and

#### Conclusion

- (l) in view of the above assessment, PlanD did not support the part of Representation No. 1 on the objection to Amendment Items B, C1 and C2 and Representations No. 2 to 14.

[Miss Annie Tam left the meeting at this point.]

160. The Chairman then invited the representatives of Representer No.1 to elaborate on the representation.

161. With the aid of a Powerpoint presentation, Mr. Lau Hing Tat, Patrick made the following points:

- (a) Amendment Item A was supported as it did not affect the local environment and residents' livelihood and would cater for the public demand for recreation and sports facilities;
- (b) Amendment Items B, C1 and C2 were not supported as it only reflected the current situation without bringing improvements to the

area in the long term;

- (c) the area along Sing Woo Road was well developed with residential and community uses. For the benefits of the local residents and users of the community facilities, actions should be taken to reduce the traffic in the area and to encourage pedestrian activities. The existing PFSs at Sing Woo Road would attract more traffic to the area and aggravate the congestion and pollution problems;
- (d) there were other PFSs at Wong Nai Chung Gap Road and Tai Hang Road, which were readily accessible to drivers from Happy Valley. There was no need to retain the two PFSs at Sai Woo Road in the long term;
- (e) the area currently occupied by the PFSs and Sing Woo Lane was suitable for the provision of a 'rehabilitation garden' to cater for the need of the nearby community facilities for holding outdoor activities. The area should be rezoned to "OU" annotated "Rehabilitation Garden" to reflect this intention; and
- (f) to respect the rights under the current leases of the PFSs the representer did not request for immediate removal of the existing PFSs at Sing Woo Road. However, it was not appropriate to zone the site for PFS use on the OZP as a long term planning intention.

162. A Member said that the OZP should reflect the long term planning intention and asked whether Amendment Items B, C1 and C2, which were to reflect the existing situation, were necessary. In response, Ms. Brenda Au said that the concerned PFSs were the subject of a planning permission granted in 1977. To reflect the permission, the site was rezoned as "OU(PFS)" in 1978. Amendment Items B, C1 and C2 were mainly to rectify the discrepancy between the previous boundary of the "OU(PFS)" zone and that of the PFSs actually built. The leases of the PFSs would expire in 2020 and it was unlikely that the PFSs would cease operation in the near future. However, the possibility of rezoning the site to other uses in future was not precluded.

163. As the representatives of Representer No. 1 had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing procedures for the representations had been completed. The Board would deliberate and decide on the representations in their absence and inform the representers of the Board's decision in due course. The Chairman thanked the representatives of the Government and Representer No. 1 for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

164. Members generally considered that Amendment Items B, C1 and C2 were acceptable since they were mainly technical amendments to reflect the as-built situation. However, the local residents' concern on having PFSs in the vicinity of residential and community uses should be duly addressed.

165. Mrs Ava Ng suggested and Members agreed that the PlanD should undertake a review on the need to retain the two PFSs at Shing Woo Road in the long term and, if the PFSs were to be relocated, the appropriate use of the site. The Chairman said that the review should be undertaken well ahead of the expiry of the leases for the PFSs.

166. After deliberation, the Board noted the support of Representer No. 1 of Amendment Item A and decided not to uphold the remaining part of the representation for the following reasons:

- (a) the rezoning of part of the PFS site at Sing Woo Road from "G/IC" to 'OU(PFS)' was to reflect the current PFS use at the site. The operation of the PFS was subject to the control of the relevant Ordinances including the Dangerous Goods Ordinance and Air Pollution Control Ordinance. These Ordinances would ensure the compliance with environmental and safety requirements;
- (b) Kwai Sing Lane was an existing public road serving the two PFSs at Sing Woo Road and the adjacent residential developments. The rezoning of it from "G/IC" and "OU(PFS)" to 'Road' was to reflect

the existing road, and would not have adverse impacts on the surrounding areas; and

- (c) as there was an adequate provision of public open space in the Wong Nai Chung Area and the concerned PFS and Kwai Sing Lane were serving the adjacent areas, the proposed rezoning of them to “G/IC” or “O” was considered not appropriate.

167. The Board also decided not to uphold Representations No. 2 to 14 and the reason was:

the rezoning of part of the PFS site at Sing Woo Road from “G/IC” to ‘OU(PFS)’ was to reflect the current PFS use at the site. The operation of the PFS was subject to the control of the relevant Ordinances including the Dangerous Goods Ordinance and Air Pollution Control Ordinance. These Ordinances would ensure the compliance with environmental and safety requirements.

### **Agenda Item 8**

[Open Meeting]

Request for Deferral of Review Application No. A/H18/53  
House (Private Garden) in “Green Belt” zone, Government Land  
Adjoining 8 Big Wave Road, Shek O  
(TPB Paper No. 8078)

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[The meeting was conducted in Cantonese.]

168. The Secretary said that the applicant requested the Board to defer the consideration of the application for two months in order to allow more time for him to prepare a supplementary statement to support the application. The request met the criteria set out in the TPB Guidelines No. 33.

169. After deliberation, the Board agreed to the request for deferment and that the



application should be submitted to the Board for consideration within 3 months upon receipt of further submission from the applicant. The Board also agreed to advise the applicant that a period of two months was allowed for the preparation and submission of further information, and no further deferment would be granted unless under very special circumstances

### **Agenda Item 10**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments on Draft Tai Po Outline Zoning Plan No. S/TP/20  
(TPB Paper No. 8082)

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[The meeting was conducted in Cantonese.]

170. The Secretary said that Mr. Tony C.N Kan and Mr. Stanley Y.F. Wong had declared interests for owning a property in Tai Po. Since the item was for information and hearing arrangement of representations and comments, the interests of Mr. Kan and Mr. Wong were considered indirect. Members noted that Mr. Kan and Mr. Wong had tendered apologies for not attending the meeting.

171. The Secretary briefly introduced the Paper. She said that the draft Tai Po Outline Zoning Plan (OZP) No. S/TP/20 was exhibited for public inspection on 21.12.2007, and a total of 13 representations and 45 comments were received. Since the amendments to the OZP had attracted wide public interests, it was considered more appropriate for the Board to hear the representations and comments without resorting to the appointment of a Representation Hearing Committee. The subject of representations and comments were closely related to the land use zonings at Planning Areas 12 and 40 of Tai Po, and it was suggested that they should be considered collectively at the same meeting. The hearing could be accommodated in the Board's regular meeting scheduled for 30.5.2008.

172. After deliberation, the Board agreed to consider the representations and comments in the manner as proposed in paragraph 2.2 of the Paper.

**Agenda Item 11**

[Open Meeting]

Submission of the Draft Kwun Tong (South) Outline Zoning Plan No. S/K14S/15A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8086)

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[The meeting was conducted in Cantonese.]

173. The Secretary briefly introduced the Paper.

174. After deliberation, the Board agreed that:

- (a) the draft Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/15A and its Notes at Annexes I and II respectively of the Paper were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
- (b) the updated Explanatory Statement (ES) for the draft Kwun Tong (South) OZP No. S/K14S/15A at Annex III of the Paper should be endorsed as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) the updated ES was suitable for submission to the CE in C together with the draft OZP.

**Agenda Item 12**

[Open Meeting]

Submission of the Draft Urban Renewal Authority (URA) Kwun Tong Town Centre (KTTC) - Main Site Development Scheme Plan (DSP) No. S/K14S/URA1/1A and the Draft URA KTTC - Yuet Wah Street Site DSP No. S/K14S/URA2/1A to Chief Executive in Council for

Approval under Section 8 of the Town Planning Ordinance  
(TPB Paper No. 8087)

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[The meeting was conducted in Cantonese.]

175. The Secretary briefly introduced the Paper.
176. After deliberation, the Board agreed that:
- (a) the draft URA KTTC - Main Site DSP No. S/K14S/URA1/1A and the draft URA KTTC - Yuet Wah Street Site DSP No. S/K14S/URA2/1A at Annexes I and II respectively and their Notes at Annexes III and IV respectively of the Paper were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
  - (b) the updated Explanatory Statements (ESs) for the draft URA KTTC - Main Site DSP No. S/K14S/URA1/1A and draft URA KTTC - Yuet Wah Street Site DSP No. S/K14S/URA2/1A at Annexes V and VI respectively of the Paper should be endorsed as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft DSPs and issued under the name of the Board; and
  - (c) the updated ESs were suitable for submission to the CE in C together with the draft DSPs.

**Agenda Item 13**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Further Representations in respect of Draft Yuen Long Outline Zoning Plan No. S/YL/16  
(TPB Paper No. 8088)

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[The meeting was conducted in Cantonese.]

177. The Secretary briefly introduced the Paper. She said that the proposed amendments to the draft Yuen Long Outline Zoning Plan (OZP) No. S/YL/16 to meet Representation No. 5 and to partially meet Representations No. 4 and 6 were exhibited for public inspection on 20.3.2008. Eight further representations were received. As the representations were considered by the Board, it was considered more appropriate for the Board to hear the further representations without resorting to the appointment of a Representation Hearing Committee. The hearing could be accommodated in the Board's regular meeting scheduled for 16.5.2008.

178. After deliberation, the Board agreed to consider the further representations in the manner as proposed in paragraph 2.2 of the Paper.

#### **Agenda Item 14**

[Open Meeting]

Draft Tin Shui Wai Outline Zoning Plan No. S/TSW/11 –  
Confirmation of Proposed Amendments  
(TPB Paper No. 8089)

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[The meeting was conducted in Cantonese.]

179. The Secretary said that on 26.10.2007, the draft Tin Shui Wai Outline Zoning Plan (OZP) No. S/TSW/11 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, three representations were received. On 4.1.2007, the representations were published for public comments. No comment was received. On 14.3.2008, after considering Representations No. 1 and 2, the Board decided to propose amendments to the OZP to partially meet the representations. On 20.3.2008, the proposed amendments were published for further representations. No further representation was received.

180. Members noted that as no further representation was received and in accordance with section 6G of the Ordinance, the OZP should be amended by the proposed amendments as shown at Annex I of the Paper. In accordance with section 6H of the Ordinance, the OZP should be read as including the amendments. The amendments should

be made available for public inspection until the Chief Executive in Council had made a decision in respect of the draft plan in question under section 9. The Building Authority and relevant Government departments would be informed of the decision of the Board and would be provided with a copy/copies of the amendments.

**Agenda Item 15**

[Open Meeting]

Submission of the Draft Tin Shui Wai Outline Zoning Plan No. S/TSW/11A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8090)

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[The meeting was conducted in Cantonese.]

181. The Secretary briefly introduced the Paper.
182. After deliberation, the Board agreed that:
  - (a) the draft Tin Shui Wai Outline Zoning Plan (OZP) No. S/TSW/11A and its Notes at Annexes I and II respectively of the Paper were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
  - (b) the updated Explanatory Statement (ES) for the draft Tin Shui Wai OZP No. S/TSW/11A at Annex III of the Paper should be endorsed as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
  - (c) the updated ES was suitable for submission to the CE in C together with the draft OZP.

**Agenda Item 16**

Any Other Business

183.        There being no other business, the meeting was closed at 5:30 p.m.