

**Minutes of 972<sup>nd</sup> Meeting of the  
Town Planning Board held on 17.12.2010**

**Present**

Permanent Secretary for Development  
(Planning and Lands)  
Mr. Thomas Chow

Chairman

Mr. K.Y. Leung

Mr. Walter K.L. Chan

Mr. B.W. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Dr. James C.W. Lau

Mr. Maurice W.M. Lee

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Professor Eddie C.M. Hui

Dr. C.P. Lau

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Mr. Roger K.H Luk

Professor S.C. Wong

Dr. W.K Yau

Mr. Stephen M.W. Yip

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Mr. Fletch W.W. Chan

Deputy Director of Environmental Protection

Mr. Benny Y.K. Wong

Assistant Director (2), Home Affairs Department

Mr. Andrew Y.T. Tsang

Director of Lands

Miss Annie Tam

Director of Planning

Mr. Jimmy C.F. Leung

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

**Absent with Apologies**

Mr. Stanley Y.F. Wong

Professor Paul K.S. Lam

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Professor P.P. Ho

Ms. Julia M.K. Lau

Professor Joseph H.W. Lee

Dr. W.K. Lo

Ms. Anita W.T. Ma

Ms. Pansy L.P. Yau

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

Chief Town Planner/Town Planning Board  
Miss H.Y. Chu

Senior Town Planner/Town Planning Board  
Miss Vivian M.F. Lai

**Agenda Item 1**

[Open Meeting]

Confirmation of Minutes of the 971st Meeting held on 3.12.2010

[The meeting was conducted in Cantonese.]

1. The minutes of the 971<sup>st</sup> meeting held on 3.12.2010 were confirmed without amendments.

**Agenda Item 2**

[Closed Meeting]

Matters Arising

(i) Town Planning Appeal Decision Received

2. The item was reported under separate confidential cover.

(ii) Town Planning Appeal Statistics

3. The Secretary said that as at 17.12.2010, a total of 24 cases were yet to be heard by the Appeal Board. Details of the appeal statistics were as follows:

Allowed	:	27
Dismissed	:	113
Abandoned/Withdrawn/Invalid	:	142
Yet to be Heard	:	24
Decision Outstanding	:	2
Total		308

**Agenda Item 3**

[Open Meeting]

Submission for Fulfillment of Approval Conditions under Application No. A/DPA/YL-NSW/12

Proposed Golf Course and Residential Development in "Other Specified Uses" annotated "Comprehensive Development and Wetland Enhancement Area 1" and "Site of Special Scientific Interest (1)" zones and an area shown as "Kam Tin River",

Lots 1520 RP, 1534 and 1604 in D.D. 123 and adjoining Government Land, Nam Sang Wai, Yuen Long

(TPB Paper No. 8699)

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[The hearing was conducted in Cantonese.]

Declaration of Interests

4. As the application was submitted by Nam Sang Wai Development Co. Ltd. & Kleener Investment Ltd., a subsidiary of Henderson Land Development Co. Ltd. (HLD), the following Members had declared interests on the item:

- |                         |   |  |
|-------------------------|---|--|
| Mr. Raymond Y.M. Chan   | ) |  |
| Dr. C.P. Lau            | ) | Having current business dealings with HLD  |
| Dr. James C.W. Lau      | ) |  |
| Mr. Clarence W.C. Leung | - | Being a Director of an NGO that recently received a donation from a family member of the Chairman of HLD   |
| Mr. Roger K.H. Luk      | - | Being a member of the Council of the Chinese University of Hong Kong (CUHK) which also received donation from a family member of the Chairman of HLD |

5. Mr. Raymond Y.M. Chan, Dr. C.P. Lau and Dr. James C.W. Lau left the meeting at this point. Members noted that the concerned NGO and CUHK had received many donations from various parties and therefore considered that the interests of Mr. Clarence W.C. Leung and Mr. Roger K.H. Luk were not substantial. Members agreed that Mr. Clarence W.C. Leung and Mr. Roger K.H. Luk could be allowed to stay at the meeting.

[Mr. Fletch W.W. Chan and Mr. Clarence W.C. Leung returned to join the meeting at this point.]

6. Members noted that four replacement pages, i.e. Pages 11 to 14 of the Paper, were tabled at the meeting.

#### Attendance of the Applicant

7. The Secretary informed Members that two letters from the applicant's legal representative dated 15.12.2010 and 16.12.2010 respectively were tabled at the meeting for Members' information.

- (a) in the letter dated 15.12.2010, the applicant's legal representative wrote that they understood that the Board would at its meeting on 17.12.2010 consider the Master Layout Plan (MLP) for the approved development under Application No. A/DPA/YL-NSW/12, which was submitted by the applicant's consultant to the District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL) on 20.9.2010. The legal representative urged the Board to provide the applicant with an opportunity to be heard in relation to the matter so that they could explain their case more fully and in more detail to the Board; and
- (b) in the letter dated 16.12.2010, the applicant's legal representative acknowledged receipt of the reply from the Secretary of the Board inviting them to attend the TPB meeting and a copy of the TPB Paper No. 8699. They, however, indicated that due to the extremely short notice given, the applicant's legal representative and consultants would not be available to be present at the meeting on 17.12.2010 as they already had commitments.

8. The Secretary further said that legal advice was sought on the applicant's request of attending the meeting as stated in his letter of 15.12.2010. According to the legal advice, the Town Planning Ordinance (the Ordinance) did not impose such a duty on the

Board to hear the applicant in connection with considering the fulfilment of approval conditions. However, the Ordinance also did not prohibit the Board from doing so. Thus, it would be for the Board to decide whether it would hear the applicant since the Board had the power to control the procedure of meeting. The Secretariat of the Board informed the applicant on 16.12.2010 that his request would be reported to the Board and if the Board decided to accede to the request, the applicant would be invited to the meeting. The applicant was informed of the scheduled time of consideration of the matter.

9. A Member said that when the applicant submitted on 15.12.2010 his request to attend the meeting, he was aware that the meeting would be scheduled on 17.12.2010, and that therefore the applicant and his representatives should have been prepared and made themselves available to the meeting. Moreover, after receiving his letter of request on 15.12.2010, the Secretariat of the Board replied to him the next day, i.e. 16.12.2010, without any delay, advising the meeting procedure. In view of the above, this Member considered that the applicant's allegation that extremely short notice was given to him by the Board was unfounded. Other Members agreed. The Chairman asked the Secretariat to reply to the applicant refuting the applicant's allegation that extremely short notice to attend the meeting had been given by the Board.

10. In response to another Member's enquiry, the Secretary said that the Ordinance did not impose a duty on the Board to hear the applicant at the meeting to consider fulfilment of planning conditions. It was the Board's practice that the applicant would not be invited to attend the meeting and a copy of the concerned TPB paper would not be delivered to the applicant prior to the meeting. Instead, the relevant TPB paper would be deposited in the Planning Enquiry Counters of the Planning Department (PlanD) for public inspection, and the applicant would be informed of the Board's decision, together with a copy of the Paper and confirmed minutes after the meeting. For the subject case, the TPB Paper 8699 was provided to the applicant one day after receiving his request to attend the meeting. The Secretariat had endeavoured to deliver the applicant a copy of the Paper in advance.

11. Having considered the applicant's request to attend the meeting and his subsequent letter indicating that he would not attend the meeting, the Board agreed to proceed with the case in the absence of the applicant.

### Presentation Session

12. The following representatives of the Planning Department (PlanD) and the Agriculture, Fisheries and Conservation Department (AFCD) were invited to the meeting at this point:

- Ms. Amy Cheung - DPO/TMYL, PlanD
- Ms. Kennie Liu - Town Planner/North, TMYLDPO, PlanD
- Mr. William Chan - Town Planner/Central, TMYLDPO, PlanD
- Dr. Winnie Kwok - Senior Wetland & Fauna Conservation Officer (SW&FCO), AFCD
- Mr. Patrick Lai - Senior Nature Conservation Officer, AFCD
- Mr. K.S. Cheung - Wetland & Fauna Conservation Officer, AFCD

13. The Chairman extended a welcome and invited DPO/TMYL to brief Members on the Paper.

[Miss Annie Tam arrived to join the meeting and Mr. B.W.Chan left the meeting temporarily at this point.]

14. With the aid of a Powerpoint presentation, Ms. Amy Cheung presented the following main points as detailed in the Paper:

- (a) the background and the site context as detailed in paragraph 2 of the Paper were summarised below:

#### *Planning Permission*

- (i) on 1.8.1992, the applicant submitted a planning application No. A/DPA/YL-NSW/12 for a golf course and residential development at the application site. The proposed development included an 18-hole golf course and 2,550 residential units at Nam Sang Wai (NSW Site), as well as a nature reserve at Lut



Chau (Lut Chau Site) which would be conserved and be surrendered to the Government. The total application site area was about 136.9ha, which comprised the NSW Site (115ha) and the Lut Chau Site (21.9ha). At the time of s.16 application, the applicant owned 76.4ha of the NSW Site and the entire 21.9ha of the Lut Chau Site. The NSW site comprised golf course and residential units (about 98.3 ha), proposed open space buffer, vegetated bunds, public roads and school reserves. The applicant also proposed to exchange the land at Lut Chau under his ownership for an equivalent amount of Government land at Nam Sang Wai;

- (ii) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 9.10.1992 and the Town Planning Board (the Board) on review on 11.6.1993. The applicant lodged an appeal against the decision of the Board. On 26.8.1994, the Town Planning Appeal Board (TPAB) allowed the appeal and granted planning permission for the proposed development subject to 27 approval conditions, including the submission and implementation of detailed Master Layout Plan (MLP), Master Landscape Plan (LMP), comprehensive environmental impact assessment (EIA) and implementation of all recommendations of the EIA Study, detailed Habitat Creation Plan and Management Plan off-site environmental mitigation schemes, detailed Drainage Impact Assessment (DIA) and detailed Traffic Impact Assessment (TIA) and provision of access road, etc. In Lut Chau, the appellant was required to build an actively managed nature reserve which would be surrendered to Government. The size of the nature reserve should be extended to 41 ha to include an additional 19.1 ha owned by Government;
- (iii) the Board applied for leave for a judicial review (JR) of the TPAB's decision. The JR was dismissed by the High Court on 28.4.1995 but was allowed by the Court of Appeal on 24.1.1996.

The applicant subsequently lodged an appeal to the Privy Council. TPAB's decision was upheld by the Privy Council on 16.12.1996, subject to the conditions with a five-year validity period starting from the date of the Order of the Privy Council on 19.12.1996 until 18.12.2001;

- (iv) three approvals for extension of time (EOT) for commencement of the subject development had been granted, respectively on 14.12.2001, 8.10.2004 and 28.9.2007. The validity of the planning permission was extended to 18.12.2010. The fourth EOT application was rejected by the RNTPC on 10.12.2010;

#### *Approval Conditions*

- (v) of the 27 approval conditions imposed by the TPAB, 20 conditions required action or confirmation by the applicant; to date, only three of them (i.e. conditions (w), (x) and (y), i.e. on the submission of schematic layout of water mains, confirmation of no mains water for on-site irrigation and reservation of sites for schools respectively) were fulfilled and another three (i.e. conditions (r), (t) and (v), i.e. on the submission of detailed DIA and TIA and confirmation of street fire hydrant respectively) were partially fulfilled;
- (vi) between 2000 and 2007, the applicant had made a number of submissions of MLP, LMP, Environmental Assessment (EA), DIA, TIA, etc. to fulfil the approval conditions. However, all these submissions were considered not acceptable to the relevant departments;
- (vii) on 20.9.2010, the applicant submitted another set of MLP, LMP, EA (covering the environmental and the ecology aspects, and incorporating an Environmental Management and Audit (EM&A) Manual), TIA and DIA in connection with the approval

conditions (c), (d), (f) to (y);

- (viii) it was noted that the modified MLP differed substantially from the approved scheme. On 1.12.2010, the Director of Planning (D of Plan) informed the applicant that the modified MLP deviated substantially from the approved development scheme and therefore could not be considered in the context of fulfilment of condition (c) of the planning permission granted under Application No. A/DPA/YL-NSW/12. Approval condition (c) stipulated that ‘the submission and implementation of a detailed MLP including phasing/ programming of development, schedule of housing type and parking spaces to the satisfaction of the D of Plan or of the Board’;
  - (ix) on 2.12.2010, the applicant submitted a schedule of responses to the departmental comments on the submission which were informally passed to the applicant prior to the formal reply on 1.12.2010;
  - (x) on 6.12.2010, the applicant’s solicitor submitted a letter to the Secretary of the Board stating their disagreement to the views of the D of Plan as set out in the letter of 1.12.2010 and sought to refer the concerned dispute to the Board for consideration pursuant to approval condition (c) of the subject application;
- (b) the modifications and adjustments to the approved scheme as stated by the applicant in his submission on 20.9.2010 were summarised in paragraph 3 of the Paper and shown in Drawings FA-1 and FA-2, and were highlighted below:
- (i) in order to protect the Great Cormorant Roosts in the northern part of the NSW Site, a buffer of 150m was proposed around the major roost sites. This area of 33.35 ha in the northern part of the NSW Site was proposed to be designated as a Wetland

Enhancement Area (WEA). Termination of the commercial fish farming in the WEA was proposed and also the restriction of human access so as to minimize potential disturbance to the wetlands. An area of about 3.45 ha in the northeast of the NSW Site was proposed to be designated as Open Space Buffer;

- (ii) due to the reservation of the northern part of NSW Site for the proposed WEA, the applicant proposed to modify the previously approved 18-hole golf course to a 9-hole golf course and reduce the golf course area from 43 ha to 10 ha. As a result of the change in golf course, he proposed to modify the disposition of water bodies for golf course irrigation and reduce the total area of the water bodies from 13 ha to 2.871 ha;
- (iii) it was proposed that the boundary of NSW Site be modified due to the completion of river training works for Kam Tin River in 1997 and in order to align with the boundary shown in the lot index plan. The area of golf course and residential units at NSW Site would be reduced from 98.3ha to 97.95ha. It was also proposed that the boundary of the Lut Chau Site be modified on the basis of the TPAB's decision in 1994 and the discussions that followed with the Agriculture, Fisheries and Conservation Department (AFCD). The modified Lut Chau Site would have an area of 55.62ha, the boundary of which generally conformed to that of the "Site of Specific Scientific Interest (1)" ("SSSI(1)") zone on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6;
- (iv) since the northern part of the NSW Site was proposed to be reserved as WEA, it was proposed that the houses and apartment blocks be relocated to other parts of the NSW Site. It was also proposed that the disposition of the mid-rise apartment blocks (7 to 8 storeys) in the central part of the NSW Site be adjusted to avoid interfering with flight-paths of birds. It was also proposed

that the building height of the apartment blocks in the north-eastern part of the NSW Site be reduced from 8 storeys to 4 storeys to reduce impact on flight-paths of birds from Tung Shing Lei to the eastern part of the NSW Site;

- (v) the internal access road alignment was modified to suit the modifications of the MLP;
  - (vi) the car parking provision was adjusted to follow the current standards; and
  - (vii) some of the development parameters such as the number of blocks were also modified;
- (c) the Town Planning Board (TPB) Guidelines for ‘Class A and Class B Amendments to Approved Development Proposals’ No. 36A were relevant to the subject case. As stated in paragraph 8 of the said Guidelines, no separate planning application under section 16A(2) would be required for amendments made to the approved development proposal as a result of fulfilling the approval conditions of the planning permission specified by the Board. Should there be disagreement over the fulfilment of the approval conditions between the applicant and the Government departments concerned, the matter would be submitted to the Board for consideration. Besides, in complying with the approval conditions, there should not be major changes to the approved development proposal. A fresh planning application under section 16 would be required if major changes to the approved development proposal were involved;

[Mr. Andrew Y.T. Tsang arrived to join the meeting at this point.]

- (d) departmental comments on the applicant’s submission on 20.9.2010 regarding the compliance with approval conditions were summarized in paragraphs 6 of the Paper and highlighted below:

*Condition (c) - MLP*

- (i) the Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD) noted that the modified MLP substantially deviated from the approved scheme due to the change in the overall development concept. The master layout, locations/dispositions of the proposed houses/ apartment buildings, scale and location of the proposed golf course etc had been changed substantially. He considered the modified MLP unsatisfactory due to the congested layout of the residential portion and insufficient provision of communal open space;
- (ii) the Chief Architect/Advisory and Statutory Compliance, Architectural Services Department (CA/A&SC, ArchSD) advised that it would be useful if the applicant could provide some perspective artwork images/photomontages showing the proposed development in relation to its surrounding context from different vantage points to assess its visual impact;

*Condition (d) - LMP*

- (iii) CTP/UD&L, PlanD commented that the applicant should provide further information for comparing the total building area, greenery coverage, soft and hard landscape areas, and public and private open space provisions of the two schemes. He noted that the landscape layout was more congested with most of the greening in the residential area in private gardens, which was under the discretion of the individual house owners when the houses were occupied. He considered that the LMP was not acceptable from the landscape planning perspective;

[Mr. B.W. Chan returned to join the meeting at this point.]

*Conditions (h) to (q) – EIA: Environmental Impact, Conservation Plan*

*and Off-site Pollution Control*

- (iv) the Director of Agriculture, Fisheries and Conservation (DAFC) considered that the submission was unable to demonstrate the environmental acceptability of the proposed development regarding the potential ecological impacts. It was pointed out by the applicant that wetland loss due to the proposed development would be mitigated by enhancement and long-term management in the Lut Chau Nature Reserve (LCNR), NSW WEA as well as Open Space Buffer and the principle of 'no-net-loss in wetland function' could be achieved. However, given that the proposed development would involve extensive loss of wetland area and function in the NSW Site, there was insufficient information provided to demonstrate whether the wetland enhancement and management proposal as suggested could fully compensate such large-scale wetland loss. He did not support that the EA Study could fulfil the planning conditions (h) to (q) from the ecological point of view;
- (v) the Director of Environmental Protection (DEP) advised that:
- regarding the water quality issue, the applicant should include a sewerage impact assessment (SIA) to demonstrate the connection to the public sewer was technically feasible. Regarding the noise issue, the applicant should demonstrate in the EA Study that noise arising from some active industrial activities of the Yuen Long Industrial Estate and potential noise arising from the new access road and the nearby existing roads was not a concern and all relevant requirements would be met;
  - the applicant should demonstrate that the water ponds were large enough to cater for heavy rainstorms and the perimeter earth bund should be considered as the last line of defence in

the extreme situations that the ponds failed to contain the rain water;

- however, one of the most important environmental issues associated with this proposed development was ecological impacts. He trusted DAFC would advise on the adequacy of the ecological mitigation measures, its implementation and its long-term sustainability;

- (vi) the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) advised that the NSW WEA and the LCNR should not form part of the future land grant. They should be created, maintained and managed as a unit separated from the residential estate at the developer's own expense. He also advised that the proposed Habitat Creation Plan and Habitat Management Plan for the NSW WEA and the LCNR and their implementation should be subject to the satisfaction of the Board or relevant departments possessing expertise in nature conservation;

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

*Condition (r) – DIA*

- (vii) the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advised that:
  - the site (including Lut Chau and Nam Sang Wai) acted as an existing floodplain during heavy rainstorms. The proposed development would reduce the area of floodplain and induce an adverse impact on the performance of Shan Pui River and Kam Tin Main Drainage Channel. The applicant should explain in the DIA report as to how such impact could be minimized;



- the proposed formation level at Lut Chau and the proposed works were not described in detail in the DIA report;
- the applicant should explain clearly in the DIA the details of how the Golf Course Area would work as a retention pool during rainstorms;
- as the proposed link bridge across Kam Tin Main Drainage Channel formed part of the development, the applicant was required to evaluate the hydraulic impact that would be caused by the entire development including the link bridge imposed on the river/drainage system as a whole;
- additional runoff would be discharged directly to the Kam Tin River connecting the Shan Pui River and Kam Tin Main Drainage Channel. The applicant was required to include the assessment of the hydraulic performance of the rivers;
- given the above comments, the submitted DIA was not considered satisfactory;

*Conditions (s) to (u) – Traffic matters*

- (viii) the Commissioner for Transport (C for T) advised that traffic congestion had occurred frequently at Pok Oi Interchange in peak hours in the past several months. The applicant should revise the calculations in Pok Oi Interchange in the TIA by conducting a traffic survey again during peak hours. As such, the submitted TIA was not considered acceptable;
- (ix) the Chief Highway Engineer/New Territories West, Highways Department (CE/NTW, HyD) advised that the application site might interface with the planned cycle track project along Nam Sang Wai Road. The applicant was advised to seek comment

from Civil Engineering and Development Department (CEDD);

*Condition (v) – Emergency Vehicular Access and Fire Safety*

- (x) the Director of Fire Services (D of FS) had no objection to the proposed development subject to the provision of water supplies for fire fighting, emergency vehicular access (EVA) and fire service installations to his satisfaction;

*Conditions (w) and (x) – Water Supply*

- (xi) the Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD) advised that a layout plan showing the alignment of the proposed water mains from the existing water mains into the development area should be provided. It was mentioned in the submission that water points would be provided throughout the site for irrigation. However, no information was given on the source of water for such proposal. According to condition (x), no mains water should be used for on-site irrigation. As such, the applicant should provide details on the source of water for irrigation purpose for his further comment;

*Condition (y) – Schools*

- (xii) the Secretary for Education (SED) stated that the proposed kindergarten and a primary school were sufficient for the estimated population of the project, and that the provision of one secondary school was acceptable;

*Other Aspects*

- (xiii) the Project Manager/New Territories North and West, CEDD (PM/NTN&W, CEDD) was concerned about the interface between the proposed development and the Government projects

such as the planned cycle track along Nam Sang Wai Road;

- (e) the planning considerations and assessments as detailed in paragraph 7 of the Paper were highlighted as below:
  - (i) while approval condition (c) on the modified MLP was to the satisfaction of D of Plan or of the Board, the other concerned approval conditions (related to LMP, EIA, DIA and TIA) were contingent upon the acceptance of the modified MLP. The applicant challenged D of Plan's decision of 1.12.2010 that the modified MLP submitted on 20.9.2010 deviated substantially from the approved scheme and therefore could not be considered in the context of fulfilment of condition (c) of the planning permission granted under Application No. A/DPA/YL-NSW/12. D of Plan also indicated that the LMP, EA, DIA and TIA, submitted together with the modified MLP, which were all based on the modified MLP, also could not be considered in the context of fulfilment of the corresponding conditions;
  - (ii) the applicant stated that the modifications made to the MLP were to achieve the alternative ecological mitigation scenario and the equivalent nature conservation objectives as a result of discussions with the AFCD. While DAFC still considered that the submitted EA report could not demonstrate the environmental acceptability of the development regarding the potential ecological impact, the crux of the issue was whether the changes involved were material and substantial, so much so that the resultant modified MLP could not be considered under the context of the planning approval;
  - (iii) the approved scheme was generally a golf course cum residential development. The golf course would be spread over the NSW Site, with the residential blocks interwoven among the fairways of the golf course in separate and distinct clusters which were well

spaced out. However, as shown in the modified MLP, all of the residential blocks of 2,550 units were concentrated at the central and southern parts of the NSW Site mainly in one big cluster and in a congested manner. The golf course was substantially reduced from 43 ha to 10 ha (18 to 9 holes) and relocated. Its layout had also been modified from being spread over the whole NSW Site to confining along the eastern and southern edges of the residential cluster, with the associated water bodies also substantially reduced from 13 ha to 2.87 ha. Moreover, a WEA of 33 ha had been introduced at the northern part of the site. The development concept of the proposed development had changed entirely from a mixed development of golf course cum residential uses to a basically residential development with ancillary golf course facilities. The layout for the internal roads also deviated substantially from that of the approved scheme;

- (iv) technically speaking, the modified MLP was also not acceptable. CTP/UD&L of PlanD considered the modified MLP unsatisfactory from the urban design point of view due to the congested layout, as the residential portion was relocated and confined within a smaller area of about 50 ha, and there was insufficient provision of communal open space. Condition (c) on the submission of MLP was therefore not considered satisfactorily fulfilled;
  
- (v) the relevant departments also indicated that the submission of technical reports was not satisfactory for the purpose of compliance with the approval conditions (d) and (f) to (w). The applicant had confirmed in 2004 that no mains water would be used for on-site irrigation. This was accepted by WSD and was still valid. Thus condition (x) remained to be regarded as fulfilled. SED had also accepted the submission on condition (y) regarding reservation of school sites, which was previously accepted in 2004;

- (vi) regarding the LMP under condition (d), CTP/UD&L of PlanD considered the submission not acceptable from the landscaping planning perspective. While the applicant had not provided sufficient information for comparing the modified scheme and the approved scheme, he commented that the landscape layout of the modified scheme was more congested compared with the approved scheme;
  
- (vii) on environmental matters, DEP considered that insufficient information had been provided in the reports to demonstrate compliance with conditions, including a SIA to demonstrate the connection to public sewer was technically feasible; to address the potential traffic noise impact from the new access road and the nearby existing roads; and to demonstrate that the water ponds were large enough to cater for heavy rainstorms and the perimeter earth bund was able to contain surplus runoff during heavy rainstorm. On the ecological aspects, he would defer to DAFC to render his advice on these aspects. DLO/YL also said that the proposed Habitat Creation and Management Plan for the NSW WEA and the LCNR and their implementation should be subject to the satisfaction of the Board or relevant departments possessing relevant expertise. In this regard, DAFC raised a number of problems and concerns on the EA, especially on the effectiveness of the proposed ecological mitigation measures. He was of the view that there was insufficient information to demonstrate whether the wetland enhancement and management proposal as suggested could fully compensate the large area of wetland loss;
  
- (viii) CE/MN of DSD considered the submitted revised DIA not satisfactory. C for T considered the submitted TIA not acceptable. D of FS commented that detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans. CE/Dev(2), WSD commented that the applicant

had not provided a layout plan showing the alignment of the proposed water mains into the development areas, nor details on the source of water for using of irrigation, despite that an earlier schematic layout of water mains was accepted by DWS in 2004;

- (ix) in view of the above, the following approving authorities maintained that the conditions which they were respectively responsible for could not be regarded as satisfactorily fulfilled:
- D of Plan for conditions (c), (d) and (n) on detailed MLP, detailed LMP and open perimeter planting;
  - DEP for conditions (h), (k), (o) to (q) on comprehensive environmental impact assessment, pest management plan, detailed plans for Kam Tin River Reed Bed Treatment System and Yuen Long Nullah Screening Plant;
  - D of Lands for conditions (i) to (j), (l) to (m) on detailed Habitat Creation Plan and detailed Habitat Management Plan, and detailed plans for LCNr;
  - DDS for condition (r) on detailed DIA and for part of condition (t) on diversion of underground utilities;
  - C for T for conditions (s) to (u) on detailed TIA, provision of access road and road improvement;
  - D of FS for condition (v) on EVA and street fire hydrant; and
  - DWS for conditions (w) and (x) on the provision of water mains; and
- (f) Members were invited to consider whether the modified MLP for the subject proposed development submitted by the applicant on 20.9.2010

constituted a major deviation from the scheme approved by the TPAB on 26.8.1994, and to note that the technical reports, including the modified MLP, LMP, EA Study, DIA and TIA, submitted by the applicant on 20.9.2010 were considered not acceptable by the relevant departments, and conditions (c), (d), (f) to (y) could not be regarded as satisfactorily complied with.

### Discussion Session

15. The Secretary drew Members' attention to the four points raised by the applicant's legal representative in his letter of 15.12.2010, which were as follows:

- (a) the MLP submitted in the course of the original planning application should not be cast in stone – a MLP could not be considered in isolation of the related and essential technical assessments and supports. That contention was supported by, among other things, the very fact that condition (c) of the planning permission in 1994 required the submission and implementation of a detailed MLP to the satisfaction of the D of Plan or of the Board;
- (b) the present adjustments to the approved MLP were necessitated by the need to satisfy other conditions imposed by the TPAB in 1994;
- (c) it would, therefore, be a derogation from grant if on the one hand, the applicant was granted planning permission for the NSW development, whereas on the other hand they were prevented from fulfilling some of the planning conditions; and
- (d) the modified MLP could effectively improve the approved MLP in terms of planning, environmental and ecological considerations. The main parameters of the planning permission, e.g. total domestic site coverage, total domestic GFA, total commercial GFA, total number of units, all remained unchanged under the modified MLP. Hence it would be most unreasonable to require the applicant to slavishly adhere to the approved

MLP.

16. Noting that the subject application was approved fourteen years ago, a Member asked whether the applicant had explained why there was such a long delay in commencing the scheme.

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

17. In response, Ms. Amy Cheung, said that the applicant had in its fourth EOT, which was considered by the RNTPC on 10.12.2010, explained the reasons for the delay in commencement of the approved development. The applicant explained that, in devising measures to mitigate wetland loss, a much longer time than earlier expected was required to comply with the planning conditions in light of the complicated requirements and 'philosophical' requests from concerned government departments. Given the history and unique nature of the approved development, the applicant considered that the assessment of the EOT request should be considered based on individual merits instead of a blanket application of TPB Guidelines No. 36A. The applicant said that he had paid effort to submit various technical assessments over the years, though they were not considered acceptable by concerned departments. Another explanation for the fourth EOT was to allow time for the applicant to respond to the ecological concerns of the environmental-non-government organisations.

18. The same Member enquired whether the applicant of the subject case could modify the MLP of the approved scheme when fulfilling the technical conditions of the planning permission. In response, Ms. Amy Cheung said that while approval condition (c) of the modified MLP was to the satisfaction of D of Plan or of the Board, the other technical conditions (related to LMP, EIA, DIA and TIA) were contingent upon the acceptance of the modified MLP. In this regard, PlanD considered that the modified MLP submitted on 20.9.2010 deviated substantially from the approved scheme and therefore could not be considered in the context of fulfilment of condition (c) of the planning permission granted under Application No. A/DPA/YL-NSW/12. The LMP, EA, DIA and TIA, submitted together with the modified MLP, which were all based on the modified MLP, could not be considered in the context of fulfilment of the corresponding conditions.



19. Ms. Amy Cheung continued by pointing out that the applicant stated in his submission in September 2010 that the modifications made to the MLP of the approved scheme were to achieve the alternative ecological mitigation scenario and the equivalent nature conservation objectives as a result of discussions with the AFCD. However, DAFC still considered that the submitted EA report could not demonstrate the environmental acceptability of the development regarding the potential ecological impact.

20. Regarding the ecological issues of the proposed development, Dr. Winnie Kwok, SW&FCO of AFCD, made the following points:

- (a) there was no change in AFCD's stance in assessing development proposals involving wetland in the Deep Bay Area;
- (b) the approved scheme would involve extensive loss of wetland area and function in the NSW Site. All along, AFCD had concerns whether the wetland enhancement and long-term management in the LCNR as suggested by the applicant could mitigate the large-scale wetland loss and whether the principle of no-net-loss in wetland could be achieved. AFCD had conveyed the above concerns to the applicant during their discussions;
- (c) the applicant had updated the ecological baseline study and found that there were changes in the ecological conditions of the application site since its approval in 1996. The applicant had considered the importance of the Great Cormorant roosting ground and the large reed beds in the NSW Site and proposed to modify the development scheme based on the updated ecological baseline study; and
- (d) the applicant also proposed to modify the development scheme by taking into account the principles of the TPB Guidelines No. 12B on 'Application for Developments within Deep Bay Area under section 16 of the Ordinance', which was promulgated in April 1999. According to the TPB Guidelines, development should require minimum pond filling and be located as far away from the Deep Bay as possible. In this connection, it was noted from the applicant's modified scheme that the residential

portion of the development was concentrated in the central and southern part of the NSW site and the size of the golf course was reduced. In addition, to simplify the management of the wetland habitat, the applicant had also proposed changes to the mitigation measures to be implemented in LCNR from lagoons and fresh water ponds to fish ponds.

21. On fulfilment of conditions, Miss Annie Tam, the Director of Lands referred to paragraph 7.9 of page 14 of the Paper and clarified that the proposed Habitat Creation Plan and Habitat Management Plan for the NSW WEA and the LCNR and their implementation under conditions (i), (j), (l) and (m) should be subject to the satisfaction of the Board or relevant departments possessing expertise in the subject matters and LandsD did not have such expertise.

22. A Member asked whether the modified MLP had improvements over the approved scheme from the ecological point of view. In response, Ms. Amy Cheung said that as presented by the applicant, the modifications made to the MLP were to achieve the alternative ecological mitigation scenario and the equivalent nature conservation objectives as a result of discussions with the AFCD. However, as mentioned earlier, DAFC still considered that the submitted EA report could not demonstrate the environmental acceptability of the development regarding the potential ecological impact. More importantly, the crux of the matter was that whether the changes involved were material and substantial, so much so that the so called modified MLP was in fact a completely different scheme and could not be considered under the context of the planning approval. In this regard, it was clearly laid down in the TPB Guidelines No. 36A that in complying with the approval conditions, there should not be major changes to the approved development proposal. A fresh planning application under section 16 would be required if major changes to the approved development proposal were involved.

[Dr. Winnie S.M. Tang left the meeting at this point.]

23. Another Member enquired about the changes in the area and boundary of the Lut Chau Site and the area of waterbody in the NSW Site. In response, Ms. Amy Cheung said that in the approved scheme, the Lut Chau Site formed part of the current “SSSI(1)” site and had an area of 41ha, with 21.9ha owned by the appellant and 19.1ha owned by the

Government. In the modified scheme submitted by the applicant on 20.9.2010, it was proposed that the area of the Lut Chau Site be increased to 55.6ha, with its boundary generally conforming to that of the “SSSI(1)” zone on the OZP. Regarding the area of waterbody in the NSW site, Ms. Cheung referred to Drawings FA-1 and FA-2 and said that the waterbody area related to the golf course was reduced from 13ha to 2.87ha, and there was new provision of 33.35ha WEA in the modified MLP.

24. Dr. Winnie Kwok supplemented the following main points:

- (a) from the ecological point of view, the modified scheme fared better than the approved scheme in that the loss of wetland area was reduced. Nevertheless, AFCD still had reservation on the modified scheme because 54ha of wetland, which was equivalent to some 60% of the total wetland area in the NSW site, would still be lost. It was doubtful whether such wetland loss would fulfil the principle of minimum pond filling laid down in the TPB Guidelines No. 12B;
- (b) according to the applicant, there were new target species found in the updated baseline study, and the fish ponds, being a suitable habitat for the target species, were proposed in the LCNR. AFCD had no adverse comment on this aspect; and
- (c) on the boundary of the LCNR, the applicant proposed to include the intertidal mangrove into the LCNR which followed the approved plan. The applicant proposed to keep that natural mangrove habitat intact in the management plan. AFCD had no strong views on this proposal.

#### Deliberation Session

25. In response to a Member’s enquiries, the Secretary briefed Members of the background of the Application No. A/DPA/YL-NSW/12 and the matter that the Board had to decide on at this meeting:

- (a) following the Privy Council’s judgement, approval of the subject

application was given in 1996 with validity period for five years up to 2001. The validity of the planning permission had been extended three times up to 18.12.2010. Therefore, a total of fourteen years had been granted in terms of validity of the planning approval. The fourth EOT application was rejected by the RNTPC on 10.12.2010;

- (b) on 20.9.2010, the applicant submitted a set of modified MLP, LMP and technical assessments to discharge the approval conditions. The LMP and technical assessments were all based on the modified MLP. While the D of Plan considered that the modified MLP constituted major changes to the approved scheme, concerned departments also advised that the technical assessments were unsatisfactory and the conditions which they were respectively responsible for could not be regarded as satisfactorily fulfilled;
- (c) at this meeting, the Board was invited to consider whether the modified MLP had constituted major changes from the scheme approved by the TPAB. According to approval condition (c), the applicant was required to submit and implement a detailed MLP to the satisfaction of the D of Plan or of the Board. On 1.12.2010, the D of Plan informed the applicant that the modified MLP deviated substantially from the approved scheme and therefore could not be considered in the context of fulfilment of condition (c). The applicant did not agree to the views of the D of Plan and sought to refer the dispute to the Board for consideration; and
- (d) the comments of the concerned government departments on the technical submissions made by the applicant on 20.9.2010 and their views on whether the approval conditions which they were responsible for could be regarded as fulfilled were presented to the Board for information.

26. The Secretary went on to say that where a planning permission was granted under section 16, 17 or 17B of the Ordinance, amendments to the approved development proposals were provided for under section 16A. The TPB Guidelines 36A set out the types of amendments and the application procedures and assessment criteria. According to the

TPB Guidelines, no separate planning application under section 16A(2) would be required for amendments made to the approved development proposal as a result of fulfilling the approval conditions of the planning permission specified by the Board. However, in complying with the approval conditions, there should not be any major changes to the approved development proposal. It was not the intention nor was it reasonable to allow for substantial changes in the course of complying with approval conditions which would result in an entire different development scheme. A fresh planning application under section 16 would be required if major changes to the approved development proposal were involved. The crux of the matter was not whether the modified scheme was a better one, but whether it constituted major changes and thus deviated substantially from the approved scheme.

27. Upon request of the Chairman, the Secretary provided the following information relating to the four points raised by the applicant's letter of 15.12.2010:

- (a) the applicant explained that the approved MLP should not be cast in stone and it was supported by the very fact that condition (c) of the planning conditions approved by TPAB required the submission and implementation of a detailed MLP to the satisfaction of D of Plan or the Board. In this regard, it should be noted that as set out in the TPB Guidelines No. 36A, no separate planning application under section 16A(2) of the Ordinance would be required for amendments made to the approved development proposal as a result of fulfilling the approval conditions of the planning permission specified by the Board. Hence, the MLP of the approved scheme was not cast in stone and there was scope to fine-tune the MLP under the context of fulfilment of planning conditions. However, as stated in the same Guidelines, in complying with the approval conditions, there should not be major changes to the approved development proposal. A fresh planning application under section 16 would be required if major changes to the approved development proposal were involved. This was to ensure that the resultant scheme would not deviate substantially from the approved scheme so much so that fresh public consultation and assessment would be warranted ;

- (b) the applicant explained that adjustments to the approved MLP were necessitated by the need to satisfy other conditions imposed by the TPAB in 1994. In this regard, it was noted that the modifications to MLP of the approved scheme were mainly made to address the ecological concerns. However, the crux of the matter was whether the modification constituted major changes to the approved development proposal and necessitated the submission of a fresh section 16 application;
- (c) the applicant alleged that there would be derogation from grant if on the one hand planning permission was granted to the applicant whereas on the other hand the applicant was prevented from fulfilling some of the planning conditions. In this regard, Members were invited to consider the background of the planning permission, the applicant's effort in complying with the conditions in the past fourteen years and whether solutions to address the various issues had been exhausted; and
- (d) on the modified MLP, while AFCDD considered it an improvement ecologically since more wetland could be preserved, CTP/UD&L considered it unsatisfactory due to the congested layout with the residential portion relocated within a smaller area and the insufficient provision of communal open space. Moreover, ArchSD required further information from the applicant for the assessment of its visual impact.

28. The Chairman pointed out that the consideration at this meeting should be premised on the principles of the TPB Guidelines No. 36A, i.e. whether the modified MLP constituted major changes to the approved one. If the modified MLP deviated substantially from the approved scheme, be it a better scheme or not, it should be scrutinised by way of a fresh planning application under section 16 of the Ordinance.

29. A Member said that as shown in the modified MLP, the proposed golf course was relocated to the southern and eastern edge of the NSW site. Such modification might not comply with approval condition (e) which stipulated that 'the NSW site should not be partitioned as to enable the 'Golf Course' to form a separate sub-division'. In response, Ms. Amy Cheung, DPO/TMYL, remarked that approval condition (e) was written to govern the

lease aspect of the approved scheme, which was for a golf course with residential development interwoven among the fairways of the golf course. This was to ensure that the regrant NSW site should not be sub-divided. The Member said that the modified MLP with clear delineation of the proposed golf course and the residential development would be susceptible to divided leases upon land exchange, and this might violate the intention of approval condition (e).

30. In response to another Member's question on the relevant consideration in assessing compliance of conditions and EOT for commencement of development, the Secretary drew Members' attention to TPB Guidelines No. 36A and 35B (35B on EOT for Commencement of Development) respectively and made the following main points:

- (a) under TPB Guidelines No. 36A which were promulgated after the commencement of the Town Planning (Amendment) Ordinance (TP(A)O), EOT for commencement of development was a Class B amendment. The period of extension, or the aggregate of all the periods of extensions, should not exceed the original duration for commencement of development of the approved development proposal. As the subject case was approved (in 1996) prior to the commencement of the TP(A)O and the first promulgation of the said TPB Guidelines (No. 36) (in 2005), the original duration for commencement of such approved development should be taken as the duration allowed in the last approval given by the TPB or the D of Plan under the delegated authority of the TPB, as set out in the Practice Note for Professional Persons No. 5/2005. In this regard, an EOT for commencement was granted to the applicant by the Board in 2004 for a period of three years. Taking into account the requirements set down in TPB Guidelines No. 36A and the Practice Note, an EOT for commencement for another three years was given by D of Plan in 2007 until 18.12.2010;

[Mr. Maurice W.M. Lee arrived to join the meeting at this point.]

- (b) according to TPB Guidelines No. 35B, the criteria for assessing applications for EOT for commencement of development included

whether there had been any material change in planning circumstances since the previous permission was granted, whether the commencement of development was delayed due to some technical/practical problems which were beyond the control of the applicant, or whether the applicant had demonstrated that there was a good prospect to commence the proposed development within the extended time limit. The RNTPC had deliberated on the fourth EOT application and considered that:

- (i) the applicant failed to demonstrate why the conditions could not be fulfilled within fourteen years. The RNTPC noted that ecological assessment and wetland management plan were common conditions for development in the Deep Bay area and some other projects like the Fung Lok Wai development proposal managed to obtain AFCD's acceptance to the environmental impact and conservation plan, and thus had complied with the concerned conditions;
- (ii) the applicant failed to demonstrate why the conditions could not be fulfilled within fourteen years and that there was a reasonable prospect for commencing the development approved under Application No. A/DPA/YL-NSW/12 in 1996 within the extension period being applied for; and
- (iii) a number of events resulting in changes in the planning circumstances had happened in the past fourteen years, including the growing public awareness towards environmental protection, the completion of the "Study on the Ecological Value of Fish Ponds in Deep Bay Area" in 1997, the introduction of the EIA Ordinance in 1998, the promulgation of the TPB Guidelines No. 12B for 'Application for Developments within Deep Bay Area' in 1999, the rezoning of part of the application site to "Other Specified Uses" annotated "Comprehensive Development and Wetland Enhancement Area 1" in 2001, and the new conservation policy promulgated by the Environment Bureau in 2004. In



addition, as advised by AFCD at the meeting, the ecological baseline conditions of the site had been changed over the past decade.

31. A Member opined that the modified MLP had constituted major changes from the approved scheme in terms of the proposed layout of the golf course and residential units and the area of the proposed wetland and golf course. This view was shared by another Member who noted that there were also major changes in the area and management plan for the LCNR.

32. A Member said that it was obvious that the modified MLP involved major changes to the approved scheme. Under the principles of TPB Guidelines No. 36A, a fresh section 16 application was required if the applicant would like to proceed with the modified MLP. This Member also noted the departmental views that the other technical conditions were not regarded as satisfactorily fulfilled.

33. As Members had no further question and comments, the Chairman thanked the representatives of PlanD and AFCD for attending the meeting. They left the meeting at this point.

34. After deliberation, the Chairman summed up Members' views that there were major changes involved in the modified MLP and that according to the TPB Guidelines No. 36A, a fresh planning application would be required as major changes to the approved development proposal were involved. Members agreed.

35. After further deliberation, the Board decided that the modified MLP for the proposed development submitted by the applicant on 20.9.2010 constituted major changes to the scheme approved by the TPAB on 26.8.1994 and noted that the technical reports, including the modified MLP, LMP, EA Study, DIA and TIA, submitted by the applicant on 20.9.2010, were considered not acceptable by the relevant departments, and conditions (c), (d), (f) to (w) could not be regarded as satisfactorily complying with.

[Ms. Anna S.Y. Kwong, Mr. B.W. Chan and Mr. Laurence L.J. Li left the meeting at this point.]

#### **Agenda Item 4**

[Open Meeting]

‘Building our Kai Tak River’ Public Engagement

(TPB Paper No. 8690)

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[The hearing was conducted in Cantonese.]

#### **Presentation Session**

36. The following representatives of the Civil Engineering and Development Department (CEDD), Drainage Services Department (DSD) and Planning Department (PlanD) were invited to the meeting at this point:

Mr. Stephen Tang	-	Head (Kai Tak Office), CEDD
Mr. Anthony Lo	-	Chief Engineer/Kowloon, CEDD
Mr. Peter Mok	-	Senior Engineer/Kowloon, CEDD
Mr. K.S. Tong	-	Senior Engineer/Project Management (SE/PM), DSD
Miss Ida H.K. Lau	-	Engineer/Project Management, DSD
Mr. Eric Yue	-	District Planning Officer/Kowloon, PlanD

37. The Chairman extended a welcome and invited the representatives of CEDD to brief Members on the subject matter. Mr. Stephen Tang, Head (Kai Tak Office), CEDD introduced Mr. Peter Mok to present the public engagement on ‘Building our Kai Tak River’.

38. With the aid of a Powerpoint presentation, Mr. Peter Mok made the following key points:

#### *Background*

- (a) the existing Kai Tak Nullah was about 2.4 km in length. It flowed from Po Kong Village Road along Choi Hung Road, then passed Tung Tau Estate and San Po Kong into Kai Tak Development Area before

discharging into Victoria Harbour. The nullah was one of the major flood relief drainage channels in East Kowloon area;

- (b) as the water quality in the nullah gradually improved upon intercepting the sewage effluent discharge at the upstream section, many members of the public referred to the nullah as “Kai Tak River”. There was a general desire to revitalise the nullah into a special green river and townscape feature;
- (c) the Government was carrying out the design of the Kai Tak Nullah improvement and planned to start the flood protection works of the upstream section (Po Kong Village Road to Tai Shing Street) in 2011 ;
- (d) the vision was to turn the Kai Tak River into an attractive green river corridor through urban areas, with space provided for leisure and public activities serving the community while meeting the local flood protection needs;
- (e) Kai Tak River was a primary drainage channel in East Kowloon and its capacity should be adequate to accommodate the stormwater collected and the treated effluent being discharged under the Tolo Harbour Effluent Export Scheme. On the above basis, the following design principles were proposed:
  - (i) Kai Tak River, with enhanced visual quality and image, would serve as a unique urban and landscape axis linking and integrating the old urban districts and the new development areas in Kai Tak Development; and
  - (ii) Kai Tak River would become a place of interest for public activities such as leisure, recreation, education and community art, which would match with the adjoining land uses and developments;

- (f) the upstream section (Po Kong Village Road to Tai Shing Street) had a length of 400m and a width of 5 to 10m. The drainage capacity of the upstream section was inadequate and flooding occurred in the surrounding areas during heavy rains. Improvement works of the upstream would start first. The midstream section (Tai Shing Street to Prince Edward Road East) had a length of about 700m and width of 10 to 20m, whereas the downstream section (within Kai Tak Development Area) had a length of about 1.3km and width of 20 to 30m;
- (g) in general, the improvement works would bring about opportunities to enhance greening and landscaping facilities, and improve the townscape and connection with adjacent areas. In the midstream and downstream sections, public space could also be increased for landscape, leisure and various community purposes. The downstream section constituted an element of Kai Tak Development forming a landscape axis to link up the old and new districts;
- (h) however, for the upstream and midstream sections, the existing buildings and roads on both sides of the nullah might pose restriction on the design of landscape and related facilities. The significant increase in water depth during heavy rain would pose potential hazard to people near the nullah. Moreover, although the water quality was improved, it was not suitable for direct human contact due to public health consideration;
- (i) reference would be made to local and overseas examples in designing Kai Tak River such as Cheonggyecheon in Seoul, South Korea; Sumida River in Tokyo, Japan; Pai Hong Runway in Shenzhen and Shing Mun River in Shatin;

#### *Two-stage Public Engagement Programme*

- (j) the objective of the Stage 1 Public Engagement Programme was to raise public awareness of the project, consult the public and set the approach regarding the design principles and theme of the Kai Tak River. In

addition to briefing the Board and other consultative bodies, two community envisioning workshops were organised on 11 and 18 December 2010; and

- (k) the objective of the Stage 2 Public Engagement Programme was to build consensus on the design approaches. The views collected from Stage 1 would be consolidated, reviewed and analysed for deciding on the appropriate design approaches. Consultative meetings or workshops would be arranged at mid-2011 to present the consolidated views, and to seek consensus on the proposed design approaches on greening and townscape.

[Mr. Felix W. Fong left the meeting at this point.]

#### Discussion Session

39. A Member opined that the Kai Tak River should be designed as a theme river. Without a specific theme, it would not be attractive to visitors and would only remain and function as a nullah. This Member then quoted some examples of theme rivers outside Hong Kong, which were popular and well attended by visitors. They were rivers in South Korea and the Pearl River in Guangzhou where light effects were used to increase the visual interest of the rivers, and the rivers in Japan where Sakura were planted along the river banks. As Kai Tak River was the only watercourse remaining open in the urban area and the local people were very proud of it, consideration should be given to promote the Kai Tak River as a landmark of the district. In this connection, this Member enquired about the main focus of the Kai Tak River and whether the sewage effluent would be discharged to the river.

40. A Member commented that parts of the nullah were very close to public housing estate blocks with good accessibility. It was also observed that some elderly people fished along the banks of the nullah. This Member considered that the Kai Tak River should be designed to provide space for the public to enjoy their leisure activities such as fishing, jogging, and strolling along the river banks. This Member also suggested to provide jogging trails along the river banks and to adopt a design with minimal fencing /

barrier for allowing easy accessibility to the river.

41. While echoing the above views, a Member suggested to plant more trees along the river banks to provide pleasant sitting out areas for the local people and visitors.

42. A Member said that odour had been a problem of the Kai Tak Nullah in the last two decades, and that was why the local people had tried to deck over it. In recent years, with the water quality of the nullah improved, the local community had supported the concept of enhancing the nullah into a green river. Nevertheless, the odour problem, although not so serious as before, still existed. While supporting the concept of having the Kai Tak River to link up and integrate the old urban districts and the new development areas in Kai Tak, this Member had concerns whether the future water quality of the river would be up to standard and the kinds of safety measures that would be provided.

43. Another Member enquired about the future depth of the Kai Tak River.

44. A Member said that as the Kai Tak River would primarily serve as a drainage channel with stormwater runoff, the water flow of the river would pose safety problem to its visitors. In view of the above, this Member considered that the main theme of the river should be for passive, rather than active, recreational use, and landscape features such as tree planting, water features and bridges should be provided for visual enhancement of the river. This Member also opined that in order to minimize the odour problem which would occur when there was no or little water in the river, there should be measures to ensure that there would be running water in the river all the time.

45. A Member concurred with the proposals suggested by the previous Member and opined that the key issue was to eliminate the odour problem of the river.

46. In response to the Members' enquires and suggestions, Mr. Stephen Tang, Head (Kai Tak Office), CEDD, made the following main points:

- (a) considering the site context and technical feasibility, the project team of the Kai Tak River was confident that it could turn the Kai Tak Nullah into an attractive green river corridor. It should be noted that the flood relief

function would be provided by open channel and underground drains, not solely by the river itself;

- (b) with the provision of tree planting, provision for cycling and other interesting landscape features in appropriate locations, the Kai Tai River would become a pleasant outdoor space for the public to enjoy their leisure activities;
- (c) the Wong Tai Sin District Council (WTSDC) had been consulted on the design concept of the Kai Tak River. One of the suggestions of WTSDC was to use the river banks to exhibit community art, taking into account that there were local artists working in the nearby industrial buildings in San Po Kong. It was noted that there were successful examples of using river banks for art exhibitions, such as Suzhou Creek in Shanghai. In Hong Kong, there was also display of artwork along the waterfront promenade in Kwun Tong initiated by a community group. The proposal of having art exhibitions along the river banks were well supported by the project team;
- (d) over 300,000 m<sup>3</sup> of treated effluent were discharged daily from the Sha Tin and Tai Po Sewage Treatment Works into the Kai Tak River. This had ensured that there would be running water in the river all the times. Moreover, the large volume of treated effluent would dilute the polluted discharge from misconnections to the stormwater drainage system. Nevertheless, the water quality was still not suitable for direct contact.
- (e) the river would be designed to ensure the rise in water level during rainstorms would not endanger visitors;
- (f) there was a general objective to create a barrier-free public space as far as practical whilst the public safety could be safeguarded. Various design measures could be employed to deter entry at certain parts of the river;
- (g) the quality of water in the nullah might not be suitable for growing plant. However, plant alongside the river banks would be feasible; and

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

- (h) the project team had close liaison with the WTSDC and the Transport Department to tackle the traffic issue and maintain sufficient public space along the river for public enjoyment.

47. On water quality, Mr. K.S. Tong, SE/PM, DSD, said that apart from storm water, Kai Tak Nullah also received some polluted flow from improper connections in the hinterland. To improve the water quality in the nullah, DSD, in the past decades, had taken a series of measures such as constructing dry weather flow interceptors to intercept the polluted flow back to the existing sewer network and implementing the Tolo Harbour Effluent Export Scheme, whereby treated effluent from Shatin and Tai Po Sewage Treatment Works was conveyed to the nullah for continuous flushing. Although water quality of the nullah had been significantly improved, it was still not suitable for direct human contact due to public health consideration. It was hoped that through enforcement action over illegal discharges and enhancement in public education on the proper way to discharge sewage, the water quality in the river could be further improved. In response to a Member's question, Mr. K.S. Tong said that the Tolo Harbour was a semi-enclosed water body and discharge of treated effluent into it would cause deterioration in water quality and eutrophication, whereas the strong tidal flush of the Victoria Harbour could better dilute and disperse the treated effluent.

48. A Member praised the design concept of the nullah improvement works. This Member pointed out that many open drainage channels, including those along Canal Road, Waterloo Road and Pratas Street, had been decked over. The Kai Tak Nullah was the only open drainage channel left in the urban areas and the proposed improvement works to turn it into an attractive space for public enjoyment was well supported. To make the river a local landmark, this Member suggested planting native species such as *Bauhinia variegata* along the river banks.

49. A Member also rendered support to the proposed improvement works to the nullah. This Member added that as evident in the New Territories *fung shui* ponds where there were plants and no odour problem, planting of vegetation along the nullah could help



mitigate the odour. This Member also commented that it was a pity that human access was barred in many of the fountains and ponds in Hong Kong and such approach should be discouraged in the subject river improvement works.

50. Mr. Stephan Tang welcomed the comments from Members on the improvement of the Kai Tak Nullah. In response to the urge for a no-barrier river, he said that the project team was exploring the measures that could ensure safety without creating a visual nor psychological barrier, e.g., provision of reflection pool and planting so as to create buffers between the river and the visitors.

51. As Members had no further question and comments, the Chairman thanked the government representatives for attending the meeting. They left the meeting at this point.

### **Agenda Item 5**

[Open Meeting (Presentation and Question Sessions Only)]

Review of Application No. A/YL-LFS/202

Proposed Land Filling (by 1.2m) for Agricultural Use in “Green Belt” zone, Lot 715 in D.D. 129, Mong Tseng Tsuen, Lau Fau Shan, Yuen Long  
(TPB Paper No. 8693)

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[The hearing was conducted in Cantonese.]

52. Members noted that five replacement pages (pages 4, 5, 7, 9 and 10) to the Paper were tabled at the meeting.

### **Presentation and Question Sessions**

53. The following representatives of the Planning Department (PlanD) and of the applicant were invited to the meeting at this point:

Ms. Amy Cheung - District Planning Officer/Tuen Mun and Yuen long  
(DPO/TMYL), PlanD

- Mr. Anthony Lee - Senior Town Planner/North (STP/N), TMYLDPO,  
PlanD
- Mr. Wong Pak Tong - Applicant
- Ms. Wong Pui Chi - Applicant's representative

54. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TMYL to brief Members on the background to the application on review.

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

55. With the aid of a Powerpoint presentation, Mr. Anthony Lee presented the application on review and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for a proposed land filling (by 1.2m) for agricultural use at a site zoned "Green Belt"("GB") on the approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP);
- (b) on 27.8.2010, the Rural and New Town Planning Committee (RNTPC) rejected the application for the following reasons:
  - (i) the proposed materials for filling, including boulders as a substratum, were not suitable for farming; and
  - (ii) the site would be higher than the surrounding areas after the proposed land filling. The applicant failed to justify the need to fill up the site and the filling depth being applied for, and to demonstrate that the proposed land filling would not have adverse drainage and landscape impacts on the surrounding area;
- (c) the justifications from the applicant in support of the review application were summarised in paragraph 3 of the Paper;
- (d) departmental comments on the review application were summarised in

paragraph 5 of the Paper and highlighted as follows:

- (i) the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the filling of the site with boulders and construction and demolition (C&D) materials for agricultural uses as the said materials were not suitable for farming. However, if the applicant proposed to remove the C&D wastes from the site and to fill the site with cultivable soil for agricultural use, he would have no comment on the application;
  - (ii) the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) had no objection to the review application, but advised that the applicant's drainage proposal was conceptual and far too simple to be adopted as a proper drainage proposal. He requested the applicant to propose, implement and maintain a drainage system for the proposed development to his satisfaction;
  - (iii) the Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD) maintained her reservation on the application. Despite the applicant's commitment to remove the construction debris on-site, the proposed land filling by 1.2m would still significantly change the existing topography and landscape environment. As such, a landscape proposal should have been submitted to demonstrate that sufficient landscape mitigation measures would be provided after the land filling to minimize the adverse landscape impacts. The applicant had not addressed such concerns;
- (e) during the statutory publication period, a public comment was received from a Yuen Long District Council member objecting to the review application on the grounds that the remaining fish ponds in Yuen Long should be conserved and, as there was plenty of agricultural land in Yuen Long already, the applicant should consider using the existing agricultural

land for cultivation first;

(f) PlanD's views - PlanD did not support the review application based on the assessments set out in paragraph 7 of the Paper, which were summarised below:

(i) although agricultural use in the "GB" zone was always permitted, land filling at the site required planning permission from the Board primarily to ensure that it would not result in adverse landscape and drainage impacts on the adjacent areas. According to the TPB Guidelines for Application for Development within the "GB" under s.16 of the Town Planning Ordinance (TPB PG-No.10), any proposed development in the "GB" zone should not affect the existing natural landscape, and should not adversely affect drainage or aggravate flooding in the area. There was also a general presumption against development within the "GB" zone. New developments within the "GB" zone would only be considered in exceptional circumstances and must be justified with very strong planning grounds;

(ii) the applicant initially applied to fill the site with 0.6m depth of agricultural soil on top of 0.6m depth of boulders (total 1.2m filling depth) for agricultural use at the application stage, but now proposed to fill the site with agricultural soil up to the ground level (about 5.3mPD) of the residential dwelling to its east instead. He had also committed to remove the C&D materials currently being dumped (to a height exceeding 3m high) on-site. In this regard, DAFC no longer had any adverse comment on the application. But CTP/UD&L maintained her reservation on the application as the 1.2m filling depth would still change the existing topography and cause significant landscape impacts to the existing environment. Also, as the filled site would still be higher than the adjoining areas to its northeast and southwest, surface runoff would flow to these surrounding areas. CE/MN of DSD advised that the applicant's

drainage proposal was far too simple and conceptual to be adopted as a proper drainage proposal and advised that a drainage system should be provided for the proposed land filling;

- (iii) the applicant pointed out at the application stage that the site was low-lying, and the proposed land filling was intended to prevent agricultural soil from spilling outside the site. The site was (before the occurrence of the unauthorized dumping on-site) indeed at the lowest level (+4.5mPD) in the locality which was about 0.8m below the level of the residential dwelling to its east, about 0.4m below the level of the adjoining unused land to its northeast, about 1.1-6.9m below the level of Deep Bay Road to its west through north, and about 0.2-2.7m below the level of the access road leading to Mong Tseng Tsuen to its south. The applicant clarified at the review stage that the site was sloping and the filling depth being applied for was from 0.8m to 1.2m. Even if the applicant were to remove the C&D materials currently being dumped on-site and proceed to fill the site to a depth of 0.8m to 1.2m as proposed, the site would still be at least 0.6-0.8m higher than the adjoining areas to its immediate northeast and southwest upon the proposed land filling. In this respect, the applicant had not provided any justification for the depth of filling being applied for;
  
- (iv) there was a similar application No. A/YL-LFS/132 for land filling for agricultural use approved by the Board on 19.8.2005 within the same "GB" zone, taking into consideration that the applicant was a genuine farmer, the proposed extent of land filling was acceptable, and that the proposed Dragon Fruit orchard could be regarded as a planning gain. As there was neither proof that the current applicant was a genuine farmer nor any planning gain associated with the current application, and the current applicant failed to justify the 0.8m to 1.2m filling depth being applied for, the similar application could not be drawn as a parallel. It should be noted that the proposed agricultural use at the site of Application No. A/YL-LFS/132 had not

materialized to date. C&D materials were also found at the site of Application No. A/YL-LFS/132 in end 2008; and

(v) one adverse public comment was received against the review application.

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

57. Mr. Wong Pak Tong made the following main points:

- (a) after graduation from primary school, he was a practising farmer in the mainland until he came to Hong Kong when he was seventeen years old. Since then he had worked as a welder. Now he had retired and did not have any hobbies other than farming. He wanted to pick up farming again;
- (b) he bought the site in 1986 and knew that it was susceptible to flooding problem, particularly during heavy rain and in high tides when there were backflow of seawater into the site. However, without sufficient money, he did not fill the land until now when he planned to cultivate his plot of land;
- (c) drains would be provided on the site to link up the existing drains in the surrounding area. The drainage situation in the area would not be adversely affected by his proposed land filling; and
- (d) the depth of land filling would not be more than 1.2m. The proposal was conceptual at this stage as he had not undertaken any detailed assessment. Once obtaining approval from the Board, he would employ a surveyor to carry out detailed survey and follow the requirements set out by the Board.

58. A Member raised the following questions:

- (a) the applicant clarified in the review application that the level of proposed

land filling on the site was from 0.8m to 1.2m. If the site was filled by 0.8m, it would be at the same level as the residential dwelling to its east. Whether land filling of the site by 0.8m was considered acceptable; and

- (b) whether the applicant had identified other agricultural land, which did not require land filling, for cultivation.

59. In response, Ms. Amy Cheung, DPO/TMYL said that the site was at a level of 4.5mPD. Even if the site was only filled by 0.8m, it would still be higher than the adjoining areas to its immediate northeast and southwest.

60. Mr. Wong Pak Tong said that as the site level was low and susceptible to flooding, it had to be filled for agricultural use. The level of land filling as indicated in his submission was an approximate figure. He also pointed out that he would follow the Board's requirements after obtaining the planning approval.

61. A Member enquired about the present level of the site after the unauthorized dumping, and remarked that as shown the aerial photo in Plan R-3 of the Paper, the site was vegetated.

62. By referring to the photos in Plan R-4 of the Paper and some recent photos of the site as shown in the visualizer, Mr. Anthony Lee, STP/N, PlanD, said that dumping of C&D materials and boulders were found mainly on the northern part of the site. Reinstatement Notice (RN) was issued by the Planning Authority, and some C&D materials and boulders were subsequently removed from the site. Ms. Amy Cheung, DPO/TMYL added that as the aerial photo was taken in December 2009, it did not reflect the latest situation of the site. From the recent site photos taken, the ground was barren. The site level at present was more than the original 4.5mPD but she did not have the information on the latest level of the site as no such survey had been undertaken.

63. Miss Annie Tam, Director of Lands (D of Lands), asked the applicant when did he acquire the land and why he would allow dumping of C&D materials on it. In reply, Mr. Wong Pak Tong said that the land was bought in 1986 and was left unattended. Now he had retired and wanted to use the land for farming. As the site was low-lying, it had to be

filled to a level suitable for cultivation. He said that after seeking the Board's approval, he would cover a layer of top soil for vegetable farming.

64. Upon clarification, Mr. Wong Pak Tong said that he bought the land in 1986, and the transfer of title was executed in 1997 as stated in the application form.

65. In response to D of Lands's question, Ms. Amy Cheung, DPO/TMYL said that the site was zoned "GB" since the exhibition of OZP No. S/YL-LFS/3 on 31.3.2000.

66. As the applicant and his representative had no further comment to make and Members had no further question to raise, the Chairman informed the applicant and his representative that the hearing procedures for the review had been completed and the Board would further deliberate on the application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant, his representative and PlanD's representatives for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

67. Miss Annie Tam, D of Lands, said that the application site was held under old schedule agriculture lot whereby there was no restriction against farming or land filling. She noted that Mr. Wong Pak Tong said that he had acquired the land in 1986, before the zoning of it into "GB".

68. A Member said that in submitting a planning application, an applicant should provide sufficient information to address the possible impacts of the proposed development and suggest the appropriate measures to mitigate the impacts. For the subject case, the applicant did not carry out any assessment and failed to demonstrate that the proposed land filling would not have adverse drainage and landscape impacts on the surrounding area. This Member considered that there was no reason to support the review application. The above views were shared by other Members.

[Professor Eddie C.M. Hui left the meeting at this point.]



69. A Member pointed out that although there was no restriction for the proposed land filling under the lease, the applicant had to apply permission from the Board under the “GB” zone on the OZP. In the application, the applicant should demonstrate to the Board that the proposal could not cause any adverse impacts on the environment. Nevertheless, the applicant had failed to do so. Moreover, as the applicant had already undertaken land filling of the site without the Board’s permission, it could be classified as a ‘destroy first and build later’ case.

[Dr. W.K Yau and Ms. Maggie M.K. Chan left the meeting at this point.]

70. In response to a Member’s question, the Secretary said that although agricultural use in the “GB” zone was always permitted, land filling at the site required planning permission from the Board primarily to ensure that it would not result in adverse landscape and drainage impacts on the adjacent areas. In this connection, CTP/UD&L maintained her reservation on the application as the proposed land filling would significant change the existing topography and landscape environment. DSD also considered that the applicant’s drainage proposal was far too simple and conceptual to be adopted as a proper drainage proposal.

71. In response to the Chairman’s question, the Secretary said that even if the application was approved, the applicant would still have to observe the requirement of the RN issued by the Planning Authority.

[Mr. Andrew Y.T. Tsang left the meeting at this point.]

72. The Chairman said that the application could not be supported as the site would be higher than the surrounding areas after the proposed land filling and there was insufficient information in the submission to demonstrate that the proposed land filling would not have adverse drainage and landscape impacts on the surrounding area. Members agreed.

73. Members then went through the reason for rejecting the review application as stated in paragraph 8.1 of the Paper and considered that it was appropriate.

74. After further deliberation, the Board decided to reject the application on review for the following reason:

The site would be higher than the surrounding areas after the proposed land filling. The applicant failed to justify the need to fill up the site and the filling depth being applied for, and to demonstrate that the proposed land filling would not have adverse drainage and landscape impacts on the surrounding area.

[Mr. Walter K.L. Chan left the meeting at this point.]

### **Agenda Item 6**

[Open Meeting]

Request for Deferral of Review of Application No. A/YL/139-1

Proposed Class B Amendments to the Approved Master Layout Plan under Application No. A/YL/139 – Proposed Comprehensive Commercial/Residential Development and Proposed Vehicular/Pedestrian Bridge with Retail Use in "Comprehensive Development Area" zone and an Area shown as "Road", Yuen Long Town Lot No. 507, Area 15, Yuen Long Town (TPB Paper No. 8695)

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[The meeting was conducted in Cantonese.]

### **Declaration of Interest**

75. The following Member had declared interest on the item:

Mr. Y.K. Cheng - Had current business dealings with Sun Hung Kai Properties Ltd. (SHK). The application was submitted by a subsidiary of SHK.

76. As the item was to consider a request for deferment received from the applicant, Members agreed that Mr. Y.K. Cheng could stay in the meeting.

77. The Secretary briefly introduced the Paper. The applicant sought review of the Rural and New Town Planning Committee's decision on 28.5.2010 to impose an approval

condition (g), i.e. 'the design and provision of noise mitigation measures to the satisfaction of the Director of Environmental Protection or of the Town Planning Board.' in approving the proposed Class B amendments to the approved master layout plan under Application No. A/YL/139 for a proposed comprehensive commercial/residential development and proposed vehicular/pedestrian bridge and retail use at the application site. The Board agreed to defer a decision on the review application on 17.9.2010 at the request of the applicant. On 22.11.2010, the applicant wrote to the Secretary requesting to defer making a decision on the review application for another two months to allow time for the applicant to continue the liaison with concerned parties on the condition relating to noise mitigation measures. The request was in compliance with the criteria for deferment as set out in the TPB Guidelines No. 33.

78. The Board agreed to defer consideration of the review application as requested by the applicant pending the submission of further information from the applicant. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicant. The Board also agreed to advise the applicant that a maximum period of four months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

### **Agenda Item 7**

[Open Meeting]

Request for Deferral of Review of Application No. A/NE-LYT/422

Temporary Warehouses (excluding Dangerous Goods Godown) for a Period of 3 Years in "Residential (Group C)" and "Agriculture" zones, Lots 755, 835 S.B ss.1, 836, 837, 838 RP, 841 RP, 842 RP, 844 RP and 854 in D.D. 83, No. 31A Ma Liu Shui San Tsuen, Fanling (TPB Paper No. 8691)

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[The meeting was conducted in Cantonese.]

79. The Secretary briefly introduced the Paper. On 13.8.2010, the Rural and New Town Planning Committee approved the application for temporary warehouses (excluding dangerous goods godown) for a period of three years with approval conditions, amongst

others, that no operation between 7pm to 7am was allowed on the application site during the planning approval period, no operation on Sundays and public holidays was allowed on the application site during the planning approval period and no heavy goods vehicles/container vehicles were allowed to enter the application site at any time during the planning approval period (approval conditions (a) to (c) respectively). The applicant sought review of approval conditions (a) to (c). On 7.12.2010, the applicant wrote to the Secretary requesting to defer making a decision on the review application for two months to allow time for the applicant to address the environmental issues in its planning statement. The request was in compliance with the criteria for deferment as set out in the TPB Guidelines No. 33.

80. The Board agreed to defer consideration of the review application as requested by the applicant pending the submission of further information from the applicant. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicant. The Board also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

### **Agenda Item 8**

[Open Meeting]

Request for Deferral of Review of Application No. A/NE-LYT/423

Temporary Warehouses (excluding Dangerous Goods Godown) for a Period of 3 Years in and "Residential (Group C)" and "Agriculture" zones, Lots 756, 792 RP, 803 RP, 838 S.A, 839, 840, 841 S.A, 842 S.A, 843 and 844 S.A in D.D. 83, No. 31A

Ma Liu Shui San Tsuen, Fanling

(TPB Paper No. 8692)

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[The meeting was conducted in Cantonese.]

81. The Secretary briefly introduced the Paper. On 13.8.2010, the Rural and New Town Planning Committee approved the application for temporary warehouses (excluding dangerous goods godown) for a period of three years with approval conditions, amongst

others, that no operation between 7pm to 7am was allowed on the application site during the planning approval period, no operations on Sundays and public holidays was allowed on the application site during the planning approval period and no heavy goods vehicles/container vehicles were allowed to enter the application site at any time during the planning approval period (approval conditions (a) to (c) respectively). The applicant sought review of approval conditions (a) to (c). On 7.12.2010, the applicant wrote to the Secretary requesting to defer making a decision on the review application for two months to allow time for the applicant to address the environmental issues in its planning statement. The request was in compliance with the criteria for deferment as set out in the TPB Guidelines No. 33.

82. The Board agreed to defer consideration of the review application as requested by the applicant pending the submission of further information from the applicant. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicant. The Board also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

### **Agenda Item 9**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Tai Long Sai Wan Development Permission Area Plan No.DPA/SK-TLSW/1  
(TPB Paper No. 8696)

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[The meeting was conducted in Cantonese.]

### **Declaration of Interest**

83. The following Member had declared interest on the item:

Mr. Stephen M.W. Yip - Being a former consultant to the Executive Committee of the Sai Kung Rural Committee

(SKRC). The Chairman of SKRC had submitted a representation (R3) and SKRC had submitted a comment (C1),

84. As the item was procedural in nature and no deliberation was required, Members agreed that Mr. Stephen M.W. Yip could stay in the meeting.

85. The Secretary reported that on 6.8.2010, the draft Tai Long Sai Wan Development Permission Area Plan No.DPA/SK-TLSW/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, a total of 350 representations were received. On 22.10.2010, the representations were published for three weeks for public comments. A total of 4 comments were received. It was suggested that the representations and comments should be heard collectively in one group by the full Board because all of them were mainly related to the conservation of the natural landscape of Tai Long Sai Wan and the land use zoning to be designated in the future OZP.

86. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of representations and comments as detailed in paragraph 2 of the Paper.

### **Agenda Item 10**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Central District Outline Zoning Plan No. S/H4/13  
(TPB Paper No. 8697)

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[The meeting was conducted in Cantonese.]

### **Declaration of Interest**

87. The following Members had declared interests on the item:

Mr. Jimmy C.F. Leung as the Director of Planning	- Being non-executive directors of the Urban Renewal Authority (URA), the
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- and  
Ms. Annie Tam  
as the Director of Lands
- implementation agent of the Central Market site. The rezoning of the Central Market site was subject to representations (R1 to R4)
- Mr. Andrew Tsang  
as the Assistant Director  
of the Home Affairs  
Department
- Being an assistant to the Director of Home Affairs who was a non-executive director of the URA
- Mr. Maurice W.M. Lee
- Being a former non-executive director of the URA with the term of office ended on 30.11.2008
- Mr. Raymond Y.M.Chan
- Having current business dealings with Swire Pacific Ltd (SPL), Sun Hung Kai Properties Ltd. (SHK), Henderson Land Development Co. Ltd. (HLD) and Hong Kong & China Gas Co. Ltd.. Pacific Place Holdings Ltd, a subsidiary of SPL had submitted a representation (R6). IFC Development Ltd, a joint venture of SHK, HLD and the Hong Kong and China Gas Co. Ltd., had submitted a representation (R8)  
Being a Member of the Home Purchase allowance (HPA) Appeals Committee
- Mr. Felix Fong
- Having current business dealings with Hutchison Whampoa Ltd. (HWL) and SHK.  
Turbo Top Limited, a subsidiary of HWL, had submitted a representation (R7).  
IFC Development Ltd, a joint venture of SHK, HLD, and the Hong Kong and China Gas Co. Ltd., had submitted a representation (R8)
- Mr. Y.K. Cheng
- Having current business dealings with SHK.  
IFC Development Ltd, a joint venture of SHK, HLD, and the Hong Kong and China Gas Co. Ltd., had submitted a representation (R8)
- Dr. C.P. Lau and
- Having current business dealings with HLD

- Dr. James C.W. Lau and Hong Kong & China Gas Co. Ltd. IFC Development Ltd, a joint venture of SHK, HLD, and the Hong Kong and China Gas Co. Ltd., had submitted a representation (R8)
- Ms. Julia M.K. Lau - Being a former employee of SHK. IFC Development Ltd, a joint venture of SHK, HLD, and the Hong Kong and China Gas Co. Ltd., had submitted a representation (R8)
- Mr. Clarence W.C. Leung - Being a Director of an NGO that recently received a donation from a family member of the Chairman of HLD IFC Development Ltd, a joint venture of SHK, HLD, and the Hong Kong and China Gas Co. Ltd., had submitted a representation (R8)
- Mr. Roger K.H. Luk - Being a member of the Council of the Chinese University of Hong Kong which also received donation from a family member of the Chairman of HLD IFC Development Ltd, a joint venture of SHK, HLD, and the Hong Kong and China Gas Co. Ltd., had submitted a representation (R8)
- Ms. Maggie M.K. Chan - Being a Member of the HPA Committee

88. As the item was procedural in nature and no deliberation was required, Members agreed that the above Members could stay in the meeting. Members noted that Ms. Julia M.K. Lau had tendered apologies for not attending the meeting; and Mr. Andrew Tsang, Mr. Raymond Y.M. Chan, Mr. Felix Fong, Dr. C.P. Lau, Dr. James C.W. Lau and Ms. Maggie M.K. Chan had left the meeting already.

89. The Secretary reported that on 16.7.2010, the draft Central District Outline Zoning Plan No. S/H4/13 was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, a total of 8 representations were received. On 24.9.2010, the representations were published for three weeks for public comments. A total of seven comments were received. It was suggested to arrange the



hearing of representations into two groups by the full Board as follows:

- (a) Group 1 : collective hearing for 5 representations (R1 to R5) and 5 comments (C1 to C5) related to the rezoning of the Central Market and/or Murray Building site; and
- (b) Group 2 : collective hearing of 6 representations (R1 to R2 and R5 to R8) and 4 comments (C1 to C2 and C6 to C7) related to the rezoning of the Pacific Place, Cheung Kong Center and International Financial Center sites.

90. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of representations and comments as detailed in paragraph 2 of the Paper.

### **Agenda Item 11**

[Open Meeting]

Submission of the Draft Tuen Mun Outline Zoning Plan No. S/TM/27A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8688)

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[The hearing was conducted in Cantonese.]

### **Declaration of Interests**

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

- |  |   |   |
|--|---|---|
| Mr. Rock C.N. Chen                                     | - | His family member owned properties in Tuen Mun  |
| Dr. C.P. Lau   | - | Owned a property in Tuen Mun and Being a Tuen Mun District Council Member   |
| Mr. Benny Y.K. Wong<br>Being the Deputy<br>Director of | - | The Environmental Protection Department was the responsible government department for the zoning amendments for the centralized |

Environmental  
Protection

incineration facility  
(OZP No. S/TM/26) and  
a resource recovery park at Tuen Mun  
Area 38 (OZP No S/TM/21)

92. As the item was procedural in nature and no deliberation was required, Members agreed that the above Members could stay in the meeting. Members noted that Mr. Rock C.N. Chen had tendered apologies for not attending the meeting; and Dr. C.P. Lau and Mr. Benny Y.K. Wong had left the meeting already.

93. The Secretary briefed Members on the background of the draft Tuen Mun Outline Zoning Plan (OZP) as detailed in the Paper.

94. After deliberation, the Board:

- (a) agreed that the draft Tuen Mun OZP No. S/TM/27A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Ordinance to the Chief Executive in Council (CE in C) for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Tuen Mun OZP No. S/TM/27A at Annex III of the Paper as an expression of the planning intentions and objectives of the Board for various land-use zonings on the draft OZP and to be issued under the name of the Board; and
- (c) agreed that 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 Ting Kok Outline Zoning Plan No. S/NE-TK/16A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8689)

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[The hearing was conducted in Cantonese.]

**Declaration of Interests**

95. Some of the representations and comments in respect of the draft Ting Kok OZP No. S/NE-TK/16 were concerned with a spa resort hotel development proposed by Wheelock Properties Ltd (WPL). The following Members had declared interests on this item.

Mr. Roger K.H. Luk and Mr. Stephen M.W. Yip	-	Having current business dealings with WPL
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96. As the item was procedural in nature and no deliberation was required, Members agreed that the above Members could stay in the meeting.

97. The Secretary briefed Members on the background of the draft Ting Kok Outline Zoning Plan (OZP) as detailed in the Paper.

98. After deliberation, the Board:

- (d) agreed that the draft Ting Kok OZP No. S/NE-TK/16A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Ordinance to the Chief Executive in Council (CE in C) for approval;
- (e) endorsed the updated Explanatory Statement (ES) for the draft Ting Kok OZP No. S/NE-TK/16A at Annex III of the Paper as an expression of the planning intentions and objectives of the Board for various land-use

zonings on the draft OZP and to be issued under the name of the Board;  
and

- (f) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

**Agenda Item 13**

- 99. The item was reported under separate confidential cover.

**Agenda Item 14**

Any Other Business

[The meeting was conducted in Cantonese.]

- 100. There being no other business, the meeting was closed at 12:40pm.