

**Minutes of 977th Meeting of the
Town Planning Board held on 11.3.2011**

Present

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

Chairman

Mr. Stanley Y.F. Wong

Vice-chairman

Mr. K.Y. Leung

Mr. Walter K.L. Chan

Mr. B.W. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Professor Eddie C.M. Hui

Dr. C.P. Lau

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Mr. Roger K.H. Luk

Ms. Anita W.T. Ma

Professor S.C. Wong

Ms. Pansy L.P. Yau

Dr. W.K. Yau

Mr. Stephen M.W. Yip

Deputy Director of Environmental Protection (1)
Mr. Benny Wong

Assistant Director (2), Home Affairs Department
Mr. Andrew Tsang

Director of Lands
Mr. Jeff Lam

Director of Planning
Mr. Jimmy Leung

Deputy Director of Planning/District
Miss Ophelia Wong

Secretary

Absent with Apologies

Ms. Maggie M.K. Chan

Mr. Y.K. Cheng

Dr. James C.W. Lau

Mr. Maurice W.M. Lee

Professor P.P. Ho

Ms. Julia M.K. Lau

Professor Joseph H.W. Lee

Dr. W.K. Lo

Dr. Winnie S.M. Tang

Principal Assistant Secretary (Transport 3)
Transport and Housing Bureau
Mr. Fletch Chan

In Attendance

Assistant Director of Planning/Board
Miss H.Y. Chu (ag)

Chief Town Planner/Town Planning Board
Ms. Christine K.C. Tse (am)

Town Planner/Town Planning Board
Ms. Johanna W.Y. Cheng (am)

Senior Town Planner / Town Planning Board
Ms. Maggie Chin (pm)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 976th Meeting held on 25.2.2011

[The meeting was conducted in Cantonese.]

1. The minutes of the 976th Meeting held on 25.2.2011 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

Town Planning Appeal Decision Received

Town Planning Appeal No. 8 of 2010 (8/10)

Temporary Outdoor Mini-Motorcycle Ground with Ancillary Barbecue Area for a Period of 3 Years in “Agriculture” Zone, Lots 1811(Part), 1812(Part), 1813, 1814(Part) and 1815 S.A. to S.D. and S.E. to S.J. (Part) in D.D. 117 and Adjoining Government Land, Wong Nai Tun Tsuen, Yuen Long (Application No. A/YL-TT/248)

2. The Secretary reported that the subject appeal was lodged by the Appellants on 7.5.2010 against the Town Planning Board’s (the Board) decision to reject on review an application (No. A/YL-TT/248) for temporary outdoor mini-motorcycle ground with ancillary barbecue area for a period of 3 years at a site zoned “Agriculture” (“AGR”) on the approved Tai Tong Outline Zoning Plan No. S/YL-TT/14.

3. The appeal was dismissed by the Town Planning Appeal Board (TPAB) on 1.3.2011 as the Appellants and their authorized representative had failed to appear at the hearing. The onus was on the Appellants to persuade the Appeal Board that the Appeal should be allowed but the Appellants did not appear at the hearing and there was no one to present the Appeal.

Appeal Statistics

4. The Secretary reported that as at 11.3.2011, 21 cases were yet to be heard by the Town Planning Appeal Board. Details of the appeal statistics were as follows:

Allowed	:	27
Dismissed	:	116
Abandoned/Withdrawn/Invalid	:	148
Yet to be Heard	:	21
<u>Decision Outstanding</u>	:	<u>2</u>
Total	:	314

Agenda Item 3

[Open Meeting]

Planning Enforcement under the Town Planning Ordinance

TPB Paper No. 8753

[The meeting was conducted in Cantonese.]

5. The following Government representatives were invited to the meeting:

Ms. Phyllis Li Assistant Director of Planning/Special Duties,
Planning Department (PlanD)

Mr. Kelvin Chan Chief Town Planner/ Central Enforcement and
Prosecution Section (CEPS), PlanD

6. The Chairman said that the briefing was about planning enforcement actions undertaken by PlanD under the Town Planning Ordinance (the Ordinance). Another related matter about ways to tackle the ‘destroy first, build later’ situation would be submitted to the Board for discussion in due course. PlanD’s representatives were invited to brief Members on the paper.

7. Ms. Phyllis Li gave an introduction and said that the briefing would provide Members with information about the enforcement provisions under the Ordinance, a summary account of enforcement actions undertaken by CEPS of PlanD as well as the interface of planning enforcement actions with the statutory functions of the Board.

8. With the aid of a powerpoint presentation, Mr. Kelvin Chan made the following main points as detailed in the paper:

Enforcement Provisions under the Town Planning Ordinance

- (a) before 1990, there were no planning enforcement provisions in the Ordinance. Statutory planning control was confined to the existing and potential urban areas. Control of uses in the rural New Territories was mainly through Block Crown Lease. In the Melhado Case (1983), the High Court ruled that the user clauses in Block Crown Lease were only 'descriptive', which meant that the use of agricultural land could no longer be effectively controlled through the Block Crown Lease. The Melhado Case had led to extensive conversion of agricultural land into container yards and open storage sites;
- (b) the Town Planning (Amendment) Ordinance 1991 was enacted on 25.1.1991 to extend statutory planning control to cover the rural areas in the New Territories. The Board was empowered to designate the rural areas in the New Territories as Development Permission Areas (DPAs) for the preparation of statutory plans. Areas covered by a DPA Plan, or its replacement Outline Zoning Plan (OZP), were subject to planning enforcement by the Planning Authority (PA) under the Ordinance;
- (c) the enactment of the Town Planning (Amendment) Ordinance 1994 strengthened the enforcement power of the PA by empowering the PA to take possession of, remove, detain and dispose of property remaining on land. On 28.6.1995, a resolution was passed by the Legislative Council to increase the level of fines as a stronger deterrent to offenders (the maximum fines for first conviction were increased from \$100,000 to \$500,000 and those for subsequent conviction were increased from

\$500,000 to \$1,000,000);

- (d) the enactment of the Town Planning (Amendment) Ordinance 2004 had further strengthened the investigation power of the PA. The PA was given power to enter or access through any land and premises for investigation without warrant at a reasonable time (except for domestic premises) for the purposes of carrying out related enforcement duties. The PA might also issue a 'Notice to Require Provision of Information' to require the notice recipient to provide the relevant information within a specified period. The amended enforcement provisions had also enabled the PA to take prosecution actions without the need to wait for exhaustion of planning application, review and appeal procedures;

[Prof. S.C. Wong arrived to join the meeting at this point.]

Enforcement Against Unauthorised Developments (UD)

- (e) according to section 1A of the Ordinance, operation and material change in the use of land or buildings constituted a 'development'. A development within a DPA covered by DPA Plan or its replacement OZP was regarded as unauthorised unless:
 - (i) the development was an existing use, i.e. the use of any building or land that was in existence immediately before the first publication in the Gazette of notice of the draft DPA plan (or of the Interim Development Permission Area (IDPA)) Plan;
 - (ii) the development was a permitted use under the relevant statutory plan; or
 - (iii) the development was covered by a valid planning permission;
- (f) the Director of Planning was the PA for undertaking planning enforcement under the Ordinance. The public officers in the CEPS of PlanD had been authorised by the PA under the Ordinance to exercise any

powers and to perform any duties in relation to planning enforcement on behalf of the PA;

- (g) CEPS was currently responsible for undertaking enforcement action within 57 DPAs (45 covered by OZPs and 12 by DPA Plans) with a total land area of about 22,348 hectares as shown in Annex A of the paper;

Enforcement and Prosecution Actions

- (h) the primary objectives of planning enforcement were to achieve discontinuance of the UD, to regularise the UD through the planning permission system, or to channel them to locations planned for the purposes;
- (i) UD cases were mainly identified through public complaints, departmental referrals, regular patrol and revoked/lapsed planning approvals. Upon forming an opinion of an UD on the basis of information/evidence collected, the concerned parties would be warned verbally and/or through warning letters;
- (j) the PA might serve an Enforcement Notice (EN) under section 23(1) of the Ordinance to one or more landowner(s), an occupier or a person responsible, requiring the concerned parties to discontinue an UD by a specified date. Section 23 of the Ordinance made provision for the PA to serve other statutory notices, including Stop Notice (SN), Reinstatement Notice (RN), Removal Notice (ReN) and Disposal Notice, to suit different circumstances of cases:
 - (i) SN - where the PA considered that continuance of an UD would constitute a health or safety hazard, adversely affect the environment, or make it impracticable or uneconomical to reinstate the land within a reasonable period, a SN might be issued. The SN required that the UD should be discontinued and the steps, if any, should be taken by a specified date to prevent anything related to the UD from causing any adverse effects;

- (ii) RN - where an EN had been served in relation to the UD, the PA might issue a RN requiring the notice recipient to reinstate the land to the condition it was in immediately before the first publication of the DPA Plan (or the IDPA Plan, if any), or to such other condition more favourable to the person concerned, as the PA considered satisfactory; and
- (iii) ReN and Disposal Notice – in case the UD had not been discontinued, the steps had not been taken or the land had not been reinstated by the date specified in the statutory notices, section 23(7) of the Ordinance made provision for the PA to enter the land and take whatever steps (including taking possession, removal, detention, and disposal of the property on the concerned land) considered necessary to ensure that the requirements in the statutory notices were complied with;
- (k) the PA might instigate direct prosecution against concerned parties who undertook/continued an UD without serving any prior notice when such concerned parties could be identified. Parties subject to direct prosecution were usually the occupiers/operators who were directly responsible for the UD;
- (l) prosecution could also be instigated against those notice recipients, including the landowner, or occupier, or a person responsible, who failed to comply with the statutory notices to discontinue the UD or reinstate a site by a specified date. Non-compliance with statutory notices issued under section 23 of the Ordinance constituted an offence under the Ordinance;
- (m) the PA had pledged to take expeditious enforcement against UDs causing serious nuisances to the public or impacts on the rural environment. Higher priority would be given to:

- (i) UDs located at or in proximity to ecologically sensitive areas and conservation related zones;
- (ii) UDs involving filling of land/pond within “Agriculture” zone;
- (iii) UDs causing environmental nuisances to nearby residents;
- (iv) repeated UD cases;
- (v) UDs arising from revoked and lapsed planning approval cases;
- (vi) UDs involving uses not conforming with the planning approvals;
- (vii) UDs falling within Categories 3 and 4 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under section 16 of the Town Planning Ordinance (Town Planning Board Guidelines No.13E); and
- (viii)UDs in areas generally not proliferated by UDs;

Increasing Public Awareness

- (n) efforts had been made to increase public awareness through promulgation of information by pamphlets and posters and on PlanD’s website, Announcements for the Public Interest on television and outreach programmes to schools. PlanD also maintained regular dialogues with the Heung Yee Kuk, open storage operators and Green Groups;

Enforcement and Prosecution Statistics

- (o) suspected and confirmed UD - there had been a steady increase of suspected UD cases investigated by PlanD over the years, from 692 in 1995 to 961 in 2000 and further to 1,301 cases in 2010. In recent years, the percentage of investigated cases confirmed to be UD was about 30%

and there had been a significant increase of warning letters and statutory notices issued. The number of statutory notices issued had increased from 619 in 1995, to 2,409 in 2005 and further to 3,987 in 2010. The number of RN issued had increased significantly from 38 (13 cases) in 1995 to 161 (15 cases) in 2005 and further to 299 (46 cases) in 2010. The statistics indicated that the overall enforcement and reinstatement effort had been generally stepped up over recent years;

- (p) reinstatement - an average of 3 hectares of land per year had been reinstated between 1995 and 1999. In the last three years, the extent of reinstated land had increased significantly to an average of 20 hectares per year. The stepping up of reinstatement effort had brought about environmental improvement and mitigation of damages of the land caused by the UDs;
- (q) conviction rate and fines - the conviction rate for prosecution of UD cases remained high at an average of 98%. Summons laid for prosecution had increased from 14 in 2000 to 166 in 2010. The average fine per defendant/case increased from \$16,305/\$24,938 in 2000 to \$21,021/\$54,271 in 2010. The highest fine in a case had reached \$980,000;
- (r) sources of suspected UDs - nearly 51% and 73% of the investigated cases in 2005 and 2010 respectively were identified through public complaints. Those figures reflected the increasing environmental awareness of the public;
- (s) nature of UD cases - the most common types of UD handled were open storage, followed by workshop and container-related uses. In recent years, there had been an increase of UDs of larger scale and more complex in nature (such as land/pond filling and columbarium);

Interface with Functions of Town Planning Board

- (t) extension of coverage by DPAs – PlanD had been progressively preparing DPA Plans/OZPs for rural areas not covered by statutory plans so as to step up statutory planning control in areas of high conservation value, subject to development pressure, susceptible to unauthorised uses etc. Since early 2010, the Board had published 12 DPA Plans for public inspection. They covered the Frontier Closed Areas, some Country Park enclaves and other rural areas, amounting to about 2,550 hectares of land. Arising from those new initiatives, there would be an increase of DPAs subject to planning enforcement actions under the Ordinance;

- (u) matters related to planning applications / permission – PlanD would undertake enforcement actions when developments became UDs upon the revocation or lapse of planning permissions or when developments did not conform with the planning permission granted by the Board. For planning applications for regularising existing UDs, the Board had been considering the planning applications on their merits while the PA would separately undertake enforcement actions. In some circumstances, an application for planning permission to regularise an UD might claim that the UD in question was an ‘existing use’. The claim of ‘existing use’ status was to be dealt with by the court based on evidence produced by the defendant. The Board did not have to decide on any claim of ‘existing use status’ during deliberation of planning applications; and

Conclusion

- (v) PlanD would endeavour to instigate effective and proactive enforcement and reinstatement actions against UDs, in particular for those within environmentally sensitive and ecologically important areas.

9. Members thanked PlanD’s representatives for providing the briefing. Pertaining to specific issues, Members raised the following questions:

- (a) did the PA have the power to require UDs to be discontinued within a short period of time to minimize their adverse impacts?
- (b) was prosecution work undertaken by the Department of Justice (DoJ) or PlanD?
- (c) the average level of fines appeared to be on the low side and might not have sufficient deterrent effect. Were there channels to appeal against the level of fines handed down by the Court?
- (d) how much manpower did CEPS have for undertaking enforcement and prosecution work?
- (e) would the high conviction rate of UDs also reflect that the level of fines was too low to the offenders as compared to their cost savings by continuing the UDs?
- (f) were there any statistics about unreported UDs and were there means to encourage the public to lodge complaints on UDs? and
- (g) noting that there was a review mechanism for the RN, was there similar appeal mechanism for other statutory notices (such as EN /SN)?

10. Ms. Phyllis Li and Mr. Kelvin Chan responded to the questions as follows:

- (a) a compliance period of three months would normally be stipulated in ENs for the notice recipient to discontinue the UDs and this duration would be shortened to two months for repeated cases. For cases which constituted health or safety hazards or other irreversible adverse impacts, SN would be served for the notice recipient to discontinue the UD within one day. Hence, the PA had power to halt UDs to minimize their adverse impacts;

- (b) the prosecution action under the Ordinance was mainly undertaken by the departmental prosecutors in CEPS of PlanD. For complicated cases, DoJ would undertake the prosecution work or engage outside Counsel;
- (c) the level of fines was a matter that would rest with the Court. Both the prosecutor and the defendant could appeal against the level of fine, if considered excessively low or high. The PA had in the past, via DoJ, appealed against the level of fines handed down by the Court. According to Court judgement, the nature of the offence, the offence period and the economic returns of the UDs were relevant matters in considering the level of fines. Furthermore, multiple prosecutions would be instigated if the UDs were not discontinued despite conviction by the Court. In one particular case, 10 rounds of prosecution were instigated and the fines for the 10th conviction was over \$400,000;
- (d) there were 63 staff under the current establishment of CEPS including 18 professional grade staff and other technical grade and general grade staff;
- (e) the high conviction rate reflected that the PA and prosecutors had taken great care in collecting and assessing the supporting evidence in instigating prosecution. It was worth noting that more than 50% of the statutory notices were complied with the UDs discontinued or sites reinstated without the need for prosecution;
- (f) the general public was familiar with the different channels for lodging complaints with PlanD on suspected UDs as a result of public education and publicity. Besides, PlanD also undertook regular patrol to detect suspected UDs; and
- (g) the Ordinance had made provision for the notice recipient to apply to the Secretary for Development to review the decision of the PA to serve RN on him. Although there was no similar provision for appeal against other statutory notices under the Ordinance, the notice recipients could make submissions to the PA to address the requirements in the statutory

notices or to lodge judicial reviews of the statutory notices.

11. As Members had no further questions, the Chairman thanked the representatives of PlanD for their briefing to Members. They left the meeting at this point.

Agenda Item 4

[Open Meeting]

Hong Kong Island East Harbour-front Study – Stage 3 Public Engagement
(TPB Paper No. 8747)

[The meeting was conducted in Cantonese and English.]

12. The following Members had declared interest on the item:

Professor Edwin H.W. Chan	-	owned a property in the Eastern District
Professor S.C. Wong	-	owned a property in the Eastern District

13. As the item was a briefing to Members as part of the Stage 3 Public Engagement Programme (PEP) of the Hong Kong Island East Harbour-front Study (the Study), Members agreed that the above Members could stay in the meeting and participate in the discussion.

14. The following government representatives and study consultants were invited to the meeting at this point:

Mr. Raymond Wong	-	Assistant Director, Territorial (AD/T), Planning Department (PlanD)
Mr. Edward Leung	-	Senior Town Planner/Studies and Researches, PlanD
Mr. Alan Macdonald	-	Director, Urbis Ltd.

Ms. Claris Ma

- Senior Landscape Designer, Urbis Ltd.

15. The Chairman extended a welcome and invited the government representatives to brief Members on the Paper.

16. With the aid of a Powerpoint presentation, Mr. Raymond Wong stated that the overall objective of the Study was to formulate a comprehensive plan for enhancement of the Hong Kong Island East harbour-front areas focusing on connectivity and pedestrian accessibility to the harbour-front. This was in line with the Board's Vision Statement – "Vision and Goals for Victoria Harbour", i.e. to make Victoria Harbour attractive, vibrant, accessible and symbolic of Hong Kong. Taking into account the public views during the Stage 2 PEP, the Study Consultants had evaluated the initial options and formulated the preferred option for the Hong Kong Island East harbour-front. The purpose of the Paper was to seek Members' view on the preferred option of enhancement proposals for the Hong Kong Island East harbour-front areas, as part of the Stage 3 PEP of the Study. He then introduced Mr. Alan Macdonald of the consultant team to brief Members on the public views and the preferred option.

17. With the aid of a Powerpoint presentation and flythrough presentation, Mr. Alan Macdonald made the following main points as detailed in the Paper:

Public Views of Stage 2 Public Engagement

- (a) the major activities of the Stage 2 PEP included an engagement workshop, roving exhibitions, a questionnaire survey and a number of briefings to statutory and advisory bodies, stakeholders and local residents. The Board was consulted on 16.4.2010 at the Stage 2 PEP;
- (b) during the Stage 2 PEP, the public was generally supportive of the proposals to enhance the connectivity and streetscape of the major pedestrian corridors leading to the waterfront, which would help create a quality waterfront for public enjoyment. The major public views collected were summarised as follows:

Boardwalk under the IEC

- (i) there was general support for the proposed boardwalk underneath the Island Eastern Corridor (IEC), although there were some concerns on security, safety, the durability of the materials and loading capacity of the boardwalk. Some members of the public also raised concern on the implication of the Protection of the Harbour Ordinance (PHO) on the proposal;

Sky Trail/Cantilevered Boardwalk

- (ii) whilst the proposal of Sky Trail/cantilevered boardwalk linking Shau Kei Wan and Heng Fa Chuen was well received by the general public, there were strong objections from the Heng Fa Chuen residents to the proposed connection of the walkway with the existing waterfront promenade in Heng Fa Chuen (under private land) and to Shing Tai Road (a public road within the residential estate). The residents were also concerned about the intrusion of the Sky Trail/cantilevered boardwalk, which was open to public, upon private ownership right; bringing in outsiders to the estate and hence creating nuisance, security, safety, management and maintenance problems;

Waterfront Proposal in Sai Wan Ho

- (iii) the proposed elevated walkway over the Marine Police premises in Sai Wan Ho was generally not preferred for its conflict with the Marine Police's operation, and inconvenience to the elderly and the disabled. Most public users preferred using the pavement along existing roads;

Waterfront Proposal in Shau Kei Wan

- (iv) the shipyard operators expressed grave concern on the proposed relocation of their existing operations at Tam Kung Temple Road in Shau Kei Wan for the provision of a continuous waterfront promenade. They suggested that the existing shipyards and the Shau Kei Wan Wholesale Fish Market could be preserved with a

view to promoting the history of Shau Kei Wan which was originally a fishing village;

Cycling and Fishing Facilities

- (v) there were diverse views on the provision of cycling and fishing facilities alongside the waterfront promenade. Some were keen to have a continuous cycle track and a designated area for fishing, while others were concerned about the safety of the pedestrians because of the cycling and fishing activities;

Streetscape Enhancement Proposals

- (vi) there was general public consensus that streetscape enhancement should be considered as a priority lead project to enhance the waterfront/hinterland connection. Additional streetscape enhancement proposals along roads/streets including Healthy Street East, Tong Shui Road and Hoi Chak Street were proposed to help improve the north-south connectivity;

Key Sites

- (vii) while there were no strong public views on the proposed development options of the North Point Ferry Piers and Hoi Yu Street site, there was a clear preference for low-rise and low-density development at these two key sites;

Implementation

- (viii) the public urged the Government to implement the proposals as soon as possible;

Preferred Option of Enhancement Proposals

- (c) in view of the limited access to the existing waterfront, a major part of the preferred option was to enhance the connectivity to the waterfront. A comprehensive waterfront promenade linking the four main districts in the Study area was proposed as follows:

North Point

- (i) a boardwalk of about 2km underneath the IEC was proposed to enhance connectivity along the North Point waterfront. The boardwalk would extend from the proposed waterfront park in Wan Chai Development Phase II eastward through the existing North Point Ferry Piers all the way to Hoi Yu Street in Quarry Bay and would rely on the foundation of the IEC as its structural support. The design of the boardwalk would integrate with the pier structures without affecting the pier operation;

- (ii) while a major part of the proposed boardwalk of 5m wide would be directly under the IEC, a small portion of about 200m would need to be extended onto the sea surface due to insufficient headroom under the slip road of the IEC. Hence, the proposal might have implications on the PHO;

- (iii) durable materials would be used in constructing the proposed boardwalk;

Quarry Bay

- (iv) a continuous promenade along the Quarry Bay waterfront might not be achievable due to the presence of the buildings at the Marine Police Headquarters site. Pending the relocation of the Marine Police premises which was being investigated, the streetscape of the adjacent Tai On Street and Tai Hong Street would be enhanced to provide a more pleasant pedestrian environment;

Shau Kei Wan

- (v) to enhance the waterfront area in Shau Kei Wan, a temporary heritage park of a fishing heritage theme was proposed at the site currently reserved for the future extension of the Shau Kei Wan Preliminary Treatment Works. Besides, the environment of Tam Kung Temple Road would also be enhanced by street planting and

paving improvement. Other proposed enhancement measures included the re-arrangement of vehicular traffic to facilitate pedestrianisation of the western portion of Tam Kung Temple Road as well as façade treatment of the shipyards and the Shau Kei Wan Preliminary Treatment Works;

- (vi) a Sky Trail of about 600m long was proposed along the hillside north of the Hong Kong Museum of Coastal Defence (HKMCD). This elevated walkway of 15-20mPD high would allow public to have fantastic views over the harbour and Lei Yue Mun and would become a new attraction to help generate patronage for the HKMCD. The proposed Sky Trail would be accessed via an at-grade footpath/an elevated walkway through the Shau Kei Wan Wholesale Fish Market or an existing footpath within the HKMCD. The concern of the HKMCD about the security of their facilities could be addressed by the provision of an automatic gate which prevented users of the Sky Trail from entering into HKMCD;

Chai Wan

- (vii) there was a decline in usage of the Chai Wan PCWA but Marine Department considered that there was a need to maintain its operation in view of the closure of the Kwun Tong PCWA. Since the Chai Wan PCWA would continue to operate, a footpath was proposed alongside the PCWA to enhance connectivity along the waterfront and to improve the pedestrian environment;

[Mr. Timothy K.W. Ma left the meeting temporarily and Mr. Clarence W.C. Leung arrived to join the meeting at this point.]

Key Sites Development Proposals

Key Site No.1: North Point Ferry Piers (NPPF)

- (d) NPPF and the adjoining boardwalk underneath the IEC would become the main activity area with provision of retail shops, cafes, seating

benches, planting and art display. The existing ferry services at the two piers would be maintained with the western berth of the eastern pier for leisure boat use. Restaurants, commercial and entertainment uses would be integrated into the renovated piers which would become the new iconic landmark of Hong Kong Island East. Cafés would be provided on the rooftop of both piers which would also be landscaped for public access. Soft landscaped open space, walkway, civic plazas and recreational uses including fitness stations, elderly recreational facilities and an informal cycle track for recreational and leisure purposes were proposed in the 20m wide promenade;

Key Site No.2: Hoi Yu Street Site in Quarry Bay

- (e) the Hoi Yu Street site comprised the open space area at the Eastern Harbour Crossing (EHC) Tunnel Portal and the waterfront area including the two sites currently zoned “Other Specified Uses” (“OU”) for the development of cultural, commercial, leisure and tourism uses. A major indoor entertainment facility, such as multi-purpose performance centre or IMAX theatre, was proposed at the EHC Tunnel Portal site while cultural, tourism and entertainment facilities with shops and themed restaurants were proposed for the two “OU” sites. Recreational uses such as fitness/exercise equipment zones, elderly exercise areas, tai-chi courts and informal cycle track for recreational and leisure purposes were also proposed at the waterfront area. The whole area would form an entertainment hub in Hong Kong Island East. In addition, an elevated walkway with an innovative and artistic style design to tie in with the development theme was proposed to improve access from the Quarry Bay area to the waterfront;

Streetscape Enhancement

- (f) the Study had also identified nine roads/streets including Shu Kuk Street, Tong Shui Road, Healthy Street East, Hoi Yu Street, Hoi Chak Street, Hoi Wan Street, Tai On Street, Oi Tak Street and Sun Yip Street as quick-wins for streetscape enhancement to improve the north-south

waterfront connectivity. Various enhancement measures were proposed with a view to creating more interests in pedestrian experience. These included pavement widening, paving improvement, intensified tree and shrub planting, additional street furniture, strong identifiable signage and iconic elements;

Proposed Water Taxi

- (g) as a long-term initiative and subject to private initiatives, the Study proposed the provision of water taxi service between Central and the HKMCD in Shau Kei Wan for tourism purposes, with stops at several attraction points, to enhance the accessibility from the seaward side to the harbourfront and to make the harbour more vibrant;

Implementation

- (h) the implementation of most of the enhancement proposals including the boardwalk under the IEC and the Sky Trail would be subject to funding and resource availability under the conventional government development approach;
- (i) further investigation and resolution of relevant technical issues, such as compliance with the PHO in relation to the boardwalk proposal, impact on private property right and marine access right were also required;
- (j) further technical assessments of enhancement proposals would be required at the detailed design stage; and
- (k) opportunity for public-private participation/public-private collaboration would be further examined for implementation of the two key sites.

18. Members thanked the Study team for providing the briefing. Pertaining to specific issues, Members had the following questions:

- (a) whether the Study had taken into account public safety in designing the proposed boardwalk underneath the IEC, in particular during typhoons?
- (b) since the proposed boardwalk and the proposed waterfront uses at Hoi Yu Street were located underneath or adjacent to the IEC, whether the Study had examined the impact of air pollution generated by the vehicular traffic on the users of these sites and whether there were any design measures to mitigate the air pollution problem?
- (c) would there be any provision of facilities for the disabled in the proposed boardwalk and Sky Trail?
- (d) it appeared that the proposed Sky Trail would look rather intrusive along the coast. Did the Study consider including any design measures so that the proposed structure would blend in with the surrounding environment?
- (e) who would take up the implementation, maintenance and management responsibilities of the proposed boardwalk?
- (f) was there a reasonable prospect that the proposed entertainment facility at Hoi Yu Street site could eventually be implemented, noting that a private developer had put on hold the development of part of the site for many years?

19. In response, Mr Raymond Wong made the following points:

- (a) preliminary technical and environment impact assessment had been undertaken in the Study which indicated that the proposed boardwalk was environmentally acceptable for the users;
- (b) the Study had examined the preliminary design option and alignment of the proposed Sky Trail. Further detailed design and consultation with the stakeholders would be undertaken to ensure that the proposed Sky

Trail would blend in with the environment; and

- (c) the Study aimed to formulate a comprehensive plan for enhancement of the Hong Kong Island East harbour-front areas. Future implementation, management and maintenance responsibility would be determined by relevant government departments and concerned parties at the detailed design and implementation stage.

[Mr. Laurence L.J. Li and Prof. Edwin H.W. Chan arrived to join the meeting at this point.]

20. Mr Alan Macdonald supplemented the following points:

- (a) the Study had taken into consideration public safety at the proposed boardwalk by proposing the installation of barriers along the edge of the harbour-front. Besides, the proposed boardwalk could be closed at times of typhoons;
- (b) the Study had undertaken a preliminary environmental impact assessment which demonstrated that the proposed boardwalk was environmentally sustainable and would not pose unacceptable environmental impact on the users;
- (c) as regards facilities for the disabled, there was an existing lift up to the Hong Kong Museum of Coastal Defence that could be considered as an access to the proposed Sky Trail;
- (d) the design of the proposed Sky Trail was included as part of the landscape strategy in the Study. Landscape planting and vegetation would be proposed so as to ensure that the Sky Trail structure would blend in with the environment; and
- (e) private sector interest on the development of the Hoi Yu Street site in Quarry Bay would be sought at the detailed design stage.

21. The Chairman asked PlanD's representatives and the consultant to take account of the views expressed by Members in the next stage of the Study. As Members had no further questions to raise, the Chairman thanked the representatives of PlanD and the Study consultants for attending the meeting. They left the meeting at this point.

22. As the representers for Agenda Item 5 had not yet arrived, the Chairman proposed and Members agreed to proceed with the procedural items 11 to 13 first.

Agenda Item 11

[Open Meeting]

Submission of the Draft The Peak Area Outline Zoning Plan No. S/H14/10A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8759)

[The meeting was conducted in Cantonese.]

23. The Secretary reported that Mr. Y.K. Cheng had declared interest on the item as he owned a property in the Area. Members noted that Mr. Cheng had tendered apologies for not being able to attend the meeting.

24. The Secretary introduced the paper. On 28.5.2010, the draft The Peak Area Outline Zoning Plan (OZP) No. S/H14/10 was exhibited for public inspection under section 5 of the Ordinance. During the two-month exhibition period, one representation was received. On 6.8.2010, the Board published the representation for three weeks for public comments and no comment was received. On 19.11.2010, after considering the representation, the Board decided not to uphold the representation to the draft OZP. Since the representation consideration process had been completed, the draft OZP was ready for submission to Chief Executive in Council (CE in C) for approval.

25. After deliberation, the Board:

- (a) agreed that the draft The Peak OZP No. S/H14/10A together with its

Notes at Annexes I and II of the paper 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 The Peak OZP No. S/H14/10A at Annex III of the paper as an expression of the planning intention and objectives of the Board for various land-use zonings on the draft The Peak OZP and issued under the name of the Board; and
- (c) agreed that the updated ES was suitable for submission to CE in C together with the draft The Peak OZP.

[Ms. Anna S.Y. Kwong left the meeting temporarily at this point.]

Agenda Item 12

[Open Meeting]

Application to the Chief Executive under Section 8(2) of the Town Planning Ordinance for Extension of Time Limit for Submission of the Draft Tseung Kwan O Outline Zoning Plan No. S/TKO/18 to the Chief Executive in Council for Approval

TPB Paper No. 8760

[The meeting was conducted in Cantonese.]

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

Mr. Benny Y.K. Wong <i>(as the Deputy Director of Environmental Protection)</i>	-	the proposed amendment to the OZP that was related to the proposed South East New Territories Landfill Extension (SENTLFX) project was the subject of representations. The project was under the purview of Environmental Protection
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Department (EPD)

Mr. Fletch W.W. Chan - being an alternative Member of the Mass
(as the Principal Assistant Secretary (Transport), Transport and Housing Bureau) Transit Railway Board. Mass Transit Railway Corporation Limited (MTRCL) was one of the representers (R2475)

Mr. Felix W. Fong and - having current business dealings with
Professor P.P. Ho Cheung Kong (Holdings) Ltd./Hutchison Whampoa Ltd. (CKH/HWL). MTRCL joint venture with CKH to develop the LOHAS Park which was a residential development close to the proposed SENTLFX project

Mr. Roger K.H. Luk - being a Member of the Board of Directors of Octopus Card Ltd. in which MTRCL was a major shareholder. MTRCL was one of the representers (R2475)

27. Members noted that Mr. Fletch W.W. Chan and Prof. P.P. Ho had tendered apologies for not being able to attend the meeting and Mr. Felix W. Fong had not arrived to join the meeting at this point. As the item was procedural in nature and no deliberation was required, Mr. Benny Wong and Mr. Roger K.H. Luk could be allowed to stay in the meeting.

28. The Secretary reported on the Paper. On 7.5.2010, the draft Tseung Kwan O OZP No. S/TKO/18 that included zoning amendments to facilitate extension of the South East New Territories Landfill Extension (SENTLFX) by rezoning two areas as “O(2)” (that was intended for open space use in the long term and permitting landfill use in the interim) was gazetted for public inspection under section 5 of the Ordinance. A site to the south of SENTLFX was rezoned from “Other Specified Uses” (“OU”) annotated “Deep

Waterfront Industry” to “Open Space (2)” (“O(2)”). The planning scheme area of the TKO OZP was extended by including 5 hectares of land to the south of the SENTLFX to be excised from the Clear Water Bay Country Park (CWBCP) and be zoned as “O(2)”. During the two-month exhibition period, a total of 2,479 representations were received. On 30.7.2010, the representations were published for three weeks for public comments. A total of 205 comments were received.

29. Of all the representations, 2,477 objected, 1 expressed concerns and 1 supported the proposed SENTLFX. On 4.1.2011, the Chief Secretary for Administration announced that despite the immense pressure to extend the landfill space, the Government had decided to scale down the SENTLFX and exclude the area within the CWBCP from the landfill. The Environmental Bureau (ENB)/EPD had proceeded to brief the Legislative Council, the Board, District Councils and other stakeholders on the newly announced waste management initiatives, including the decision on the proposed SENTLFX, from January 2011 to June 2011.

30. With the Government’s decision to scale down the SENTLFX, the Secretary for Development on 1.3.2011 gave directive, in accordance with section 3(1)(a) of the Ordinance for the Board, to exclude the CWBCP site from the planning scheme area of the draft OZP.

31. Taking into account the time required by ENB/EPD in engaging the relevant stakeholders, hearing of representations and comments on the draft OZP would need to be conducted by mid-2011, which was outside the 9-month statutory time limit for submission of the draft OZP to the CE in C for approval on or before 7.4.2011. In view of the above, there was a need to apply to the CE in C for an extension of the 9-month statutory time limit for the subject OZP for hearing of the representations and comments and amendments to the draft OZP to incorporate Government’s latest proposal regarding the boundary of the proposed SENTLFX before submission to CE in C for approval.

32. After deliberation, Members agreed that the CE’s agreement should be sought under section 8(2) of the Ordinance to extend the time limit for submission of the draft Tseung Kwan O OZP No. S/TKO/18 to the CE in C for a further period of six months from 7.4.2011 to 7.10.2011.

Agenda Item 13

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and
Comments to the Draft Wong Nai Chung Outline Zoning Plan No. S/H7/15
(TPB Paper No. 8761)

[The meeting was conducted in Cantonese.]

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

- Mr. Y.K. Cheng - owned a property at Ventris Road
- Mr. Maurice W.M. Lee - owned a property at Link Road and a property at Wun Sha Street
- Professor Joseph H.W. Lee - owned a property at Hawthorn Road
- Miss Ophelia Y.S. Wong - owned a property at Broadwood Road
- Professor S.C. Wong - had business dealings with Ove Arup & Partners Hong Kong Ltd (OAP) which was a consultant to the Hong Kong Sanatorium and Hospital (HKSH). The amendment of development control on the HKSH site was the subject of representations. HKSH was one of the representers (R708)
- Ms. Anna S.Y. Kwong - had business dealing with family members of the owner of HKSH. HKSH was one of the representers (R708)

34. Members noted that Mr. Maurice W.M. Lee, Mr. Y.K. Cheng and Prof. Joseph H.W. Lee had tendered apologies for not being able to attend the meeting and Ms. Anna S.Y. Kwong had left the meeting temporarily. As the item was procedural in nature and no deliberation was required, Miss Ophelia Y.S. Wong and Professor S.C. Wong could be allowed to stay in the meeting.

35. The Secretary reported on the Paper. On 30.9.2010, the draft Wong Nai Chung OZP No. S/H7/15 was exhibited for public inspection under section 7 of the Ordinance. During the two-month exhibition period, a total of 1,068 representations were received. On 24.12.2010, the representations were published for three weeks for public comments. A total of 9 comments were received.

36. As all the representations and comments were related to a single representation site (i.e. the HKSH site) and many of them were of similar nature, it was suggested that all the representations and comments should be heard by the Board collectively in one group and there was no need to resort to the appointment of a representation hearing committee.

37. After deliberation, the Board agreed that the representations and comments should be heard collectively by the Board in the manner as proposed in paragraphs 2.1 and 2.5 of the paper.

[Mr. B.W. Chan and Mr. Andrew Tsang left the meeting at this point and Prof. Edwin H.W. Chan left the meeting temporarily at this point.]

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations to the Draft Pak Lap Development Permission Area Plan No. DPA/SK-PL/1, Representations No. R1 to R14
(TPB Paper 8754)

[The meeting was conducted in Cantonese.]

38. The following Members declared interests on the item:

Mr. Stephen M.W. Yip	Being former consultant of the Executive Committee under the Sai Kung Rural Committee, who was one of the representers (R10)
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Ms. Anna S.Y. Kwong Being the consultant for a proposed international boarding school in the area

39. Members noted that Ms. Anna S.Y. Kwong had left the meeting temporarily and Mr. Stephen M.W. Yip had not arrived to join the meeting at this point.

40. As sufficient notice had been given to the representers to invite them to attend the meeting, Members agreed to proceed with the hearing of the representations in the absence of the other representers who had indicated that they would not attend or had made no reply.

41. The District Planning Officer/ Sai Kung and Islands (DPO/SKIs) Mr. Ivan Chung and the following representers and their representatives were invited to the meeting at this point:

Designing Hong Kong Limited (R7)

Miss Eva Tam Representers' Representative

World Wide Fund (WWF) Hong Kong (R8)

Ms. Sandra Chow Representers' Representative

Lau Sung (R12)

Mr. Lau Sung Representer

Lau Hay Soon, Lau Shu Wah, Lau Leung, Lau Pak On, Lau Tai Kau and Lau Yik Kuen (R13)

Master Mind Development Limited (R14)

Ms. Chan Ga Wai] Representers' Representative

Mr. Lau Pak On]

Mr. Ted Chan]

Mr. Daniel Wei]

Ms. Michelle Kwok]

42. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the DPO/SKIs to brief Members on the representations. Members noted a replacement page for the paper was tabled.

43. With the aid of a powerpoint presentation, Mr. Ivan Chung made the following main points as detailed in the paper:

- (a) on 30.9.2010, the draft Pak Lap DPA Plan No. DPA/SK-PL/1 (the DPA Plan) was exhibited for public inspection under section 5 of the Ordinance. A total of 14 representations and no comment were received after the statutory publication periods of the DPA Plan and the representations;
- (b) six of the representations were submitted by members of the public and eight representations were submitted by various groups and parties, including Designing Hong Kong Limited (R7), WWF Hong Kong (R8), the Conservancy Association (R9), Sai Kung Rural Committee (SKRC) (R10), the Chairman of SKRC (R11), Indigenous Inhabitant Representative of Pak Lap Village (R12), and 6 villagers (R13) and Master Mind Development Limited (R14) both represented by Toco Planning Consultants. The representations could broadly be divided into three groups:
 - (i) R1 to R9 were in support of the DPA Plan;
 - (ii) R10 to R12 did not raise objection to the DPA Plan and mainly offered comments and / or proposals; and
 - (iii) R13 and R14 objected to the DPA plan in respect of designating various private lots as “Unspecified Use” (“U”);

Grounds of Representations

- (c) R1 to R9 supported the general planning intention of the DPA Plan to protect the high landscape value of the Pak Lap Area, which

complemented the overall naturalness and the landscape beauty of the surrounding Sai Kung East Country Park. There should be a presumption against development during the preparation of the OZP to protect the existing natural and landscape character of the Area and the future zonings of the Area should facilitate the restoration of the natural habitats. Areas of high conservation value should be protected from encroachment by development, unauthorized work and incompatible use and the rural character of existing village setting should be preserved;

- (d) R10 to R12 stated that since many retired villagers from the Britain and young people were planning to build houses in Pak Lap, there should be a balance between environmental conservation and village type development;
- (e) R13 objected to the designation of the private Lot Nos. 315, 316, 317, 318, 319 and 321 in D.D. 368 as “U”. R14 objected to designation of private Lot Nos. 70, 78 S.A., 78 R.P., 80, 81 S.A., 81 R.P., 83 S.A., 83 R.P., 84, 85, 89 S.A., 89 S.B., 90, 91, 92 and 93 in D.D. 368 as “U”. Landowners of those private lots were indigenous villagers and planned to construct New Territories Exempted Houses (NTEHs) on their private lots. New land grants for the NTEHs were given by the Sai Kung District Lands Office before gazettal of the DPA plan. The proposed NTEHs would not result in any adverse impacts on traffic, drainage and the local environment;

Representers' Proposals

- (f) R1 to R7 and R9 had not proposed any amendments to the DPA Plan.
- (g) R8 had the following proposals:
 - (i) the Area should be incorporated as part of the Sai Kung East Country Park to better conserve the integrity of the natural settings of the area;

- (ii) paragraph 7(b) of the covering notes of the DPA plan, which stipulated that provision, maintenance or repair of plant nursery, amenity planting, rain shelter, refreshment kiosk, footpath, public utility pipeline, electricity mast, lamp pole, telephone booth and shrine were always permitted, should be amended. Those minor works should require planning permission from the Board; and
- (iii) the Government should set up an inter-departmental task force to co-ordinate and review the conservation, planning and land policies concerning private land adjacent to Country Parks;
- (h) R10 to R12 proposed to reserve more land for village type development and provide a vehicular access from Sai Kung to the Area; and
- (i) R13 and R14 proposed to rezone the representers' private lots detailed in paragraph 43(e) above and the adjoining government land from "U" to "Village Type Development" ("V") zone;

Planning Considerations and Assessments

- (j) the planning considerations and assessments were detailed in Section 5 of the paper and the main points were summarised below:
 - (i) the Pak Lap Area (the Area), about 6.8 hectares, was encircled by the Sai Kung East Country Park. To the south was the scenic coastline of Pak Lap Wan. The Area was characterised by a rural and countryside ambience, comprising mainly village houses, shrubland, woodland, grassland, fallow agricultural land and streamcourses. Pak Lap Village was the only recognized village in the Area;
 - (ii) excavation works once found in the eastern and northern parts of the Area had caused adverse impact to the landscape character

of the Area. The preparation of the DPA Plan provided a stopgap measure to effect planning control over the Area and avoid further degradation of the environment;

- (iii) owing to the urgency of preparing the DPA Plan, the Area had been designated as “U”. According to the Ordinance, the DPA plan would be replaced by an OZP in three years’ time. In preparation of the OZP, land use zonings for the Area would be comprehensively reviewed subject to a more detailed analysis for the land use pattern, infrastructural provisions and local needs;

PlanD’s Responses to Grounds of Representations and Representers’ Proposals

- (iv) the representations of R1 to R7, R8 (part) and R9 in support of the DPA plan were noted. R8’s proposal to set up an inter-departmental task force to deal with the conservation, planning and land policies concerning private land adjacent to Country Parks would be conveyed to the relevant bureaux for consideration. PlanD would separately advise R7 on its proposal to prepare village layout plan for all “V” zones;
- (v) R8’s proposal to designate the area as ‘Country Park’ was under jurisdiction of the Country and Marine Parks Board (CMPB) under the Country Parks Ordinance (Cap. 208) which was outside the purview of the Board. According to the Director of Agriculture, Fisheries and Conservation (DAFC), in view of the fact that there was a well-developed human settlement in the Area, it would be less suitable to designate the Area as part of a Country Park. However, advice of the CMPB would be sought, as necessary, on the most appropriate measure to protect the natural environment of the Area and whether there would be justifications for incorporating the Area as part of the Sai Kung

East Country Park;

- (vi) R8's proposal to amend paragraph 7(b) of the covering notes was considered not necessary. That paragraph was to allow flexibility for the provision, maintenance or repair of some minor local works for the convenience of the local residents as well as some other public works co-ordinated or implemented by Government. In view of the small scale of such Government or local residents' works, no adverse environmental impacts were envisaged. Should those minor works involved any diversion of streams, filling of land/pond or excavation of land, planning permission from the Board was required;
- (vii) R10 to R12 considered that there was need to strike a balance between environmental conservation and village type development. R13 and R14 proposed to rezone the private lots on the representation sites and the adjoining Government land to "V" zone. It should be noted that there were provisions under the DPA plan for application for Small House development under section 16 of the Ordinance and each case would be considered by the Board on individual merits. The DPA Plan was an interim plan which would be replaced by an OZP in three years' time. Detailed land use zonings would be worked out at the OZP stage taking the representers' proposals into account;
- (viii) with regard to other comments raised by the representers in relation to general planning matters, PlanD's responses were:
- with regard to R8's comment about the need to prepare DPA plans for other enclaves of Country Parks, according to the 2010-11 Policy Address, the Government would either include the remaining enclaves into Country Parks,

or determine their proper uses through statutory planning in order to meet conservation and social development needs;

- with regard to the comment of R10 to R12 on the need to provide vehicular access to Pak Lap, construction of a new road to the Area would encroach on the Sai Kung East Country Park which was under AFCD's jurisdiction. Proponent should submit necessary details such as justification and scope of works, impact on vegetation and Country Park facilities for the consideration of the CMPB;

- (ix) all relevant government departments as detailed in section 6 of the paper were consulted and their comments were incorporated into the paper; and

PlanD's Views

- (k) PlanD's views were detailed in Section 7 of the paper. Based on the planning assessments in paragraph 5 of paper as summarised above, PlanD considered that
- (i) representations R1 to R7, R8 (Part) and R9 in support of the DPA Plan were noted; and
 - (ii) PlanD did not support R8 (Part) (in respect of its proposal to re-designate Pak Lap as 'Country Park' and proposed amendment to para. 7(b) of the covering Notes) and R10 to R14 and considered that those representations should not be upheld.

44. The Chairman then invited the representers and their representatives to elaborate on their representations.

R7 (Designing Hong Kong Limited)

45. Ms. Eva Tam indicated that they had no additional comment to make on the representation.

R8 (WWF Hong Kong)

46. Ms. Sandra Chow made the following main points:

- (a) WWF welcomed statutory planning control over the Pak Lap Area as the Area was surrounded by the Sai Kung East Country Park and the DPA plan would help to protect the natural landscape in the area;
- (b) in 2009, there had been excavation of agricultural land, including the freshwater marshes, in Pak Lap. In the future preparation of the OZP for Pak Lap, the area could be zoned as “Conservation Area” (“CA”) to facilitate restoration of the natural habitats;
- (c) all private land within the Sai Kung East Country Park should be included within the Pak Lap DPA. The incidents at Tin Fu Tsai within Tai Lam Country Park in 2009 and Sam Tam Lo within Plover Cove Country Park in 2010 had revealed that the Country Park Ordinance might not be effective to prevent development activities on private land within country park boundaries;
- (d) WWF recognised that there were coral communities, which were of conservation importance and sensitive to water pollution, recorded in the waters of Pak Lap Wan and its vicinity. The land use zonings in the future OZP should avoid developments that would lead to degradation of water quality in Pak Lap Wan; and
- (e) paragraph 7(b) of the covering Notes should be amended so that minor works currently permitted as of right under that paragraph should be subject to planning permission from the Board. Although such works as

excavation and pond filling would require the permission of the Board, actions that would lead to degradation of the natural landscape such as tree felling or removal of grassland should be subject to the Board's approval before the minor works started.

R12 (Lau Sung)

47. Mr. Lau Sung, the Indigenous Inhabitant Representative of Pak Lap Village, made the following main points:

- (a) development in Pak Lap was difficult due to the lack of a proper road access. The current access path was sub-standard and dangerous even for transportation of daily supplies by trolleys and was inaccessible to older villagers;
- (b) the Board was requested to designate areas within Pak Lap as "V" zone to facilitate their development of NTEH; and
- (c) the Board was requested to approve the building of a road to Pak Lap Village.

R13 (Lau Hay Soon, Lau Shu Wah, Lau Leung, Lau Pak On, Lau Tai Kau and Lau Yik Kuen)

R14 (Master Mind Development Limited)

Mr. Ted Chan

48. Mr. Ted Chan made the following main points:

- (a) R13 were submitted by six indigenous villagers of Pak Lap Village and R14 was a contractor who was rebuilding the village houses for the indigenous villagers. Both R13 and R14 intended to build NTEH on the private lots within the representation sites. As the re-building of village houses on the representation sites had already been approved by District Lands Office in 1975 and 1979, the representers proposed to rezone those

private lots on the representation sites as “V”;

- (b) the site formation works for the six NTEHs of R13 had been approved by District Lands Office and were already completed. The houses had not been built due to the lack of road access to the village;
- (c) as the private lots within the representation sites were within the old Pak Lap Village, it was justifiable to rezone the area as “V”;
- (d) the representers agreed with the green groups that Pak Lap had important natural landscape value which should be protected. However, being a village of more than 300 years, Pak Lap also had a rich history. Although the old village had been abandoned for many years, many villagers wanted to rebuild the old village and move back. However, the lack of road access had made the rebuilding difficult;
- (e) the building of the High Island Reservoir had turned Pak Lap Village into an isolated village with no road nor marine accesses. Despite its inaccessibility, Pak Lap received many visitors that arrived by private boats or from the walking trail during weekends in the summer times; and
- (f) in considering the representations, the Board was requested to strike a balance between the need for nature conservation and development.

49. As the representers had completed their presentations, the Chairman then invited questions from Members.

50. Referring to Photo 7 in Plan H-4e of the paper, a Member asked why there was a truck near the representation site when the representer had claimed that there was no road access to the village. Mr. Lau Sung explained that those vehicles entered the village a number of years ago before the access road that passed through the Country Park was blocked. He stressed that transportation of daily supplies by trolley along the existing access path was dangerous. At the Chairman’s request, DPO/SKIs explained that the access path referred to by the representers was a sub-standard access path linking Pak Lap

Village with Man Yee Road. The access path was once used by vehicles but had now been blocked by Government and vehicular access was not allowed. Both the access path and Man Yee Road were within the Country Park boundary, and vehicular access was not allowed in Country Parks unless the villagers obtained a special permit from AFCD. AFCD had advised that if the villagers wished to build a vehicular access to Pak Lap Village, which fell within the Country Park, they had to obtain prior consent from the CMPB, by providing justifications and scope of works and assessing the impact of the road access on vegetation and Country Park facilities.

51. In response to the Chairman's question about the representers' claim of the NTEH approved by District Lands Office, DPO/SKIs said that he had a meeting with R12, who was the Indigenous Inhabitant Representative of Pak Lap Village, explaining that the villagers had to apply for planning application for the development of NTEH under the DPA plan. DPO/SKIs would provide the necessary assistance to facilitate the villagers in preparing for the planning applications which would be submitted for the Board's consideration.

52. Another Member asked why the representers had claimed that Pak Lap was an abandoned village. Mr. Lau Sung explained that Pak Lap Village was an abandoned village as there was no road or marine access. Before construction of High Island Reservoir, there were 'kaito' services between a number of villages in the area. However, the 'kaito' services had been discontinued due to insufficient patronage. It was also not possible to use Pak Lap Wan as marine access for daily transport as the sea was rough. Mr. Lau Sung also indicated that there was a general lack of public facilities in Pak Lap Village. Mr. Ted Chan supplemented that when High Island Reservoir was built, villagers of other villages in the area were compensated with flats in Sai Kung town, but that did not include the villagers of Pak Lap. Mr. Ted Chan reiterated the point that the lack of road and marine accesses had left Pak Lap as an isolated village.

Deliberation

53. The Chairman invited Members to consider the representations taking into consideration all the written submissions and the oral representations at the meeting.

54. After deliberation, Members generally agreed to note the support of R1 to R7, R8 (Part) and R9 and agreed not to uphold the other representations, R8(Part) and R10 to R14. Members then went through the reasons for not upholding the representations and the responses to other representers' comments as stated in section 7 of the paper and considered that they were appropriate.

Representations No. R1 to R6 and R9

55. After further deliberation, the Board noted the supportive views of representations No. R1 to R6 and R9.

Representation No. R7

56. After further deliberation, the Board noted the supportive views of representation No. R7. The Board also agreed to advise R7 that PlanD would separately advise them on its proposal to prepare village layout plans for all "V" zones.

Representation No. R8

57. After further deliberation, the Board noted the supportive views of representation No. R8 and decided not to uphold the remaining parts of R8 for the following reasons:

- (a) the designation of an area as 'Country Park' was under jurisdiction of the Country and Marine Parks Board under the Country Parks Ordinance (Cap. 208) which was outside the purview of the Town Planning Board; and
- (b) paragraph 7(b) of the covering Notes was to allow flexibility for the provision, maintenance or repair of some minor local works for the convenience of the local residents as well as public works co-ordinated or implemented by Government. Given the small scale of these works, adverse environmental impacts were not envisaged. Any diversion of streams, filling of land/pond or excavation of land to effect the above

works also required planning permission from the Board.

58. The Board agreed to advise R8 of the following:

- (a) their proposal of setting up an inter-departmental task force to deal with the conservation, planning and land policies concerning private land adjacent to Country Parks would be conveyed to the relevant bureaux for consideration; and
- (b) to meet conservation and social development needs, the Government would either include the remaining enclaves into Country Parks, or determine their proper uses through statutory planning.

Representations No. R10 to R12

59. After further deliberation, the Board decided not to uphold R10 to R12 for the following reason:

- under the present Development Permission Area (the DPA) Plan, there were provisions for application for Small House development under section 16 of the Town Planning Ordinance and each case would be considered by the Board on individual merits. Reservation of land for village type house development would be studied in detail during the Outline Zoning Plan (OZP) stage.

60. The Board agreed to advise R10 to R12 that:

- since the Area was surrounded by the Sai Kung East Country Park (SKECP), constructing a new road to the Area would inevitably encroach on the SKECP which was under Agriculture, Fisheries and Conservation Department's jurisdiction. Proponent should submit necessary details such as justification and scope of works, impact on vegetation and Country Park facilities for the consideration of the Country and Marine Parks Board.

Representations No. R13 and R14

61. After further deliberation, the Board decided not to uphold R13 and R14 for the following reason:

- the DPA Plan was an interim plan which would be replaced by an OZP within 3 years. Detailed land use zonings would be worked out during the OZP stage taking account of the representers' proposals. Under the present DPA Plan, there were provisions for application for Small House development under section 16 of the Town Planning Ordinance and each case would be considered by the Board on individual merits.

[Mr. Clarence W.C. Leung left the meeting at this point.]

Agenda Items 6 and 7

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/TP/459

Proposed House (New Territories Exempted House - Small House) in "Green Belt" and "Village Type Development" zones, Lot 80 S.A. in D.D.11, Fung Yuen Lo Tsuen, Tai Po

Review of Application No. A/TP/460

Proposed House (New Territories Exempted House - Small House) in "Green Belt" zone, Lot 80 R.P. in D.D. 11, Fung Yuen Lo Tsuen, Tai Po

(TPB Papers 8755 and 8756)

[The meeting was conducted in Cantonese.]

62. The Chairman informed Members that the two applications would be considered together as they were similar in nature and the application sites were close to each other and within the same "Green Belt" zone. The following government representative and the applicant's representative were invited to the meeting at this point:

Mr. W.K. Hui - District Planning Officer/Shatin and North
(DPO/STN), PlanD

Mr. Billy Ma Pui Hei - Applicants' Representative

63. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/STN to brief Members on the applications.

64. With the aid of a plan, DPO/STN presented the applications and covered the following main points as detailed in the review paper:

- (a) both applications sought planning permission to build a house (NTEH – Small House) on each of the application sites. The application site of planning application No. A/TP/459 was zoned “Green Belt” (“GB”) and “V” whilst that for planning application No. A/TP/460 was zoned “GB” on the draft Tai Po OZP No. S/TP/22. “House (NTEH only)” was always permitted in “V” zone but ‘House’ in the “GB” zone required planning permission from the Board;
- (b) the Rural and New Town Planning Committee (RNTPC) rejected the applications on 12.11.2010 for the following reasons:
 - (i) not in line with the planning intention of the “GB” zone for the area;
 - (ii) did not comply with Interim Criteria for Assessing Planning Applications for NTEH/Small Houses Development in the New Territories (NTEH Interim Criteria) in that although the application site was completely within the ‘village environs’, there was no general shortage of land in meeting the demand for Small House development in the “V” zone; and
 - (iii) the approval of the applications would set an undesirable precedent;

- (c) the justifications for the review submitted by the applicant were detailed in paragraph 3 of the review paper and the main points were:
- (i) the two proposed Small Houses covered an area of 220 m² and 205m² respectively in the “GB” zone. They would not create significant adverse impacts to the surrounding areas. As there was an existing access road leading to the application sites, they shared the same characteristics as the Small Houses in the “V” zone of Fung Yuen Village;
 - (ii) there was no vacant land in the “V” zone of Fung Yung Village for Small House development;
 - (iii) the applicants’ parents lived in House No. 3-6 of Fung Yuen Village to the northeast of the application sites. The applicants wanted to live near their parents to take care of them;
 - (iv) there were precedent cases of Small Houses (Nos. 19B and 19D) adjoining the northern boundaries of the application sites built in the same “GB”;
 - (v) similar to the approved application No. A/TP/396 for Small House development, the applicants requested the Board to give sympathetic consideration to and approve the applications due to the special circumstances of their cases; and
 - (vi) if the applications were approved, there would be a buffer from the “Comprehensive Development Area (1)” to the south of the application sites;
- (d) the departmental comments on the review applications were summarised in paragraph 5 of the review paper. Government departments generally maintained their previous views of having no adverse comment or no objection on the planning applications;

- (e) no public comment was received during the publication of the review application;

- (f) there was one similar application No. A/TP/396 for proposed Small House (NTEH) that was approved by the Board with condition on 14.12.2007. The Board gave sympathetic consideration to the special circumstances of the planning application No. A/TP/396 in noting that 37% of the application site was located in “V” zone, the site was an infill site already formed and surrounded by a formed slope on one side and on the other sides by existing NTEHs/Small Houses built before the promulgation of the NTEH Interim Criteria in 2000;

- (g) the planning considerations and assessments were detailed in paragraph 7 of the review paper and the main points were:
 - (i) the grounds in the rejection reasons regarding the proposed Small Houses being not in line with the planning intention of the “GB” zone, not complying with the NTEH Interim Criteria and would set an undesirable precedent were still valid;

 - (ii) the applicants claimed that there were two precedent cases for Small Houses (No.19B and 19D) built in the same “GB” in their review statement. However, both of those houses did not require planning permission. According to PlanD’s records, House No. 19D, which was considered to fall marginally outside the “V” zone, was granted in October 1994 without the need for planning permission on the basis of minor boundary adjustment at detailed planning stage. For House No. 19B, planning permission from the Board was also considered not required in 2000 as the site fell mainly within the “V” zone of the OZP;

- (iii) the applicants requested the Board to give sympathetic consideration to their applications as the approved application No. A/TP/396. The Board gave sympathetic consideration to the special circumstances of the planning application No. A/TP/396 in noting that 37% of the application site was located in “V” zone, the site was an infill site already formed and surrounded by a formed slope on one side and on the other sides by existing NTEHs/Small Houses built before the promulgation of the NTEH Interim Criteria in 2000. However, the proposed Small Houses under the current applications did not warrant the same sympathetic consideration as they were located away from the house cluster of Fung Yuen Lo Tsuen and the surrounding area comprised predominately vacant land covered with dense vegetation; and

- (h) PlanD’s views – PlanD did not support the review application based on the planning considerations and assessments detailed in paragraph 7 of the review paper as summarised above. The reasons as detailed in para. 8 of the review paper were that the application was not in line with the planning intention of the “GB” zone, did not comply with the NTEH Interim Criteria and would set an undesirable precedent.

[Mr. Anita W.T. Ma arrived to join the meeting at his point.]

65. The Chairman then invited the applicant’s representative to elaborate on the review applications. Mr. Billy Ma made the following main points:

- (a) the applicants pleaded for the Board’s sympathetic consideration of the applicants’ applications. The applicants were brothers and they were indigenous villagers. They wished to build a house close to their parents so that they could take care of them;

- (b) since the previous application which was rejected by the Board in 2004, new houses such as House Nos. 19B and 19D (as shown on Plan R-2 of

the review paper) were built in the immediately vicinity of the application sites;

- (c) whilst PlanD considered that there was land within the “V” zone for Small House developments, the applicants only owned land at the application sites. Other land within the “V” zone was very expensive and unaffordable to them;
- (d) the application sites were located within an isolated pocket of land between the “V” and “CDA(1)” zones. Hence, approving the Small House developments on the application sites would not lead to proliferation of similar uses in the wider areas; and
- (e) the proposed Small Houses would not create adverse development impacts and government departments had not raised any major objection. The application sites were currently only flat land with a limited number of small trees of common species. The applicants could build a shared access serving both application sites.

66. In response to a Member’s question, Mr. W.K. Hui advised that House 19D, as shown on Plan R-2, was the house abutting the northern boundary of the application site of A/TP/459. House 19D was approved by LandsD in 1994. At that time, the OZP was not yet digitised and by referencing to the manual base, PlanD considered that House 19D was mainly within the “V” zone and there was no need for a planning application. Hence, House 19D was not a precedent case approved by the Board.

67. As the applicants’ representative had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures for the review applications had been completed. The Board would further deliberate on the review applications in their absence and inform them of the Board’s decision in due course. The Chairman thanked the DPO/STN and the applicants’ representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

68. The Chairman said that the main ground of the applications was to allow the applicants to be able to live close to their parents. Given that the proposed Small House developments were not in line with the planning intention of the “GB” zone and did not comply with the NTEH Interim Criteria, Members agreed that the applications should be rejected.

69. After further deliberation, the Board decided to reject the applications on review. Members then went through the reasons for rejection as stated in para. 8.1 of the review paper and considered that they were appropriate. The reasons were:

- (a) the proposed Small House was not in line with the planning intention of the “GB” zone which was to define the limits of urban development areas and there was a general presumption against development within “GB” zone. There was no strong justification in the submission for a departure from the planning intention;
- (b) the proposed Small House did not comply with Interim Criteria for assessing planning application for NTEH/Small House development in the New Territories in that although the application site was completely within the village ‘environs’, there was no general shortage of land in meeting the demand for Small House development in the “Village Type Development” zone, and
- (c) the approval of the application would set an undesirable precedent for similar developments within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the natural environment.

[Ms. Anita W.T. Ma left the meeting temporarily at this point and Dr. C.P. Lau left the meeting at this point.]

Agenda Item 8

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-KTN/347

Proposed Filling of Pond for Agricultural Use in "Agriculture" zone, Lot 72 (Part) in D.D. 109 and Adjoining Government Land, Kam Tin North, Yuen Long (TPB Paper 8757)

[The meeting was conducted in Cantonese.]

70. The following government representative, the applicant and his representative were invited to the meeting at this point:

- Ms. Amy Cheung - District Planning Officer/Tuen Mun and Yuen Long (DPO/TM&YL), PlanD
- Mr. Lee Kwong Ho - Applicant
- Mr. Cheng Chin Wah - Applicant's Representative

71. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TM&YL to brief Members on the application.

72. With the aid of a powerpoint presentation, DPO/TM&YL presented the application and covered the following main points as detailed in the review paper:

- (a) the applicant sought planning permission for proposed filling of pond for agricultural use at the application site. The application site fell within an area zoned "Agriculture" ("AGR") on the approved Kam Tin North OZP No. S/YL-KTN/7 at the time of application and currently in force;
- (b) the site had an area of about 3,600m², including government land of about 580m². The application site was mainly a dry pond overgrown with vegetation. The surrounding areas were rural in character and predominated by ponds/dry ponds, agricultural land, vacant/unused land. A birds protection area zoned "Conservation Area (1)" ("CA(1)") and the West Rail were located to the further southwest. The applicant

proposed to fill up the pond on the application site by 3 metres of sub-soil (hill soil) for growing organic vegetables and fruits;

- (c) the application was rejected by RNTPC on 12.11.2010 for the following reasons:
 - (i) the applicant failed to demonstrate in the submission that the proposed filling of pond would not cause adverse ecological, landscape and drainage impacts on the site and the surrounding areas; and
 - (ii) the approval of the application would set an undesirable precedent, and the cumulative effect would result in adverse ecological impact and loss of fish ponds in the area;
- (d) the applicant has not submitted any written representation in support of the review;
- (e) the departmental comments were detailed in section 4 of the review paper and the main points were:
 - (i) Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the application. The application site consisted of an abandoned fish pond covered with aquatic vegetation and surrounded by mature trees on the embankments. The original fish pond on the application site had been abandoned for a long time and had become freshwater marshland, which formed a continuous patch of freshwater wetland with the adjoining fish ponds and wetlands. The application site was in the vicinity of the “Buffalo Field” which was a well-known hotspot for wetland associated birds and one of the few breeding sites of Greater Painted Snipe. DAFC considered that turning the application site into dry agricultural farmland would likely reduce its naturalness, biodiversity and ecological value;

- (ii) Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L) had reservation on the application. Their view was that fishponds contributed more to the overall landscape value in the area than the proposed organic farm. The subject pond was connected to the series of the remaining ponds adjoining the preserved meander of Kam Tin River. Approval of the application would result in the loss of those scarce landscape resource;
 - (iii) Chief Engineer /Mainland North, Drainage Services Department (CE/MN, DSD) commented that the applicant should submit drainage proposal, including flood relief mitigation measures, and implement the drainage facilities before pond filling would be allowed; and
 - (iv) District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD) commented that no pond/land filling should be carried out on the government land within the application site;
- (f) three public comments were received for the review application. Designing Hong Kong Limited objected to the application as the site had been filled and fenced off and the application would be used for development in the future. Approval of the application would set an undesirable precedent and the site should be reinstated as a pond. The managers of Tang Chi Ka Tong and a Yuen Long District Councillor objected to the application without giving reason. Five public comments objecting to the application were received during the section 16 stage of the application (including three that were submitted by the same persons making comments on the review application);
- (g) the planning considerations and assessments were detailed in paragraph 6 of the review paper and the main points were:

- (i) although the site fell within “AGR” zone and the proposal for growing organic agricultural products (vegetables, fruits etc.) at the site was permitted as of right, there were concerns on the ecological, landscape and drainage impacts of the proposed filling of pond from DAFC, CTP/UD&L of PlanD and CE/MN of DSD; and
 - (ii) approval of the application would set an undesirable precedent within the subject “AGR” zone. The cumulative effect of approving such application would result in adverse ecological impact and loss of fish ponds in the area;
- (h) PlanD’s view – given that there was no change in planning circumstances since the RNTPC on 12.11.2010, PlanD maintained the view of not supporting the review based on the planning considerations and assessments in section 6 of the review paper as summarised above. The main reasons were that the applicant failed to demonstrate that the proposed pond filling would not cause adverse ecological, landscape and drainage impacts and approval of the application would set an undesirable precedent.

73. The Chairman then invited the applicant’s representatives to elaborate on the review application. Mr. Cheng Chin Wah made the following main points:

- (a) he disputed the possibility of achieving the planning intention for the “AGR” zone to retain and safeguard good quality land / fishponds for agricultural purpose with good potential for rehabilitation for cultivation and other agricultural purpose. He said that commercial agriculture or fish farming were not viable in Hong Kong due to competition from the Mainland;

- (b) the comments of DAFC and the public comment submitted by WWF about the high ecological value of the application site as a potential breeding ground for Greater Painted Snipe was unfounded. From his own observation, there was no bird on the application site. Should the application site be of high ecological value, the Board should rezone it to “CA”;

[Prof. Edwin H.W. Chan returned to join the meeting at this point.]

- (c) with regard to the comment of LandsD that no pond / land filling was allowed on government land, the applicant could agree not to fill the portion of government land within the application site. Furthermore, the application site could still be used for agricultural purpose even without filling the pond but there was higher risk of flooding;
- (d) the proposed application was for organic farming, which was in line with the planning intention of the “AGR” zone. The natural environment was evolving, and should the application site be filled and used for agricultural purpose, the birds would likely move to another piece of land for breeding;
- (e) the organic farm was small in scale and was intended for his personal interest. It would not be operated on a commercial basis; and
- (f) Tang Chi Ka Tong, the Tso Tong that owned the application site, raised objection on the review only because they were not informed about the planning application. The comment of Designing Hong Kong Limited that the land was filled for future development was unfounded, the applicant would only use the application site for organic farming. The opposing public comments submitted by Mr. Tang, the Yuen Long District Councillor Mr. Wong Wai Yin and WWF were on similar grounds for nature conservation. However, the Board should strike a balance between nature conservation for the birds and the use of land for agricultural rehabilitation.

74. A Member asked DPO/TM&YL to explain the planning intention of the “AGR” zone particularly relating to an abandoned fish pond. Ms. Amy Cheung said that “agricultural use” was always permitted under the “AGR” zone but filling of pond required planning permission from the Board. The applicant had to demonstrate that the proposed filling of pond would not create negative drainage, ecological and landscape impacts. AFCD had reservation as the proposed filling of pond would turn the freshwater marsh on the application site into dry land and lower its ecological value. Furthermore, the application site was in the close vicinity of “Buffalo Fields” which was a breeding site for Greater Painted Snipe. Ms. Amy Cheung said that the environmental monitoring reports for the West Rail Project submitted in 2010 had recorded the presence of Greater Painted Snipe in the area. Mr. Cheng Chin Wah said that the application site was only proposed for growing fruit trees and vegetables, and he queried whether the proposed agricultural use would really affect Greater Painted Snipe.

75. Another Member commented that there might be ways to allow an organic farm on the application site without creating adverse impacts on the habitat of Greater Painted Snipe. He asked whether the applicant had considered the type of vegetation to be grown and pesticides or fertilizers to be used to minimise the ecological impacts. Mr. Cheng Chin Wah said that they had provided information in their submission that the pond would be filled with hillsoil that was suitable for agricultural purpose. Only organic fertilizers from compost of food waste and leaves and no artificial pesticides would be used in the organic farm. Ms. Amy Cheung said that according to AFCD, the abandoned fish pond on the application site, which had become freshwater marshland, was suitable as a bird’s habitat. Turning the application site into dry agricultural farmland would likely reduce its biodiversity and lower its ecological value. Mr. Cheng Chin Wah said that there were chances that Greater Painted Snipe was breeding in the adjacent fish ponds rather than on the application site.

76. A Member asked whether the application was only for filling of pond and commented that agricultural activities on the application site might lead to filling up of the pond over time. Mr. Cheng Chin Wah agreed and said that it might take two to three years to fill up the pond on the application site to a level of three metres as proposed in the

application. Ms. Amy Cheung clarified that the subject application was only for filling of pond and as 'agricultural use' was always permitted in "AGR" zone, there was no way to control any adverse impacts from agricultural use which did not involve pond filling.

77. The same Member asked DPO/TM&YL to advise further on AFCD's comments that the use of the application site for organic farming would lead to negative ecological impacts and DSD's comment about possible drainage problem as the existing fish pond use might be more susceptible to flooding than the proposed agricultural use. Ms. Amy Cheung responded that though AFCD had not assessed specifically ecological impacts as a result of the filling of pond at the application site, it was their intention to conserve the ecological value of natural habitats as much as possible. Ms. Amy Cheung advised that DSD had no objection to the application but requested that drainage proposal be submitted to demonstrate that the proposed filling of pond would not create adverse drainage impacts on the surrounding area.

78. The same Member further asked whether the applicant had obtained the landowner's agreement for the use of the application site and whether the applicant had the expertise in organic farming. Mr. Cheng Chin Wah explained that the application site was a piece of Tso Tong land owned by the Tang Chi Ka Tong, and the applicant had signed agreement with members of the Tso Tong to use the land. Mr. Cheng Chin Wah advised Members that he was working in the restaurant business, which would provide the sources of food waste for composting to make fertilizer for the organic farm. His partner was a retired gardener who had the expertise in organic farming. He stressed that the organic farm would be operated for his self-interest rather than on a commercial basis. Mr. Cheng Chin Wah repeated his earlier point that the application site could be used for agricultural purpose without pond filling but there would be a higher risk of flooding.

79. The Chairman asked whether the applicant had obtained Government's agreement to fill the portion of government land on the application site, whether the pond was filled (as per indicated in the public comment submitted by Designing Hong Kong Limited) and the depth of the pond. Mr. Cheng Chi Wah said they had not obtained approval from the Government for including the portion of government land into the application site. However, the portion of government land was an integrated part of the existing fish pond. Whilst it was not necessary to include the portion of government land

in his application, leaving the government land unfilled might cause environmental nuisance as the puddle of water there could become a mosquito breeding ground. Mr. Cheng further explained that the application site had not been filled up and Designing Hong Kong might have mistaken the adjacent filled ponds as the application site. He had not measured the exact depth of the pond and his proposal was to fill up the pond to the level of the pond bunds at an average depth of three metres.

[Mr. Stanley Y.F. Wong arrived and Ms. Anita W.T. Ma returned to join the meeting at this point.]

Deliberation

80. A Member said that the abandoned fish pond on the application site was a freshwater marshland, which was a habitat specially suitable as breeding ground for Greater Painted Snipe. Turning the abandoned fish pond into dried agricultural land would create a completely different habitat. Although it was not sure if Greater Painted Snipe would disappear with the loss of the freshwater marshland, the type of habitat was rare and hence it was understandable that AFCD would like to conserve such valuable habitats as far as possible. The Chairman added that approval of the application might create an undesirable precedent, the cumulative effect of which would result in adverse ecological impacts on the surrounding area.

81. A Member said that the review application was not supported. In view of AFCD's reservation and no drainage proposals had been submitted by the applicant, there was insufficient information to warrant approval of the application. Another Member agreed to reject the application as the onus was on the applicant to provide sufficient information for the Board's consideration of the review application. In response to this same Member's question, the Chairman said that each application would have to be considered on its merits and it was up to the applicant to provide the necessary information to justify their cases.

82. A Member noted that the applicant could use the site for agricultural purpose without the need for planning application as long as it did not involve the filling of pond. However, the type of produces to be grown would be very limited. Another Member said

that the objective of nature conservation should be weighed against the economic returns of agricultural use on the application site. The Chairman said that Members would need to consider whether the proposed filling of pond was acceptable from land use planning perspective, economic returns would not be a key consideration for the application. The Secretary said that whilst agricultural use was always permitted under the “AGR” zone, the application was for the filling of pond and Members needed to consider whether the applicant had provided sufficient information to demonstrate that the proposed filling of pond would not create adverse impacts.

83. In light of Members’ views, the Chairman said that the application should be rejected as the applicant had failed to demonstrate that the proposed filling of pond would not create adverse ecological and drainage impacts. Members agreed.

84. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 7.1 of the review paper and considered that they were appropriate. The reasons were:

- (a) the applicant failed to demonstrate in the submission that the proposed filling of pond would not cause adverse ecological, landscape and drainage impacts on the site and the surrounding areas; and
- (b) the approval of the application would set an undesirable precedent for similar applications within the subject “AGR” zone. The cumulative effect of approving such application would result in adverse ecological impact and loss of fish ponds in the area.

[Dr. C.P. Lau, Mr. Rock Chen and Mr. K.Y. Leung left the meeting and Mr. Walter K.L. Chan left the meeting temporarily at this point.]

Agenda Item 9

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-KTS/508

Temporary Open Public Car Park (Including Private Car, Light Goods Vehicle and Medium Goods Vehicle) for a Period of 3 Years in "Village Type Development" zone, Lot 291 (Part) in D.D. 109, Kam Tin, Yuen Long
(TPB Paper 8758)

[The meeting was conducted in Cantonese.]

85. The following government representative and the applicant's representative were invited to the meeting at this point:

- | | |
|----------------|-----------------------------------------------------------------------|
| Ms. Amy Cheung | - District Planning Officer/Tuen Mun and Yuen Long (DPO/TM&YL), PlanD |
| Miss Lo Ka Man | - Applicant's Representative |

86. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TM&YL to brief Members on the application.

87. With the aid of a powerpoint presentation, DPO/TM&YL presented the application and covered the following main points as detailed in the review paper:

- (a) the applicant sought planning permission to use the site for temporary open public car park (including private car, light goods vehicle and medium goods vehicle) for a period of 3 years. The site, with an area of about 810m², was zoned "V" on the approved Kam Tin South OZP No. S/YL-KTS/11;
- (b) the application site was paved, fenced off and currently used for the applied use without valid planning permission. The surrounding areas were predominantly rural and residential in character. There were scattered open storage/storage yards, parking lots and workshops in the vicinity. Residential developments were located to the east, south and

further west of the application site. There was a piece of vacant land covered by Application No. A/YL-KTS/524 for temporary car park (for private vehicles and light goods vehicles) that was approved with conditions by the RNTPC on 18.2.2011;

- (c) 15 parking spaces were proposed on the application site, that included two parking spaces for medium goods vehicles of 11m in length (or from 5.5 tonnes to 24 tonnes), five parking spaces for light goods vehicles of 7m in length and eight private car parking spaces. A guardroom (14.4m² and building height of 2.58m) was proposed. The car park would be operated 24 hours daily and no car washing or repairing activity would be carried out within the application site;
- (d) the application was rejected by RNTPC on 12.11.2010 for the following reasons:
 - (i) the development was not in line with the planning intention of the “V” zone. The development involving the parking of vehicles 7m to 11m in length and exceeding 5.5 tonnes was incompatible with the surroundings which were predominantly rural and residential in character;
 - (ii) the applicant failed to demonstrate in the submission that the development would not generate adverse environmental, landscape, traffic and drainage impacts on the surrounding areas; and
 - (iii) approval of the application would set an undesirable precedent;
- (e) the applicant had not submitted any written representation in support of the review;
- (f) the departmental comments were detailed in section 4 of the review paper and the main points were:

- (i) the Director of Environmental Protection (DEP) did not support the application because there were sensitive uses (i.e. existing residential dwellings / structures) in the immediate east and in the vicinity of the site and environmental nuisance was expected;
 - (ii) Commissioner for Transport (C for T) considered that the proposed parking space arrangement was not acceptable as there was inadequate manoeuvring space for 11m long goods vehicles to turn around and those vehicles would have to reverse out of the application site;
 - (iii) the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application from the landscape planning point of view as the development would have adverse landscape impact on the surrounding village residential setting, but no landscape mitigation measures had been proposed; and
 - (iv) Chief Engineer / Mainland North, Drainage Services Department (CE/MN, DSD) had no objection in-principle but advised that the requirements on drainage proposal and facilities should be incorporated in the planning permission;
- (g) there was one public comment on the review submitted by Designing Hong Kong Limited raising objection to the application on the grounds that there were adequate parking facilities in the area and the development would cause adverse environmental, landscape, traffic and drainage impacts. A holistic approach should be adopted taking into account availability of parking spaces. Over-provision of parking spaces would promote car ownership that was against the stated transport policy. Five public comments objecting to or expressing concern on the application were received during section 16 stage of the application;

- (h) the planning considerations and assessments were detailed in paragraph 6 of the review paper and the main points were:
- (i) the application site fell within the “V” zone. While car park use was not entirely incompatible with the surroundings and could serve some of the parking demands of the nearby villagers, the development involving parking of medium goods vehicles which were 7m to 11m in length and weighing over 5.5 tonnes was not congenial with the rural residential neighbourhood;
 - (ii) the applicant failed to demonstrate in the submission that the development would not generate adverse environmental, landscape, traffic and drainage impacts. DEP, CTP/UD&L and C for T had adverse comments; and
 - (iii) similar applications (No. A/YL-KTS/166, 481 and 524) for car park use were approved within the same “V” zone but those applications involved car park for private cars and light goods vehicles only and did not allow parking for medium and heavy goods vehicles. The approval of the current application would set an undesirable precedent for similar applications within the “V” zone; and
- (i) PlanD’s views – given that there was no major change in planning circumstances since the RNTPC on 12.11.2010, PlanD maintained the view of not supporting the review based on the planning considerations and assessments in section 6 of the review paper as summarised above. The main reasons were the development was not in line with the planning intention of the “V” zone, the applicant failed to demonstrate that the development would not generate adverse impacts and approval of the application would set an undesirable precedent.

88. The Chairman then invited the applicant's representative to elaborate on the review application. Members noted that the applicant had tabled a letter from the Chairman of the Kam Tin Rural Committee. Miss Lo Ka Man made the following main points:

- (a) they had included the parking for medium goods vehicles in the application as there was a shortage of car park for medium goods vehicles in the area;
- (b) government departments generally had no objection to the review application, that included C for T who did not object but only raised comment on the car parking arrangement. To address C for T's concern on vehicles reversing out from the site, alarm systems could be installed at the car park entrance to alert pedestrians of reversing vehicles. Furthermore, there was only a limited number of objections to the application from the public;
- (c) the application site was owned by Tso Tong and the applicant had obtained permission to use the land from managers of the Tso Tong. The chairman of the Kam Tin Rural Committee considered that the application would not create major impacts and could serve the demand for car park in the area. To address the concern of Kam Tin Rural Committee about the adverse impacts of parking medium goods vehicles, the applicant could restrict the public car park for private cars only;
- (d) to address residents' concern on security, a 20 feet high boundary wall could be built around the application site. In addition, there would be a security guard at the car park. The operation of the car park should not pose any danger to pedestrians as cars normally travel at low speed along the access road; and
- (e) the application site was conveniently located within walking distance from the West Rail Station and the car park therein was always full. The proposed car park could help serve the high demand for car parking

spaces in the area.

89. The Vice-Chairman referred to the letter from the Chairman of Kam Tin Rural Committee tabled at the meeting and asked whether the applicant was willing to restrict the car park for private cars. Miss Lo Ka Man confirmed that the applicant would agree to use the car park only for private cars and / or light goods vehicles if the Board considered it appropriate. There should be sufficient business even if the car park was only for private cars as there were many residential developments as well as some restaurants in the vicinity. With the aid of a photo, Miss Lo Ka Man said that currently there was a shortage of parking spaces in the locality and medium goods vehicles were parked along the road side. In response to another Members' question, Miss Lo Ka Man said that whilst the demand for parking space of private cars was high in the area, there was an even higher demand for car park for medium and heavy goods vehicles.

90. The Vice-chairman and another Member asked further how the applicant could control the type of cars entering the car park in future. Miss Lo Ka Man said that the operator of the car park would employ a security guard to ensure that medium and heavy goods vehicles were prohibited from entering the car park.

91. In response to a Member's question, DPO/TM&YL advised that there was no car park for medium and heavy goods vehicles that had obtained planning permission in the area. As mentioned in the presentation, the three temporary car parks with planning permission in the same "V" zone were only for parking of private cars and light goods vehicles.

92. A Member asked whether the applicant's representative knew how long the site had been paved. Miss Lo Ka Man said that she did not have the information.

93. Miss Lo Ka Man pointed out that the Tso Tong had not received any objection about the proposed car park on the application site. The District Office also did not receive any objection on the application.

[Mr. Walter K.L. Chan returned to join the meeting and Mr. Benny Wong left the meeting temporarily at this point.]

Deliberation

94. The Chairman asked whether Members agreed that the application could be approved for use as a public car park for private cars and light goods vehicles only; and the parking of medium and heavy goods vehicles should not be allowed due to insufficient manoeuvring space on the application site. One Member agreed and said that by excluding medium and heavy goods vehicles, C for T's main concern on inadequate manoeuvring space for the long vehicles should be addressed.

95. The Vice-Chairman said that given the residential developments around the application site (as shown on the photos in Plan R-4 of the review paper), the application site had good potential to be developed for residential use and he did not agree to approve the car park use on the application site.

96. As requested by the Chairman, the Secretary explained that planning application for public car park for private cars and light goods vehicle would normally be supported within "V" zones unless the application site involved Small House applications. For the subject application, LandsD had advised that there was no Small House application at the application site and C for T's main concern was only on the insufficient manoeuvring space for medium and heavy goods vehicles.

97. One Member asked whether it was procedurally proper for the Board to approve the application with the exclusion of medium goods vehicles. The Secretary said that in some previous cases, the Board had imposed approval conditions to restrict the types of vehicles allowed in public car park. That could be done as long as the applied use remained the same. It was worth noting that the Kam Tin Rural Committee did not object to a public car park for private cars only on the application site and there were public concerns on the traffic impact and pedestrian safety generated by the proposed use.

98. The same Member and another Member said that it might be difficult to ensure compliance of the approval condition to exclude medium and long goods vehicles from using the car park. The Secretary said the planning permission could be revoked if the applicant did not comply with any of the approval conditions, enforcement actions could then be undertaken by the Central Enforcement and Prosecution Section of PlanD.

99. Three Members considered that the application could be approved by imposing an approval condition to exclude medium and heavy good vehicles. Two of them commented that as the planning permission could be revoked if the applicant did not comply with the planning conditions, the concern on non-compliance with the approval condition could be adequately addressed. One of the Members also noted that the Board had approved another application for car park for private cars and light goods vehicles only on a site to the immediate west of the application site, and there was no reason not to approve the current application if the use was similar (i.e. after excluding the parking for medium and heavy goods vehicles). That Member also indicated that with the workshops and storage uses to the immediate north, the proposed public car park should not be considered incompatible.

100. In light of Members' views above, the Chairman said the application could be approved and a condition should be added to exclude medium and heavy goods vehicles from using the car park. Members agreed that approval condition (b) in paragraph 7.2 of the review paper could be amended to that effect.

101. After further deliberation, the Board decided to approve the application on review on a temporary basis for a period of 3 years until 11.3.2014 on the terms of the application as submitted to the Board and subject to the following conditions:

- (a) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations were allowed to be parked/stored on the site at any time during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailer, as defined in the Road Traffic Ordinance were allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the site at any time during the planning approval period;

- (d) the provision of mitigation measures to minimize any possible nuisance of noise and artificial lighting on the site to the residents nearby within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 11.9.2011;
- (e) the submission of landscaping proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 11.9.2011;
- (f) in relation to (e) above, the implementation of landscaping proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 11.12.2011;
- (g) the submission of drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 11.9.2011;
- (h) in relation to (g) above, the implementation of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 11.12.2011;
- (i) the implementation of accepted fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 11.9.2011;
- (j) if any of the above planning conditions (a), (b) or (c) was not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (k) if any of the above planning conditions (d), (e), (f), (g), (h) or (i) was not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and

- (l) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

102. The Board also agreed to advise the applicant of the following:

- (a) prior planning permission should have been obtained before commencing the applied use at the application site;
- (b) to resolve any land issues relating to the development with the concerned owners of the site;
- (c) to note DLO/YL's comments that the site was situated on Old Schedule Agricultural Lot held under Block Government Lease upon which no structure was allowed to be erected without prior approval from his office. No permission had been given for the converted container for guardroom. The site was accessible from Kam Sheung Road via a short stretch of government land (GL). His office did not provide the maintenance works to the GL or guarantee right-of-way. The registered owner of the subject lot should apply for Short Term Waiver (STW) to regularize any structures on the site. Should no STW application be received/approved and any irregularities persisted on the site, his office, on review of the situation, would take appropriate lease enforcement action against the registered owners;
- (d) to adopt the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP to minimise any potential environmental nuisances;
- (e) to note CHE/NTW, HyD's comments that his department was not/shall not be responsible for the maintenance of any existing vehicular access connecting the application site and Kam Sheung Road;

- (f) to note CE/MN, DSD's comments that the development should not generate adverse drainage impact to the adjacent areas;
- (g) to note CBS/NTW, BD's comments that all unauthorized structures on the site should be removed and all building works were subject to compliance with the Buildings Ordinance. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on the site under the Buildings Ordinance. Enforcement action might be taken to effect the removal of all unauthorized works in the future. Authorized Person must be appointed to co-ordinate all building works; and
- (h) to note D of FS's comments that the installation / maintenance / modification/repair work of fire service installation (FSI) shall be undertaken by an Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after the completion of the installation/maintenance/modification/repair work issue to the person on whose the instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him for consideration.

103. The meeting was adjourned for lunch break at 1:30pm.

105. The meeting was resumed at 2:30 p.m.

106. The following Members and the Secretary were present after the lunch break:

Mr. Thomas Chow Chairman

Mr. Stanley Y.F. Wong Vice-chairman

Mr. K.Y. Leung

Professor Edwin H.W. Chan

Mr. Felix W. Fong

Mr. Timothy M.W. Ma

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Professor C.M. Hui

Mr. Laurence L.J. Li

Dr. W.K. Yau

Ms. Pansy L.P. Yau

Ms. Anita W.T. Ma

Mr. Stephen M.W. Yip

Deputy Director of Environmental Protection

Mr. Benny Wong

Agenda Item 10

[Open Meeting (Presentation and Question Session Only)]

Consideration of Representations and Comments to the Draft Causeway Bay Outline Zoning Plan No. S/H6/15

(TPB Papers No. 8762 and 8763)

[The hearing was conducted in Cantonese and English.]

Group 2 Representation No. R164 and Comment No. C1

(TPB Paper No. 8673)

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

- | | |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mr. Jimmy C.F. Leung | - his mother owned a property in the area |
| Mr. Maurice W.M. Lee | - owned properties in the area |
| Mr. Roger K.H. Luk | - his spouse owned a property in the area |
| Professor P.P. Ho | - had current business dealings with Cheung Kong (Holdings) Limited (CKH)/ Hutchison Whampoa Limited. Hong Kong Electric Co. Limited (R164) is a subsidiary of CKH |

108. Members noted that Mr. Jimmy Leung, Mr. Maurice W.M. Lee, Mr. Roger K.H. Luk and Mr. P.P. Ho had tendered apologies for not being able to attend the afternoon session of the meeting.

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

- | | |
|---------------|--------------------------------------------------------|
| Ms. Brenda Au | District Planning Officer/Hong Kong
(DPO/HK, PlanD) |
| Mr. Tom Yip | Senior Town Planner/Hong Kong |

110. The following representatives of representer and commenter were also invited to the meeting:

R164 The Hong Kong Electric Company Limited

Mr. Tam Sze Wai, Vincent

C1 Designing Hong Kong Limited

Mr. Paul Zimmerman

111. The Chairman extended a welcome and explained the procedures of the hearing to the representatives of the representer and commenter. He then invited Ms. Brenda Au, DPO/HK, to brief Members on the background of the representation and comment.

112. With the aid of a Powerpoint presentation, Ms. Brenda Au made the following main points as detailed in the Paper:

- (a) on 17.9.2010, the draft Causeway Bay OZP No. S/H6/15, incorporating mainly amendments to impose building height restrictions (BHRs) for various development zones, designate non-building areas (NBAs) and setback requirements, rezone “Commercial/Residential” (“C/R”) sites and other rezoning proposals to reflect completed developments, was published for public inspection;
- (b) upon the expiry of the public exhibition period, a total of 166 representations and 13 comments were received. On 11.2.2011, the Board agreed to consider representation No. R164 and the related part of C1 individually;
- (c) the representation was submitted by the Hong Kong Electric Company Limited in respect of the existing Moreton Terrace Zone Substation at 10 Tung Wo Wan Drive;

Grounds of Representation and Representer’s Proposal

- (d) the main grounds of the representation and the representer’s proposal as detailed in paragraphs 2.1 and 2.2 of the Paper were summarised as follows:

- (i) the existing substation building was 5-storey tall and the BHR of 2 storeys would substantially affect the redevelopment and alteration flexibility of the site;
- (ii) the area of site was substantially smaller than the total area for housing electricity substation as stated in the Hong Kong Planning Standards and Guidelines. The substation had to be designed as a 5-storey building in order to house the zone substation;
- (iii) the building height of the existing substation was compatible with the surrounding buildings;
- (iv) the Conditions of Grant by Private Treaty for the site had already imposed very stringent control on the height of the development in that the height of any building to be erected on the site should be subject to the approval of the Director of Public Works;

Proposal

- (v) revise the BHR for the representation site from 2 storeys to 5 storeys;
- (e) C1 opposed the representer's proposal without specifying the ground;

Responses to Grounds of Representation and Representer's Proposal

- (f) the responses to the main grounds of the representation and the representer's proposal as detailed in paragraph 4.4 of the Paper were summarised as follows:
- (i) based on the clarification and verification of the approved building plans with the Buildings Department, it was confirmed that the existing building height of the substation should be 5 storeys;

- (ii) while there was provision in the Notes for the “Government, Institution or Community” (“G/IC”) zone for redevelopment to the existing building height, it was proposed that the representation be met by amending the BHR for the representation site from 2 storeys to 5 storeys to reflect the existing building height;

(g) PlanD’s View:

- (i) no objection to the representation of R164 and considered that the OZP could be amended to meet the representation by amending the BHR for the part of the “G/IC” zone covering the Moreton Terrace Zone Substation from 2 storeys to 5 storeys.

113. The Chairman then invited the representatives of presenter and commenter to elaborate on their submissions. Mr. Tam Sze Wai, Vincent, representative of R164, said that he had no submission to make. Mr. Paul Zimmerman, representative of C1, said that he had no objection to the proposed relaxation of BHR as it reflected the existing building height of the representation site.

114. As Members had no question to raise, the Chairman said that the hearing procedures for Group 2 had been completed and the Board would deliberate on the representation in the absence of the presenter and commenter. They would be informed of the Board’s decision in due course. The Chairman thanked the representatives of the presenter and commenter as well as PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

115. The Board agreed that it was appropriate to amend the BHR for the representation site from 2 storeys to 5 storeys so as to reflect the existing building height of the substation.

Representation No. R164

116. After deliberation, the Board decided to propose amendment to the draft OZP to

meet the representation by amending the BHR for the part of the “G/IC” zone covering the Moreton Terrace Zone Substation site from 2 storeys to 5 storeys as shown on Annex Ia of the Paper. The schedule of proposed amendment was attached at Annex Ib of the Paper.

Group 1 Representations No. R1 to R163 and R165 and Comments No. C1 to C5

(TPB Paper No. 8672)

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

- | | | |
|-----------------------|---|----------------------------------------------------------------------------------------------------------------------|
| Mr. Jimmy C.F. Leung | - | his mother owned a property in the area |
| Mr. Maurice W.M. Lee | - | owned properties in the area |
| Mr. Roger K.H. Luk | - | his spouse owned a property in the area |
| Mr. Raymond Y.M. Chan | - | had current business dealings with Hysan Development Company Limited (HDC), which was one of the representers (R147) |
| Mr. Stephen M.W. Yip |] | had current business dealings with Ove Arup & Partners Hong Kong Limited, which was a consultant of HDC (R147) |
| Professor S.C. Wong |] | |

118. Members noted that Mr. Jimmy Leung, Mr. Roger K.H. Luk, Mr. Raymond Y.M. Chan, Professor S.C. Wong and Mr. Maurice W.M. Lee had tendered apologies for not being able to attend the afternoon session of meeting. For Mr. Stephen M.W. Yip, Members considered that his interest was indirect and agreed that he could stay at the meeting.

119. Members noted that there were one replacement page to the Paper (page 34), one replacement page to Annex V of the Paper (page 1) and replacement pages for Plans H2-a and H-6a. In addition, Members noted that supplementary information submitted by R99, R147 to R152 and R158 had also been tabled at the meeting.

Presentation and Question Session

120. As reasonable notice had been given to invite all the representers and

commenters to attend the hearing, Members agreed to proceed with the hearing in the absence of the representers and commenters who had indicated that they would not attend or did not reply to the invitation to this meeting.

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

Ms. Brenda Au - District Planning Officer/Hong Kong, Planning Department (PlanD)

Mr. Tom Yip - Senior Town Planner/Hong Kong, Planning Department (PlanD)

Mr. Raymond Leung - Town Planner/Urban Design & Landscape Section, Planning Department (PlanD)

Mr. Lee Kwok Shing, David - Sr Engr/Wan Chai/Transport Department

Mr. Chan Chun Ping, Johnny - Engr/Wan Chai/Transport Department

122. The following representers and representatives of representers and commenters were also invited to the meeting:

R2 (Ms. Chan Mun Han)

Ms. Chan Mun Han - Representer

R14 (Mr. Poon Wai Keung)

Mr. Poon Wai Keung - Representer

R15 (Sunrise Ocean International Limited)

Mr. Lam Ho - Representer's Representative

R17 (Ms. Leung Mei Yuk)

Ms. Leung Mei Yuk - Representor

R18 (Ms. Lo)

Ms. Ng Sau Ching - Representor's Representative

R21 (Mr. Cheung Shing Wah)

Mr. Fong Kai Cheung - Representor's Representative

R29 (Lau Bing Wu)

Ms. Ngok Miu Keung - Representor's Representative

R31 (Mr. Chan Kai Chung)

Ms. Mak Wai Lin - Representor's Representative

R35 (Ms. Lo Lai Sim)

Ms. Lo Lai Sim - Representor

R37 (Mr. Kwok Kam Hung)

Ms. Kwok Yip Miu Ching - Representor's Representative

R39 (Mr. Won Wan Hing)

Mr. Wong Wan Hing - Representor

R43 (Mr. Fong Yiu Yan)

Ms. Chau Mei Chi - Representor's Representative

R46 (Mr. Cheung Wai Wing)

Mr. Cheung Wai Wing - Representor

R51 (Mr. Poon Kwok Leung)

Mr. Poon Kwok Leung - Representor

R53 (Ms. Chiu Mei Shui)

- Ms. Chiu Mei Shui - Representer
- Mr. Hui Koo Sing - Representer's Representative

R57 (Mr. Cheung Kam Cheung)

- Mr. Cheung Kam Cheung - Representer

R65 (Mr. Cheng Cheung Sang)

- Mr. Cheng Cheung Sang - Representer

R66 (Ms. Tse Yuen Ying)

- Ms. Tse Yuen Ying - Representer

R79 (Ms. Chan Kwai Ling)

- Ms. Ko Yee Wah - Representer's Representative

R83 (Ms. Tsang Mei Yin)

- Ms. Tsang Mei Yin - Representer

R89 (Mr. Wong Woon Ying & Mr. Fung Tim Yau)

- Mr. Wong Woon Ying - Representer

R90 (Mr. Wai Chi Ming)

- Mr. Wai Chi Ming - Representer

R91 (Mr. Lee Kwong Hoi)

- Mr. Lee Kwong Hoi - Representer
- Mr. Lee Wing Yan - Representer's Representative

R96 (Ms. Lo Mo Yung)

- Ms. Lo Mo Yung - Representer

R98 (Ms. Hon Pui Fun)

Ms. Hon Pui Fun - Representer

R99 (Mr. Ngan Hing Lin)

Mr. Ngan Kwan Leung - Representer's Representative

Mr. Ngan Kwan Hong - Representer's Representative

R100 (Mr. Pang Lee Pui)

Mr. Pang Lee Pui - Representer

R102 (Ms. Ng Sau Ching)

Ms. Ng Sau Ching - Representer

R110 (Chan Choi Choi Wan)

Mr. David C.F. Wong - Representer's Representative

R113 (Mr. Nip Ka Ho)

Mr. Nip Ka Ho - Representer

R114 (Ms. Lee Shui King)

Ms. Lee Shui King - Representer

R133 (Allied Wealth Properties Limited)

Mr. Cheng Chun Ting - Representer's Representative

R137 (Lei Shun Court Joint Sale Committee)

Mr. Wong Fat Kee] Representer's Representatives

Mr. Shao Wai Fei]

Mr. Shau Kwok Lam, Gollum]

Mr. Sin Chi Man, Ray]

R138 (Mr. Cheng Chung Wong)

Mr. Cheng Chung Wong - Representer

R141 (Choy Choong Yew (Chairman of Incorporated Owners of Lei Kwa Court))

Mr. Wong Hon Ching - Representer's Representative

R142 (Haven Investment Properties Limited & Cham Power Development Limited)

Mr. Kim Chan]
Ms. Stephenie Lee]
Mr. Kenney Kong] Representer's Representatives
Mr. Dexter Cheung]
Mr. Jor Cheuk Kin]
Ms. Candy Li]

R143 (Keen Step Corporation Limited)

Mr. Kenneth To]
Mr. David Fok] Representer's Representatives
Mr. Barry Chan]
Mr. Yeung Yu Hong]

R144 (Fortress Jet International Limited)

Mr. Kenneth To]
Mr. David Fok] Representer's Representatives
Mr. Barry Chan]
Mr. Yeung Yu Hong]

R145 (Mansita Limited & Hang Chui Co. Limited)

Ms. Cindy Tsang]
Ms. Janet Ngai] Representer's Representatives
Ms. Miranda Chiu]

R146 (Excelsior Hotel (BVI) Limited & The Excelsior Hotel (HK) Limited)

Mr. Alan MacDonald]
Mr. David Hung] Representer's Representatives

R147 (Hysan Development Co. Limited)

R148 (Barrowgate Limited)

R149 (Earn Extra Investments Limited)

R150 (Silver Nicety Co. Limited, Minsal Limited & Mondsee Limited)

R151 (Perfect Win Properties Limited)

R152 (OHA Property Co. Limited)

Mr. Ian Brownlee]	
Ms. Kira Brownlee]	
Dr. L.K. Chan]	
Ms. Winnie Wong]	
Mr. Menachem Hasofer]	
Mr. Gavin Morgan]	
Mr. Rory Gammell]	Representer's Representatives
Ms. Monita Ho]	
Mr. David Au]	
Mr. Danny Kwok]	
Mr. Jave Chung]	
Dr. Rumin Yim]	
Mr. Chapman Lam]	

R153 (The Real Estate Developers Association of Hong Kong)

Mr. Louis Loong]	Representer's Representatives
Mr. Ian Brownlee]	

R156 (Ms. Pong Yuk Ping)

Mr. Pong Yiu	-	Representer
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R158 (Ocore Limited)

Mr. W.P. Lim	-	Representer's Rep.
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R165 (Full Harvest Limited)

Mr. Kim Chan]	
Ms. Stephenie Lee]	
Mr. Kenny Kong]	Representer's Representatives
Ms. Candy Li]	
Mr. Dexter Cheung]	
Mr. Jor Cheuk Kin		

C3 (Rosedale Park Limited)

Mr. Kenneth To]	
Mr. David Fok]	Representer's Representatives
Mr. Barry Chan]	
Mr. Yeung Yu Hong]	

123. The Chairman extended a welcome and explained the procedures of the hearing to the representers, commenters and their representatives.

124. Mr. Menachem Hasofer, the solicitor acting for R147 to R152, applied to the Board for adjournment of the hearing of Group 1 representations on the ground that a fair hearing for Group 1 would not be possible. He made the following main points and tabled a copy of the judgment of a case, *R v Portsmouth City Council Ex. parte Gregory*, reported in 89 LGR 478, the Queen's Bench Division of the English High Court for Members' reference/consideration :

- a) a fair hearing was not possible given i) the large number of representations and comments which were to be heard; ii) the length and complexity of the written and verbal representations; iii) the limited time available as the hearing was scheduled to commence after 2.45pm; and iv) the lack of fairness inherent in any hearing which extended into the evening;

The Statutory Scheme

- b) s.2(3), s.2A, s.2C(3), s.6, s.6B, s.8(2) of Town Planning Ordinance related to appointment of committees by the Board, meetings of Board and of committees, representations relating to draft plans, consideration of

representations, and submission of considered draft plan to Chief Executive in Council (CE in C). The determination of practice and procedure at the meeting must be in accordance with the established principles of procedural fairness. There was provision under s.8(2) for requesting a six-month extension of time for submission of the draft OZP to CE in C;

Town Planning Board Guidelines on Deferment

- c) according to paragraph 4.1 of the TPB Guidelines 33, request for deferment of consideration of representation and comments, etc. would not be entertained unless with the consent of other concerned parties and there were very strong reasons to do so. However, the TPB Guidelines were an administrative publication and for reference only. It could not replace the requirements for procedural fairness. There were strong reasons for adjournment in this case;

Principles of Procedural Fairness

- d) under s.6B, persons who had made representations and submitted comments were entitled to attend and be heard at the meeting. There were no statutory provisions or regulations governing the format of the hearing or its procedure. The Board was entitled to determine its own procedures, subject to the overriding duty to ensure that procedural fairness was afforded to those who had a statutory right to attend and to be heard. The nature and extent of the right to be heard must be determined according to the circumstances of each case. Nevertheless, the general principle was that a party must be allowed a reasonable opportunity to present their case and had it properly considered by the decision making body.

Factual Considerations in the case

- e) the draft Causeway Bay OZP proposed significant planning restrictions, including building height restrictions (BHRs), non-building areas (NBAs) and setbacks which significantly affected private property rights, particularly upon redevelopment;

- f) the Board was required to consider 165 representations and 13 comments at the hearing. Some of these representations were quite detailed and included matters of significant technical complexity. A large number of representers and commenters wished to avail themselves of the statutory right and elaborate on the planning merits of various proposed amendments;
- g) the Planning Department had produced a voluminous TPB Paper with detailed responses to representations and detailed technical information. PlanD did not support any of the representations. The Board would need to carefully consider various points for and against the amendments submitted by the representers and PlanD;
- h) R147 to R152 owned a number of buildings that were affected by the proposed planning controls. The representers had prepared detailed reports and presentations from technical experts on various aspects;
- i) R147 to R152 would elaborate on the impacts of the Buildings Department's recently published Practice Notes under the Sustainable Building Design (SBD) Guidelines and how these intersected with and duplicated the planning controls in the draft OZP. The issue had not been addressed in the TPB Paper. The concern that the Board had not been provided with sufficient information on this important issue was a strong reason for the Board to adjourn the hearing;
- j) R147 to R152 expected that at least two hours would be required to present their cases. In addition, the Board was required to properly consider the materials in the TPB Paper, the previously submitted written representations, and copies of detailed reports on each of the subjects that were tabled at the meeting, ask questions and deliberate on the issues involved;
- k) R147 to R152 sought to assist the Board by tabling some of the more detailed technical information in advance of the meeting. However, these

materials were not distributed to Members in advance. Presumably the TPB Secretariat took the view that no further written information might be submitted prior to the hearing once the date of submitting representations had ended as per paragraph 3.2 of the TPB Guidelines 29A;

- l) that position was wrong as a matter of law as there was no such provision in the Town Planning Ordinance. Section 6(2) of the Town Planning Ordinance required a representation to 'indicate' the matter to which it related, the nature and reasons for the representations and the proposed amendments. The word 'indicate' necessarily inferred that such information was only preliminary, and might later be supplemented by further information, provided that the supplemental information was confined to the matters, nature and reasons for the representations first indicated;
- m) the result of not circulating the written supplemental information prior to the meeting was that Members of the Board were required to read through and consider all the information on the day of a meeting;
- n) Representers R147 to R152 appreciated the enormous burden placed upon Members. The long meeting and heavy schedule had impacts on Members' ability to focus, concentrate and make a decision on the representations. It might have been possible for the Board to consider all of the written materials and to listen to all of the oral presentations for the draft Causeway Bay OZP within one day, if the entire day had been set aside for this purpose ;
- o) there were limits in Members' ability to focus and concentrate for so many hours in one day. Even with the best intentions, nobody had the physical stamina to continuously pay attention, concentrate on, absorb and analyse important and complex information for more than seven or eight hours in one day. The lack of fairness was inherent in the Board's overloaded schedule;

- p) There was a case law, *R v Portsmouth City Council Ex. parte Gregory*, reported in 89 LGR 478, the Queen's Bench Division of the English High Court to support the position on the issue; and
- q) in view of the above, it was submitted that there were clearly 'strong reasons' that the Board should not hear all Group 1 representations today. The Board could defer all or part of Group 1 hearing to another date, either before the full Board, or before a Committee convened under s.2A of the Town Planning Ordinance.

125. The Chairman informed the representers, commenters and their representatives that the Board would in their absence deliberate the application for adjournment submitted by Mr. Hasofer. He then requested the representers, commenters and their representatives as well as the representatives of government departments to leave the meeting temporarily. They all left the meeting temporarily at this point.

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

126. The Chairman said that the Board had the power to determine its practice and procedure for its meetings. A Member concurred and said that the Board was entitled to determine its own procedures. Other Members agreed. Members also noted that on 11.2.2011, the Board considered and decided the hearing arrangements for the consideration of the representations and comments in relation to the draft Causeway Bay OZP. All the representers and commenters had been informed of the arrangements accordingly. No application for adjournment had been submitted by the representers and commenters before the meeting. Besides, no prior notice for application for adjournment had been received from R147 to R152 or their representatives. Members noted that a total of 77 representers, commenters and/or their representatives attended today's hearing.

127. Regarding the justifications submitted by Mr. Hasofer, a Member said that the Board all along ensured a fair hearing of representations and comments. Like all previous hearings in relation to other draft OZPs, the Board had allowed sufficient time for the representers and commenters to present their cases. All relevant information and considerations were taken into account by the Board in making a decision. There was no

sufficient justification submitted by Mr. Hasofer that the subject hearing would be an exception. Another Member shared this view. The Secretary informed Members that the representatives of R147 to R152 had advised that their presentations would last for two hours. Members considered that there would be sufficient time to consider the representations and comments. It was then early afternoon. Even if the hearing turned out to be very long and involved many technical and complex issues as mentioned by Mr. Hasofer, the Board could decide whether to adjourn as the hearing proceeded. Another Member said that if the Board decided to adjourn the meeting at this very juncture, it would be unfair to other representers, commenters and their representatives who were here to attend the meeting. Regarding the subject of SBD, the Chairman said that the Board received a detailed briefing on it from the Development Bureau on 5.11.2010. The Secretary said that in its letter of 7.3.2011 addressed to the Chairman and Members of the Board, REDA also alleged, among other things, about the duplication of the Buildings Department's Practice Notes on SBD with the planning controls in the OZP. However, this point was not mentioned in the written submissions of the representers. After further deliberation, Members did not consider it necessary to adjourn. Members decided to continue with the hearing.

[Mr. Felix W. Fong and Professor C.M. Hui left the meeting at this point.]

128. The Chairman invited the representers, comments and their representatives as well as the representatives of government departments back to the meeting. The Chairman informed the representers, commenters and their representatives that the Board had decided to continue with the hearing. He then invited Ms. Brenda Au, DPO/HK to brief Members on the background of the representations and comments.

[Mr. Timothy M.W. Ma returned to join the meeting at this point.]

129. With the aid of a Powerpoint presentation and the model illustrating the height profile of the Causeway Bay Planning Scheme Area (the Area), Ms. Brenda Au made the following main points as detailed in the Paper:

- (a) on 17.9.2010, the draft Causeway Bay OZP No. S/H6/15, incorporating mainly amendments to impose BHRs for various development zones, designate NBAs, building gap and setback

requirements, rezone “Commercial/Residential” (“C/R”) sites and other rezoning proposals to reflect completed developments, was published for public inspection;

- (b) the background of the amendments to the draft OZP as detailed in paragraph 2 of the Paper: An Air Ventilation Assessment (AVA) by Expert Evaluation (EE) of the Area had been undertaken to provide a qualitative assessment of the wind environment within the Area, to identify problem areas and propose mitigation measures. According to the AVA, the prevailing annual wind came from the north, east and north-east while the prevailing summer wind was mainly from the east, south-south-east and south-west. The existing wind situation in the Area did not present major air ventilation problem except for its north-western part, i.e. the core Causeway Bay area with tall and dense developments and narrow streets. The increase in BH upon redevelopment together with podium structure of new developments would have a significant adverse impact on air ventilation. Apart from imposing suitable BHRs, the imposition of control in respect of NBA, setback and building gap should be adopted to improve pedestrian level air ventilation;
- (c) the amendments incorporated into the OZP were presented to the Development, Planning and Transport Committee (DPTC) of the Wan Chai District Council (WCDC) and the Wan Chai East Area Committee (WCEAC) on 19.10.2010 and 9.11.2010 respectively. A local consultation forum was also held on 5.11.2010. The views expressed at these meetings and PlanD’s responses were summarised in paragraph 2.3.1;

Representations and Comments

- (d) upon the expiry of the public exhibition period, a total of 166 representations and 13 comments were received. On 11.2.2011, the Board agreed to consider all the representations and comments in two groups, namely, representations No. R1 to R163 and R165 and Comments No. C1 to C5 collectively and representation No. R164 and

the related part of C1 in a separate session. The Board considered that R166 in respect of the Schedule of Uses in the Notes for the “Other Specified Uses” annotated “Residential Development with Historical Site Preserved in-situ” zone should be regarded as invalid, and the consideration of related C6 to C13 was not required. The 164 representations and 5 related comments were summarized as follows:

- (i) one representation (R1) supported all the BHRs on the OZP and asked for more stringent BHRs and development restrictions for some sites. R162 and R163 submitted by two property owners in the Wun Sha Street area raised queries on the BHRs for the area;
- (ii) the remaining 161 opposed BHRs, NBA, setback and building gap requirements and rezoning of “C/R” sites on the OZP. Among the 161 adverse representations, 7 were general in nature or covered a broad area under various amendment items and 154 representations were site-specific. Among the 154 site-specific representations, 140 were related to “R(A)” or “R(A)1” sites and 14 representations were related to individual “Commercial” (“C”), “C(1)”, “C(2)” and “Other Specified Uses” annotated “Mixed Use” (“OU(MU)”) sites in the core Causeway Bay area;
- (iii) among the adverse representations, 2 generally opposed the OZP or the OZP amendment and did not specify the subject of representations. 157 representations opposed the BHRs, 127 representations were against the rezoning of “C/R” sites, 6 representations were against the NBAs stipulated on the OZP, 16 were against/related to setback requirements and 5 opposed the building gap requirement;
- (iv) among the 5 related comments received, C1 supported R1 but objected to other representers’ proposals to relax the restrictions. C2 and C5 opposed R1’s view of imposing more stringent BHRs on the sites on Haven Street and in the Pak Sha Road area

respectively. C3 supported R143 and R144's proposal of maintaining the "C/R" zoning for the Moreton Terrace area. C4 objected to R153;

Grounds of Representations and Representers' Proposals

- (e) the main grounds of the representations and the representers' proposals as detailed in paragraph 4.3 of the Paper were summarised as follows:

Supportive Representation Asking for More Stringent BHRs

(R1)

- (i) the BHRs would avoid wall effect upon redevelopment;

Proposals

- to stipulate lower stepped BHRs for the sites near the waterfront - 80mPD for the area north of Kingston Street/Jaffe Road, 100mPD for the area north of Hennessy Road/Yee Wo Street, and 115mPD for the area to the south;
- to reduce the maximum BH for the "G/IC" site at the junction of Pennington Street and Leighton Road covering the China Congregation Church site from 100mPD to 80mPD;
- to restrict massive podia in redevelopments and to consider demolishing some buildings to provide ventilation corridors in the Area;

Representations Asking for More Lenient BHRs

Urban Design Considerations (R143 to R153)

Ridgeline Protection

- (ii) preserving the ridgeline should not be a critical consideration. The BHRs imposed on the OZP would result in a monotonous profile which was not in line with the Urban Design Guidelines for Hong Kong (UDGs) and there was a need for an urban design

plan;

Design Flexibility

- (iii) the BHRs were overly restrictive and stifled the design flexibility and redevelopment incentive

Reference to BHs of existing buildings/ approved building plans, and Minor relaxation of BHRs for Buildings Exceeding the BHRs

- (iv) the imposition of BHRs which were lower than the heights of the existing buildings or the approved building plans was unrealistic in that the buildings exceeding the BHRs would remain insitu in the foreseeable future. In addition, the minor relaxation clause would not help as there was a ‘presumption against’ minor relaxation where the existing BH was already exceeding the BHR. The presumption should be deleted;

Floor-to-floor height

- (v) there was no information on the floor-to-floor height assumed in formulating BHRs;

Spot Zoning Approach

- (vi) the ‘spot zoning approach’ was too restrictive, inappropriate and unlawful. It was inconsistent with the Town Planning Ordinance in relation to the content and application of statutory plans;

To relax BHRs and adopt relaxation scheme of Tsim Sha Tsui OZP

- (vii) BHRs of some individual sites should be relaxed or removed. Relaxation or incentive scheme, similar to that adopted by the Board for the Tsim Sha Tsui OZP should be applicable to the “C” and “OU(MU)” zones on the Plan, so that relaxation of BHRs might be considered by the Board on application under section 16 of the Ordinance;

NBAs, Building Gap and Setback Requirements

Supportive Representation for More Stringent Control

- (viii) to improve air ventilation, R1 proposed to widen the NBA between Kingston Street and Jaffe Road from 8m to 15m, consider connections between ventilation corridors along the north-south aligned streets, and provide NBAs along Yee Wo Street, Jardine's Bazaar and Pennington Street;

Adverse Representations for More Lenient Control (R147 and R153)

AVA

- (ix) the Expert Evaluation (EE) of the AVA was subjective and devoid of any analysis as to how effective the proposed measures would be in improving air flows;

Control through Buildings Ordinance (BO) with bonus GFA under B(P)R22

- (x) the OZP was not an appropriate statutory framework for the implementation of building setback and building gap as provision of road widening was covered by other ordinances (i.e. BO and the Roads (Works, Use and Compensation) Ordinance ("Roads Ordinance")) and these ordinances contained provision for compensating private land owners for the loss of their land for setback for a public purpose;
- (xi) there was no provision in the OZP for plot ratio to be exceeded as defined in B(P)R 22(1) and (2). There was no statement in the Notes or ES indicating that the private land taken for setbacks or air ventilation purposes was for public passage and that bonus GFA could be considered by the Building Authority in accordance with the normal practice;

Unclear Definition for NBA and setback

- (xii) the meanings of NBA and setback and their difference were not

clear;

Width of footpaths

- (xiii) setback had been provided along footpaths which were adequate to meet the HKPSG requirements and/or were adequate to accommodate the pedestrian flow;

Traffic and pedestrian schemes

- (xiv) proposals were put forward by some representers as alternative to the NBAs and setback to resolve the traffic and pedestrian issues in the Area;

Rezoning of "C/R" Sites (R147, R153, R154 and R161)

"C/R" zoning allowed flexibility

- (xv) the "C/R" zoning provided flexibility and a vibrant form of development;
- (xvi) the "OU(MU)" zone had been introduced without any consultation with the landowners or the development industry. The permissible uses was confusing and unclear;
- (xvii) the argument that the "C/R" zoning was problematic in terms of loading on infrastructure had not been proven. PlanD should have the necessary planning for infrastructure based on the worst case scenario;

Flat supply and property price

- (xviii) the "C" zoning which prohibited residential development/redevelopment would dramatically drift down the number of consumers, making businesses difficult to survive. Taking out the residential zoning would reduce the supply of residential land and increase the price of residential units in this Area;

Public Consultation

No consultation prior to gazettal & Consultation Period too short

- (xix) Prior to the exhibition of the amendments to the OZP, there was no consultation with the affected owners and the development industry;
- (xx) making available the relevant MPC paper for public inspection after the exhibition of the amendments to OZP was not an effective means of informing the public of the reasons for the amendments;

Representations Offering Comments (R162 and R163)

- (xxi) the sites in the Wun Sha Street area were small, redevelopment at the sites might not be up to the maximum BHs allowed for the sites under the OZP. There were also queries on whether the built form of future redevelopments in the 3D computer illustration prepared by PlanD had to be followed or alternative scheme could be proposed. It was not sure which of the BHRs, i.e. 85mPD, 100mPD and 115mPD, was applicable to the sites;

Responses to Grounds of Representations and Representers' Proposals

- (f) the responses to the main grounds of the representations and the representers' proposals as detailed in paragraph 4.4 of the Paper were summarised as follows:

Supportive Representation for More Stringent BHRs

- (i) R1 was supportive of the BHRs on the OZP. On R1's proposed lower stepped BHRs, there was a need to strike a fair balance between public interest and private development right. R1's proposed BHRs of 80mPD, 100mPD and 115mPD for the core Causeway Bay area represented a 10m to 30m reduction in the

maximum BHs. This would pose undue constraints on future developments/redevelopments and had adverse impact on the development potential of the affected sites, particularly for the proposed lowest height band of 80mPD;

- (ii) for the “G/IC” zone covering the China Congregation Church site, a broad height band of 100mPD was adopted to reflect some existing high-rise GIC development (New Block of St. Paul’s Hospital) and committed developments which were under construction (the redevelopment of the subject church and Phase 2 of St. Paul’s Hospital). The same BHR was also adopted for the adjoining Haven Street and Sunning Street areas. The proposal to reduce the BHR for the “G/IC” site to 80mPD was considered not appropriate;
- (iii) the proposal to restrict the size of podia in redevelopments across the board under the OZP or to demolish buildings for air ventilation would adversely affect the property rights, and should only be considered where there were sufficient justifications;

Adverse Representations for More Lenient BHRs

Urban Design Considerations (R143 to R153)

General (including ridgeline protection)

- (iv) with a view to protecting the ridgeline and the view of the harbour and local viewpoints at Victoria Park, the BHRs had been formulated based on an overall BH concept and other relevant considerations including stepped height concept, existing BH profile, topography, local characteristics, and findings of AVA;
- (v) in line with the UDGs, a stepped height concept progressively ascending from the waterfront towards inland area had in general been adopted;

- for the medium-rise belt in the inland area adjoining the GIC and OU clusters, a lower BHR was adopted. A BHR of 100mPD was adopted to maintain the existing medium-rise character of Haven Street residential cluster and ensure compatible BH profile with the low to medium-rise GIC uses to the east and south;
- in respect of Wun Sha Street residential cluster, stepped BHRs of 85mPD, 100mPD and 115mPD increasing from the north to south were adopted to help improve the air ventilation by downwash effect of wind brought about by the variation in BHs;
- the two tall commercial developments in the areas, the Lee Gardens with 208mPD and the commercial development at 500 Hennessy Road of 199mPD under construction, together with Times Square falling within the Wan Chai OZP (all were around 200mPD), would form a 'triangle node' as a key destination for shopping and entertainment in the area. A BHR of 200mPD was therefore imposed on these two sites;
- amid the high-rise developments in the core Causeway Bay area, there was a distinct low-rise neighbourhood on the two sides of Pak Sha Road. The area was currently occupied by dwelling houses of 4 to 5 storeys (around 20mPD to 30mPD) built in the 1950's with lower floors for commercial uses. While the leases for the sites were virtually unrestricted, under the agreement made in the 1950's between the original owner Lee Hysan Estate Company Limited (LHECL) and the sub-leasees for these sites, there was a restrictive covenant requiring the sub-leasees "to keep and maintain European style dwelling houses of a

uniform design”. In view of the said restrictive covenant which was binding on successors-in-title of these lots, the area had maintained the original unique style as a low-rise neighbourhood. Given such a special character, a BHR of 30mPD was imposed to maintain the BH profile for this area. It was recognized that there could be greater redevelopment potential for the area if the restrictive covenant was relaxed with agreement between LHECL and current lot owners. To avoid piecemeal redevelopment of individual lots, it was stipulated in the ES of the OZP that any future redevelopment for this area should be in the form of comprehensive redevelopment supported by an urban design plan and technical assessments. Should the area be ripe for redevelopment in future, the concerned parties could submit a comprehensive redevelopment scheme to the Board for consideration through the s.12A application procedure;

Design flexibility

- (vi) the BHRs were formulated based on reasonable assumptions and flexibility was allowed in the shape and form of the buildings. They should in general be sufficient to accommodate the permissible PR under the OZP as well as meeting various building requirements. Besides, the BHRs did not preclude the incorporation of innovative architectural features. Moreover, a development with more relaxed BH control might not guarantee better designed sustainable buildings. There was provision for application for minor relaxation of the BHRs under the OZP to cater for development/redevelopment with planning and design merits. Any innovative scheme with planning and design merits would be duly considered by the Board;

Reference to BHs of existing buildings/ approved building plans,
& Minor relaxation of BHRs for Buildings Exceeding the BHRs

- (vii) it would not be appropriate to adopt the BH of existing buildings exceeding the BHRs as reference as it would result in proliferation of excessively tall buildings in the Area if the existing building(s) was out-of-context with the heights of the surrounding buildings and the planned BH. The incorporation of the BHs of approved development schemes in general building plan submissions for individual sites into the OZP would jeopardise the integrity of the overall stepped BH concept. Minor relaxation of the BH of excessively tall buildings upon redevelopment would aggravate the problem of mismatch and jeopardize the overall BH concept for the OZP;

Floor-to-floor height

- (viii) having regard to the stepped BH profile adopted for the area and planning intention and character of the concerned sites, a reasonable floor-to-floor height was assumed in the formulation of the BHRs for the commercial sites and “OU(MU)” sites. In general, for sites subject to BHRs of 110mPD and 130mPD, a floor-to-floor height of about 4m to 4.5m would be possible for the typical floors. The BHRs did not preclude the provision of quality office buildings;
- (ix) for the Sunning Road area, in order to achieve a compatible BH profile with the adjacent “C” sites on the Wong Nai Chung OZP, a more stringent BHR of 100mPD had been imposed which would imply a lower floor-to-floor height. Nevertheless, to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP;

Spot Zoning Approach

- (x) regarding the query on the legal basis for the Board to impose

BHRs, NBA, setback and building gap requirements, according to the Department of Justice (D of J), sections 3 and 4 of the Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board had the power to impose these controls on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were necessary and sufficient planning justifications. The imposition of BHRs and designation of NBA, setback and building gap were considered justified as it could serve a positive planning purpose and have positive planning benefits;

Relax BHRs and adopt relaxation scheme of Tsim Sha Tsui OZP

- (xi) deletion or piecemeal relaxation of the BHRs for individual sites as proposed by some presenters would jeopardize the coherency of the stepped BH profile and could result in proliferation of high-rise developments, which was not in line with the intended planning control. On the proposal to apply the ‘relaxation scheme’ for the Tsim Sha Tsui OZP to the “C” and “OU” zones on the Plan, it should be noted that according to the UDGs, Tsim Sha Tsui was recognized as a new major commercial high-rise node. No additional high-rise nodes should be designated outside the Tsim Sha Tsui area. The recognition of committed developments under general building plans approvals was treated as exception rather rule. As such, it was inappropriate to apply the approach used in the Tsim Sha Tsui OZP to the subject OZP;

NBAs, Building Gaps and Setback Requirements

Supportive Representation for More Stringent Control

- (xii) provision of more and wider NBAs and wind corridors as proposed by R1 would pose undue constraints on future developments/redevelopments, especially for small lots which were common in the Area. For R1’s proposal to widen the NBA

between Kingston Street and Jaffe Road from 8m to 15m, it would have a major impact on the redevelopment potential of the concerned lots, particularly 51 Paterson Street which had a width of about 23m only;

Adverse Representations for More Lenient Control (R147 and R153)

AVA

- (xiii) the AVA by EE, which was particularly useful for a large area, was considered an appropriate approach for overall review of BH for the Area. The AVA had been carried out in accordance with the Technical Circular on AVAs promulgated by the Government. The AVA had assessed the existing wind environment in the Area and made a qualitative evaluation of the likely impact of the developments in accordance with BHRs on the pedestrian wind environment, including identification of areas of concern and recommending possible measures to address the potential problems. Justifications for the specific NBAs and building gap requirements were clearly set out in the AVA and the relevant MPC paper;

Control through BO with bonus GFA under B(P)R22

- (xiv) it was appropriate to impose NBA, building gap and setback requirements on the OZP to provide clearer control and allow opportunity for public representation under the Ordinance. In comparison, the provision of setback under the BO was more on a voluntary basis and was considered less effective. There was no intention to resume private land to provide the setback area, which would affect the development rights and potential of the concerned sites;
- (xv) proposals involving dedication of land for public passage and surrender of land for street widening would be entitled to bonus GFA under B(P)R, and any such claim would be duly considered

by the Building Authority in accordance with the normal practice. Since there was no plot ratio restriction for the relevant commercial, residential and “OU(MU)” zones under the Plan, the inclusion of provision in the OZP for plot ratio to be exceeded as defined in B(P)R 22(1) and (2) was not necessary. The NBA, setback and building gap requirements on the OZP should not adversely affect development intensity of the relevant sites, and did not preclude the claim for bonus GFA under the BO;

Unclear Definition for NBA and setback

- (xvi) while the effects of NBA and setback on development/redevelopment was similar, they served different functions. NBA was designated for air ventilation or urban design considerations, while setback was mainly to facilitate widening of footpaths to improve pedestrian walking environment and to meet the HKPSG’s standards, though it might also assist air ventilation;

Width of footpaths

- (xvii) setback requirement was only imposed for sites where the width of the existing footpath below the standards in HKPSG and where there was a need from pedestrian circulation point of view, based on TD’s advice;

Traffic and pedestrian schemes

- (xviii) pedestrianisation and traffic management schemes would have a major impact on the general traffic and pedestrian circulation in the concerned area, and would need to be considered by the TD in detail separately;

Rezoning of “C/R” Sites (R147, R153, R154 and R161)

“C/R” zoning allowed flexibility

- (xix) according to the recommendations of the Metroplan Review which was completed in 2003 after wide public consultation, the

“C/R” zoning was considered obsolete and had inherent problems, including undesirable land-use mix (e.g. mixture of commercial and residential uses on the same floor or without any segregation between the commercial and residential portions) and uncertainty in infrastructure planning. The Study recommended rezoning the “C/R” zones to other more appropriate zonings for more effective infrastructure planning and better land use management. Except for a few OZPs, all the “C/R” zones on OZPs had been reviewed and rezoned to other uses. The “C/R” sites were rezoned to “C”, “R(A)” or “OU(MU)” on the Plan, taking the nature and uses of the existing developments into consideration;

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

- (xx) the “OU(MU)” zoning was first introduced in the revised Master Schedule of Notes to the Statutory Plans (MSN) endorsed by the Board in 2003. The professional institutes and the Planning Sub-committee of the Land and Building Advisory Committee were consulted on the revised MSN, and the views collected had been taken into account in refining the proposed zoning. The zoning permitted as of rights new residential, non-residential or mixed development with proper segregation of residential and non-residential uses, while allowing some commercial uses in existing composite buildings before redevelopment. There was no ambiguity in the planning control. The stakeholders were being consulted on a set of draft TPB Guideline on the “OU(MU)” zone;
- (xxi) while a scenario with maximum development intensity might be assumed for the “C/R” sites in the infrastructure planning, it would create uncertainties before developments/redevelopments on individual sites were confirmed. More importantly, the “C/R” zoning allowed co-location of residential and commercial uses on the same floor, which created nuisance to the residents and was considered undesirable;

Flat supply and property price

- (xxii) the “C” zoning was suitable in view of the trend of commercial developments in the core Causeway Bay area, which would help meet the increasing demand for office and commercial floorspace. The rezoning of these sites should not have significant impact on the overall flat supply and property price, as well as the numbers of customers for the businesses in the area. Should there be a market demand for residential development in this area, there was provision for application for residential development under the “C” zone.

Public Consultation

No consultation prior to gazettal & Consultation Period too short

- (xxiii) it was an established practice that proposed amendments involving BHRs should not be released to public prior to gazetting. Consultation on BHR was conducted during the plan gazetting period in accordance with the provision of the Ordinance;
- (xxiv) the rationales for the BHRs, NBAs, building gap and setback requirements had been set out clearly in the relevant MPC Paper No. 21/10, the AVA and the ES of the OZP, which were all available to the public. Photomontages showing the visual impacts of the proposed BHRs were included in the relevant MPC Paper;
- (xxv) amendments to the OZP were exhibited for public inspection for a period of two months in accordance with the provisions of the Ordinance. The exhibition process itself was a public consultation to seek representations and comments on the draft OZP. During the exhibition period, PlanD also provided briefings on the OZP amendments to DPTC, WCDC, WCEAC

and local residents in a local consultation forum. The two-month statutory exhibition period was considered adequate for consultation with the public, while maintaining the efficiency of the process;

Representations Offering Comments (R162 and R163)

(xxvi) regarding R162 and R163's queries, the maximum BHs would permit the lots in the Wun Sha Street to build up to the permissible GFA under OZP even upon site amalgamation. The built form of redevelopments under PlanD's 3D illustration was mainly to visualize the overall BH profile upon redevelopments. The coverage of different BH bands for the area was shown on the Plan. Specifically, the sites between Tung Lo Wan Road and School Street, between School Street and Sun Chun Street, and between Sun Chun Street and Illumination Terrace were subject to BHRs of 85mPD, 100mPD and 115mPD respectively;

Representations relating to specific sites

(g) the specific grounds and proposals of the representations and PlanD's main responses were summarised in paragraph 4.5 of the Paper and highlighted below:

(i) Haven Street Area ("R(A)1", 100mPD, 0.5m setback along Haven Street) (R6 to R142)

Major grounds and proposals:

- a. it was unreasonable to rezone the sites to "R(A)1". As a result of rezoning to "R(A)1", the maximum plot ratio for the sites had reduced from 15 for commercial development under BO to 8 to 10 for residential development. The amendments had affected the value and redevelopment potential of their properties;
- b. the restrictions contravened Articles 105 and 120 of the Basic

Law (BL 105 and 120) which protected the rights under leases;

- c. the buildings in the area were old and dilapidated with poor physical and environmental conditions. The residents could not afford the high maintenance costs;
- d. the BHRs could not avoid wall effect or improve the air ventilation in the area;
- e. with the BHR, the maximum permissible domestic GFA for Lei Shun Court site upon redevelopment was 115,260ft² (about 10,708m²) which was below the existing GFA of 125,000ft² (about 11,613m²) as calculated by the representers;
- f. it was unfair to impose a BHR of 100mPD on the Haven Street area, while the sites on the opposite side of Leighton Road had a more lenient BHR of 130mPD and building plans with a BH of 135mPD for 32-50 Haven Street were approved. As there was no provision for setback in the approved building plans for 32-50 Haven Street, the setback requirement was not practical;
- g. proposed to delete the BHR or relax it to 130mPD or 150mPD and to delete the setback requirement;

Main Responses:

- h. the Haven Street area was occupied by residential developments with commercial uses on ground floor. It was considered appropriate to have it rezoned to “R(A)1”. There was provision under the Notes for application for commercial and hotel developments through the planning permission system;
- i. the amendments to the OZP did not involve the imposition of

plot ratio restriction for the sites. In formulating the BHR for the sites, it had been ensured that upon incorporation of the restrictions, the development sites would be able to accommodate the PR as permitted on the OZP. As such, the BHR would not adversely affect the development intensity of the sites permitted under the OZP;

- j. according to the legal advice, the purpose of BL 120 was to provide for the validity beyond 30 June 1997 of the leases referred to under BL 120. It was unlikely that the imposition of BHR, the rezoning of the sites in question and the imposition of the minimum setback requirement by the Causeway Bay OZP would be inconsistent with BL 120 because the sites in question were subject to the town planning regime under the Town Planning Ordinance before the establishment of the HKSAR. It was unlikely that BL 120 would have the effect of exempting the sites in question from the town planning regime after 30 June 1997;
- k. BL 105 provided, inter alia, that “the HKSAR (should), in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property.” Under the rezoning, the sites in question were not to be compulsorily acquired by the Government or governmental authority for public purpose, there was no formal extinguishing of property in the sites, and the sites were not left without any meaningful use or all economically viable use. In the circumstance, D of J advised that it was unlikely that the rezoning would amount to a deprivation of property within the meaning of BL 105;
- l. on the concern on high maintenance costs of the existing buildings, individual owners might apply for financial

assistance, if necessary, under various schemes, including the Building Safety Loan Scheme administered by the Buildings Department, the Building Management Incentive Scheme and Home Renovation Loan Scheme managed by the Hong Kong Housing Society, and the Operation Building Bright administered by HKHS and Urban Renewal Authority, to carry out maintenance and repair works to reinstate or improve the safety conditions of their buildings;

- m. according to the AVA, the sites in the Haven Street area were close to low-rise recreational and GIC uses, and the maximum BH for the area should be capped at a reasonable level to minimize the obstruction to the prevailing south-westerly wind in summer and deterioration of the air ventilation environment on the low-rise GIC uses northeast of the site (i.e. the St. Paul's Covent School site) at the downwind location. The BHR of 100mPD for the sites was also intended to preserve the medium-rise character for the neighbourhood to be compatible with the low to medium-rise GIC use to the east and south;
- n. according to the Buildings Department, building plans for Lei Shun Court were approved in 1960 in accordance with the then Volume Regulations. There was no GFA calculation on the approved plans for the existing development. For redevelopment, the permissible development intensity for the site would need to be re-assessed under the current B(P)R, instead of following the existing GFA as claimed by the representers;
- o. the "C" zone to the immediate north of the area fell within the BH band of 130mPD, which was not appropriate to be applied to the subject medium-rise residential neighbourhood. While the building plans for 32-50 Haven Street with a BH of

135mPD approved by the Building Authority before the imposition of the BHR would be allowed to proceed, it should not be adopted as reference as it would jeopardize the coherence of the BH profile for the area and its surroundings;

- p. the width of the existing footpaths on Haven Street was less than the minimum standard of 2m stipulated in HKPSG. In order to improve the pedestrian walking environment for residents in the vicinity and the public at large, TD considered that setback from the lot boundary should be provided upon redevelopment of these sites; and
- q. taking into account the medium-rise character of the area and the low to medium-rise setting in the surrounding area, deletion or relaxation of the BHR for the sites as proposed by the representers was not supported. As the setback requirement would facilitate the widening of footpaths to improve the pedestrian walking environment for the locals, the proposal to delete the setback requirement was also not supported.

(ii) Moreton Terrace Area (“R(A)”, 100mPD) (R143 and R144)

Major grounds and proposals:

- a. it was unreasonable to rezone the sites to “R(A)”. Rezoning to “OU(MU)” would be more appropriate to reflect the existing character;
- b. a two-tier stepped BHR with lower BH against Victoria Park and then increasing southwards for the Moreton Terrace area would be more appropriate in achieving better urban design;

- c. the sites fronting Causeway Road and Tai Hang Road flyover were subject to adverse traffic noise impact and were considered not suitable for residential use;
- d. proposed to relax the BHRs of the sites to 130mPD and to rezone them to “OU(MU)”;

Main Responses:

- e. the area was predominantly residential in nature (i.e. about 75% of the area occupied by residential developments). The “R(A)” zoning was considered appropriate for the area. There were provisions for commercial and hotel developments under the zoning through the planning permission system;
- f. the Moreton Terrace area was not very large (with an area of about 1.07ha) and the sites in the area had similar characteristics. Designation of different BH band was considered not justified;
- g. appropriate mitigation measures could be adopted to address the possible noise impact from the adjoining roads. It had been stated in paragraph 8.2.2 of the ES that the building design of new development/redevelopment should take into account the need to mitigate the traffic noise impact from these roads; and
- h. relaxation of the BHR for this area, which was amid a cluster of open space (including Victoria Park and Causeway Bay Recreation Ground) and generally low to medium-rise GIC uses, was not supported.

- (iii) Paterson Street Area - 2-20 Paterson Street, 6-8 Kingston Street, sites on Cleveland Street, Paterson Street, Great George Street (“C”, “OU(MU)”, 110mPD, NBA on Great George Street to achieve 25m air path, and 8m between Kingston Street/Jaffe Road) (R145)

Major grounds and proposals:

- a. the NBA would reduce the sizes of some existing retail units and make the spaces less attractive to larger brands, and unable to meet public and market demands for street level retail;
- b. the NBAs along Great George Street, which had a width of more than 15m, contravened the Government’s recently introduced measures to foster a quality and sustainable built environment which only specified setback for street less than 15m wide;
- c. proposed to relax the BHR for the representation sites to 130mPD and to delete the NBAs;

Main Responses:

- d. in setting the width of the NBAs, consideration had been given to the impact on the development intensity of the affected sites permitted under the OZP. The NBAs should not adversely affect the shopping environment in the area. Moreover, wider footpaths could be provided with the NBAs for the comfort of the pedestrians;
- e. notwithstanding the Sustainable Building Design Guidelines and the fact that Great George Street currently had a width of more than 15m, in view of the dense built environment and the air ventilation problem in core Causeway Bay area as identified by the AVA, widening of this major air path to 25m

to facilitate the penetration of the prevailing easterly wind to the downwind area was considered necessary; and

- f. the BHRs on the Plan were formulated with regard to comprehensive and relevant considerations and would not preclude the inclusion of innovative design, nor result in bulky development. The concerned NBAs were also required to improve the air ventilation in the area. The representer's proposals were therefore not supported.

(iv) Paterson Street Area – “OU” sites on Cleveland Street and the section of Paterson Street north of Great George Street (110mPD) (R161)

Major grounds:

- a. the area was predominantly occupied by residential developments. After rezoning to “OU(MU)”, there would be commercial developments in the area and special character of the area would lose;
- b. the BHR for the area was not in line with the overall stepped BH profile;

Main Responses:

- c. apart from residential use, there were already vibrant commercial uses on the lower floors of the buildings in the Paterson Street area, and the area had potential for commercial use upon redevelopment. To allow flexibility to retain the residential use and opportunity for future commercial development, the area was rezoned to “OU(MU)”; and

- d. the BHR of 110mPD for the area was in the same height band fronting Victoria Harbour, which formed an integral part of the stepped BH profile of the core Causeway Bay area.
- (v) Excelsior Hotel at 281 Gloucester Road (“C(1)”, 110mPD, 10m wide building gap) (R146)

Major grounds and proposals:

- a. the BHR would prevent the hotel from maximizing its allowable GFA while addressing the trend of increasing floor-to-floor height for hotel for better internal ventilation;
- b. the 10m wide building gap was physically unachievable at present due to the existing disposition of the hotel and adjoining World Trade Centre (WTC). Any attempt to accommodate this requirement would require structural redevelopment and modification of the porte-cochere area and the pedestrian link between the hotel and WTC, which would not be commercially feasible. The restriction affected the owners’ right under the lease;
- c. proposed to delete the BHR and building gap requirement for the site;

Main Responses:

- d. as the site was on the waterfront, careful consideration of the BH was required. Upon redevelopment, the building on the site could be up to the height of the existing building (119mPD) as allowed under the OZP, which would offer room to achieve higher floor-to-floor height through proper building design. Therefore, the BHR would not adversely affect the development intensity of the site;

- e. the building gap requirement for the site was intended to maintain and strengthen the existing wind corridor at the site to enhance the penetration of sea breeze to the heart of the Causeway Bay area. The existing building and structures within the building gap would not be affected and were not required to be demolished until redevelopment of the site; and
 - f. as the deletion of the BHR for the site would jeopardize the coherency of the stepped BH profile and deletion of the building gap requirement would also jeopardize an existing wind corridor to the core Causeway Bay area, the representer's proposals were not supported.
- (vi) Lee Gardens Two, 28 Yun Ping Road ("C", 130mPD, 20mPD (for building gap) and 2m NBA along Yun Ping Road) (R148)

Major grounds and proposals:

- a. Yun Ping Road had wide footpaths to facilitate good pedestrian movement. The management of pedestrian movements, road traffic and car parking was the key issue in this area;
- b. proposed to relax the BHR of 20mPD for the podium area of Lee Gardens Two site to 130mPD or 32mPD, to delete the NBA along the site; or to relax the BHR for the tower to 150mPD;

Main Responses:

- c. according to the AVA, the air ventilation in the Pak Sha Road area had deteriorated as it was surrounded by tall large-scale developments including Lee Gardens Two and Lee Gardens. NBAs along Yun Ping Road and a BHR of 20mPD for the podium area of the development were designated to address the air ventilation problem. The NBA helped the wind to

reach the pedestrian level, which was currently blocked by the podium of the development; and

- d. as the relaxation of the BHR for the site would jeopardize the coherency of the stepped BH profile and the BHR of 20mPD for the podium area of Lee Gardens Two development and the NBA along Yun Ping Road served to improve the air ventilation in the area near Pak Sha Road, the representer's proposals were not supported.

(vii) 500-502 Hennessy Road ("C", 200mPD, 5m NBA along Lee Garden Road) (R149)

Major grounds and proposals:

- a. the BHR for the site was lower than that of the approved building plans with a larger site area covering the adjoining Goldmart site (231mPD);
- b. the NBA unduly restricted future flexibility of design to adapt the building over time;
- c. proposed to relax the BHR for the site to 231mPD and delete the NBA;

Main Responses

- d. the BHR of 200mPD for the site generally reflected the BH of the commercial development (199mPD) under construction at 500 Hennessy Road. The approved building plan submission with a BH of 231mPD involving the adjoining Goldmart site was not the development being built on the site. While the building plans approved by the Building Authority before the imposition of BHR would be allowed to proceed, it was considered inappropriate to adopt such BH as reference;

- e. apart from the BHR and NBA restrictions, there were no other development restrictions for the site on the Plan. The BHR of 200mPD allowed sufficient design flexibility in future redevelopment of the site; and
- f. in view of the above, the representer's proposals to relax the BHR and delete the NBA requirement were not supported.

(viii) Sunning Road Area - Sunning Plaza, Sunning Court, 18 Hysan Avenue and 111 Leighton Road ("C", 100mPD) (R150)

Major grounds and proposals:

- a. building plans for development of a 42-storey office and hotel building with a BH of 180mPD at the Sunning Court and Sunning Plaza site were approved in 2009;
- b. there was no need to apply the 100mPD BHR from the Wong Nai Chung OZP to the Plan as the principle of stepped height restriction could still be applied;
- c. according to the AVA, Sunning Road would provide an air ventilation path for the summer winds. The height of the buildings would have no significant negative effect on air ventilation generally;
- d. proposed to relax the BHR for the sites from 100mPD to 180mPD;

Main Responses:

- e. the BHR of 100mPD for the sites was formulated mainly having regard to its proximity to the generally low-rise developments to the south, the existing BHs in the area and the BHR for the adjoining "C" zone on the Wong Nai Chung OZP, which was also subject to a BHR of 100mPD, and was

considered appropriate. Air ventilation was not the most important consideration for this site; and

- f. the BH of 180mPD in the approved building plans had significantly exceeded the general BH band for the area, and should not be taken as a reference. The proposal to relax the BHR was not supported.

(ix) Lee Gardens at 33 Hysan Avenue (“C(2)”, 200mPD, 32mPD (for building gap), 2m NBA along Yun Ping Road and 1.5m setback along Lan Fong Road) (R151)

Major grounds and proposals:

- a. the BHR of 200mPD was lower than the height of the existing building, which was 208mPD;
- b. there was no analysis in the AVA to show that the existing space along Yun Ping Road was inadequate for air ventilation purpose;
- c. the road had wide footpath to facilitate good pedestrian movement;
- d. proposed to relax the BHR for the whole “C(2)” site to 210mPD, to delete the BHR for the podium part of the site, and to delete the NBA and setback requirements;

Main Responses:

- e. the BHR of 200mPD generally reflected the existing BH of Lee Gardens. The BH band was already the tallest one on the Plan. Further relaxation of the BHR was not justified. Nevertheless, redevelopment to the existing BH was permitted under the Notes for the “C(2)”;

- f. according to the AVA, the air ventilation in the Pak Sha Road area had deteriorated as it was surrounded by tall large-scale developments including Lee Gardens Two and Lee Gardens. NBAs along Yun Ping Road and a BHR of 32mPD for the podium area of the development were designated to address the air ventilation problem;
 - g. while the NBA was designated mainly for air ventilation purpose, it would also facilitate footpath widening. The footpaths on Yun Ping Road and Lan Fong Road had a width of about 2.3 to 3m and 2.1m to 2.4m respectively, which were below the 3.5m standard in the HKPSG; and
 - h. in view of the above, the representer's proposals were not supported.
- (x) 1 Hysan Avenue ("C(1)", 130mPD, 0.5m setback along Lee Garden Road) (R152)

Major grounds and proposals:

- a. Lee Garden Road had adequate space to facilitate good pedestrian and vehicular movements;
- b. the BHR of 130mPD was lower than 146mPD of the approved building plans for the site;
- c. proposed to relax the BHR for the site to 150mPD and delete the setback requirement for the site;

Main Responses:

- d. the footpath in front of the site had a width of about 3.3m, which was slightly below the 3.5m standard in the HKPSG. TD considered it necessary to improve the pedestrian environment by increasing the footpath width to cope with the

current standard when opportunity arose;

- e. while the building plans for the site with a BH of 146mPD approved by the Building Authority before the imposition of the BHR on the site would be allowed to proceed, it should not be adopted as reference as it would jeopardise the integrity of the overall stepped BH concept; and
- f. in view of the above, the representers' proposals were not supported.

(xi) Various lots on Lockhart Road ("C(1)", 0.5m setback along Lockhart Road) (R155)

Major grounds and proposals:

- a. the minimum 0.5m setback along Lockhart Road would affect the development potential of the sites and flexibility of building design. To improve the walking environment and pedestrian flow, TD should allow Lockhart Road to be a part-time pedestrian street;

Main Responses:

- b. the width of the footpaths on Lockhart Road was about 3m, which was below the 3.5m standard stipulated in HKPSG. In order to improve the pedestrian environment in the area, it was necessary to set back the building line upon development. Considering that the concerned lots had a length of about 16m, the 0.5m setback should not adversely affect their development intensity permitted under the OZP; and
- c. as advised by TD, the section of Lockhart Road to the east of Cannon Street was already a part-time pedestrian street (between 4p.m. and midnight). The representers' suggestion to allow other sections of Lockhart Road to also become a

pedestrian street would require alternative vehicular route for the general traffic, and alternative area to take up the loading/unloading demand. There were hardly such alternatives in this congested built-up area. The provision of setback was a more practical means to improve the pedestrian environment.

(xii) Sites on Pak Sha Road (“C(2)”, 30mPD, 1.5m setback along Lan Fong Road, 2 Kai Chiu Road and 1 Pak Sha Road) (R156 to R161)

Major grounds and proposals:

- a. the BHR would affect the redevelopment potential and was not in line with the planning intention for developing a business and financial centre under the “C” zone;
- b. there was enough space in the road for vehicles and pedestrians, and if necessary vehicular access should be restricted to give pedestrians the priority;
- c. proposed to relax the BHR for the sites to 50-80mPD and delete setback requirement;

Main Responses:

- d. the Pak Sha Road area had great potential for development into a unique shopping area with special character to further enhance Causeway Bay’s role as the major commercial and entertainment hub on Hong Kong Island. In addition, the low-rise character of the area had provided visual relief and breathing space for the shoppers and pedestrians along the street amid the high-rise development in the Area. To preserve the distinct character for the area, a lower BHR of 30mPD was therefore imposed on the sites on Park Sha Road;
- e. the area had great potential for development into a local

shopping area with special character. This was generally in line with the planning intention of the “C” zone, which allowed for different scales of commercial developments. Proposal for larger scale shopping centre or commercial development could be submitted to the Board for consideration through the s.12A application procedure;

- f. the width of the existing footpaths abutting Lan Fong Road, 2 Kai Chui Road and 1 Pak Sha Road were below the 3.5m standard as stipulated in HKPSG. It was necessary to improve the pedestrian environment by increasing the footpath width to cope with the current standard when opportunity arose. Also, it would also provide scope for widening the existing carriageway to cope with the increasing demand for loading/unloading activities; and
- g. in view of the above, the representers’ proposals to relax the BHR and delete the setback requirement for the area were not supported.

(xiii) 18-21 School Street (“R(A)1”, 85mPD, 0.5m setback along Jones Street, School Street and Warren Street) (R165)

Major grounds and proposals:

- a. three building plan submissions for developments on adjacent sites at Lai Yin Street, Jones Street, Warren Street with BHs of 144mPD, 142mPD and 110mPD were approved. A taller building in this part would be compatible with these approved developments;
- b. it would be impractical and meaningless to impose setback requirements on the site as no setback would be provided for the two approved developments which were also at Jones Street and Warren Street. It was questionable why there was

no setback requirement on the public toilet building at the junction of Warren Street and Shepherd Street;

- c. proposed to relax the BHR for the site to 120mPD and delete the setback requirement for the site;

Main Responses:

- d. it would not be appropriate to adopt the BHs of the relevant approved development schemes in general building plan submissions as reference as they were incompatible with the existing low to medium-rise character of the surrounding areas and would jeopardise the integrity of the overall stepped BH concept. Stepped BHRs with BH increasing from north to south and the lowest BH band on the upwind direction would facilitate air ventilation by the downwash effect of the prevailing northerly wind/sea breeze into the area. The proposed relaxation of the BHR to 120mPD was not supported;
- e. the width of the existing footpaths on the concerned streets was less than the 2m standard stipulated in HKPSG. In order to improve the pedestrian environment in the area, it was necessary to set back the building line upon development. Although no setback would be provided under the approved building plans for the sites at Jones Street and Warren Street, the imposition of the setback requirement could ensure such provision on the other sites in the area and any amendments to the approved building proposals which were not minor or immaterial in nature would still be subject to the setback requirement; and
- f. relevant setback would also be provided for the public toilet site at the junction of Warren Street and Shepherd Street upon its redevelopment. The setback requirement would be added

on the Plan attached to the ES of the OZP which showed the setback requirement for the Wun Sha Street area.

Comments

(h) the grounds of comments and commenters proposals, and PlanD's responses were summarised in paragraphs 5.1 and 5.2 of the Paper respectively. C1 had not provided grounds for its support for R1 and objection to the proposed amendments raised by other representers. C2 opposed reduction of BHR for Haven Street area and its views were similar to those raised in R6-R142. C3 supported R143 and R144 in respect of retaining the "C/R" zoning for the Moreton Terrace area. C4 has not specified ground for his opposition to R153. C5's view against the BHR for the Pak Sha Road area was similar to those of R156-R161. PlanD's responses to relevant representations were relevant to the comments;

(i) PlanD's views –

- (i) R1's support for the BHRs on the OZP was noted;
- (ii) R162 and R163 were invited to note the responses in paragraph 4.4.2 of the Paper regarding the queries on the BHRs in the Wun Sha Street area;
- (iii) did not support R2 to R161 and R165 and part of R1 asking for more stringent control and considered that they should not be upheld for the reasons as set out in paragraph 7.2 of the paper and the specific reasons as set out in Annex V of the Paper.

130. The Chairman then invited the representatives of the representers and commenters to elaborate on their submissions.

R14 (Poon Wai Keung)

131. Mr. Poon Wai Keung made the following main points:

- (a) he was a local resident of Haven Street area. The buildings in the area were old and dilapidated. As indicated by the poor response to the Lei Shun

Court Joint Sale tender, imposition of the development restrictions had seriously affected the redevelopment potential of the area; and

- (b) PlanD had no knowledge of the actual problems of the area. The development control had infringed the property right of the owners and disregarded the welfare of the community.

R15 (Lam Ho)

132. Mr. Lam Ho said that he owned a shop at Lei Wen Court. It should be noted that the leases for the area were unrestrictive and both residential and commercial uses were allowed. Rezoning the site from “C/R” to purely residential use had substantially reduced the value of his property.

R17 (Leung Mei Yuk)

133. Mr. Ngan Kwan Leung, representative of R17 and R99, made the following main points:

- (a) he represented one of the owners of Haven Street;
- (b) land and buildings were valuable private properties and as such any policy which would affect private property right should be carefully considered;
- (c) the existing buildings at Haven Street were built in the 1950s. It was not reasonable to rezone the area to “R(A)1” and restrict future redevelopment to residential use, simply because of their current residential use. Owners should be allowed to redevelop their properties to either commercial or residential use. As the sites had been rezoned to “R(A)”, redevelopment to commercial use could only be effected through planning application which, because of the high costs involved, would only be submitted by developer after purchasing the sites. The benefits of redeveloping the site for commercial uses would then be enjoyed by the developers, not the property owners;
- (d) while development restrictions had been imposed for the sites with

reference to the existing character, 32 to 50 Haven Street (which had a set of approved building plans of 130mPD) could be exempted from the restrictions. There should not be any adverse impact if other sites along the street and within the same cluster were allowed to be redeveloped to the same height. There would be no visual and air ventilation impacts on the St. Paul site;

- (e) in terms of air ventilation improvement, it would be more effective to require the provision of spaces between buildings than to restrict the height of the buildings;
- (f) it was agreed that redevelopment of sites at Haven Street might have visual impact on the St. Paul's Hospital site. It should be noted that due to the presence of existing old buildings in the area, the St. Paul's Hospital site did not enjoy much open view. To the south of the site were low-rise government and recreation uses. There should not be any air ventilation problem;
- (g) relaxing the BHR of the sites at Haven Street would not lead to proliferation of high-rise developments in the area as the area to the north had already been developed for high-rise commercial uses, while areas to the other sides were all low-rise GIC developments;
- (h) the sites at Haven Street had the same characteristics of the sites of landmark buildings which had a higher BHR, which include: small site area, being located away from the waterfront and not affecting the ridgeline. They should enjoy the same treatment as the sites of landmark buildings. It should also be acceptable to have buildings with different heights in the urban areas;
- (i) while there was general support from the public on imposition of BHRs, the Board should give more weight to the views of the affected owners. The owners would suffer as a result of the new restrictions, as developer would reduce the purchasing price of these properties because the

development potential of the sites had been affected;

- (j) the Board should relax the BHR of the sites, otherwise the property owners should be compensated; and
- (k) it was noted that the setback requirements were for footpath widening and he had no objection to the requirements.

R18 (Miss Lo)

R81 (The Incorporated Owners of 41-33A Haven Street)

R102 (Ng Sau Ching)

134. Ms. Ng Sau Ching, R102 and representative of R18 and R81 made the following main points:

- (a) the representers opposed the rezoning of Haven Street area from “C/R” to residential use and the stipulation of BHR of 100mPD on the sites;
- (b) there was no in-principle objection to the setback requirement along Haven Street as this would improve the pedestrian walkway and provide better environment. The representers were willing to accept the setback requirement subject to the deletion of the BHR on the area;
- (c) there was no consultation with the owners before the imposition of the restrictions;
- (d) the imposition of the BHR of 100mPD would result in shorter and ‘squat’ buildings with little gaps in between buildings as developers would maximize the development intensity of the site. This would create wall effect and be counterproductive for wind penetration;
- (e) for 32-50 Haven Street, the approved building plans had a building height of 135mPD. The tall buildings would block the air flow. Imposition of 100mPD BHR on the adjoining areas was not reasonable;
- (f) the lease for inland lot 2147 was granted in 1886 with a term of 999 years,

that meant the owners could use the land up to 2885 in accordance with the lease terms. According to the Crown Lease granted on 30.9.1915, the lots were for commercial and residential uses without any BHR. Designation of the area for residential use only was against the contractual agreements of the lease;

- (g) the mixed “C/R” zoning had the highest land value. There was no reason to rezone the area from a mixed use to purely residential use. This had deprived the owners of the right to develop their sites for commercial use. If the Board did not allow the area for commercial development, compensation should be paid to the affected owners; and
- (h) although there was provision for commercial and hotel developments through the planning permission system, this provided an excuse for the developer to lower the purchasing price. The restrictions had already hampered the developer’s on-going action to purchase their properties.

R21 (Fong Kai Cheung)

135. Mr. Fong Kai Cheung said that he shared the comments of R99. He then made the following main points:

- (a) it was stated in the TPB paper that flexibility for change of use was allowed through the planning permission system. However, the rezoning amendment had already affected the property value and infringed the property right of the owners. PlanD failed to provide any response on this comment;
- (b) at the local consultation forum held on 5.11.2010, PlanD’s representative stated that the Haven street area was rezoned for residential use because developers intended to develop the area for such use. The zoning amendment was not reasonable; and
- (c) redevelopment was very much needed to solve the environmental and noise problems in the area.

R31 (Chan Kai Chung)

136. Ms. Mak Wai Lin, representative of R31, made the following main points:

- (a) at the local consultation forum held on 5.11.2010, a PlanD representative stated that the Haven Street area was changed from mixed commercial and residential uses to purely residential use as it was the intention of the developer. However, it might not be the intention of the developer who finally acquired the sites. As such, flexibility for both commercial and residential uses should be allowed. Also, the rezoning amendment should pay regard to the wishes to the owners; and
- (b) the reason for imposing a BHR of 100mPD for Haven Street area was not reasonable. Relaxation of the BHR would unlikely have any adverse air ventilation impacts on the adjoining St. Paul site which was mainly a low-rise development. In fact, the area was being redeveloped for high-rise development.

R65 (Cheng Cheung Sang)

137. Mr. Cheng Cheung Sang made the following main points:

- (a) the stepped height approach for the Haven Street area was not in the right order. The low-rise St. Paul site was in front of the Haven Street area. At the back of Haven Street area was Leighton Hill, which had been occupied by high-rise developments. As such, relaxation of the BHR for the Haven Street area would not have any impact on the St. Paul site from the air ventilation point of view;
- (b) as the building plans with 135mPD at 32-50 Haven Street had been approved, the remaining Haven Street area which was at its back should have a slightly higher BHR, say 150mPD, so as to create a stepped height profile. Taller buildings could allow wider building gaps for better air ventilation; and

- (c) the use of the land should pay regard to the lease conditions. There was no prior consultation of the amendments. Imposition of development restrictions would affect the property value and compensation should be paid to the affected owners.

R79 (Ko Yee Wah)

138. Ms. Ko Yee Wah said that she supported the views of R99. She then made the following main points:

- (a) the recently passed lower application threshold of 80% for compulsory sale for redevelopment had reflected the Government's intention to encourage and speed up urban renewal. However, the development control imposed on the site was not in line with the latest Government intention; and
- (b) to facilitate redevelopment of the Haven Street area, the Board should relax the OZP restrictions for those buildings of over 50 years old for a grace period of 10 years.

R83 (Tsang Mei Yin)

139. Ms. Tsang Mei Yin made the following main points:

- (a) she was the Chairlady of the Owners' Corporation of Lei Hei Court. It was stated in the Paper that owners could apply for financial assistance under various schemes to carry out maintenance or repair works to improve the conditions of the buildings. However, there were some problems such as fire safety problem that could not be addressed by maintenance or upgrading works. It seemed that PlanD had not examined the problems in detail; and
- (b) she shared the comments made by R99 which represented the views of the owners of Haven Street area. PlanD should provide concrete responses to the comments of R99.

[Professor Edwin H.W. Chan left the meeting at this point.]

R110 (David C.F. Wong)

140. Mr. David C.F. Wong, Wan Chai District Councillor, made the following main points:

- (a) his constituency covered the Haven Street area and part of Tai Hang area. It was upon the strong request of the Wan Chai District Council and Home Affairs Department that PlanD conducted a simple local consultation forum at Leighton Hill Community Hall in November 2011 to brief the local residents of the development restrictions imposed on the area;
- (b) it was noted that over one hundred representations were received. However, PlanD did not support any representation or proposal submitted. The local residents were very familiar with the area, and their comments and proposals should be duly considered;
- (c) according to PlanD's responses, a BHR of 100mPD was imposed on the Haven Street area to minimize the obstruction to the south-westerly wind in summer and deterioration of the air ventilation at the 'St. Paul site'. However, it was doubtful whether a minor increase of building height of 30m (i.e. BHR of 130mPD) would have any significant impact from an air ventilation point of view. Plan H2-a of the Paper showed that there were southerly winds from other places to St. Paul Convent School site;
- (d) a stepped height concept with increasing building height from north to south was adopted for Wun Sha Street area. However, the BHR for the Haven Street area was much lower than the area to its north. There was no explanation why two different approaches were adopted;
- (e) there were new commercial and hotel developments in the Morten Terrace area. It was not reasonable to rezone the area for residential use; and

- (f) imposition of development restrictions on the areas was unfair to the local residents. The Board should delete all the development restrictions imposed.

R133 (Cheng Chun Tin)

141. Mr. Cheng Chun Tin made the following main points:

- (a) the leases of the Haven Street area were unrestrictive and no BHR had been imposed. The area could be redeveloped for a PR of 15 for commercial use. As a result of the zoning amendment, the maximum permissible plot ratio for the area had been reduced to 8 to 10 for residential development. This had deprived the land owners of their property right. It was stated in the TPB Paper that there was provision for application for commercial development through the planning permission system. There was no reason why the area could not be rezoned for a mixed use at this stage; and
- (b) due to the BHR of 100mPD, the floor-to-floor height of the development had to be reduced to accommodate the maximum permissible GFA. This would affect the value of the properties.

[Professor Paul K.S. Lam left the meeting at this point.]

R137 (Joint Sale Group of Lei Shun Court of Haven Cluster)

142. With the aid of a Powerpoint Presentation, Mr. Wong Fat Kee, representative of R137, made the following main points:

- (a) the representer objected to the imposition of a BHR of 100mPD on the Haven Street area and rezoning of the area from “C/R” to “R(A)1”. The setback requirement of 0.5m along Haven Street was supported subject to the provision of bonus plot ratio;
- (b) local residents had great concerns on the development restrictions

imposed on the Haven Street area as illustrated by the large number of representations submitted;

- (c) Causeway Bay could be broadly divided into two sub-areas with Leighton Road as the dividing line, namely, Area A with densely built-up area for mixed residential and commercial development, and Area B with low-rise less densely built-up area with ample open space. Haven Street area fell within Area B;
- (d) relaxation of the BHR at the Haven Street area would not have any adverse visual impacts. It was stated in the Paper that the ridgeline at Mount Parker was an important feature. The Haven Street cluster was outside the view fan from Tsim Sha Tsui to Mount Parker. The view from the vantage point at Tsim Sha Tsui Cultural Complex was dominated by the high-rise buildings along the waterfront, such as the Sino Plaza (139mPD), Top Glory Tower (116mPD), World Trade Centre (151 mPD).;
- (e) the BHR for the Haven Street area could be relaxed to 188mPD taking into account the possible visual impact and preservation of ridgeline. Jardine Lookout at the backdrop had a height of 433m. By adopting the principle of preserving a 20% building free zone of the ridgeline, a BHR of 188mPD for the Haven Street area would not cause any undesirable visual impact;
- (f) it should be noted that a BHR of 130mPD was allowed on the sites to the north of the Haven Street area. This was not in line with the stepped height profile with lower building height near the waterfront. The areas opposite Lei Shun Court were zoned for commercial use with a BHR of 130mPD. Besides, building plans with 135mPD for 32-50 Haven Street had been approved by the Building Authority. Taking all these into account, the BHR for the area should be relaxed from 100mPD to 130mPD;

- (g) the AVA put too much emphasis on building heights. The report provided only qualitative assessment. There was no quantitative data to support the recommendations or for comparison. The Haven Street area, in fact, had good ventilation as it was away from the densely built-up area. According to the AVA report, there were breezeways from Victoria Park passing through the Haven Street area uphill to Leighton Hill and vice versa. The building gaps at the Leighton Hill development also allowed south-westerly winds passed from Mt. Cameron/Mt. Nicholson via Happy Valley to the area. In addition, Leighton Road served as an important breezeway in the area;
- (h) relaxation of the BHR from 100mPD to 130mPD would allow taller buildings with smaller footprint and wider building gaps. This would enhance air ventilation at the ground level;
- (i) the existing traffic condition of Haven Street was highly undesirable. Haven Street was a cul de sac. There was triple parking, busy on-street loading/unloading and traffic pedestrian interface problems along the narrow street. These problems could only be addressed by a comprehensive redevelopment of the area to allow direct access from Haven Street via Caroline Hill Road to other parts of Causeway Bay area. Provision of new access from Haven Street could bring significant traffic and transport benefits to the area;
- (j) bonus plot ratio should be allowed for setback requirement. Additional bonus plot ratio should also be allowed for land to be surrendered for providing a new access from Haven Street to Caroline Hill Road to address the traffic problems;
- (k) buildings in the Haven Street area were old and dilapidated with poor physical and environmental conditions. Piecemeal maintenance and repair works could not address the problems, such as fire safety measures. Comprehensive redevelopment was the only solution;

- (l) at the local forum, PlanD's representative stated that the area was rezoned to residential use as the areas was predominantly for residential use and developers tended to develop the site for the same use. The rezoning was not reasonable;
- (m) PlanD responded that there was provision for commercial use through the planning permission system. However, the small landowners did not have the professional expertise or resources to prepare the required information/assessments for the application. The owners had no choice but to sell their properties at a lower price to the developers;
- (n) instead of imposing development restrictions to control developments, the relevant government departments and professional institutes could work out some development guidelines, such as setting out the building gaps, and layout, etc. to guide the future development/redevelopment in the area;
- (o) the leases for the lots were unrestrictive without any building height restriction (a copy of the lease of inland lot 2147 was tabled at the meeting). Imposition of development restrictions had infringed the property right of the owners. Flexibility should be allowed to meet the changing market demand; and
- (p) according to the Basic Law Article (BL) 120, all leases of land were extended beyond 1997 and all rights in relation to such lease should continue to be recognized and protected. Department of Justice (DoJ) only stated that it was 'unlikely' that the imposition of development restrictions would be inconsistent with BL 120. As regards Basic Law 105, DoJ commented that the Hong Kong Court of Final Appeal was yet to provide an authoritative decision on the scope of application of the deprivation rule embodied in BL105. In the circumstance, DoJ advised that it was 'unlikely' that the OZP amendments would amount to a deprivation of property within the meaning of BL105. Whether the imposition of development restrictions contravened BL102 and 105 was

still arguable.

[Ms. Anita W.T. Ma left the meeting at this point.]

143. Mr. Shao Wai Kei, representative of R137, added that there was no air ventilation problem in the Haven Street area. Although it was pointed out in the AVA report that redevelopment in the area might block the prevailing south-westerly wind in summer and deteriorate the air ventilation at the GIC cluster at the north-east. However, relaxation of the BHR from 100mPD to 130mPD (i.e. from about 25 storeys to 33 storeys) would allow taller and slender buildings. The wider building gaps would enhance air ventilation in the area.

R142 (Haven Investment Properties Limited and Champ Power Development Limited)

144. With the aid of a Powerpoint presentation, Mr. Kim Chan, representative of R142 made the following main points:

- (a) the representer objected to the imposition of BHR of 100mPD, and the setback requirement of 0.5m along Haven Street;

Setback Requirement

- (b) the planning intention of the setback requirement to improve the pedestrian walking environment for residents in the vicinity and the public at large (TPB paper, paragraph 4.5.2(y) referred) was supported. However, the existing walkways along Haven Street already had a width of 2.3m to 2.4m, which met the minimum standard of 2m stipulated in the HKPSG. PlanD should verify the actual width of the footpath. It should also be noted that Haven Street was a cul de sac with very low pedestrian flow. As such, the setback requirement was not necessary and should be deleted;

BHR

- (c) a set of the General Building Plans (GBPs) for the redevelopment of the site with a building height of 135.1mPD was approved by the Building Authority on 11.3.2010. The approval of the GBP indicated that the Government had accepted the development scheme, including its building height;

- (d) PlanD responded that while the building plans approved by the Building Authority before the imposition of the BHR would be allowed to proceed, it should not be adopted as reference as it would jeopardize the coherence of the BH profile for the area and its surroundings. Such an approach was inconsistent with the practice of the Board in setting BH control for Tsim Sha Tsui and Wan Chai areas. For the latter two areas, the BHR generally reflected the BH of relevant approved development schemes in GBP submissions. There was no reason or explanation for adopting a different approach for this area;
- (e) with regard to the 100mPD BHR, the representer had submitted another set of building plans to the Building Authority. The revised development scheme had the following constraints:
 - i) the permissible development intensity could not be fully accommodated and the representer would lose about 330m² GFA (i.e. 3,500 ft²);
 - ii) there was a need to provide 2 storeys of car parks at basement, which was not energy efficient and environmentally sustainable;
 - iii) the fire refuge floor had to be provided at the rooftop; and
 - iv) no skygarden could be provided;
- (f) buildings in the Haven Street area were built in the 1960s and had high potential for redevelopment. The restrictive BHR would jeopardize the incentive for redevelopment and prolong urban decay;
- (g) it was opportune to connect the sites along the Haven Street with the commercial buildings at the opposite side of Leighton Road via footbridges to form a commercial cluster. As such, the BHR along Haven Street area should be relaxed to 130mPD. ;
- (h) Members should note that the Christ The King Chapel, currently a Grade 2 historic building, was in close proximity to the representation site. AMO

had proposed to upgrade it as a Grade 1 historic building. Recently, cracks were found on the floors and external walls of the chapel. This was believed to be caused by the excavation works undertaken at the St. Paul Hospital site which was about 50m away from the chapel;

- (i) to protect the heritage building, the Government should prohibit any excavation works for basement development in the area bounded by Cotton Path, Tung Lo Wan Road, Leighton Road and Caroline Road;
- (j) to avoid negative impact on the chapel, the represententer intended to relocate the basement car parks to the podium floor. Taking into consideration the requirement of the B(P)R, three-storey podium car parks would be required. In order to accommodate the maximum permissible GFA, three-storeys podium car parks, a fire refuge floor and a floor-to-floor height of 3.15m, a BHR of 130mPD was required; and
- (k) if the Board agreed to relax the BHR of the representation site or the sites along Haven Street from 100mPD to 130mPD, the represententer would withdraw the subject representation and reduce the height of the building from that stipulated in the approved building plans, i.e. 135.1mPD, to 130mPD.

145. Mr. Kenny Kong, representative of R142, made the following main points:

- (a) the development scheme of the approved building plans (135.1mPD) mainly provide large residential units. To be in line with the Government's policy to provide more small residential units to meet the market demands, the represententer was prepared to amend the approved building plans. However, the revised development scheme would be subject to the newly imposed BHR of 100mPD. This resulted in various building design constraints as elaborated by Mr. Kim Chan above; and
- (b) in view of the Government's housing initiative and the need to conserve the adjacent heritage building, the BHR should be relaxed to 130mPD.

R143 (Keen Step Corporation Limited)

R144 (Fortress Jet International Limited)

C3 (Rosedale Park Limited)

146. Mr. Kenneth To stated that he would make a joint presentation for R143 and R144. With the aid of a Powerpoint presentation, Mr. To made the following main points:

- (a) the representers objected to the rezoning of the Moreton Terrace area from “C/R” to “R(A)” zone and imposition of a maximum BHR of 100mPD. The representers requested the Board to rezone the area to “OU(Mixed Use)” and imposed a 2-tier stepped BHR with a higher BHR of 115mPD for the area bounded by Tung Lo Wan Road, Moreton Terrace and the lane at Shelter Street;
- (b) the representation sites did not fall within the view fan from the vantage point at the Tsim Sha Tsui Cultural Complex as it was behind the tall buildings at the waterfront area. As such, preserving the views to the ridgelines from public vantage point at the Tsim Sha Tsui Cultural Complex should not be a consideration of BHR for the sites;
- (c) the Moreton Terrace area was not a predominantly residential neighbourhood as submitted by PlanD, but a mixed neighbourhood with commercial activities and residential development;
- (d) the area was surrounded by roads with heavy traffic such as the Causeway Road, Moreton Terrace and Tai Hang Road Flyover (just about 10m away to the east of the street block). The sites fronting Causeway Road and Tai Hang Road Flyover were subject to adverse traffic noise impacts. Zoning the area to “R(A)” was not reasonable. It mandated the land owners to redevelop the sites facing roads into residential development subject to adverse traffic noise impacts. This was against the principle of avoidance of adverse impacts;
- (e) the Moreton Terrace area had the same characteristics as Wun Sha Street area, the latter was rezoned to “OU(Mixed Use)”. It was incorrect to state

that a mixed use zoning was obsolete. “OU(Mixed Use)” was a correct approach, which would better reflect the existing character of the area and allow more flexibility for future development;

BHR

- (f) PlanD commented that the Moreton Terrace area was not very large and the sites in the area had similar characteristics. Designation of different BH band was considered not justified. However, there were cases that sites with a depth of about 100m, such as in Wun Sha Street area, were covered by two height bands. A two-tier stepped height profile should also be adopted for Moreton Terrace area which had an area of about 1 ha and a depth of about 115m;
- (g) the BHR of 100mPD was too restrictive and failed to allow flexibility to accommodate the up to date sustainable designs to improve pedestrian environment, vehicular safety, air ventilation and townscape. The BHR had not taken into account the unique site characteristics of Moreton Terrace. There were two service lanes which were highly functional to both pedestrian and vehicles. Improvement to the environment and traffic safety of the service lanes through building setbacks should be a key planning consideration for the areas;
- (h) to accommodate the development intensity under the BHR of 100mPD, a typical redevelopment scheme for R143 would require the provision of two storeys of basement car parks and a full site coverage. The recommendations such as setback from the site boundary to widen the street, improve the service lanes, recess at street level, align the podia edge with the building edge, etc. could not be incorporated;
- (i) relaxation of the BHR to 115mPD would allow an enhanced development scheme with setback to provide pedestrian walkway, wider building gap with Sun Ho Court and convenient pedestrian connection between Tung Lo Wan Road and Shelter Street; and

- (j) the proposed relaxation of BHR to 115mPD was not excessive. The whole Moreton Terrace area had the same BHR of 100mPD would result in a monotonous building height profile. The area was large enough to adopt a 2-tier stepped building height profile for enhancing visual aesthetics. Lower building height should be imposed on the sites near Victoria Park and then increase southwards with a BHR of 115 for the area bounded by Tung Lo Wan Road and Moreton Terrace and the lane at the end of Shelter Street. The relaxed BHR would not have any adverse visual impact as viewed from Victoria Park.

R145 (Mansita Limited, Pocaliton Limited and Hang Chui Company Limited)

147. With the aid of a Powerpoint presentation, Ms. Cindy Tsang, representative of R145, made the following main points:

- (a) the representation had been made with respect to Amendment Items A, B1, B6, C3, and C4 to the OZP, which were related to the imposition of BHRs and NBAs on the major commercial node of Causeway Bay;
- (b) the imposition of BHRs and NBAs would not only impinge on the private rights, it would also ultimately result in losses to the community as a whole. They would provide disincentive for urban renewal as these restrictions would result in loss of property rights, diminished opportunity for innovative architectural designs; a monotonous urban skyline, and most importantly, result in a loss of street level retail activity and the related vibrancy, which defined the very character of Causeway Bay area;

BHR of 110mPD for 6-8 Kingston Street, 2-20 Paterson Street, and the two sides at Cleveland Street and Paterson Street north of Great George Street

- (c) the BHR would limit design and flexibility for architectural innovation as all GFA must be confined within a very rigid and squab building envelope. Buildings that were developed under such stringent controls

would fail to achieve the positive results expected from the compliance with the Urban Design Guidelines in Chapter 11 of the Hong Kong Planning Standards and Guidelines (HKPSG), such as, diversity in building mass, gaps between podium and tower, and smaller or stepped podiums;

- (d) an overly rigid BHRs also contradicted the desirability of a stepped building height concept, which the Urban Design Guidelines acknowledged as helpful in the optimisation of the wind capturing potential of the development itself. They did not enhance the quality of the built environment;
- (e) the BHR would further harm the development of Hong Kong as an International City by limiting its ability to provide new commercial accommodation to world class standards;
- (f) Hang Lung Centre, which was one of the representation sites, was built with a typical office floor-to-floor height of only 2.9m with the main roof level of 85.74mPD. With the BH of 110mPD, the typical office floor-to-floor could only be increased to 3.5m, which was still below the modern norm of 4.5m. This was even below PlanD's own assumption of a minimum 4m floor-to-floor height;
- (g) to achieve a floor-to-floor height of 4.5m, without taking into account any design improvements such as podium gardens, punctuated facades, narrower towers, increased podium setbacks, etc, a minimum BH of 130mPD was required. Any less would unduly suppress the potential for developing a "world-class" commercial and tourism hub in the Causeway Bay area;

the NBAs on the two sides of Great George Street and a strip of land between the western end of Kingston Street and the Eastern End of Jaffe Road

- (h) the NBAs were arbitrary and unnecessary;
- (i) the existing street level vibrancy and character of the Causeway Bay area as a “Shoppers’ Paradise” was a direct result of ground level retail and active frontages. This essence and advantage should not be put at risk by an untested NBA, which was the result of a broad brush evaluation and subjective opinion. No pilot schemes had been conducted and no alternative solutions had been assessed. This was risky for Hong Kong’s most important shopping, tourism, and entertainment district, that was frequented by the highest numbers of shoppers, locals and visitors alike;
- (j) the set-back of 5m for Great George Street stipulated in the OZP would clear out all small scale stores along Great George Street, the western end of Kingston Street and the eastern end of Jaffe Road. The space lost owing to the provision of NBAs was in fact essential to retaining and promoting an active shopping area. This contradicted the Board’s intention for an active and vibrant shopping area;
- (k) while the TPB Paper stated that “in setting the width of the NBAs, consideration had been given to the impact on the development intensity”, this had not addressed the fact that the value of ground level shops was not equivalent to the dollar value of above-ground units. Nor had it addressed the socio-economic value of ground floor shops to Causeway Bay’s vital attraction;
- (l) the NBAs had taken away all incentives for redevelopment, as this would mean loss of valuable commercial floor space at street level where it was most viable. This was especially true with regard to the majority of the presenter’s properties which comprised street level and 1/F retail shops. This would also be a loss for the other owners of the buildings, which were on average around 50 years old;

- (m) the rationale of imposing the NBAs along Great George Street and between Kingston Street and Jaffe Road was not explained. Currently, there was only a description of a range of 3-5m setback in the non-statutory Explanatory Statement (ES) of the draft OZP and a description of a total road width of 25m in the Expert Evaluation (EE) in the AVA. There was no specific indication on how much setback was required on each side of the Street;
- (n) the only requirement for the NBA between Kingston Road and Jaffe Road was a total of 8m. The representer could not assess how much their properties had been affected. The Board could not assess any application for minor relaxation of the NBAs, as there was no indication on what was minor;
- (o) criteria were given by the Board for minor relaxation of the BHRs, but not for minor relaxation of NBAs. The lack of sufficient details on the NBAs in the statutory and non-statutory provision of the draft OZP meant that the NBAs were premature and not properly assessed, and should not be included in the OZP;
- (p) the widths of the NBAs applied to the representation sites were only stated in the ES which was a non-statutory document. Thus, whether there was provision of an application for minor relaxation of NBAs was a “grey area”;
- (q) according to the EE in the AVA, the Urban Design Guidelines and the HKPSG, there were several methods to achieve improvement in ventilation through design rather than the enforcement of an NBA. The draft OZP had, however, only incorporated building setback, without explanation as to why the alternatives were not incorporated;
- (r) the HKPSG also suggested the option of a terraced podium design to improve air flow. These options required greater scope for design flexibility. The NBAs did not allow for innovative solutions to be sought

through design;

- (s) Paragraph 2.3.1(e) of the TPB Paper suggested that “according to the B(P)R, bonus plot ratio might be granted for surrender/dedication of land for footpath widening”. This statement was very misleading to the public and actually superfluous to the issue at hand as the NBAs were not required for footpath widening, but for ventilation purpose. Thus, there might be no compensation provided to owners for the loss of their most valuable development rights at street level;
- (t) it was proposed that the BHR in respect of the representation sites be revised from 110mPD to 130mPD. This would allow for much greater design flexibility to achieve a varied and interesting skyline and greener buildings, without impacting on any background ridgelines; and
- (u) it was also proposed that the NBAs on the two sides of Great George Street and the NBA between the western end of Kingston Street and the eastern end of Jaffe Road, which were in fact non-specific, be removed.

R146 (Excelsior Hotel (BVI) Limited and the Excelsior Hotel (Hong Kong) Limited

148. With the aid of a Powerpoint presentation, Mr. Alan MacDonald, representative of R146, made the following main points:

- (a) the representer objected to the imposition of a BHR of 110mPD on the site and designation of a building gap with a width of 20m and vertical clearance of not less than 8m above ground between the World Trade Centre and the Excelsior Hotel;
- (b) The Excelsior Hotel was the only luxury hotel in Causeway Bay area. There was a significant upsurge of visitors coming to Hong Kong. There had been an declining supply of luxury hotels on Hong Kong Island. Five major hotels in Hong Kong had been closed in recent years. The Excelsior Hotel was located at a prime location in Causeway Bay with close access to many attractions. Any decision to restrict the redevelopment of the hotel

site would serve to detrimentally restrict the ability to meet and support the increasing demands of local and international customers in the future. This would be a decision lacking any long-term strategic value for Hong Kong's tourism sector;

- (c) The Excelsior Hotel had a building height of 118.75mPD. The current plot ratio of the development was 12.6 whereas the maximum permissible plot ratio was 15. There was still potential for further expansion. The BHR would constrain the future redevelopment and enhancement. Higher floor-to-floor height was required as visitors were requiring more spacious rooms;
- (d) stipulation of BHR would create a homogenous height profile. This contradicted the proposals and parameters recommended in the planning strategies, such as the Hong Kong Island West Development Statement. The BHR would discourage development of high points as visual features and reference points. This was not also in line with the principles in the Urban Design Guidelines, the HEC Harbour Planning Guidelines as well as the TPB Guidelines;
- (e) views from different locations would produce different results in terms of the impact of development height on the ridgelines. In many cases, significant additional height could be incorporated without compromising the integrity of the ridgeline;
- (f) the BHR would result in flat top wall-like development which was against the Urban Design Guidelines;
- (g) under the BHR of 110mPD, the permissible development intensity could not be achieved. The restriction was not consistent with the development allowance under the B(P)R;
- (h) the 10m wide building gap was infeasible in view of the existing disposition of the hotel and the adjoining World Trade Centre. The

existing separation between the hotel and the World Trade Centre was only 6m apart. The OZP also required that the building gap should be at least 8m in height. This would significantly affect the current elevated connections from the hotel building above the porte-cochere to incorporate the required clearance. This would impose adverse design constraints for future redevelopment of the site. In any case, the proposed building gap could not generate a condition of through ventilation as the southern edge of the gap was enclosed; and

- (i) no technical or scientific details and justifications of the assessment had been provided nor the precise benefits that such building gap would achieve.

R147 (Hysan Development Company Limited)

R148 (Barrowgate Limited)

R149 (Earn Extra Investments Limited)

R150 (Silver Nicety Company Limited, Minsal Limited and Mondsee Limited)

R151 (Prefect Win Properties Limited)

R152 (OHA Property Company Limited)

149. Mr. Ian Brownlee said that in addition to the information submitted to the Secretary on 8.3.2011 which had been tabled at the meeting, supplementary information was tabled at the meeting, which included an AVA study, the MVA pedestrian study, some specific information relating to the Lee Gardens Two site, some conceptual plans and drawings, and further information on Jones Lang Lasalle's report. Mr. Brownlee then made the following main points:

Further Information

- (a) the presenter had to submit information in support of the representations during the two-month plan exhibition period which ended in November 2010, and at the hearing. The subjects of representation were complex and very important and the Board was requested to give full and careful consideration to the information submitted/taled at the meeting. The Board was therefore invited to adjourn the hearing to enable a fair decision to be reached;

- (b) according to the recommendation in the TPB Paper, the representer's submission should not be accepted and the OZP should not be amended to meet the representations. There was not no justification, or inadequate justification to support the recommendation. The Board was invited to consider the representer's submissions with an open mind. There was valid information which justified changes to the OZP;
- (c) the provision for minor relaxation did not justify the imposition of any restriction on the OZP as this was not necessary;

R 147- Hysan Properties

- (d) a large portion of area in Causeway Bay was owned by the Hysan Group. One of the characteristics of Hysan's portfolio was that the buildings were a collection of interesting architecture which added to the public realm through setbacks, gaps between buildings, landscaping, interesting building forms and heights, and buildings which met the highest environmental standards. The company was constantly in a process of revaluating, up-grading and redeveloping their portfolio. They were in the process of adding to the importance of Causeway Bay as a prime shopping area and node of Grade A offices;
- (e) the amendments made to the OZP had completely stifled this private initiative by restricting the future development to the existing development design and form, limiting the development even further by unreasonable spot height restrictions, building setbacks, building gaps and building heights. The restrictions and requirements not only deprived the owners of the flexibility to design and build great buildings, but also deprived the owners of their existing development rights;
- (f) the Board was considered to be operating outside the provisions of the Ordinance when imposing building setbacks, NBAs, building gaps and spot building heights. While it was stated in paragraph 4.4.3(p) of the TPB Paper that legal advice had been obtained and confirmed that the

Board should have powers to impose such controls, Hysan had a legal opinion to the opposite view and the matter had yet to be addressed in the Court. The legal point given by the Department of Justice was in fact qualified in that the controls should only be imposed if there were necessary and sufficient planning justifications. The representer considered that there was inadequate justification for the current controls and therefore they should be removed;

- (g) there was no prior consultation with the public and with the representers. The amendments to the OZP were prepared in secret and without adequate input or knowledge from landowners and the community;
- (h) the conceptual approach adopted was flawed and inconsistent. This could be seen by comparing Drawings H-1b and H-1c in the TPB Paper in relation to the Sunning Area. Drawing H-1b showed that this area fell within the “Causeway Bay Mixed Commercial and Residential Cluster”, while Drawing H-1c regarding height concepts incorrectly linked this area to the residential development areas at Moreton Terrace. The stepped BH concept also needed to be modified by the inclusion of an additional step of 150mPD so as to ensure that the validity of the concept was not jeopardised;
- (i) the Board had established criteria for the setting of restrictions, such as respecting property rights and approved building plans. However, such criteria had been completely ignored when looking at different properties with similar characteristics. Some criteria such as assumptions on floor-to-floor heights had not been made known to the public;
- (j) the Board had not established any vision for the Causeway Bay area, nor carried out any urban design or master plan for the area;
- (k) the Board did not consider and was not presented with any alternatives. The objectives should be achieved without impacting on private land without adequate justification, and without any compensation;

- (l) the controls should allow for flexibility to accommodate changing market conditions and changing circumstances. This should be provided without the need for an application to the Board for a relaxation. The increasing demands for Grade A offices in Causeway Bay area was an example of changing market conditions;
- (m) subsequent to the amendments to the OZP, the Building Authority had issued the new Practice Notes for Sustainable Building Design, which had statutory effect. The two controls overlapped and conflicted with each other. The Board had set restrictions too low and introduced duplicated controls on building gaps, setbacks, site coverage, etc. This impact had not been considered. A decision on the representation should not be made at this hearing without considering the impact on the whole OZP. One solution would be to remove all the restrictions from the OZP;
- (n) good urban design was important for Hysan. The relationship between building public spaces, transport and pedestrian areas was a complex and essential balance to get right in order to create a good environment and a vibrant area; and
- (o) the representer had a plan and a vision which had been under preparation since before the amendments to the OZP were made. They had consulted the Wan Chai District Council, the Development Bureau and Transport Department.

150. With the aid of a Powerpoint presentation, Dr. L.K. Chan made the following main points:

- (a) Hysan Group or the Lee family had established his base in Causeway Bay since 1923. After years of development, Causeway Bay had become a world renowned shopping district and a vibrant and diverse neighbourhood;
- (b) Causeway Bay area was facing a number of problems, such as the lack of

open space, urban heat island effect, air pollution, poor air ventilation, traffic and pedestrian interface problem, etc. . In recent years, Hysan Group had made tremendous efforts in promoting various green measures to achieve energy saving, lower carbon release, etc. The company had won the Hong Kong Awards for Environmental Excellence since 2003;

- (c) with great concerns on the community, Hysan Group had explored different ways to improve the local environment. One of the problems in the area was the poor air quality along Hennessy Road. In designing the Hysan Plaza, the Hysan Group had taken the initiative to engage a consultant to run an AVA to examine various measures to improve the air ventilation in the area. As shown in the slides, openings would be provided at the 4/F of Hysan Plaza to facilitate air flow along the openings and penetrate to Hennessy Road. Besides, there would also be public open space and green areas for public enjoyment. The permeability building design of the Hysan Plaza could facilitate air ventilation, reduce the wall effect and urban heat effect and provide more urban greenings. While the site had been fenced off for construction work, a ventilation system had been installed at the hoarding to cater for the pedestrians. The Hysan Plaza was a Plantium LEED building with innovative architectural design;

- (d) Hysan Group had been proactive in creating a green community in Causeway Bay. Management of pedestrian movement, road traffic and car parking were key issues in the core Causeway Bay area. Hysan Group was examining a long term solution to separate vehicles and pedestrians by providing underground roads. This would allow for good vehicular movement, free up the ground level streets for pedestrians use, improve local air quality and create a high quality pedestrian environment. Apart from Yun Ping Road, Hysan Group was also exploring the measures to address the traffic and pedestrian interface problem of Leighton Road. One of the options was to build a footbridge connecting the Haven Street area with the commercial development at the opposite side of Leighton Road;

- (e) a low-rise neighbourhood had been maintained in the core Causeway Area. The area had great potential to be developed as an unique area with Hong Kong character; and
- (f) the provision of green measures, public open space, green areas, permeability building design had been/would be undertaken by the Hysan Group out of its initiative. It was the vision of Hysan Group to turn Causeway Bay into a '4C' community, i.e. care-free, carbon low, cultural and climate positive. The development controls imposed under the OZP had stifled these initiatives.

151. Mr. Ian Brownlee went on to make the following main points on the requirement of Grade A office buildings in Causeway Bay:

- (a) the Causeway Bay area was identified by the Board as a prime office and commercial node. Hysan was constantly reviewing the quality of their building stock to ensure that they were able to meet the changing requirements of top tenants. In this respect, the Hysan properties provided an important supply of Grade A office spaces in Causeway Bay, which boosted Hong Kong's advantage as a top business centre;
- (b) however, the assumed floor-to-floor height of 3.6m in establishing the BHRs was unrealistic and outdated, when compared with the standard of 4.5m; and
- (c) it was noted that PlanD admitted that with a 100mPD BHR on the Sunning Area, Grade A offices with a 4.5m floor-to-floor height could not be provided. A poor quality building would be resulted which was not acceptable to Hysan.

152. With the aid of a Powerpoint presentation, Mr. Gavin Morgan made the following main points:

- (a) for the past 10 years, supply of new Grade A commercial accommodation was 2 million ft² per annum in Hong Kong. This accommodation had been consumed at the same rate and Hong Kong had a positive demand market.

Vacancy rate of commercial accommodation was 4.5% across all districts and continued to decrease. Despite this, over the next five years, approximately 0.5million ft² of Grade A office would be available per annum;

- (b) with Asia's continued growth coupled with Hong Kong as the gateway to and from China, there was little doubt over the requirement for new commercial accommodation in Hong Kong. In the 2011 Budget Speech, the Financial Secretary addressed the need to maintain a steady and adequate supply of Grade A offices and strive to develop new high-grade office clusters. Hong Kong's core CBD was a fraction of the size of that of London or New York. With limited medium term development to supplement the Central, the market was now beginning to look toward Causeway Bay with its potential to become Hong Kong's Midtown as a development of the core business district;
- (c) Causeway Bay, with its intermediate location between Central and Quarry Bay, had all the important characteristics and was one of the most natural extensions of CBD. Many top firms were already located in Causeway Bay;
- (d) to accommodate all essential services and facilities, a suitable floor-to-floor height was required. 4.5m floor-to-floor height had become a benchmark figure for Grade A office space internationally. Examples were AIA Central (2005), LHT Tower (2011), Hysan Place (2012), Asia Square (Singapore 2011/12) and Shanghai World Finance Centre (mid decade). Floor to floor height in some Hong Kong buildings was over 5m to meet the intense trading operation requirement;
- (e) provision of appropriately specified modern property was a key component of Causeway Bay's further successful evolution as a commercial centre. This was also integral in the context of Hong Kong's aspiration to maintain its status as a 'World Class City';

- (f) Sunning Road and its surrounding area was considered as part of the Grade A office hub within Causeway Bay. Sunning Plaza was the first I.M. Pei design office building in Hong Kong. There was no reason to differentiate these buildings from the others, where a floor-to-floor height of 4.5m was assumed under the OZP. In this regard, a floor-to-floor height of 4.5m should be allowed for the sites in the Sunning Road area;
- (g) it was important that Hong Kong sought to seek new standards in real estate development in order to cement its position as Asia's World City. The issue of floor-to-floor height within commercial buildings was a key requirement and a 4.5m was an established standard that should be adopted.

153. Mr. Ian Brownlee went on to make the following main points on air ventilation assessment:

Air Ventilation Assessment

- (a) the Hysan developments were located not in a wind corridor. In certain locations, a taller building would improve down draft to the pedestrian level;
- (b) the EE in the AVA undertaken by PlanD was arbitrary and inadequate to justify the imposition of severe restrictions on BH, NBAs and setbacks on the various Hysan sites. The suggested improvement measures in the AVA only recommended building setbacks for buildings along Lee Garden Road;
- (c) a number of additional improvement measures, which were not in the EE in the AVA, were suggested by PlanD without any technical analysis. These suggestions had significant negative impact on Hysan properties through the imposition of spot building heights and setback requirement on The Lee Gardens and Lee Gardens Two. These negative measures were arbitrary and unsubstantiated; and
- (d) the representer had commissioned consultants to examine the need for

these restrictions in air ventilation terms. The study report was tabled at the meeting. There was inadequate air ventilation justification for the NBAs and the spot building heights which applied to the Hysan sites in Yun Ping Road. There was no concern from an air ventilation point of view regarding the Sunning Road area;

154. With the aid of a Powerpoint presentation, Mr. Rumin Yin made the following main points:

- (a) it should be noted that the Sunning Plaza, Sunning Court, The Lee Gardens and Lee Gardens Two were far from the major wind corridors. The mitigation measures on improving air ventilation performance through building height reduction and/or provision of setback as recommended in PlanD's AVA report might not be effective nor a good solution to the air ventilation problem in the area due to the existing complex high-rise urban context;
- (b) the EE report of the AVA issued by PlanD in September 2010 stated that 'BHR may not be the most effective means to improve pedestrian level air ventilation'. Alternative solutions were still welcome as long as the alternative strategy could prove the ventilation performance of the area;
- (c) the EE report of the AVA did not provide any specific recommendation for the Sunning Plaza regarding the BHR. More importantly, according to the EE report, section 8, 'Option Study on Revised Scenario', there was no adverse comments on the proposed BHR of 180mPD for the Sunning Plaza. There was no specific reason for imposing a BHR of 100mPD for the Sunning Plaza site. The restriction of the BHR of Sunning Plaza to 100mPD seemed just to keep similar building height to its surrounding areas, without any obvious benefit to the local ventilation;
- (d) a clear building height variation was recommended in the EE that 'the difference in building height helps to encourage downwash to reach the street level This strategy introduces variation in height in the area and improves permeability'. Therefore, the Sunning Plaza and Sunning Court

sites should be allowed a higher BHR than those at its northern side (i.e. 130mPD) to facilitate downwash effect towards the pedestrian level;

- (e) according to the approved building plans, the building height of Sunning Plaza and Sunning Court sites would be 180mPD. This would provide a positive effect by stepping up building height along the Ming An Plaza. Redevelopment of the Sunny Plaza and The Lee Gardens would encourage wind downwash to pedestrian level of these areas. Together with the wind corridor in Sunning Road and Hoi Ping Road, this positive effect could enhance the ventilation performance in this area. However, the BHR imposed on the sites would significantly reduce the downwash effect. A wake zone was expected at Sunning Road due to the lack of dynamic height profile created to this areas;
- (f) height restriction was not the only way to address the ventilation problem. Other alternatives included control of the coverage and permeability of podia, provision of greenery and open space and gaps between buildings, setting back of building frontages to widen the streets and breezeways, and provision of non-building areas for air flows;
- (g) there was no detailed discussion in the EE report on the wind performance of Yun Ping Road in relation to The Lee Gardens and Lee Gardens Two. The report had not provided any supporting reason regarding the podium height restriction for Lee Gardens Two and The Lee Gardens. The recommendations were in fact responses to PlanD's comments. The actual merits of the provision of setback and reduction of the podium height were questionable;
- (h) PlanD's EE report aimed to improve the ventilation performance along Hennessy Road, setbacks or provision of NBAs along the major breezeway might be the best way to improve wind performance. However, the concerned sites were not near the major breezeway. The actual merits of the recommendation were questionable;

- (i) it was proposed that the stepped building height profile of allowing a higher BH of Sunning Plaza and Sunning Court to around 150-180mPD would likely benefit the ventilation performance in the presence of downwash;
- (j) the podia at The Lee Gardens and Lee Gardens Two were surrounded by buildings with a BHR of 130mPD or above. Retaining the podium heights at 20mPD would unlikely improve local ventilation or wind permeability because the prevailing winds had already been blocked by surrounding buildings. The BHR stipulated on the OZP would result in a wake zone in Yun Ping Road. Therefore, instead of reducing the podia to 20mPD, they should be kept to certain height to catch downwash toward the pedestrian level of Yun Ping Road. For example, the height of the podia at Lee Gardens Two could be higher than the adjacent low-rise residential buildings (i.e. 30mPD);

Setback Requirement

- (k) the 2m setback recommended at Yun Ping Road was questionable and might be negligible on its intention to improve local ventilation performance for the following reasons:
 - i) Yun Ping Road was not identified as a wind corridor in the EE report and widening of the street gave little contribution to the surrounding wind environment;
 - ii) discrete provision of setback (which would potentially induced neck effect) might eliminate wind penetration;
 - iii) Yun Ping Road was not leading to Hennessey Road and was a dead end;
- (l) there was no merit to provide setback at Yun Ping Road. Provision of setback at The Lee Gardens and the Lee Gardens Two was not preferred. Podia of The Lee Gardens and the Lee Garden Two should be designed to have sufficient height variation to its surrounding so as to catch more downwash towards the pedestrian level and improve the air ventilation along Yun Ping Road; and

- (m) air ventilation performance at the pedestrian level was not merely determined by building height or setback of buildings. It was the combination of site characteristics and different design features, including the site location, building disposition and building height, surrounding building layout and building height, podium design, podium garden design, local wind availability, etc. Controlling of BH or building setback might not be helpful to wind performance at the pedestrian level under some circumstances. The OZP should allow flexibility on building height and building setback in terms of air ventilation and allow alternative solution for better wind performance.

155. Mr. Ian Brownlee continued and made the following main points on the assessment on pedestrian movement in the area:

Setbacks for Improved Pedestrian Movement

- (a) it was not clear whether these setbacks were justified for pedestrian movements or for air ventilation purpose;
- (b) it had not been justified why the requirements needed to be implemented through the OZP rather than under either the Roads (Works, Use and Compensation) Ordinance or the Buildings Ordinance;
- (c) it was an important principle that all improvements for public passage must be carried out on public land unless there was no alternative. This principle had been ignored under both the PlanD's AVA and the pedestrian requirements. The Hysan's proposals to put vehicular traffic underground and to create an extensive pedestrian area was an alternative which maximized the use of public land; and
- (d) in adopting the setbacks requirement, the street characteristics had not been looked at in detail. The consultants (MVA) of the representer had undertaken an analysis on the existing and future pedestrian requirements for the area.

156. With the aid of a Powerpoint presentation, Mr. Chapman Lam made the following main points:

- (a) the setback requirements at Yun Ping Road, Lan Fong Road and Lee Garden Road had been reviewed taken into account the existing and future pedestrian volume in the areas;
- (b) as shown in the slides, the widths of the footpaths of Lee Garden Road, Lan Fong Road and Yun Ping Road were 3.0m-3.8m, 2.0m-4.2m and 2.3-3.3m respectively whereas the footpaths in the surrounding areas generally had a width of about 3m;
- (c) a pedestrian count survey had been conducted to identify the level of pedestrian volume on the relevant footpath sections. Level of Service for each footpath section was also assessed according to the Highway Capacity Manual 2000. In general, majority of the footpaths exhibited an acceptable Level of Service of 'C' or above. The performance of the southern footpath along Lan Fong Road exhibited a slightly worse Level of Service of 'D' during peak hours;
- (d) the anticipated footpath performance for year 2021 had also been conducted. The results of the review indicated that the Level of Service for the concerned footpaths were expected to be more or less the same as the existing situation. The southern footpath along Lan Fong Road near Yun Ping Road still had a Level of Service 'D' during evening peak;
- (e) based on the assessment, the existing footpaths should be able to cater for the known future pedestrian demand without the need for widening. For the existing southern footpath of Lan Fong Road, it was slightly overcrowded during the evening peak period due to passenger queue at the mini-bus stops;
- (f) 'Study on Planning for Pedestrians' indicated that a public transport interchange would be provided at the EMSD site at Caroline Hill. One of

the objectives of the PTI was to accommodate the green mini-bus services currently occupying, among others, Lan Fong Road area. With the relocation of the mini-bus stops from Lan Fong Road, the performance of the footpaths would be improved. If footpath widening was required, a width of some 3m could be accepted based on the Transport Design Manual. In future when the mini-bus stops were relocated, Lan Fong Road could be reconfigured to provide 3m footpath on both sides without the need for any setback;

- (g) another improvement scheme was to relocate the loading/unloading area on Lan Fong Road. The kerbside along Yun Ping Road and Pak Sha Road could provide loading/unloading area to meet the need along Lan Fong Road. By relocating the loading/unloading area, Lan Fong Road could provide 3m wide footpaths on both sides with approximately 3.5m wide traffic lane while maintaining min-bus stop aside; and
- (h) in sum, there was no need for widening the footpaths along Yun Ping Road and Lee Garden Road (already had widths of 2.3m – 4m and 3m respectively). For Lan Fong Road, the footpath was generally 2m wide with widening at junction up to 4.2m. Two possible improvement schemes had been put forward to address the problems. The setback requirement along Lan Fong Road was not required.

157. Mr. Ian Brownlee continued and made the following main points on specific representation sites:

R 148 - Lee Gardens Two

- (a) the Lee Gardens Two was a long narrow site. The lot had an unrestricted lease and the existing building had not been built up to the maximum GFA permitted under the Buildings Ordinance. Hysan were in the process of designing alterations and extensions to the building when the amendments were made to the OZP. The approach taken in setting the OZP restrictions had imposed restrictions which were even stricter than the existing building form;

- (b) the restrictions on the site included: (i) a maximum spot BHR of 130mPD; (ii) two spot height restrictions on the podium of 20mPD. Part of this restriction overlaid with the existing tower and was in conflict with it; (iii) a 2m wide NBA along the Yun Ping Road frontage;
- (c) the controls had a significant negative impact on the value of the site. The effect of the 2m wide NBA alone would remove floor space to a value of greater than \$1 Billion.

158. With the aid of a Powerpoint presentation, Ms. Monita Ho made the following main points:

- (a) the Lee Gardens Two site had a depth of 18.8m and a frontage of 189.5m. The maximum permissible plot ratio and site coverage of the site were 15 and 62.5% respectively;
- (b) as indicated in the redevelopment option, the maximum permissible plot ratio of 15 and site coverage of 62.5% could be achieved. This 20-storey building would be 143.5mPD and the retail and office floor heights would be 5m and 4.5 respectively;
- (c) a development scheme had been worked out taking into account the OZP restrictions, namely, BHR of 130mPD on the tower and 20mPD on the podia, and 2m wide setback along Yun Ping Road. The actual plot ratio that could be achieved was 10.9 and a site coverage of 49.2% (about 20% less than the maximum permissible). PlanD's comments that the BHRs would not adversely affect the GFA achievable under the OZP was not true;
- (d) another development option with a lower floor height (i.e. 3.7m for retail floor and 3.6m for office floor) showed that the actual plot ratio accommodated was about 14.5 with a site coverage of 49.2%. However, this was far from a quality office building. PlanD's comments that a floor to floor height of about 4m to 4.5m would be possible for the typical floors and the BHRs did not preclude the provision of quality office buildings

were not true;

- (e) in January 2011, Buildings Department issued the SBD Guidelines in the form of Practice Notes. One of the pre-requisites of granting GFA concessions was compliance with the guidelines;
- (f) development potential and options would be affected by both the OZP restriction and SBD Guidelines. Three development options had been worked out taking into account both the SBD and OZP restrictions. In general, all three options failed to achieve the maximum permissible plot ratio of 15. The actual plot ratio of the development ranged from 3.72 to 9.3 while the site coverage ranged from 15.9% to 42.7%. All the options were not acceptable. In sum, there was no development scheme that subject to both OZP restrictions and SBD Guidelines could achieve the permissible development intensity;
- (g) based on the assessment undertaken, the development potential of Lee Gardens Two site was substantially jeopardized by the OZP development restrictions and the SBD Guidelines; and
- (h) the incorporation of development restrictions under the OZP and SBD Guidelines shared the good intention of improving air ventilation and enhance the pedestrian environment. However, it was not the intention of both OZP and SBD Guidelines to down zone the development intensity of the site. The OZP development restrictions affected the development of the site substantially. Both controls were overlapping and the dual controls added up had result in disproportional loss of the value of the site that needed to be addressed.

159. Mr. Ian Brownlee went on and made the following main points on the Lee Gardens Two site:

- (a) if controls were to be imposed, they needed to be broad and general and should allow for changing circumstances, such as the controls under the BD's Practice Notes. The Practice Notes controls were more flexible and

allowed for a range of options;

- (b) comments on PlanD's reasons for not amending the OZP to meet the representation were as follows:
- it was AVA's recommendation that this area required the NBA and the podium spot heights. The requirements were arbitrarily added by PlanD. The AVA conducted by the representer indicated that there was no air ventilation benefit from these controls and that a taller podium would facilitate air ventilation of Yun Ping Road area;
 - if the adjacent sites were too narrow to enable the NBA to be imposed, then the same should apply to the representer's site as it was of the same width i.e. about 19m. PlanD was inconsistent in its response to a request for an increase in width of an NBA along Jaffe Road from 8m to 15m. If it was unreasonable to impose NBA for the neighbouring lots which had the same width of 19m and for other lots which were 23m wide, then it must be equally unreasonable to apply the NBA to the Lee Garden Two site where the width was only 19m;
 - footpath widening was not the justification for the NBA. Even if it was, MVA's analysis showed that there was no justification or need for a 2m widening in this area. The figures from PlanD regarding the footpath width were incorrect as it was more than 4m wide and was partially adjacent to a pedestrianized area. There was no specific justification for the NBA in pedestrian terms. There was still scope for modifying the use of the public street to accommodate more pedestrians, if needed. The NBA was totally unnecessary;
- (c) it was proposed that the spot heights be deleted and a broad approach of a maximum BHR of 150mPD and a site coverage restriction of 62.5% for the tower be adopted, and that the NBA be deleted;

R149 - Hysan Place

- (d) Hysan Place was a Platinum LEED building and had been designed with wind tunnel tests to optimise air ventilation. It included facilities in the basement to potentially accommodate a public transport interchange with direct connection to the MTR. It had a floor-to-floor height of 4.5m to provide Grade A office spaces. It included a voluntary setback along Lee Gardens Road of 5m. The flexibility which enabled the special design would be taken away because of restrictions imposed on the area;
- (e) the site was subject to a BHR of 200mPD and a NBA of 5m along Lee Gardens Road. The existing setback was provided voluntarily by the developer when designing the building. The developer was being penalised for good design by the Board by imposing a permanent NBA requirement;
- (f) the original argument for the NBA requirement was on air ventilation, but now it was stated that it was required for pedestrian movement. The wind tunnel test carried out by the consultants was much more detailed than any EE undertaken by PlanD. Gaps were provided throughout the building for air ventilation purposes. The setback was part of good urban design and was not for pedestrian purposes, as the width of the pedestrian area was more than adequate for pedestrian movement;
- (g) when proposing the 200mPD restriction on this site, PlanD did not provide the information that there was an approved GBP for a height of 230mPD. The proposed building included the relocation of the bulk of the adjacent Goldmark building to the top of Hysan Place. By relocating the Goldmark building, the congested area facing Hennessey road would be relieved. The proposal would be implemented upon completion of site assembly;
- (h) the redevelopment of the former Hennessy Centre would be progressively up-dated to make sure that the offices were able to meet the

modern requirements. The old Hennessey Centre only had a floor-to-floor height of 3.6m and this constraint was sufficient to justify its demolition and its replacement by a building which would epitomise sustainable building development. This had been achieved because the Board did not over-control the site in the past;

- (i) it was proposed that the NBA for the site be removed as there was no justification for it. The Board should also be consistent in recognising the approved GBP and increase the BHR for the site to the 231mPD;

R151 – Lee Gardens

- (j) the Lee Garden site was severely impacted by the new restrictions on the OZP which included: (i) a maximum spot height of 200mPD on the office tower; (ii) a spot height of 32mPD on the podium; (iii) a 2m NBA along the Yun Ping Road which did not apply to other properties on the same side of the street; and (iv) a setback along Lan Fong Road of 0.5m;
- (k) the existing building height of Lee Gardens was 208mPD and the building could be re-built to this height. The BHR for the site should be set at 210mPD;
- (l) PlanD's AVA did not justify the need for the 32mPD podium spot height nor the 2m NBA along Yun Ping Road. The restrictions had not been justified and should be removed;
- (m) there was no detailed pedestrian study on the need for the setback along Lan Fong Road. The assessment conducted by MVA indicated that there was scope for providing an adequate level of service for pedestrian movement along both sides of this street without the need to impose an unnecessary restriction on the properties on either side;
- (n) the representer proposed the following amendments to the representation site: (i) to relax the maximum BHR to 210mPD to reflect reality; (ii) to remove the spot height 32mPD restriction on the podium; (iii) to remove

the NBA on Yun Ping Road; and (iv) to remove the building setback on Lan Fong Road;

R 152 - One Hysan Place

- (o) One Hysan Place was built in the 1970's and it was no longer able to accommodate the requirements of modern offices, particularly regarding the space for electrical services and ducting, etc. It had a floor-to-floor height of only around 2.9m and Hysan had obtained GBP approval in April 2009 for a building with a floor-to-floor height of 4.5m and a total building height of 146mPD;
- (p) the representer objected to the restrictions imposed on this site which included: (i) a maximum BHR of only 130mPD; and (ii) a building setback along Lee Garden Road of 0.5m;
- (q) it was noted that an increase in the BHR to reflect the approved BH was not supported by PlanD. The three dominant buildings (Times Square, The Lee Gardens and Hysan Place) in the area formed a triangle each with heights of approximately 200mPD. The representation site was located within the triangle between Times Square and The Lee Gardens. It was therefore within the high-rise commercial triangle. The concept plan for the BHRs showed that the site located within the high-rise commercial node and in the "Higher Inland Height" and a stepped BHR profile should be provided from the landmark buildings to the outer areas;
- (r) there was no issue of harbourfront relationship, or obstruction of ridgeline relevant to this site. The site also had no air ventilation issue as it was facing a wide junction. There was also no apparent consideration as to why in this location there should not be an additional step in the BH profile at 150mPD, which was relative to The Lee Gardens and would be a medium rise step in the BHR profile;
- (s) the integrity of the overall stepped BH profile of 100mPD, 130mPD and

200mPD would not be jeopardised by introducing a step of 150mPD, but would be strengthened. The stepping process would be more gradual and progressive. It would ensure that none of the approved buildings with heights between 130m and 150mPD would exceed an arbitrary and conceptual restriction of 130mPD;

- (t) there was no justification for the setback. A setback of half a metre on a footpath of 3.3m would result in a footpath in excess of the 3.5m standard without justification. MVA's study had shown that it was not necessary. If there was a real need for street widening for loading/unloading activities, the Roads (Works, Use and Compensation) Ordinance should be used to pay the owner with the compensation for land required for public purpose;
- (u) the representer proposed to provide another step of 150mPD in the BH profile for this site and other sites in the vicinity of The Lee Gardens and to delete the unnecessary 0.5m building setback; and

R 150 - Sunning Area

- (v) Hysan owned four buildings within the area and all were covered by a BHR of 100mPD. From the MPC Paper and the EE in the AVA, it was clear that there were no issues of poor air ventilation and no issues regarding ridgeline or harbourfront related to the Sunning Area. The Sunning site was immediately opposite The Lee Gardens standing at 209mPD. GBP for a redevelopment up to 180mPD had been approved.

160. With the aid of a Powerpoint presentation, Dr. L.K. Chan made the following main points on the Sunning Road area:

- (a) Sunning Plaza was the first building in Hong Kong designed by Mr. I M Pei. The building had been setback at the street level to provide a spacious plaza entrance. The adjacent Sunning Court was a residential building built in 1982 and renovated in 2003. A café with an outdoor landscape area was provided between these two buildings. The green spaces at the ground level gave the site an unique character;

- (b) the existing 3.2m floor height of Sunning Plaza was far below market standard. In addition, the Sunning Court would be redeveloped for commercial development with a maximum permissible plot ratio of 15. A set of building plans for redevelopment with a BH of 180mPD was approved in 2009;
- (c) imposition of a BHR of 100mPD on the site had significant impacts on the redevelopment of the site. To comply with the 100mPD restriction, the proposed building would need to maximize the site coverage and the floor to floor height could only be 3.6m. The existing entrance plaza and outdoor landscape areas could no longer be provided. The new building would be a shoe-box type development;
- (d) different development options had been explored to optimize the development potential of the site while retaining the heritage and character of Sunning Plaza. By relaxing the BH to 150mPD, some spaces at the ground level could be reserved to provide landscape area or outdoor café;
- (e) as it was the first I M Pei building in Hong Kong, the representer planned to retrofit instead of redevelop the building. Consultants had been engaged to conduct an in-depth engineering feasibility study. Traffic and pedestrian schemes were also examined to resolve the heavy traffic and traffic/pedestrian interface problem, such as the provision of underground connection between car parks of Sunning Plaza site, the Lee Gardens and Hysan Place, elevated walkways connecting Sunning Plaza site Hysan Avenue, Lee Gardens Two and The Lee Gardens and pedestrianization of part of Yun Ping Road. However, all these planning were disrupted by the unreasonable low BHR; and
- (f) the BHR of 100mPD would result in a bulky 'shoe-box' type development with only 3.6m floor to floor height for commercial development. If the BHR was relaxed to 130mPD, some design features could be allowed. However, in order to provide more design features and ground floor

landscape area, a BHR of 150mPD was required.

161. Mr. Ian Brownlee went on and made the following main points:
- (a) the proposal would provide a new building typical of that developed by Hysan in the area, with all the desirable set-backs and gaps between buildings voluntarily provided. They were consistent with what the Board was trying to achieve in the area;
 - (b) setting the BHR at 100mPD had a drastic impact on the type of building that could be built on the site in that it did not recognise the height of 180mPD in the approved GBP;. The floor-to-floor height of only 3.6m was well below the standard of 4.5m. All of the existing character of the site, open space and trees would be lost. Air ventilation and visual impacts were not applicable for the site and there was inadequate justification for BHR of 100mPD;
 - (c) the reason given in the TPB Paper (paragraph 4.5.8 (i)) for the BHR was that the BH in the approved GBP exceeded the general BH level and should not be taken as a reference;
 - (d) another reason for the BHR at 100mPD was that the adjacent site in the Wong Nai Chung OZP was also subject to a BHR of 100mPD. It should be noted that the 100mPD for the site in Wong Nai Chung OZP was made at a time which the BHR concept for the Causeway Bay and Wan Chai areas had not been developed;
 - (e) the location of the area within the “medium rise” part of the concept was inconsistent with its use and intention of the commercial zoning. The location of the site being adjacent to the tallest building had also not been given any consideration;
 - (f) while it was stated in the representation statement that the whole area should be given a step in BHR reflecting the height of 180mPD in the approved GBP, having carried out the analysis just presented to Members,

it was proposed that a compromised BHR of 150mPD be adopted. All of the urban design and sustainable building objective and requirements could be reasonably achieved;

Conclusion

- (g) the use of NBAs, building set-backs and spot BHs was considered by the presenter to be outside the provisions of the Ordinance and was in conflict with the intent and provisions of the BD's new Practice Notes. They should be deleted from the representation sites;
- (h) there was also inadequate justification to support the inclusion of these measures on the representation sites, either from an air ventilation or pedestrian requirements point of view;
- (i) these requirements had also been applied unfairly and inconsistently, as they were only applied to the Hysan properties but not to adjoining lots. It should be noted that the reasons given for not applying the requirements to these adjoining sites were equally applicable to the Hysan sites;
- (j) the Board had not given adequate weight to the existing building heights or the heights in the approved GBPs. In five of the six Hysan sites involved in the representations, the BHRs were set at a level lower than the existing building or that in the approved GBPs. They should be amended to reflect the real situation;
- (k) the adopted conceptual approach did not match with reality and should be adjusted. A stepped profile around The Lee Gardens with an intermediate level of 150mPD would be consistent with a profile dropping more consistently from 200m to 150m to 130m to 100m. The 150mPD limit would match with the height for One Hysan in the approved GBP. It could accommodate the reduced height of the Sunning Plaza and allow for the Practice Notes requirements to be applied to The Lee Gardens Two without a loss of development rights;

- (l) the photomontages prepared by the representer showed that the proposed height was compatible in visual terms. The 150mPD BHR allowed flexibility for good design, such as that achieved in the Hysan Place building, but with smaller buildings. Also, the 150mPD band would ensure variation in BH, as smaller sites would not reach this limit. It also provided incentive to redevelop and to assemble sites to allow for better urban design. A better quality of urban environment which Hysan had shown could be implemented in a planning regime of flexibility and incentive, rather than through excessive control; and
- (m) a 150mPD height band would ensure that there were no exceptionally tall and out-of-context buildings as they were all smaller than the context provided by The Lee Gardens and Times Square.

R153 (The Real Estate Developers Association of Hong Kong)

162. Mr. Louis Loong, representative of R153, said that REDA issued a letter on 7.3.2011 to the Chairman and Members requesting a suspension of amendments to OZP pending a review of the impacts of BD's new Joint Practice Note on SBD. A copy of the letter was tabled at the meeting for Members' consideration. Mr. Loong then made the following main points:

- (a) REDA had made this representation and representations on other OZPs so as to try to ensure that Hong Kong maintained an efficient, fair and sustainable urban development system. Therefore, REDA's representations related to matters of principle and in particular, to the need to protect the property rights of individual property owners, including those owners who might not even be aware of the changes;
- (b) Hong Kong's development system was becoming increasingly more complex and more difficult to navigate. More and more uncertainty was being introduced to the land, building and planning systems. This had made development more costly and long to implement. Developers were finding it easier to develop outside Hong Kong and do better forms of

development elsewhere;

- (c) the introduction of BHRs, PR controls, NBAs, etc. could not be reasonably justified and they also duplicated other controls. There appeared to have developed a total focus on “control for the sake of control”;
- (d) an indirect consequence of this “control mentality” was that the community was now facing shortage in housing and office spaces. The measures that were being imposed on OZPs were frustrating the development of good quality housing and office developments. These measures were stifling the development of Hong Kong, but no attempt had been made to assess their impact on the economy;
- (e) the recent Practice Notes issued by the Buildings Department (BD) and the Joint Practice Notes had further confounded the issue as they duplicated and conflicted with what the Board was doing in the amendments to the OZP. The combined effect of these controls and the Practice Notes was making many sites in Hong Kong undevelopable;
- (f) REDA had consistently requested that consultation should be undertaken before amendments were made to the OZPs. All developers were aware of the progressive imposition of BHRs on statutory plans and many had submitted general building plans (GBPs). The recent promulgation of the BD’s Practice Notes had prompted the submissions of GBPs under the old system, as that was the only requirements that provided certainty. The reasons that prior consultation would result in an acceleration of submission of GBPs was hardly convincing;
- (g) the removal of the “C/R” zoning and the introduction of the “OU(MU)” zone on the Causeway Bay OZP was another example of poor communication with the public. REDA had consistently objected to the removal of “C/R” zone as being unnecessary and not in keeping with the flexibility that had typified Hong Kong’s development for so long. There

were many desirable aspects of the “C/R” zone that warranted it to be retained;

- (h) the introduction of the “OU(MU)” zone was done without any consultation, in particular, with the industry. The proposed zoning mechanism was complicated and it was difficult to understand how it was implemented. REDA objected to the zoning as it was unclear and did not appear to provide adequate flexibility;
- (i) PlanD was persisting with a planning process that was not open and transparent and therefore not properly thought through. Consultation with the industry and the professions would have resulted in understanding and acceptance of the concept at least before it was given statutory effect;
- (j) however, it was noted that the planning intention of the “OU(MU)” zone was consistent with the desirable mixed use concept that was applicable for the Causeway Bay and similar areas. REDA considered that the “C/R” zoning should be replaced by the “OU(MU)” zoning, rather than by the “R(A)” and “C” zones;
- (k) REDA made submissions to the Tsim Sha Tsui OZP in relation to the relaxation scheme that was incorporated into that OZP. While the finally adopted scheme still had some unacceptable restrictions, it was better than the zoning proposals put forward to the Causeway Bay OZP. It would have some prospect of achieving a better form of urban development in Causeway Bay, if the relaxation scheme was allowed to be included in Causeway Bay OZP as it provided a means for relaxing the unreasonably low BHRs;
- (l) the relaxation scheme allowed the land owner of sites of a specified size to apply to the Board under s.16 for approval for a taller building than the BHRs allowed. Before the Board approved the scheme, the applicant had to demonstrate significant planning gains in terms of criteria set out in the

Notes of the OZP, such as building setbacks, space between buildings, green provision, etc. It promoted the provision of good quality space at the ground level where pedestrians were located, and a better overall sustainable urban form;

- (m) Causeway Bay was a major office and commercial node and the planning intention for the “C” zone set out that the area was functioning as a territorial business/financial centre and regional or district commercial/shopping centre. This planning intention was compatible with the planning intention for Tsim Sha Tsui commercial zone, and therefore the same approach should be applied to both areas to encourage the development of sustainable buildings and a better environment;
- (n) the same relaxation scheme should be applied to the “C” and “OU(MU)” zones in Causeway Bay as the area had similar characteristics to Tsim Sha Tsui in terms of being an extension of the CBD. The relaxation scheme had the benefit of going beyond “minor”, thus allowing the Board greater flexibility to approve good development schemes;
- (o) by including provisions for NBAs, building setbacks and spot height restrictions, the Board was not acting in accordance with the Ordinance as these restrictions were not consistent with the requirements under s.3 and s.4 of the Ordinance. The Board was required to operate in a general, broad and consistent manner when preparing OZPs. The Board should not duplicate the controls with that in the Buildings Ordinance and the Roads (Works, Use and Compensation) Ordinance;
- (p) when setting the BHRs, PlanD should undertake a genuine consultation with REDA and relevant professional institutes on technical issues such as assumption on the floor-to-floor height;
- (q) an urgent review should be undertaken to assess the combined effect of the BD’s Practice Notes and the BHRs and how these controls affected existing property rights. The review should be undertaken jointly with

the industry;

- (r) the preparation of amendments to any other OZPs should be suspended immediately as the BD's Practice Notes showed that the provision of setbacks, air ventilation requirements, building gaps, spot building height and NBAs were not matters for the Board to consider;
- (s) all existing OZPs with the similar amendments which had yet to be heard by the Board should be reassessed on an assumption that the forms of control were no longer relevant for the Board to consider, as the Practice Notes had already covered these matters;
- (t) REDA had concerns on the hearing proceedings as the Board was not able to give fair and full consideration to serious representations made by the public. It was unreasonable and undesirable to have long and complicated hearings, where the majority of the public could not attend for such long periods. It was also unfair for the Board Members to give their time generously, to expect them to sit for long periods into the night; and
- (u) there were provisions in the Ordinance which allowed for better organization of hearings, such as establishment of hearing committees, consideration of over several days and consideration in smaller groups.

R165 (Full Harvest Limited)

163. With the aid of a Powerpoint presentation, Mr. Kim Chan, representative of 165, made the following main points:

- (a) the representer was willing to withdraw his objection against the incorporation of a setback requirement of 0.5m along Jones Street and Warren Street, but maintain his objection against the BHR of 85mPD;
- (b) the representer did not agree with PlanD's responses set out in the TPB Paper that 'it would not be appropriate to adopt the building heights of the

relevant approved development schemes in general building plan submission as reference as they were incompatible with the existing low to medium-rise character of the surrounding areas and would jeopardise the integrity of the overall stepped building height concept'. There were doubts on the rationale for not adopting the approach in formulating the BHR for Tsim Sha Tsui and Wan Chai areas. This had been elaborated in the presentation in relation to R142. Besides, PlanD should also explain why a BHR of 165mPD was imposed for Illumination Terrace and its long-term impact from the visual, air ventilation and townscape point of view;

- (c) as the OZP amendments were to cater for long-term planning and development of the area, it was not appropriate to maintain the existing low to medium character. The long term planning and development intention of the area should be taken into consideration in formulating the BHR. This would not jeopardise the integrity of the overall height profile;
- (d) the representer did not agree with PlanD's response that 'stepped BHR with BH increasing from north to south and the lowest BH band on the upwind direction would facilitate air ventilation by the downwash effect of the prevailing northerly wind/sea breeze into the area'. The stepped BHR should not be applied so rigidly;
- (e) as indicated on slide 5, the area could broadly divided into four clusters with BHR ranging from 165mPD (Illumination Terrace), 115mPD (around Sun Chun Street), 100 mPD (around Shepherd Steet) and 85mPD (around School Street). However, it should be noted that the existing/committed developments at the western part of the area already had building heights ranging from about 100mPD to 144mPD. This high-rise building cluster and the Illumination Terrace (165mPD) would significant block the summer and annual breezeways;
- (f) an alternative building height profile taking into account the existing building cluster and the breezeways was proposed (slide 7 referred).

While the BHR for Illumination Terrace should remain at 165mPD, the BHR for the area around Sun Chun Street, Shepherd Street and King Street should be 100mPD. The representation site should form part of the building cluster along Jones Street and had a BHR of 120mPD. To facilitate air ventilation, the sites fronting Wun Sha Street and Tung Lo Wan Road would have a relatively lower BHR of 85mPD; and

- (g) if the Board accept the representer's proposal and relaxed the BHR of the representation site from 85mPD to 120mPD, the represent would withdraw the objection.

164. The Chairman then invited questions from Members.

Development Intensity

165. A Member noted that a number of representers commented that the BHRs would affect the development intensity of their sites such as the Haven Street area, the Moreton Terrace area, the Lee Gardens and the Excelsior Hotel sites, etc. Some representers also commented that under the BHR, the floor-to-floor height of some commercial sites such as the Sunning Road area would be adversely affected. This Member enquired whether these comments were valid.

166. Ms. Brenda Au, DPO/HK, said that in formulating the BHRs, it had been ensured that upon incorporation of the height restriction, the development sites would generally be able to accommodate the development intensity as permitted under the OZP. Having regard to the stepped BH profile adopted for the area and planning intention and character of the concerned sites, a reasonable floor-to-floor height was assumed in the formulation of the BHRs. In general, for commercial sites subject to BHRs of 110mPD and 130mPD, a floor-to-floor height of about 4m to 4.5m would be possible for the typical floors. Some representers stated that their development schemes could not accommodate the maximum permissible development intensity. This might be due to their adoption of different assumptions, such as higher floor height for commercial buildings (Grade A office buildings), assumptions on basement/podium car park, etc. For the Sunning Road area, in order to achieve a compatible BH profile with the generally low-rise developments to the south and the adjoining "C" zone on the Wong Nai Chung OZP which was also

subject to a BHR of 100mPD, a more stringent BHR of 100mPD had been imposed which would imply a lower floor-to-floor height. In support of their requests to relax the BHRs, some representers proposed to incorporate various planning and design merits in their development schemes. There was, however, no mechanism to ensure that such enhancement measures would be materialized with the BHRs relaxed. To cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits. A set of criteria for considering such applications was set out clearly in the ES of the OZP, which included situations like providing better streetscape, building separation and other planning and design merits as well as accommodating bonus plot ratio.

167. Regarding the representer's presentation on Lee Gardens Two, Ms. Brenda Au, DPO/HK, said that the the new measures on SBD and the OZP restrictions on BHR, NBA, building setback/gaps were under two separate regimes i.e. the building and town planning regime respectively. The SBD Guidelines were generally applicable to all building developments with no reference to specific district characteristics and site circumstances. Besides, the requirements under SBD Guidelines were for the granting of GFA concession under the Buildings Ordinance. Developers did not have to follow the SBD Guidelines if they chose not to apply for GFA concession. On the other hand, OZP restrictions were imposed at a district level to achieve certain urban design and planning objectives. They were often location-specific taking into account various factors. For the Lee Garden Two site, different development schemes/options could be worked out to achieve the permissible development intensity. For the development options presented by the representers, it was hard for PlanD to verify at this stage in the absence of detailed information of the schemes. However, according to PlanD's assessment, a maximum site coverage of 53%, instead of 49.2% as suggested by the representers, could be achieved based on the development restrictions stipulated in the OZP. In addition, the SBD Guidelines had set out possible exemption and compensatory measures for building separation requirement. More importantly, to cater for site-specific circumstances, there was provision under the OZP for minor relaxation of these requirements on application to the Board.

168. Mr. Ian Brownlee raised his concern that PlanD could only provide general responses on the comments/suggestions submitted by the representers. The development

restrictions imposed on the OZP were not supported by detailed studies/assessments. He said that a relaxation of BHR of 10m to 20m would unlikely bring about any significant adverse impacts. It was also a fundamental problem that the development restrictions imposed under the OZP had not made any reference to the new Practice Notes issued by BD. Regarding the mechanism for application of minor relaxation of the development restrictions, it was time-consuming and created unnecessary hurdles for development. The Board should only impose reasonable development restrictions so as to achieve public benefits. The BHRs for the Causeway Bay area were set at such a restrictive level that adversely affected every land owner and could not achieve the public benefits.

169. In response to a Member's enquiry on development intensity of Lei Shun Court, Ms. Brenda Au replied that according to the Buildings Department, building plans for Lei Shun Court were approved in 1960 in accordance with the then Volume Regulations. There was no GFA calculation on the approved plans for the existing development. For redevelopment, the permissible development intensity for the site would need to be re-assessed under the current B(P)R, instead of the following the existing GFA as claimed by the representers. As such, the reduction in the maximum permissible GFA was not due to the imposition of BHR.

170. Mr. Kim Chan, representative of R142, stated that as illustrated in the development scheme for 32-50 Haven Street, the permissible development intensity could not be fully accommodated under the 100mPD BHR (even with a floor-to-floor height of 3.15m). The owner would lose about 330m² GFA. Due to the restrictive BHR, car parks would need to be provided at basement floors. The required excavation works for basement development would significantly affect the adjacent heritage building. In view of these constraints, he urged the Board to relax the BHR for the representation site to 130mPD.

Air Ventilation Assessment

171. A Member noted that the representative, Mr. Rumin Yin, representative of R147 to R152 said that a clear building height variation was recommended in the PlanD's AVA report and that difference in building heights helped to encourage downwash to reach the street level. In this regard, the representers proposed to relax the BHR of the Sunning Road

area to facilitate a downwash effect towards the pedestrian level. This Member enquired whether these comments and proposal were valid.

172. In response to this Member's enquiry, Ms. Brenda Au, DPO/HK made the following main points on the air ventilation assessment submitted by the representers R147 to R152:

- (a) as the eastern part of Causeway Bay was a cluster of low to medium-rise developments, PlanD's AVA Consultant recommended stepped BHs of 85mPD, 100mPD and 115mPD for the Wun Sha Street area increasing from north to south to help improve the air ventilation by downwash effect of wind brought about by the variations in BHs. The situation of the Sunning Plaza area was very different. The Sunning Plaza area was dominated by high-rise buildings, the downwash effect could hardly reach the street level under the relaxed BHR proposed by the concerned representers. The approach was not applicable;
- (b) the representers' comments that the setback and podium height requirements for Lee Gardens and The Lee Garden Two were merely imposed in response to PlanD's comments were not correct. In formulating the appropriate development parameters for these two sites, there had been thorough and detailed discussions between PlanD and the AVA Consultant. The AVA Consultant's initial recommendation was to break the long podium on the Lee Gardens Two site to facilitate air ventilation. However, this requirement might unduly constrain the development/redevelopment on the site. On balance, it was considered more appropriate to maintain the existing height of the podium from the air ventilation point of view;
- (c) site wind availability data for the AVA for Causeway Bay Area was adopted from the Benchmarking Studies for the Feasibility Study for the Urban Climatic Map and Standards for Wind Environment (Benchmarking Studies). According to the wind tunnel result of the Benchmarking Studies, the majority of the core Causeway Bay area had a very low wind speed. Causeway Bay was a busy commercial area with

heavy pedestrian flow at street level. To further increase building heights would cause more negative ventilation effect to the area;

- (d) there were provisions for minor relaxation of the NBAs restrictions, setback and building gap requirements under the OZP. To quote a recent application for comprehensive office development with minor relaxation of the NBA restriction at Taikoo Place, which was approved by the Metro Planning Committee on 4.3.2011. The detailed AVA submitted by the concerned applicant had demonstrated that the proposed scheme with relaxation of the NBA restriction would result in slightly better overall wind performance when compared with the OZP compliant scheme. Flexibility had been allowed under the OZP to cater for site-specific circumstances;

Rezoning of Haven Street Area to “R(A)”

173. In response to a Member’s enquiry on the rationale for rezoning the Haven Street area to “R(A)” zone, Mr. Tom Yip stated that as the area was predominantly residential in nature, it was considered appropriate to rezone the area for residential use. At the local consultation forum held in November 2010, this rationale for rezoning was explained to the residents. In response to an enquiry raised at the forum, he informed the residents that as a matter of fact, the building plans submitted for the Haven Street area were mainly for residential use. Some residents might have mistaken this as the reason for rezoning the area for residential use. In this connection, Ms. Brenda Au, DPO/HK, referred to the comment made by R110 that it was only upon the strong request of the Wan Chai District Council that PlanD conducted a local consultation forum for the residents. She clarified that when PlanD consulted the Development, Planning and Transport Committee of the Wan Chai District Council on the amendments to the draft Causeway Bay OZP in October 2009, the Chairman considered that the amendments involved quite technical matters and advised PlanD to conduct a local briefing for the residents. PlanD had no hesitation at all in agreeing to conduct the local forum, which was held in November 2010.

Approved Building Plans

174. A Member enquired whether the approved buildings plans with the building heights exceeding the BHRs could still proceed. Ms. Brenda Au, DPO/HK, replied that

development proposals with approved building plans would not be affected by the new BHRs on the OZP as long as their approvals remained valid. In this connection, Mr. Kim Chan said that a set of building plans for in the representation site of R142 was approved by the Buildings Authority in March 2010 and was still valid. However, he reiterated that the approved GFA figure was less than the permissible development intensity of the site, which could not be achieved under the BHR of 100mPD.

175. In response to DPO/HK's comments, Dr. L.K. Chan, representative of R147 to R152, made the following main points:

- (a) in formulating the BHRs, it seemed that PlanD failed to take into account the actual ground level of respective sites and the need to accommodate a transformer room and other supporting building services in the buildings;
- (b) a floor height of 4.5m, but not higher as suggested by PlanD, had been adopted in working out the development schemes;
- (c) all possible development options had been explored for the Lee Gardens Two site. With the imposition of the OZP restrictions and the SBD guidelines, there was no development scheme that could achieve the permissible development intensity; and
- (d) for the Sunning Plaza and Sunning Court sites, building plans for development with a building height of 180mPD had been approved. However, the approved scheme was not the most appropriate development scheme. The representers had prepared an enhanced scheme supported by detailed assessments, but PlanD did not provide any concrete comments.

176. In response to a Member's enquiry, Dr. L.K. Chan replied that Caroline Centre had a floor-to-floor height of 3.75m. Ms. Monita Ho, representative of R147 to R152 said that for the Lee Gardens Two site, the maximum site coverage worked out by PlanD and the representers was 53.5% and 49.2% respectively. Take the figure of 53.5% proposed by PlanD, it was still less than the maximum permissible site coverage of 62.5%. Regarding the response of DPO/HK on podium separation, it should be noted that there was a 5m level difference between Yun Ping Road and Jardine's Crescent. Those exemption measures in respect of building separation could not be applied to the frontage at Yun Ping Road.

Building Height Restriction for Haven Street Area

177. Mr. Wong Fat Kee, representative of R137, stated that the area around the waterfront such as the Central Mansion at Cannon Street was rezoned to “C” with a BHR of 110mPD. According to the stepped height concept of increasing building height from north to south, the Haven Street area should have a higher BHR. It should be noted that the areas adjacent to the Haven Street area generally had a BHR of 130mPD. The same BHR should be imposed. Both Mr. Wong and Mr. Shau Kwok Lam, Gollum, representatives of R137, said that it was not reasonable to rezone the Haven Street area to residential use simply based on the nature of the existing use. Mr. Wong continued to and said that although there was provision under the zone for application for commercial development through the planning permission system, the small landowners could hardly have the resources or expertise to prepare the supporting information for the planning application. Eventually, the small landowners would have no choice, but to sell their properties to the big developer at a lower price.

178. Mr. Shao Wai Kei, representative of R137, stated that Haven Street was about 100m long, a BH of 130 mPD would result in a development with 33 storeys and generate a ‘block coefficient’ (i.e. ratio of the width of the building to the length of Haven Street) of 0.55. However, under the current BHR of 100mPD, the development would be 25 storeys high, but the block coefficient would be larger to around 0.62. Under the 130mPD option, the width of the building would be 7m less than the option under 100mPD. A wider building gap would enhance air ventilation at ground level. He also commented that the plan attached at the TPB Paper was misleading as it assumed the whole street block would be occupied by buildings. There should be gaps between buildings. Mr. Raymond Leung of PlanD explained that according to the wind tunnel results of the Benchmarking Studies, a large part of Causeway Bay area had an average summer wind speed of only 0.3m/s to 0.4m/s, which was very low from air ventilation point of view. In general, further increases in building height would cause negative ventilation impacts to downwind areas.

Setback Requirements

179. In response to the Chairman’s enquiry on the setback requirement at Haven Street, Ms. Brenda Au, DPO/HK replied that to ensure that the width of the footpaths on Haven Street would meet the minimum standard of 2m stipulated in HKPSG so as to improve

the pedestrian walking environment for residents in the vicinity and the public at large, TD considered that setback from the lot boundary should be provided upon redevelopment of these sites. Certain sections of the existing footpath might already have a width of 2m due to the G/F setback of some existing buildings. The 2m width was the very minimum requirement under the HKPSG and the provision of a wider footpath could improve the pedestrian walking environment. Mr. Kenny Kong, representative of R142, said that in processing a set of building plans for 32-50, Haven Street, BD had confirmed that the existing footpath of Haven Street had a width of 2.38 to 2.4m.

180. In response to a Member's enquiry, Ms. Brenda Au, DPO/HK, replied that private land concerned would not need to be surrendered to provide the setback and NBA requirements stipulated on the OZP, hence the setback and NBA would still be included in plot ratio calculation. Proposals involving dedication of land for public passage and surrender of land for street widening would be entitled to bonus GFA under B(P)R, and any such claim would be duly considered by the Building Authority. A set of criteria for considering application for minor relaxation of BHR was set out clearly in the ES of the OZP, which included situations like accommodating bonus plot ratio.

181. Regarding the traffic and pedestrian schemes proposed by the representers, Mr. David Lee of TD informed Members that there was not yet any implementation programme for the provision of a PTI at the EMSD site at Caroline Hill as the proposal had not yet been finalized. Regarding the deletion of the loading/unloading bay at Lan Fong Road, it should be noted that there was a huge loading/unloading demand in the area. The proposal was infeasible from a traffic management point of view. For the assessment on pedestrian movement submitted by representers R147 to R152, Mr. Lee said that the assessment only presented some mathematical calculations. Apart from the number of pedestrians, the actual situation of the footpath such as the presence of on-street facilities (e.g. lamp pole, mini-bus stops, electricity mast, etc.) would affect the usage of the footpaths. Referring Members to an extract from HKPSG which was shown in the visualizer, Mr. Lee said that the minimum standards for footpaths were 2m wide for residential areas and 3.5m wide for commercial areas. A higher standard of 4.5m was set for commercial areas with heavy pedestrian flow. Due to the heavy pedestrian flow and heavy demand of kerbside loading/unloading activities in the area, the sub-standard footpaths in the area had to be widened. It should be noted that even with required setback, some of the footpaths still failed to meet the minimum standards.

However, the current setback requirements were arrived at after careful consideration of various factors, such as the need to respect development right, site constraints, etc..

182. Mr. Brownlee reiterated that the traffic consultants had provided different traffic and management schemes and proposals with detailed assessment. However, representatives from government departments did not accept any of these with no detailed responses. TD had not carried out any studies to assess the pedestrian volume in the area and the improvement measures required. In response, Mr. David Lee said that the requirements were to cater for the long-term planning and development of Causeway Bay. In reality, a 2m wide footpath in the core Causeway Bay area was definitely insufficient. Even with the widening, some of the footpaths would still fail to meet the minimum standards of the HKPSG. Mr. Chapman Lam, representative of R147 to R152, said that while the standards were laid down in the HKPSG, the actual pedestrian flow (which was well below 60 pedestrian per minute according to the on-site survey) was the important consideration for footpath widening. For Haven Street, the requirement was still below the standard set out in the HKPSG. Mr. Kim Chan, representative of R142, said that Haven Street was a cul de sac with low pedestrian flow.

183. As Members had no further questions to raise, the Chairman said that the hearing procedures had been completed and the Board would deliberate on the representations in the absence of the representers and commenters. They would be informed of the Board's decision in due course. The Chairman thanked the representatives of the representers and commenters as well as PlanD for attending the meeting. They all left the meeting at this point.

[The meeting was adjourned for a 5-minute break]

Deliberation Session

184. The Chairman asked and Members confirmed that they had read through the papers circulated before the meeting as well as those tabled at the meeting. The Chairman also asked Members whether it was necessary to adjourn the deliberation session of the meeting. Members considered that they had already heard all the presentations of the representers and their representatives and had read the written information submitted, it was better to deliberate on the presentations while memories were still fresh. Members confirmed that they were able and prepared to deliberate and make decisions on the representations.

185. Regarding the representation submitted by REDA, Members noted that most of the points in the representation had been considered by the Board before in the context of other OZPs, except the points on the duplication of the SBD Guidelines with the OZP controls and the adoption of ‘relaxation scheme’ for the Tsim Sha Tsui OZP to the subject OZP. Nevertheless, Members went through the key issues raised by the representers as follows:

Rezoning of “C/R”

186. Members noted that according to the recommendations of the Metroplan Review, the “C/R” zoning was considered obsolete and had inherent problems, including undesirable land-use mix and uncertainty in infrastructure planning. Except for a few OZPs, all the “C/R” zones on OZPs had been reviewed and rezoned to other uses. In this regard, a land use review had been undertaken to examine the “C/R” sites on the Causeway Bay OZP with a view to rezoning them to appropriate zonings. It was also noted that flexibility for change of use was allowed through the planning permission system. Also, a new zoning mechanism, “OU(Mixed Use)”, was introduced to facilitate integrated and planned mixed use developments where both objectives of providing flexibility and maintaining planning control could be achieved.

Urban Design Consideration

187. Regarding the comment on the lack of comprehensive urban design plan, Members noted that in formulating the overall BH concept for the Area and in determining BHRs and other relevant requirements, various urban design considerations, including

ridgeline protection, preservation of view at major local vantage points, stepped height profile with relatively lower BH near the waterfront, etc. had already been duly taken into account. The building height bands had ensured that the urban design principles would be complied with as far as practicable while accommodating the permissible development intensity under the OZP;

Floor-to-Floor Height

188. With reference to some representers' submission that the BHRs had restricted the floor-to-floor height of the development, a Member pointed out that the BHRs were reasonable and were formulated on the basis of all relevant considerations, among which floor-to-floor height assumption was only one of them. Another Member shared the view and said that such an approach had been adopted in formulating the BHRs for other OZPs. The representations had not submitted any strong justifications to support deviation from this approach. A Member opined that there was no dispute that a floor-to-floor height of 4.5m might preferably be adopted for modern Grade A office buildings. However, the representers had not provided strong reasons why a 4.5m floor-to-floor height had to be adopted in their development schemes. There was provision for application for minor relaxation of BHRs under the OZP to cater for development/redevelopment with planning and design merits.

Spot Zoning Approach

189. The Secretary drew Members' attention to paragraph 4.4.3(p) on page 25 of the Paper. According to the legal advice, the Board had the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if they were necessary and there were sufficient planning justifications. Given the wide coverage of the Area that comprised areas with varying characteristics with different planning intentions/objectives to achieve, different restrictions for different sub-areas under the same broad zone were necessary. Members noted.

Designation of NBAs/ Setback Requirements

190. Regarding the query on the legal basis for the Board to impose NBA, setback and building gap requirements, Members noted that DoJ's advice had been sought. According to the legal advice, sections 3 and 4 of the Ordinance and the theme of the legislation were so prescribed as to give the Board comprehensive powers to control development. NBA, setback and building gap requirements were planning control tools

that the Board could use provided that the Board had necessary and sufficient planning justifications for using them. The designation of such requirements on the OZP, which could serve a positive planning purpose and had other positive planning benefits, was regarded by the Board obviously as a type of development control and justified in the circumstances.

No Alternative Considered

191. Members agreed that the development parameters imposed on the OZP had taken into account all relevant considerations, including the existing building height profile, local characteristics, land uses, stepped building height concept, the urban design principles, recommendations of the AVA, the permissible development intensity of sites, the need to balance between public aspirations for a better living environment and private development right, etc. Members noted that alternative development proposals had been submitted by the representers but considered that they could not achieve the planning intentions/objectives based on which the BHRs were formulated.

No Prior Public Consultation

192. Members noted that it was the Board's practice that the public would be consulted on the OZP amendments in accordance with the provisions of the Town Planning Ordinance, whereby the public would have a statutory channel to submit representations and comments and would be heard by the Board. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the building height and NBA restrictions and setback requirements on the OZP including the AVA Report and visual analysis, had already been made available for public inspection.

Duplication with the Practice Notes on the Sustainable Building Design

193. Members noted that the new measures on Sustainable Building Design and the OZP restrictions were under two separate control regimes, i.e. the building and town planning regime respectively. The requirements under the SBD Guidelines were for granting GFA concessions under the Buildings Ordinance. Developers did not have to follow the SBD Guidelines if they chose not to apply for GFA concession. The town planning regime was under the Town Planning Ordinance. The Secretary also drew Members' attention to the

general applicability of the SBD guidelines which had made no reference to district characteristics. However, the OZP restrictions were imposed to achieve planning objectives specific to the district. Members agreed that the argument that there was duplication between the OZP restrictions and the SBD Guidelines was invalid.

Relaxation Scheme

194. Regarding the proposal to apply the relaxation scheme for the Tsim Sha Tsui OZP to the subject OZP, Members noted that according to the Urban Design Guidelines, Tsim Sha Tsui was recognized as a high-rise node. Members considered that the representers had not put forth a convincing case/sufficient justification for extending the relaxation scheme to the Causeway Bay area.

Footpaths Widening

195. Members noted that the Causeway Bay area was transforming into a commercial and entertainment district with increasing loading and unloading activities on street levels and pedestrian activities which had given rise to vehicular and pedestrian conflicts. Some footpaths in the area were not up to the required standard of 2m wide for the residential areas and 3.5m wide for the commercial areas under the HKPSG. Although the representers submitted an assessment (based on an existing survey) to support their argument that there was no need to widen the footpaths from the pedestrian circulation point of view, TD considered that the existing footpaths were below the standards of the HKPSG. Two Members opined that in imposing the NBAs and setback requirements, the future development/redevelopment in the area, such as the Haven Street area and Sunning Plaza area, should be taken into account. Regarding the enhancement measures proposed by the representers, TD's representative had commented that there was not yet any implementation programme for the provision of a PTI at the EMSD site at Caroline Hill Road and the relocation of the mini-bus stop and loading/unloading bay at Lan Fong Road was not feasible from the traffic management point of view.

Haven Street Area

196. For the Haven Street Area, Members noted that the representers opposed the rezoning of the area to residential use and the imposition of the BHR of 100mPD mainly on the grounds that the development restrictions would adversely affect the redevelopment potential and value of their properties. Whilst the justifications were not strong enough, a

Member said that the residential buildings there were mostly built in the 1960s and had high potential for redevelopment. In deciding the appropriate land use zoning for the Haven Street area, the long-term planning and development intention for the area should be an important consideration. The area was adjacent to the Causeway Bay commercial core area. There was great potential for commercial uses upon its redevelopment. To allow flexibility for development/ redevelopment to meet the changing market demands, Members generally considered that it was more appropriate to rezone the area to “OU(Mixed Use)”.

197. Another Member enquired whether the BHR of 100mPD would be able to accommodate the development intensity if the sites were redeveloped for commercial use. The Secretary replied that whether a BHR of 100mPD could accommodate the permissible development intensity depended on a number of factors, e.g. the actual mix of uses, storey height, building design, etc. The maximum site coverage of a commercial development was greater than that for a residential development. A Member did not agree to relaxing the BHR of the area. This Member considered that the BHRs were formulated based on various factors, including the recommendations of the AVA, the overall BH concept, urban design principles, compatibility with the surrounding areas, the need to balance between public aspirations for a better living environment and private development right. Another Member pointed out that according to the AVA report, the Haven Street area was in the middle of a cluster of open space and G/IC uses and at the entrance of prevailing wind, future development in the area would affect the prevailing winds in summer and deteriorate the air ventilation to the downwind areas. The BHR of 100mPD should be maintained from the air ventilation point of view. Other Members shared the views of this Member. Another Member pointed out that there was provision for application for minor relaxation of BHR under the OZP. Each application would be considered by the Board based on its individual merits.

198. In response to a Member’s question on the reduction of development intensity, the Secretary replied that as pointed out by PlanD, building plans for the existing buildings in the Haven Street area were approved in accordance with the then Volume Regulations. There was no GFA calculation on the approved plans for the existing developments. For redevelopment, the permissible development intensity would need to be re-assessed under the current B(P)R.

199. Regarding the request of Mr. Kim Chan, the representative of R142, to relax the BHR to 130mPD, Members noted that a set of building plans with a building height of 135mPD had been approved. The Secretary pointed out that planning and building were two different regimes and the right to proceed with the subject development scheme with approved building plans would not be affected as long as the building plan approval was still valid. For reasons highlighted in paragraph 197, Members considered that the BHR of 100mPD for Haven Street area was appropriate. A Member pointed out that no detailed information had been provided to substantiate the technical problems of constructing basement car parks as claimed by the representer. Piecemeal relaxation of the building height would jeopardize the coherency of the stepped building height profile. There was also provision of minor relaxation of BHR on the OZP and each application would be considered by the Board based on individual merits. Members noted that the setback requirement stipulated in the OZP was to ensure that the width of the footpaths in Haven Street would meet the minimum standard of 2m stipulated in the HKPSG. As pointed out by PlanD, certain sections of the existing footpath might already have a width of 2m due to the G/F setback of some existing buildings. The 2m width was the very minimum requirement under the HKPSG and the provision of a wider footpath could improve the pedestrian walking environment.

Moreton Terrace Area

200. Members noted that the representaters requested to reinstate the “C/R” zoning of the site or rezone it to “OU(Mixed Use)”. In his presentation during the hearing, the representers’ representative proposed a two-tier building height profile for the Moreton Terrace area and relax the BHR for the area bounded by Tung Lo Wan Road and Moreton Road and the lane at the end of Shelter Street from 100mPD to 115mPD.

201. Members noted that apart from residential uses, there were office, hotel and commercial developments therein. Similar to the Haven Street area, Members considered that the Moreton Terrace area should also be rezoned to “OU(Mixed Use)” to allow flexibility for development/redevelopment to meet the changing market demands. Regarding the two-tier stepped building height profile proposed by Mr. Kenneth To, the representative of R143 and R144, a Member said that as the Moreton Terrace area covered a small area of about 1 ha and the sites in the area had rather similar characteristics, there

was no strong justification to designate different BH bands as proposed by the representer. Another Member pointed out that as the Moreton Terrace area was amid a cluster of open space, relaxation of BHR would affect the air ventilation for the area. Members also noted that the enhanced development scheme which was proposed by the representers might have certain planning and design merits. However, the crux of the matter was that there was no mechanism to ensure after the BHR was relaxed, the enhancements proposed under the development scheme would be materialized. There was provision for minor relaxation of BHR under the OZP and each application would be considered by the Board based on individual merits.

*2-20 Paterson Street, 6-8 Kingston Street, sites on Cleveland Street,
Paterson Street, Great George Street*

202. Members noted that the representer opposed the BHR and NBA requirements as the restrictions would constrain the redevelopment of the site. With the BHR of 110mPD, the typical office floor height could only be 3.5m which was below the standard of 4.5m for Grade A office buildings. The NBA requirement was only based on broad brush evaluation and subjective opinion. The requirement would diminish the street-level vibrancy of Causeway Bay and reduce the valuable commercial floor space at ground level. There was no specific indication on the NBA requirements. Members noted that Kingston Street and Great George Street were the major wind corridors for penetration of prevailing easterly wind into the core Causeway Bay area. In view of the densely built-up environment and the air ventilation problems in the heart of Causeway Bay, the NBAs requirement was necessary to facilitate the penetration of the prevailing easterly wind to the downwind area. The Secretary said that as pointed out by PlanD, the site wind availability data for the AVA for the core Causeway Bay area was adopted from the Benchmarking Studies. Under the said Studies, a wind tunnel test had been conducted for the core Causeway Bay area. Members also noted that the NBAs had been clearly shown on the OZP. A Member opined that apart from improving air ventilation, the NBA requirements would enhance the pedestrian and shopping environment at ground level. In response to a Member's enquiry, the Secretary replied that in general, no building structures above ground level were allowed within the NBAs. However, construction of basement would be allowed. As the concerned private land would not be resumed to provide the setback and NBA requirements, the area designated for NBA and setback would still be included in plot ratio calculation. The NBA and setback requirements would not affect the development

intensity of the site concerned as permitted under the OZP.

203. Regarding the representer's submission that the BHR of 110mPD had restricted the floor-to-floor height of the building, a Member said that the BHR could accommodate the permissible development intensity under the OZP. While the BHR was drawn up taking into account of a host of factors, the representer's submission did not contain sufficient grounds to justify a relaxation of the BHR for the area. Besides, there was provision for application for minor relaxation of BHR under the OZP which could enable the Board to assess the planning and design merits of the development proposal.

Excelsior Hotel at 281 Gloucester Road

204. Members noted that the site was currently occupied by the Excelsior Hotel of 119mPD. The subject representation was mainly against the imposition of a BHR of 110mPD and a 10m-wide building gap requirement on the site. In response to a Member's enquiry, the Secretary said that upon redevelopment, the height of a building could be up to the height of the existing building as allowed under the OZP. The BHR imposed would not affect the development intensity of the site. A Member said that there was also provision for application for minor relaxation of the BHR under the OZP. Regarding the 10m wide building gap, Members noted that the requirement was intended to maintain and strengthen the existing wind corridor to the site to enhance the penetration of sea breeze to the core Causeway Bay area. The existing building and structures within the building gap would not be affected and were not required to be demolished until redevelopment of the site. There was also provision for minor relaxation of the building gap requirement under the OZP. The Secretary said that provision of minor relaxation of the NBAs restriction and setback and building gap requirements had been provided under the OZP to cater for site-specific circumstances. A notable example of application for minor relaxation of NBA restriction was the office development at Taikoo Place which was recently approved by the Board. In that case, the applicant managed to demonstrate, through an AVA, that the scheme with the proposed relaxation of NBA would result in slightly better overall air ventilation in the area. In sum, Members considered that the representers had not submitted sufficient justification to substantiate their representation.

Sunning Plaza and Sunning Court Area

205. Members noted that a set of building plans for an office and hotel development

with a building height of 180mPD at the Sunning Court and Sunning Plaza site had been approved. To comply with the BHR of 100mPD, the proposed development would need to maximize the site coverage and the floor-to-floor height could only be 3.6m. According to the representers, if the BHR was relaxed to 130mPD, some design features could be allowed. However, in order to provide more design features and G/F landscape area, a building height of 150mPD was required. A Member considered that the Sunning Road area covered a relatively large site and had potential to be redeveloped for Grade A office buildings. In response to a Member's enquiry, the Secretary said that according to PlanD, a BHR of 100mPD was imposed to ensure coherence with the BH restriction stipulated for the adjoining area under the Wong Nai Chung OZP. However, this would imply a lower floor-to-floor height. Members considered that given its prime location, the Sunning Plaza and Sunning Court site could be redeveloped into Grade A office buildings. The BHR for the Sunning Road area should be relaxed to 130mPD to allow better utilization of the site. It was noted that the representers had submitted an enhanced scheme and requested to relax the BHR to 150mPD. A Member said that although some planning and design merits had been incorporated in the enhanced scheme, there was no sufficient information to substantiate a further relaxation of the BHR, particularly as there was no mechanism to ensure that the proposed enhancement would be incorporated in the redevelopment. A more prudent approach was to make use of the provision of application for minor relaxation of the BHR. Members agreed that the BHR should be relaxed to 130mPD only.

The Lee Gardens Site

206. Members noted that the site was occupied by a commercial and office development of 208mPD which was the tallest building in the area. The representer requested the Board to relax the BHR for the "C(2)" site from 200mPD to 210mPD to reflect the existing building height of Lee Gardens and delete the BHR of 32mPD for the podium part of the site. The representer also requested to delete the NBA along Yung Ping Road and the setback requirement along Lan Fong Road. Members noted that the NBAs along Yun Ping Road and a BHR of 32mPD for the podium area of the development were designated to address the air ventilation problem. According to the AVA, the presence of NBAs would help the wind to reach the pedestrian level, which was currently blocked by the podium of the development. The NBAs would also facilitate footpath widening. The existing footpaths of Yung Ping Road and Lan Fong Road were about 2.3 to 3m and 2.1 to 2.4m respectively, which were below the standard in the HKPSG. Members also did not agree to the argument

of the presenter's consultant that there was no need to widen the footpaths from the pedestrian circulation point of view as detailed in paragraph 195. As explained by PlanD, the BHR of 200mPD generally reflected the existing building height of Lee Gardens. The building height was already the tallest one on the OZP. Further relaxation of the BHR was not justified. Members also noted that redevelopment to the existing building height was permitted under the Notes for the subject zone.

Lee Gardens Two, 28 Yun Ping Road

207. Members noted that the representers opposed the BHR of 130mPD for the tower and 20mPD for the podium level of Lee Gardens Two as well as the 2m NBA along Yun Ping Road. Members noted that according to the AVA, the air ventilation in the Pak Sha Road area had deteriorated as it was surrounded by tall and large-scale developments including Lee Gardens Two and Lee Gardens. NBA along Yun Ping Road and a BHR of 20mPD for the podium area of the development were designated to address the air ventilation problem. Given the air ventilation consideration, the BHRs and NBA requirements should be maintained. A Member said that there was provision of application for minor relaxation of BHR under the OZP.

Hysan Place, 500-502 Hennessy Road

208. Members noted that a set of buildings plans with a building height of 230.7mPD had been approved. The representers requested to relax the BHR from 200mPD to 231mPD to reflect the height of the approved building plans. The presenter also requested to delete the NBA requirement along Lee Garden Road. Upon a Member's enquiry, the Secretary said that building plans approved by the Building Authority before the imposition of the BHR would be allowed to proceed. The building height of the commercial development under construction had a BHR of 200mPD and this was already the highest building height band adopted on the Plan. Further increase of BHR was considered undesirable. Members considered that the 5m NBA requirement which would help improve the air ventilation and pedestrian walking environment should be retained.

1 Hysan Avenue

209. Members noted that a set of building plan for the site with a building height of 146mPD had been approved by the Building Authority. Regarding the representers' request to relax the BHR from 130mPD to 150mPD and delete the setback requirement of 0.5m along

Lee Garden Road, Members considered that the representer had not provided sufficient justification to support the request. It was noted that a 0.5m setback along Lee Garden Road was to increase the footpath width to improve the pedestrian environment and cope with the increasing demand for loading/unloading activities in the area. Members noted that while the building plans for the site with a building height of 146mPD would be allowed to proceed, it should not be adopted as reference as it would jeopardize the integrity of the overall stepped height concept. No amendment to the BHRs and setback requirements was required.

Pak Sha Road Area

210. Members noted that the area was a distinct commercial/residential neighbourhood with uniform building style and trendy shops on the lower floors of the buildings. The area had great potential for development into a unique shopping area. To preserve the distinct character for the area, Members agreed that the BHR of 30mPD should be maintained. It was noted that to cater for possible redevelopment upon relaxation of the restrictive covenant by agreement with concerned parties, comprehensive redevelopment scheme with high BH could be submitted to the Board for consideration.

OU sites on Cleveland Street and the section of Paterson Street north of Great George Street

211. Members noted that the concern of the representations was that the area was predominantly occupied by residential development. After rezoning the area to “OU(Mixed Use)”, the special character of the area would lose. Besides, the representers considered that the BHR of 110mPD was not in line with the overall stepped building height profile. To allow flexibility to retain the residential use and opportunity for future commercial development, Members considered that the “OU(Mixed Use)” zoning was appropriate. The BHR of 110mPD for the area was in the same height band fronting Victoria Harbour.

18-21 School Street

212. Members noted that the representation site was located at the northern part of the Wun Sha Street and surrounded by low-rise residential buildings. The representer’s representative proposed an alternative stepped building height profile for the area and suggested to relax the BHR of the representation site from 85mPD to 120mPD. Members considered that the representer had not provided strong justification or assessment to support the alternative stepped building height approach proposed and there was no ground to relax the BHR for the site from 85mPD to 120mPD.

Various Lots on Lockhart Road

213. Members noted that the representers opposed the requirement of 0.5m along Lockhart Road mainly on the ground that it would affect development of the sites and flexibility of building design. Members considered that the setback requirement would improve the pedestrian environment in the area. The requirement would not adversely affect the development intensity of the lots.

Representation No.1

214. After further deliberation, the Board noted the support of R1 and decided not to uphold part of the representation of R1 for the following reasons:

- (a) there was a need to strike a fair balance between public interest and private development right. The proposed BHRs of 80mPD, 100mPD and 115mPD for the core Causeway Bay area, the provision of more and wider NBAs and wind corridors, and across the board restriction to the size of podium would pose undue constraints on future developments/redevelopments and have adverse impact on the development potential of the affected sites; and
- (b) provision of more and wider NBAs/setback restrictions/wind corridors would pose undue constraints on future developments/redevelopments, especially for small lots which were common in the Area. A balance has been struck between air ventilation and private development right .

Representations No. 2 to 5

215. After further deliberation, the Board decided not to uphold the representations of R2 to R5 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning

system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;

- (b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. Blanket relaxation of the BHRs was not supported as it would result in proliferation of high-rise developments, which was not in line with the intended planning control. Deletion or piecemeal relaxation of BHRs for individual sites would jeopardize the coherency of the stepped BH profile and could result in proliferation of high-rise developments, which was not in line with the intended planning control; and
- (c) the “C/R” sites were rezoned to “C”, “R” or “OU(MU)” taking the nature and uses of the existing developments into consideration. Flexibility for change of use was allowed through the planning permission system. Rezoning of the “C/R” sites would not unify future developments and the character of the Area as existing uses were allowed to continue.

Representations No. 6 to 73, 75 to 117, 130, 132 to 139 and 141

216. After further deliberation, the Board decided to partially meet the representations of R6 to R73, R75 to R117, R130, R132 to R139 and R141 by rezoning the sites on Haven Street from “R(A)1” to “OU(Mixed Use)”.

217. After further deliberation, the Board decided not to uphold the remaining parts of

the representations of R6 to R73, R75 to R117, R130, R132 to R139 and R141 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration;
- (b) the BHR for the Haven Street area was mainly intended to maintain the medium-rise character of the area and to avoid developments/redevelopments with excessive height. The BHR was formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. It would therefore not jeopardize the incentive for private redevelopment. Also, there would not be adverse impacts on the property value in general. The BHR had struck a balance between public aspirations for a better living environment and private development right. Deletion or piecemeal relaxation of the BHR was not supported as it would result in proliferation of high-rise developments, which was not in line with the intended planning control;
- (c) the BHR for the sites would not result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone, e.g. whether there were podia, whether car park was provided in basement or above ground, and the storey height proposed, etc. The provision of better designed buildings was not guaranteed (*R6, R14, R21, R25 to R64, R86 to R97, R99 and R117*);

- (d) according to legal advice, given that there was no formal extinguishing of the property interest of the representation sites, it was unlikely that the rezoning and imposition of BHR for the sites would result in any formal deprivation of property. The rezoning and BHRs did not amount to a ‘de facto deprivation’ of the development right and no compensation was payable to the concerned owners (*R9, R10, R17 to R22, R24 to R65, R69, R72, R76, R77, R79 to R96, R98 to R106, R109 to R115, R117, R130 and R132 to R137*);

- (e) the “Commercial” sites on the opposite side of Leighton Road formed part of the commercial/residential cluster in the core Causeway Bay area which had adopted a stepped BH profile with BHR of 110mPD for the sites north of Hennessy Road/Yee Wo Street and 130mPD for sites to the south. It was not appropriate to apply such BHR to the subject medium-rise residential neighbourhood. The building plans for 32-50 Haven Street with a BH of 135mPD were approved by the Building Authority before the imposition of the BHR. They should not be adopted as reference for the representation sites as it would jeopardize the coherence of the BH profile for the area and its surroundings (*R13, R15, R16, R21, R66 to R67, R70, R73, R78, R79, R81 to R86, R93 to R97, R99, R101 to R108, R116, R130, R136 to R137, R139 and R141*);

- (f) according to the Buildings Department, building plans for Lei Shun Court were approved in 1960 in accordance with the then Volume Regulations. There was no GFA calculation on the approved plans for the existing development. For redevelopment, the permissible development intensity for the site would need to be re-assessed under the current B(P)R, instead of following the existing GFA as claimed by the representers (*R138 and R139*);

- (g) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the

Board on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP;

- (h) the setback requirement would facilitate widening of the footpaths on Haven Street to improve the pedestrian walking environment for residents in the vicinity and the public at large, and was considered appropriate. The requirement would not impose undue constraints on developments/redevelopments in the area (*R132 to R139*);
- (i) the two-month statutory exhibition period and provision for representations and comments formed part of the public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs (*R9, R13, R16, R21, R66, R72, R78, R97, R101 to R103, R114, R130 and R136*); and
- (j) the Sir Ellis Kadoorie (Sookunpo) Primary School was not a monument nor a graded historical building. Specific preservation action for the building was not necessary (*R141*).

Representations No. 74, R118-129, R131, R140 and R142

218. After further deliberation, the Board decided not to uphold the representations of R74, R118-R129, R131, R140 and R142 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned

land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration;

- (b) the BHR for the Haven Street area was mainly intended to maintain the medium-rise character of the area and to avoid developments/redevelopments with excessive height. The BHR was formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. It would therefore not jeopardize the incentive for private redevelopment. Also, there would not be adverse impacts on the property value in general. The BHR had struck a balance between public aspirations for a better living environment and private development right. Deletion or piecemeal relaxation of the BHR was not supported as it would result in proliferation of high-rise developments, which was not in line with the intended planning control;
- (c) the BHR for the sites would not result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone, e.g. whether there were podia, whether car park was provided in basement or above ground, and the storey height proposed, etc. The provision of better designed buildings was not guaranteed (*R140*);
- (d) according to legal advice, given that there was no formal extinguishing of the property interest of the representation sites, it was unlikely that the rezoning and imposition of BHR for the sites would result in any formal deprivation of property. The rezoning and BHRs did not amount to a 'de facto deprivation' of the development right and no compensation was payable to the concerned owners (*R121 to R125, R127, R128 and R131*);
- (e) the "Commercial" sites on the opposite side of Leighton Road formed part of the commercial/residential cluster in the core Causeway Bay area which had adopted a stepped BH profile with BHR of 110mPD for the sites north of Hennessy Road/Yee Wo Street and 130mPD for sites to the south. It

was not appropriate to apply such BHR to the subject medium-rise residential neighbourhood. The building plans for 32-50 Haven Street with a BH of 135mPD were approved by the Building Authority before the imposition of the BHR. They should not be adopted as reference for the representation sites as it would jeopardize the coherence of the BH profile for the area and its surroundings (*R118 to R120 and R140*);

- (f) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP;
- (g) the setback requirement would facilitate widening of the footpaths on Haven Street to improve the pedestrian walking environment for residents in the vicinity and the public at large, and was considered appropriate. The requirement would not impose undue constraints on developments/redevelopments in the area (*R142*); and
- (h) the two-month statutory exhibition period and provision for representations and comments formed part of the public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs (*R119, R121*).

Representations No. 143 to 144

219. After further deliberation, the Board decided to partially meet the representations by rezoning the Moreton Terrace area from “R(A)” to “OU(Mixed Use)”.

220. After further deliberation, the Board decided not to uphold the remaining parts of the representations of R143 to R144 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;

- (b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. Blanket relaxation of the BHRs was not supported as it would result in proliferation of high-rise developments, which was not in line with the intended planning control. Deletion or piecemeal relaxation of BHRs for individual sites would jeopardize the coherency of the stepped BH profile and could result in proliferation of high-rise developments, which was not in line with the intended planning control;

- (c) the BHRs would not result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone, e.g. whether there were podia, whether car park was provided in basement or above ground, and the storey height proposed, etc. Given the tendency to maximize the best view in certain direction (particularly sea view), and to capitalize the land value of the lower floors by designing a 100% site coverage commercial podium under B(P)R to 15m, a development with more relaxed BH control might be even taller and bulkier. The provision of better designed sustainable buildings was not guaranteed; and

- (d) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP.

Representation No. 145

221. After further deliberation, the Board decided not to uphold the representation of R145 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;
- (b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. Blanket relaxation of the BHRs was not supported as it would result in proliferation of high-rise developments, which was not in line with the intended planning control. Deletion or piecemeal relaxation of BHRs for individual sites would jeopardize the coherency of the stepped BH profile and could result in proliferation of high-rise developments, which was not in line with the intended planning

control;

- (c) the BHRs would not result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone, e.g. whether there were podia, whether car park was provided in basement or above ground, and the storey height proposed, etc. Given the tendency to maximize the best view in certain direction (particularly sea view), and to capitalize the land value of the lower floors by designing a 100% site coverage commercial podium under B(P)R to 15m, a development with more relaxed BH control might be even taller and bulkier. The provision of better designed sustainable buildings was not guaranteed;
- (d) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP; and
- (e) the NBAs between Kingston Street and Jaffe Road and on the two sides of Great George Street served to facilitate the penetration of the easterly wind to the core Causeway Bay area. They would not adversely affect the development intensity of the representation sites under the OZP and the shopping environment in the area.

Representation No. 146

222. After further deliberation, the Board decided not to uphold the representation of R146 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the

BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;

- (b) the BHRs would not result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone, e.g. whether there were podia, whether car park was provided in basement or above ground, and the storey height proposed, etc. Given the tendency to maximize the best view in certain direction (particularly sea view), and to capitalize the land value of the lower floors by designing a 100% site coverage commercial podium under B(P)R to 15m, a development with more relaxed BH control might be even taller and bulkier. The provision of better designed sustainable buildings was not guaranteed;
- (c) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP;
- (d) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. Given the provision for redevelopment up to the height of the existing building, there should be room for redevelopment of the site to achieve higher floor-to-floor height through proper design; and
- (e) the building gap requirement for the site was intended to maintain and strengthen the existing wind corridor at the site to enhance the penetration

of sea breeze to the heart of the Causeway Bay area. The existing building and structures within the building gap would not be affected and were not required to be demolished until redevelopment of the site.

Representations No. 147 and 153

223. After further deliberation, the Board decided not to uphold the representations of R147 and 153 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;
- (b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. Blanket relaxation of the BHRs was not supported as it would result in proliferation of high-rise developments, which was not in line with the intended planning control. Deletion or piecemeal relaxation of BHRs for individual sites would jeopardize the coherency of the stepped BH profile and could result in proliferation of high-rise developments, which was not in line with the intended planning control;
- (c) the BHRs would not result in larger building bulk. Whether a building was

bulky or massive depended on many factors other than BH alone, e.g. whether there were podia, whether car park was provided in basement or above ground, and the storey height proposed, etc. Given the tendency to maximize the best view in certain direction (particularly sea view), and to capitalize the land value of the lower floors by designing a 100% site coverage commercial podium under B(P)R to 15m, a development with more relaxed BH control might be even taller and bulkier. The provision of better designed sustainable buildings was not guaranteed;

- (d) s.3 and 4 of the Ordinance and the theme of the legislation were prescribed to give the Board comprehensive powers to control development in any part of Hong Kong. The Board had the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under s.3 and 4 of the Ordinance if there were necessary and sufficient planning justifications;
- (e) the BHRs were intended to avoid developments with excessive height, and the development intensity of individual sites would not be affected. There would not be adverse impacts on the development intensity permitted under the OZP and property value in general. For an existing building which having already exceeded the BHRs, the rights of redeveloping the buildings to their existing heights would be respected on the OZP;
- (f) the presumption against minor relaxation of BHRs for existing buildings which had already exceeded BHRs stipulated on the OZP was to contain the heights of the excessively tall buildings and avoid further aggregate increase in the BH profile;
- (g) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP;

- (h) designation of NBA, building gap and setback requirements on the OZP could serve a positive planning purpose and had positive planning benefits by improving air ventilation, visual permeability and the pedestrian environment. It had legal basis as it would form part of the planning control of the Board, which had the necessary and sufficient justifications;
- (i) the relaxation of the NBA, setback and building gap requirement for one site would affect the effectiveness of their planning intention. The wording 'exceptional circumstances' was included in the minor relaxation clause of setback requirements to cater for the situation that only in some exceptional cases under which the requirement could not be met due to site constraints but the planning objectives would be achieved in other forms;
- (j) the "C/R" sites were rezoned to "C", "R" or "OU(MU)" taking the nature and uses of the existing developments into consideration. Flexibility for change of use was allowed through the planning permission system. Rezoning of the "C/R" sites would not unify future developments and the character of the Area as existing uses were allowed to continue;
- (k) the two-month statutory exhibition period and provision for representations and comments formed part of the public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the BHR, NBA, building gap and setback requirements on the OZP including the AVA Report and visual analysis, was available for public inspection;
- (l) the "OU(MU)" zoning was first introduced in the revised Master Schedule of Notes to the Statutory Plans (MSN) endorsed by the Board in 2003 and the views of the professional institutes had been taken into account in refining the proposed zoning. To provide flexibility for redevelopment, the zoning permitted as of rights new residential, non-residential or mixed development with proper segregation of residential and non-residential

uses, while allowing some commercial uses in existing composite buildings before redevelopment (R153);

- (m) in general, proposals involving dedication of land for public passage and surrender of land for street widening would be entitled to bonus GFA under B(P)R, and any such claim would be duly considered by the Building Authority in accordance with the normal practice. Since there was no plot ratio restriction for the relevant commercial, residential and “OU(MU)” zones under the Plan, the inclusion of provision in the OZP for plot ratio to be exceeded as defined in B(P)R 22(1) and (2) was not necessary. The NBA, setback and building gap requirements on the OZP should not adversely affect development intensity of the relevant sites, and did not preclude the claim for bonus GFA under the BO; and
- (n) pedestrianisation and traffic management schemes would have a major impact on the general traffic and pedestrian circulation in the concerned area, and would need to be considered by the TD in detail separately.

Representation No. 150

224. After further deliberation, the Board decided to partially meet the representation by relaxing the building height restriction for the Sunning Road area from 100mPD to 130mPD.

225. After further deliberation, the Board decided not to uphold the remaining part of the representation of R150 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned

land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;

- (b) sections 3 and 4 of the Ordinance and the theme of the legislation were prescribed to give the Board comprehensive powers to control development in any part of Hong Kong. The Board had the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were necessary and sufficient planning justifications;
- (c) the BHRs were intended to avoid developments with excessive height, and the development intensity of individual sites would not be affected. There would not be adverse impacts on the development intensity permitted under the OZP and property value in general. For an existing building which had already exceeded the BHRs, the rights of redeveloping the buildings to their existing heights would be respected on the OZP; and
- (d) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP;

Representations No. 148, 149, 151 and 152

226. After further deliberation, the Board decided not to uphold the representations of R148, 149, 151 and 152 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public

aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;

- (b) sections 3 and 4 of the Ordinance and the theme of the legislation were prescribed to give the Board comprehensive powers to control development in any part of Hong Kong. The Board had the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were necessary and sufficient planning justifications;
- (c) the BHRs were intended to avoid developments with excessive height, and the development intensity of individual sites would not be affected. There would not be adverse impacts on the development intensity permitted under the OZP and property value in general. For an existing building which had already exceeded the BHRs, the rights of redeveloping the buildings to their existing heights would be respected on the OZP;
- (d) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP;
- (e) designation of NBA, building gap and setback requirements on the OZP could serve a positive planning purpose and had positive planning benefits

by improving air ventilation, visual permeability and the pedestrian environment. It had legal basis as it would form part of the planning control of the Board, which had the necessary and sufficient justifications;

- (f) the BHR for the site was formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. Deletion or piecemeal relaxation of BHRs for individual sites would jeopardize the coherency of the stepped BH profile and could result in proliferation of high-rise developments, which was not in line with the intended planning control;
- (g) the BHR of 20mPD for the podium area of Lee Gardens Two development and the NBA along Yun Ping Road served to improve the air ventilation in the area near Pak Sha Road, and would not have adverse impact on the development intensity of the site under the OZP (*R148*);
- (h) the BHR of 200mPD for the site generally reflected that of the commercial development (199mPD) under construction at 500 Hennessy Road. It was already the highest BH band adopted on the Plan. Further increase in the BHR was considered undesirable. While the second approved building plan submission with a BH of 231mPD involving the adjoining Goldmark site approved by the Building Authority before the imposition of BHR would be allowed to proceed, it was considered inappropriate to adopt such BH as reference (*R149*);
- (i) the 5m NBA for the site would help improve the air ventilation along Lee Garden Road and would not have adverse impact on the development intensity of the site permitted under the OZP (*R149*);
- (j) the BHR of 200mPD generally reflected the existing BH of Lee Gardens. The BH band was already the tallest one on the Plan. Further relaxation of the BHR was not justified. Nevertheless, redevelopment to the existing BH was permitted under the Notes for the “C(2)” zone (*R151*);

- (k) the BHR of 32mPD for the podium area of the existing Lee Gardens development and the NBA along Yun Ping Road were intended to facilitate air ventilation in the area near Pak Sha Road, and would not have adverse impact on the development intensity of the site under the OZP (*R151*);
- (l) the minimum 1.5m setback requirement along Lan Fong Road would facilitate widening of the footpath to improve the pedestrian walking environment in the core Causeway Bay area and to meet the minimum standard in HKPSG, and was considered appropriate (*R151*);
- (m) the minimum 0.5m setback requirement for 1 Hysan Avenue along Lee Garden Road would facilitate widening of the footpath to improve the pedestrian walking environment in the core Causeway Bay area and to meet the minimum standard in HKPSG, and was considered appropriate (*R152*) ; and
- (n) while the building plans for the site with a BH of 146mPD approved by the Building Authority before the imposition of the BHR on the site would be allowed to proceed, it should not be adopted as reference as it would jeopardise the integrity of the overall stepped BH concept (*R152*).

Representation No. 154

227. After further deliberation, the Board decided not to uphold the representation of R154 for the following reason:

as the developments in the core Causeway Bay area were predominantly commercial in nature, the “C/R” sites in the area were mainly rezoned to “C”. The rezoning of these sites should not have significant impact on the overall flat supply and property price, as well as the numbers of customers for the businesses in the area. Should there be a market demand for residential development in this area, there was provision for application for residential development under the “C” zone.

Representation No. 155

228. After further deliberation, the Board decided not to uphold the representation of R155 for the following reasons:

- (a) the setback requirement for the representation sites would facilitate the widening of the pedestrian footpaths to improve the pedestrian walking environment in the core Causeway Bay area and to meet the minimum standard in HKPSG and was considered appropriate. It should not adversely affect the development intensity of the concerned sites; and
- (b) for the proposed part-time pedestrianization of Lockhart Road, part of the road was already a part-time pedestrian street. Since it would be difficult to identify suitable alternate vehicular route for the general traffic and alternative area to meet the loading/unloading demand in the area, the provision of setback was a more practical mean to improve the pedestrian environment.

Representations No. 156 to 161

229. After further deliberation, the Board decided not to uphold the representations of R156 to R161 for the following reasons:

- (a) the BHR of 30mPD for the sites on Pak Sha Road was intended to preserve the existing low-rise neighbourhood with distinct character, providing visual relief and breathing spaces amid the high-rise developments. Relaxation of the BHR was therefore not supported. Nevertheless, future comprehensive development with a higher BH could be submitted to the Board for consideration under the s.12A application procedure;
- (b) the setback requirement would facilitate the widening of the pedestrian footpaths to improve the pedestrian walking environment in the core

Causeway Bay area and to meet the minimum standard in HKPSG (R158);

- (c) the OZP did not preclude the possibility of comprehensive redevelopment of the area and had therefore no conflict with the general intention of encouraging urban redevelopment through private initiatives. The BHR did not preclude the provision of commercial uses at the sites to achieve the planning intention of the “C” zone, which allowed for different scales of commercial developments (R160 and R161);
- (d) the rezoning of the sites in the Paterson Street area from “C/R” to “OU(MU)” would provide flexibility to retain the existing residential development and opportunity for commercial redevelopment, and would not adversely affect the character of the area (R161); and
- (e) the BHR of 110mPD for the area had taken into account the stepped BH profile adopted for the core Causeway Bay area and the waterfront location of the Paterson Street area, and was considered appropriate (R161).

Representations No. 162 and 163

230. After further deliberation, the Board noted the comments of R162 and R163.

Representations No. 165

231. After further deliberation, the Board decided not to uphold the representation of R165 for the following reasons:

- (a) the purpose of imposing BHRs in the Area was to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design

Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development intensity, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development right;

- (b) to cater for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP; and
- (c) piecemeal relaxation of the BHR for the representation site was not supported as it would jeopardize the coherency of the stepped BH profile for the Wun Sha Street area, which was intended to enhance the air ventilation for the area, and could result in proliferation of high-rise developments.

Agenda Item 14

Any Other Business

[The meeting was conducted in Cantonese.]

232. There being no other business, the meeting was closed at 00:15 am of 12.3.2011.