

**Minutes of 994th Meeting of the
Town Planning Board held on 14.10.2011**

Present

Mr. Stanley Y.F. Wong

Vice-Chairman

Mr. Walter K.L. Chan

Mr. B.W. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr. C.P. Lau

Ms. Julia M.K. 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

Dr. W.K. Yau

Mr. Stephen M.W. Yip

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Ms. Elsa Cheuk

Deputy Director of Environmental Protection

Mr. Benny Wong

Assistant Director (2), Home Affairs Department

Mr. Frankie Chou

Director of Lands

Miss Annie Tam

Director of Planning

Mr. Jimmy Leung

Deputy Director of Planning/District

Secretary

Miss Ophelia Y.S. Wong

Absent with Apologies

Mr. Thomas Chow

Chairman

Mr. K.Y. Leung

Ms. Maggie M.K. Chan

Professor Edwin H.W. Chan

Dr. James C.W. Lau

Mr. Maurice W.M. Lee

Dr. Winnie S.M. Tang

Dr. W.K. Lo

Ms. Pansy L.P. Yau

In Attendance

Assistant Director of Planning/Board
Mr. C.T. Ling

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

Senior Town Planner/Town Planning Board
Ms. Maggie Chin

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 993rd Meeting held on 30.9.2011

[The meeting was conducted in Cantonese.]

1. The minutes of the 993rd Meeting held on 30.9.2011 were confirmed without amendment.

Agenda Item 2

Matters Arising

[Open Meeting]

[The meeting was conducted in Cantonese.]

High Court's Judgment on the Judicial Review (HCAL 3 of 2011)
on the Unauthorized Columbarium Development at 'The Shrine',
Ngau Tam Mei, Yuen Long

2. The Secretary said that the Judicial Review (JR) (HCAL 3 of 2011) in respect of an unauthorized columbarium development at 'The Shrine' at certain lots of land at D.D. 104, Ngau Tam Mei, Yuen Long (the Land) was dismissed by the High Court on 3.10.2011 with costs awarded to the Government. A copy of the judgement had been sent to Members for information.

3. The Secretary continued to point out that the JR application was lodged against the decisions of the Director of Planning in issuing several enforcement notices pursuant to s.23(1) of the Town Planning Ordinance requiring the discontinuation of the unauthorized development. The Appellants did not accept that the development carried out on the Land was unauthorized. Their case, put in a nutshell, was that the development fell within the meaning of 'shrine' under Paragraph (9)(b) of the Notes of the OZP, which was a use always permitted under "Village Type Development" ("V") zone. The Judge ruled that 'The Shrine' was not a 'shrine' within the meaning of Paragraph (9)(b), rather it was a columbarium. The judgement was based on the following four main considerations:

Context of the OZP

- a) 'Columbarium' was a Column 2 use which might only be permitted on application to the TPB for land in a "Government, Institution or Community" ("G/IC") zone or a "Green Belt" ("GB") zone. In respect of the "GB" zone, the notes under column 2 further qualified that columbarium use could only be permitted if it was within 'a Religious Institution or extension of existing Columbarium only.' In contrast, in these zones (as in other zones within the OZP) 'shrine' use was always permitted. The OZP had to be construed as a whole and the meaning of the word 'shrine' should be the same throughout the whole plan. This strongly indicated that a use which should properly be classified as 'columbarium' could not at the same time be classified as 'shrine'. Otherwise, the references to 'columbarium' in "GIC" and "GB" zones would be in conflict with the general permission given for 'shrine' use.

Planning Intention of "V" Zone

- b) On the question of whether a building accommodating a business of providing cupboards/caskets facilities could be regarded as a composite structure of many shrines and always permitted without any need for a planning application, one had to consider the planning intention of the "V" zone. The planning intention of the "V" zone was to designate both recognized villages and areas of land considered suitable for village expansion. Land within the zone was primarily intended for development of Small Houses by indigenous villagers. Selected uses serving the needs of the villagers and in support of the village development were always permitted on the ground floor of a New Territories Exempted House. In this regard, 'columbarium' which might attract hundreds of visitors and was likely to be used in conjunction with a range of cultural practices such as incense burning and chanting, plainly fell outside the scope of a use serving the needs of the villagers and in support of the village development. As such, the word 'shrine' should not be given a meaning that would encompass a use involved the operation of a columbarium.

Policy History

- c) Historically in the context of the DPAs, 'shrine' was given a meaning which could not cover uses that should properly describe as 'columbarium'. In 2003, the scope of uses or development that were always permitted under the provisions of the covering Notes was expanded to obviate the need for planning permission for uses which had very little planning implication. Uses like 'shrine', which were all by nature considered as small scale and minor uses were permitted in all zones except in some environmentally sensitive zones. In contrast, for large-scale and obnoxious uses such as 'columbarium', they had generally been zoned "Other Specified Uses" annotated for specific uses to reflect the specific planning intention. Moreover, 'columbarium' was removed from the list in Column 2 for "V" zones in the revised Master Schedule of Notes 2003. Historically, in planning and OZP context, 'shrine' had always been given a meaning which did not encompass a use which could be described as columbarium. In such context, 'shrine' should be confined to a use which had very little planning implications.

Construction with Reference to the Definitions

- d) According to the Definition of Terms published by the Board, 'shrine' was 'a place or structure, other than building, for worship'. It excluded structure in the scale of a building. The remarks (which were deemed to be part of the definitions and should be read in conjunction with the definitions) provided that the 'shrine' was usually of small-scale and excluded buildings for religious purpose such as mosque, chapel, Tze Tong, church, nunnery, etc. There was no doubt that a columbarium in the size of 'The Shrine' was a large-scale building.

Sha Tin, Tai Po and North District

Agenda Item 3

[Open Meeting]

Proposed Amendments to the Draft Man Kam To
Development Permission Area Plan No. DPA/NE-MKT/1 and
Draft Ta Kwu Ling North Development Permission Area Plan
No. DPA/NE-TKLN/1
(TPB Paper No. 8929)

[The meeting was conducted in Cantonese.]

4. The Secretary said that the following Members had declared interests in this item:

Mr. Stephen M.W. Yip being an ex-officio Executive Councillor of the
Heung Yee Kuk New Territories (HYK)

Dr. W.K. Yau] being co-opted Councillors of the HYK

Dr. C.P. Lau]

5. Members noted that HYK had submitted comments on the five Development Permission Area (DPA) Plans covering the Closed Area (including the draft Sha Tau Kok DPA Plan No. DPA/NE-STK/1, the draft Lin Ma Hang DPA Plan No. DPA/NE-LMH/1, the draft Ta Kwu Ling North DPA Plan No. DPA/NE-TKLN/1, the draft Man Kam To DPA Plan No. DPA/NE-MKT/1 and the draft Ma Tso Lung and Hoo Hok Wai DPA Plan No. DPA/NE-MTL/1) when the draft PDA Plans were exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). The Town Planning Board (the Board) considered the representations and comments of the five draft DPA Plans at the meetings on 25.2.2011 and 8.9.2011. HYK's representatives had attended the meetings and provided their comments on the five draft DPA Plans. Since the item was for the consideration of proposed amendments to the two draft DPA Plans, namely, the draft Man Kam To DPA Plan and the draft Ta Kwu Ling North DPA Plan, Members agreed that the

interests of these three Members were direct and hence they should be invited to withdraw from the meeting. Members noted that Dr. C.P. Lau had not yet arrived to join the meeting. Mr. Stephen M.W. Yip and Dr. W.K. Yau left the meeting temporarily at this point.

[Ms. Anna S.Y. Kwong arrived to join the meeting at this point.]

6. The following representatives from the Planning Department were invited to the meeting at this point:

Mr. W.K. Hui	District Planning Officer/Shu Tin, Tai Po and North (DPO/STN)
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Mr. P.K. Ip	Senior Town Planner/STN
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7. With the aid of a powerpoint presentation, Mr. P.K. Ip presented the proposed amendments to the draft Man Kam To DPA Plan and the draft Ta Kwu Ling North DPA Plan and covered the following aspects as detailed in the Paper:

Background

- (a) on 30.7.2010, the five draft DPA Plans for the Closed Area (including the draft Sha Tau Kok DPA Plan No.DPA/NE-STK/1, the draft Lin Ma Hang DPA Plan No. DPA/NE-LMH/1, the draft Ta Kwu Ling North DPA Plan No.DPA/NE-TKLN/1, the draft Man Kam To DPA Plan No.DPA/NE-MKT/1 and the draft Ma Tso Lung and Hoo Hok Wai DPA Plan No.DPA/NE-MTL/1) were exhibited for public inspection under section 5 of the Ordinance. A total of 38 valid representations and 14 comments were received;
- (b) on 25.2.2011, the Board considered the representations and comments on the five draft DPA plans and decided to defer a decision pending further review by PlanD on the land use proposals, in particular the “Village Type Development” (“V”) zones on these DPA plans;
- (c) on 8.9.2011, the Board considered the land use review undertaken by

PlanD as well as the representations and comments on the five draft DPA plans. The Board decided to propose amendments to the boundaries of the “V” zones for Tong To, San Tsuen, Muk Min Tau and Tsiu Hang, and Tam Shui Hang and Shan Tsui (in the Sha Tau Kok DPA), Fung Wong Wu (in the Man Kam To DPA) and Liu Pok (in the Ma Tso Lung and Hoo Hok Wai DPA) as well as to change the “Conservation Area” (“CA”) zoning for Lin Ma Hang stream buffer to “Green Belt” to partially meet the representations. The proposed amendments had been published for public inspection under s.6C(2) of the Ordinance on 16.9.2011;

- (d) in the same meeting, the Board also agreed to revise the “V” zones for Muk Wu (in the Man Kam To DPA), Tong Fong, Tsung Yuen Ha and Heung Yuen Wai including Ha Heung Yuen (in the Ta Kwu Ling North DPA), which had not been subject to the representations/comments under section 7 of the Ordinance;

The Draft Man Kam To DPA Plan

- (e) it was proposed to extend the “V” zone of Muk Wu to include the existing fallow agricultural land to its north and east. The proposed extension area was currently zoned “Agriculture” (“AGR”) on the draft DPA plan and had an area of about 0.3 ha. The proposed extended “V” zone was up to the extent equivalent to the size of the village ‘environs’(‘VE’);

The Draft Ta Kwu Ling North DPA Plan

- (f) it was proposed to slightly extend the “V” zone of Tong Fong to include some active and fallow agricultural land to its northeast. The proposed extension area was currently zoned “Recreation” (“REC”) on the draft DPA Plan and had an area of about 0.28 ha. The aggregate area for the proposed extended “V” zone of Tong Fong would be equivalent to the extent of the ‘VE’;
- (g) it was proposed to extended the “V” zone of Tsung Yuen Ha to cover the

fallow agricultural land to its north and east. The proposed extension area was currently zoned “REC” and “AGR” respectively on the draft DPA Plan and had an area of about 0.84 ha. The total area of the proposed extended “V” zone was up to the extent equivalent to the size of the ‘VE’;

- (h) it was proposed to extend the “V” zone of Heung Yuen Wai including Ha Heung Yuen to cover some fallow agricultural land to its west. The proposed extension area was currently zoned “AGR” on the draft DPA Plan and had an area of about 0.43 ha. It was also proposed to rezone a strip of land (0.06 ha) to the northwest close to an existing stream from “V” to “REC” in order to avoid possible flooding to Small House developments in low-lying areas. The total area of the proposed extended “V” zone was up to the extent equivalent to the size of the ‘VE’;

The Proposed Amendments to the DPAs

The Draft Man Kam To DPA Plan

- (i) the proposed amendments comprised:
- (i) rezoning of an area to the north of Muk Wu from “AGR” to “V” (about 0.12ha); and
 - (ii) rezoning of a strip of land to the east of Muk Wu from “AGR” to “V” (about 0.18 ha)

The Draft Ta Kwu Ling North DPA Plan

- (j) the proposed amendments comprised:
- (i) rezoning of an area to the north-east of Tong Fong from “REC” to “V” (about 0.28 ha);
 - (ii) rezoning of an area to the north of Tsung Yuen Ha from “REC” to “V” (about 0.74 ha);
 - (iii) rezoning of an area to the east of Tsung Yuen Ha from “AGR” to “V” (about 0.10 ha);
 - (iv) rezoning of an area to the west of Ha Heung Yuen from “AGR”

- to “V” (about 0.43 ha); and
- (v) rezoning of a strip of land to the northwest of Ha Heung Yuen close to an existing stream from “V” to “REC” (about 0.06 ha);

Revision to the Explanatory Statement

- (k) the Explanatory Statement (ES) of the respective DPA Plans had also been revised to take into account the proposed amendments;

Departmental Consultation and Public Consultation

- (l) relevant government departments had no objection to the proposed amendments;
- (m) upon agreement of the Board, the proposed amendments to the DPAs would be published under section 7 of the Ordinance for public inspection. The Ta Kwu Ling District Rural Committee would be consulted on the amendments during the exhibition period of the draft DPA Plans.

8. Members had no question on the proposed amendments to the draft DPA Plans.

9. After deliberation, the Board decided to :

- (a) agree to the proposed amendments to the draft Man Kam To DPA Plan No.DPA/NE-MKT/1 and the draft Ta Kwu Ling North DPA Plan No.DPA/NE-TKLN/1 and that the draft Amendment Plans No. DPA/NE-MKT/1A and DPA/NE-TKLN/1A (to be renumbered to DPA/NE-MKT/2 and DPA/NE-TKLN/2 respectively upon exhibition) at Attachment III and IV of the Paper were suitable for exhibition for public inspection under section 7 of the Town Planning Ordinance; and
- (b) adopt the revised Explanatory Statements (ESs) at Attachment V and VI of the Paper for the draft Man Kam To DPA Plan No.DPA/NE-MKT/1A and the draft Ta Kwu Ling North DPA Plan No.DPA/NE-TKLN/1A as the expression of the planning intentions and objectives of the Board for

the various land use zonings on the Plans and the revised ESs would be published together with the draft DPA Plans.

10. The Vice-Chairman thanked the representatives of PlanD for attending the meeting. Mr. W.K. Hui and Mr. P.K. Ip left the meeting at this point

[Mr. Stephen M.W. Yip and Dr. W.K. Yau returned to join the meeting at this point.]

Hong Kong District

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/H8/407

Proposed Minor Relaxation of Building Height Restriction for a

Proposed Church Development in "Government, Institution or Community" zone,

11 Cheung Hong Street, North Point,

(TPB Paper 8928)

[The meeting was conducted in Cantonese.]

11. The Secretary reported that Mr. Y.K. Cheng had declared an interest in this item as he was a member of the Methodist Church Hong Kong, which was the applicant of the subject application. Members considered that the interest of Mr. Cheng in this item was indirect and should be allowed to stay at the meeting.

Deliberation Session

12. The Vice-Chairman informed Members that the subject application for minor relaxation of building height (BH) restriction for a proposed church development in "Government, Institution or Community" ("G/IC") zone was rejected by the Metro Planning Committee (MPC) on 28.1.2011. Subsequent to the rejection of the application by the MPC, the applicant had made efforts in addressing the departmental concerns on various technical issues. The Vice-Chairman continued to point out that as stated in paragraph 7 of the TPB Paper, all technical concerns had been addressed and the relevant government departments,

including PlanD had no objection to the review application. In view of the above, Members agreed that they had no objection to the review application. Members also agreed that there is no need for the representatives of the applicant and PlanD to give detailed presentation of the application.

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

Presentation & Question Session

13. The following representatives of Planning Department and the applicant were invited to the meeting at this point:

Ms. Brenda Au	- District Planning Officer/Hong Kong (DPO/HK)
Mr. Ian Brownlee]
Rev. K.P. Kan]
Rev. Lam Sung Che] Applicant's
Mr. Simon Fok] Representatives
Ms. Charis Yuen]
Ms. Yeung Yee Ching]
Ms. Wendy Lee]

14. The Vice-Chairman extended a welcome and informed the representatives of the applicant that the Board had read the TPB Paper and agreed with its recommendations. He asked the representatives of the applicant whether they would like to elaborate on the application. Mr. Ian Brownlee replied that the applicant agreed with the recommendations made by PlanD and considered the approval conditions (stipulated in paragraph 8.2 of the Paper) acceptable. The applicant's representatives had no further point to make on the application.

15. As the representatives of the applicant had no further comment to make and Members had no further question, the Vice-chairman informed them that the hearing procedures for the review application had been completed. The Board would further inform the applicant of the Board's decision in due course. The Vice-Chairman thanked the representatives of the PlanD and the applicant for attending the meeting. They all left the meeting at this point.

Deliberation Session

16. A Member noted the comments of the Buildings Department at paragraph 5.2.4 (c) that the total number of storeys of the development would be 14 storeys, but not 9 storeys as claimed by the applicant. This Member enquired on the extent of the BH relaxation to be allowed under the planning permission. The Secretary advised that the application should be considered on the terms of the application as submitted to the Board. The Secretary clarified that the existing church was on a sloping site, which was built in two phases. Phase I was a 3-storey block situated on an upper platform at the southern part of the site and Phase II was a 8-storey block at the northern part of the site. The two phases were physically connected at the G/F to 2/F levels. The application was for a proposed extension, i.e. Phase III, to add 6 storeys on top of the existing 3-storey block in Phase I. With the addition of 6 storeys, the building on the upper platform would be of 9 storeys in height as claimed by the applicant. Given the existing buildings were connected at the G/F to 2/F levels, the existing church development as a whole was considered by the Buildings Department as a single building of 8-storey in height. With the proposed extension, the overall building height of the church development would be 14 storeys. The Secretary continued to point out that in determining whether the proposed relaxation of BH restriction was minor, the consideration should not be on the absolute number of storeys involved, but more on the impacts, consequence and implications of the proposed relaxation and whether there were planning and design merits to justify the proposed relaxation. Members agreed.

17. A Member said that the applicant had made efforts to resolve the technical issues which were identified at the s.16 stage, with their efforts the development proposal was now considered acceptable by concerned government departments. This Member opined that such a proactive approach should be encouraged and adopted by other applicants.

18. The Vice-Chairman noted that in processing the review application, DPO had taken an active role in liaising with the applicant and the relevant government departments to address the technical concerns and issues. The Vice-Chairman suggested and Members agreed to put on record the Board's appreciation of DPO's efforts.

19. After further deliberation, the Board decided to approve the application on review, on the terms of the application as submitted to the Board. The permission should be

valid until 14.10.2015, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions:

- (a) the number of students of the kindergarten and day nursery at the site should be maintained at the existing licensed level;
- (b) the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (c) the provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

20. Members also agreed to advise the applicant :

- (a) to note the comments of the Chief Building Surveyor/Hong Kong East and Heritage Unit, Buildings Department in paragraphs 5.2.3 and 5.2.4 of the Paper regarding the gross floor area concessions and compliance with the various requirements under the Buildings Ordinance and Building (Planning) Regulations;
- (b) to note the comments of the District Lands Officer/Hong Kong East, Lands Department in paragraph 5.3.1 of the Paper regarding the need for application for a lease modification; and
- (c) to note the comments of the Chief Highway Engineer/Hong Kong, Highways Department and the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department in paragraphs 5.3.2 and 5.3.3 of the Paper regarding the compliance with the requirements of the MTRCL.

[As the applicant's representative of Agenda Item 5 had not yet arrived, the meeting

adjourned for a 15-minute break.]

[Ms. Julia M.K. Lau arrived to join the meeting at this point.]

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/H1/93

Proposed Hotel in “Residential (Group A)” zone,

10-12 Yat Fu Lane, Shek Tong Tsui

(TPB Paper 8972)

[The meeting was conducted in Cantonese.]

21. The Vice-Chairman said that two petitions had been lodged by Mr. Yeung Ho Yin, a Central and Western District Councillor and the Chairman of Belcher’s Area Promotion Association against the review application respectively. Copies of the petition letters had been tabled for Members’ information.

22. Members noted that Mr. Raymond Chan had declared an interest in this item as he had business dealings with Mr. S.K. Pang, the representative of the applicant, ten years ago. Members considered that the interest of Mr. Chan in this item was indirect and agreed that he could be allowed to stay at the meeting and participate in the discussion.

Request for Deferment

23. The Vice-Chairman said that on 6.10.2011, Mr. S.K. Pang, the applicant’s representative, submitted a letter to the Secretariat of the Board stating that the counsel of the applicant would not be available to attend the hearing on 14.10.2011 and requested the Board to defer the hearing to the dates that the counsel would be available, i.e. 25.11.2011, 2.12.2011 or 16.12.2011. On 10.10.2011, the solicitors acting for the applicant wrote to the Board again requesting the Board to defer the consideration of the review hearing to meet the counsel’s schedule. The said letters of 6.10.2011 and 10.10.2011 had been tabled at the meeting for Members’ consideration. The Vice-Chairman said that the applicant’s representative had been invited to the meeting to explain to the Board the reasons for the proposed deferment.

24. The following representatives from the Planning Department and the applicant were invited to the meeting at this point:

Ms. Brenda Au - District Planning Officer/Hong Kong (DPO/HK)

Mr. S.K. Pang - Applicant's Representative

25. The Vice-chairman extended a welcome and requested the applicant's representative to explain to the Board the reasons for the request for deferment.

26. Mr. S.K. Pang said that in early September 2011, the applicant discussed with his solicitor regarding the review application and considered that the applicant should be represented by a counsel at the hearing of the review application. On 23.9.2011, Mr. S.K. Pang on behalf of the applicant wrote to the Secretariat of the Board enquiring whether the review hearing would proceed on 14.10.2011 as previously scheduled. The Secretariat in its letter dated 30.9.2011 confirmed that the review hearing would proceed as scheduled. On 6.10.2011, Mr. S.K. Pang wrote to the Secretariat of the Board stating that the counsel appointed by the applicant would not be available to attend the hearing on 14.10.2011 and requested the Board to consider deferring the review hearing to the dates that the counsel would be available, i.e. 25.11.2011 or 2.12.2011 or 16.12.2011. Mr. S.K. Pang said that the request for deferment was basically to fit in the schedule of the counsel appointed by the applicant.

27. A Member enquired when the applicant sought advice from his solicitor regarding the appointment of a counsel to represent him in the review hearing. Mr. S.K. Pang stated that he was not involved in this matter. However, according to his understanding, the applicant sought advice from his solicitor in early September 2011. In response to this Member's further question on whether the applicant's appointed counsel had given any written advice to the applicant in respect of the subject review application, Mr. S.K. Pang replied that he had no information as he was not involved in this matter.

28. The Vice-Chairman said that the review hearing of a s.16 application would be considered by the full Board and of the three meeting dates suggested by Mr. S.K. Pang, only 25.11.2011 was a scheduled date for full Board meeting. 2.12.2011 and 16.12.2011 were

scheduled dates for the Planning Committees meetings. Members noted.

29. The representative of the applicant had no further point to make and Members had no further question on the proposed deferment of the review application. The Vice-chairman said that the Board would deliberate on the applicant's request for deferment in the absence of the representatives of PlanD and the applicant. The Vice-Chairman requested Ms Brenda Au and Mr. S.K. Pang to leave the meeting temporarily. They all left the meeting temporarily at this point.

Deliberation Session on the Request of Deferment

30. The Vice-Chairman said that for Members' information, the Secretariat of the Board informed the applicant's representative on the meeting date of 14.10.2011 in as early as July 2011. A Member said that the applicant submitted a s.17 review application in June 2011, however, it was until early September that the applicant sought advice from a solicitor. The only reason submitted by the applicant's representative was the need to fit in the schedule of the applicant's appointed counsel. However, the applicant's representative had not explained why the applicant could not be represented by another counsel in attending the review hearing. This would set an undesirable precedent for other similar cases. Another Member shared the same view. This Member said that although the applicant sought advice from a solicitor in early September, the deferment request was only made in early October. The applicant's representative had not provided any explanation on the late request.

31. A Member asked whether the subject planning application had been deferred before; whether similar ground of deferment, i.e. to accommodate the schedule of a counsel or consultants, had been put forwarded in other cases; and whether there would be different consideration of the deferment request if the applicant submitted other grounds, such as the need to address the technical issues or departmental comments.

32. The Secretary said that the subject planning application was submitted in December 2010. Upon the request of the applicant, the Metro Planning Committee agreed on 28.1.2011 to defer consideration of the application to allow time for the applicant to address comments from relevant government departments. Subsequently, the applicant provided further information to substantiate the application on 24.1.2011 and 3.3.2011, which were not exempted from publication and recounting requirement. The planning

application was considered and rejected by the MPC on 6.5.2011. In June 2011, the applicant requested for a review of the MPC's decision to reject application. In support of the review, the applicant submitted further information on 18.7.2011. The Secretariat of the Board informed the applicant's representative on 28.7.2011 that the review hearing was scheduled for consideration by the Board on 14.10.2011.

33. The Secretary explained that according to the Town Planning Board Guidelines No. 33 on "Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance", the pre-requisites for the consideration of deferment were that reasonable grounds had to be provided to support the request, the proposed deferment period should not be indefinite and no third party interest would be affected. For the subject case, the deferment period requested by the applicant's representative was not indefinite. The Board should consider whether the ground submitted by the applicant's representative was reasonable. Regarding third party interest, it should be noted that there was a total of 140 objections against the proposed hotel development. Nevertheless, the Board and the Planning Committees had previously acceded to some requests for deferment even though there were large number of public objections. Each case had to be considered on individual merits.

34. Regarding whether similar ground of deferment had been put forward in other cases, the Secretary said that in relation to the consideration of objections against the draft Sha Lo Tung Outline Zoning Plan, an objector had requested the Board to defer the objection hearing due to the unavailability of the overseas ecology specialists on the scheduled hearing date. The objector had explained to the Board that the presence of the specialists would be crucial to provide a holistic understanding of the ecological value of Sha Lo Tung. Taken into account all relevant considerations, the Board had decided to defer the objection hearing. Regarding the issue on late submission of deferral request, the Secretary informed Members that in a review application, the applicant's representative had submitted a request for deferment only on the day before the scheduled meeting due to his sudden sickness. In that case, the applicant sent another representative to attend the meeting and explain to the Board that the subject representative was most familiar with the application but could not attend the hearing because of his sudden sickness. After deliberation, the Board decided to defer the review application for two weeks on sympathetic consideration.

35. A Member opined that the subject request for deferment should not be acceded to. It was noted the applicant applied for a review of the decision of MPC's decision to reject the application in June and submitted justifications for the review hearing in July 2011. The applicant's representative had not explained why it was only until early September that the applicant sought advice from his solicitor. He had also failed to explain why a counsel's presentation for the review hearing was required and why other counsel or representative could not stand in for the appointed counsel to make the presentation. This Member considered that the subject request was different from the Sha Lo Tung case.

36. A Member noted that it was stated in the letter submitted by the applicant's solicitor on 10.10.2011 that the applicant 'had just received the TPB Paper and the Counsel would need more time for perusal and preparation'. This Member said that in some previous applications for deferment, the Board might give favorable consideration to the requests if the applicants could demonstrate that they needed more time to study or address technical issues.

37. The Secretary said that the relevant TPB Paper No. 8927 was issued to the applicant's representative on 7.10.2011. Processing of the s.17 review application was subject to a three-month statutory time limit. During this period, PlanD needed to circulate the review application and the applicants' justifications for departmental comments and the Secretariat had to publish the review application for public comments. It was the Board's established practice that the relevant TPB Paper prepared by PlanD would be sent to the applicant seven days before the review hearing. In this regard, the Vice-Chairman said that the applicant's representative requested a deferment of the review application on 6.10.2011 due to the busy schedule of the counsel, which was before the issue of the TPB Paper on 7.10.2011. In addition, the applicant's representative had not provided further information on this point. A Member remarked that the applicant's representative had only relied on one ground, i.e. to fit in the schedule of the appointed counsel, to substantiate his request.

38. Another Member pointed out that the applicant's representative had not explained why the counsel's presentation was required and whether the consideration of the application would be affected without the presence of the counsel. If the Board acceded to the request without any reasonable ground, it would set an undesirable precedent for similar applications. A Member shared this view and said that applicants of other cases might put

forward similar ground and requested the Board to defer the hearings to fit in the schedule of their representatives/consultants. Another Member said that sufficient notice had been given to the applicant's representative and no sufficient justification had been provided for the Board's consideration. It was not reasonable to request the Board to reschedule the review hearing simply to fit in the schedule of the appointed counsel of the applicant.

[Dr. C.P. Lau arrived to join the meeting at this point.]

39. The Vice-chairman said that all Members agreed that the deferment request should not be acceded to as the applicant's representative had not provided any reasonable ground to support the request. Mr. Jimmy Leung, Director of Planning, said that as the Board agreed not to accede to the deferment request, Members might wish to consider whether it was appropriate to proceed with the review hearing at the same meeting or schedule it to the next TPB meeting, ie. 28.10.2011. Mr. Jimmy Leung suggested the Board to consider the application at the next TPB meeting so as to allow time for the applicant or his representative to prepare for the review hearing. Two other Members shared this view.

40. However, some Members had different views and considered that the review hearing should proceed as scheduled. A Member said that the applicant had been notified of the meeting date and should have prepared for the review hearing. The applicant should not presume that the Board would accede to their request of deferment and should prepare for the review hearing. This view was shared by a few members. Another Member shared this view and said that the relevant TPB Paper had been issued to the applicant and the agenda of the meeting had been published at TPB website for public information. A Member said that as the Board had decided that the ground submitted by the applicant's representative was not justified for a deferment, it was unreasonable to re-schedule the review hearing to the next TPB meeting. Being a professional consultant, the applicant's representative should have prepared for the review hearing. A Member said that if the Board decided to consider the review hearing at its next meeting on 28.10.2011, it would invite challenge from the applicant on why it could not be re-scheduled to 25.11.2011 as proposed.

41. The Vice-Chairman said that as sufficient notice had been given to the applicant on the review hearing and the applicant's representative had not provided reasonable ground

for the request for deferment, Members considered that the deferment should not be acceded to. While a few Members suggested to schedule the review hearing to the next TPB meeting, a majority of the Members opined that the review hearing should be proceeded at this meeting. In conclusion, the Board agreed to consider the review application at this meeting.

[Mr. Timothy K.W. Ma and Mr. Stephen M.W. Yip left the meeting at this point.]

Notification of Decision

42. The Vice-Chairman invited Mr. S.K. Pang and Ms. Brenda Au back to the meeting. The Vice-Chairman informed Mr. Pang that the Board had decided not to accede to the applicant's request and would proceed to consider the review application at this meeting as sufficient notice had been given and the applicant's representative failed to provide reasonable ground for the request of deferment,.

43. Mr. S.K. Pang said that the TPB Paper was only received on 7.10.2011 at 5:00 pm and the applicant needed more time to study the Paper. The Vice-Chairman said that it was the practice of the Board to send TPB Paper to the applicant seven days before the meeting and the Board had taken this into account in considering the request. Mr. S.K. Pang said that if the Board decided to proceed with the review hearing in the absence of the applicant or his representative, he would report this to the applicant and his solicitor to take appropriate action. Mr. S.K. Pang also informed the Board that the purpose of his attendance at the meeting was to explain to the Board the reason for the request of deferment. He said that he had no information on the review application and this was outside his purview. Subject to the Board's agreement, he would like to leave the meeting at this point. The Vice-chairman said that it was the decision of Mr. S.K. Pang whether he would stay to join the review hearing or leave the meeting at this point. Mr. S.K. Pang informed the Board that he decided to leave the meeting. Mr. Pang left the meeting at this point.

44. As the applicant's representative had left the meeting on his own accord, Members agreed that the review hearing should be proceeded in the absence of the applicant. The Vice-Chairman explained the procedure of the hearing to Ms. Brenda Au and invited Ms. Au to brief Members on the background of the review application.

Presentation and Question Session

45. With the aid of a Powerpoint presentation, Ms. Brenda Au, DPO/HK, presented the application and covered the following main points as detailed in the Paper:

The Application

- (a) on 2.12.2010, the applicant sought planning permission for a 23-storey hotel development at the application site under s.16 of the Town Planning Ordinance. The application site fell within an area zoned “Residential (Group A)” (“R(A)”) on the draft Kennedy Town and Mount Davis Outline Zoning Plan (OZP);
- (b) the application site was located at a narrow one-way street leading from Queen’s Road West via Woo Hop Street, South Lane and Yat Fu Lane. The majority of Yat Fu Lane, which was a narrow sloping back street, was private land;
- (c) the application site had a small area of 171.3m² and was triangular in shape. The proposed hotel development had a plot ratio of 12 and would provide 50 guest rooms. A setback of 1.71m from the lot boundary at Yat Fu Lane and a setback of 1.5m from the northern lot boundary to form a 3m-wide service lane were proposed by the application. The resulted net site area was only 140.783m²;

Decision of the MPC

- (d) on 6.5.2011, the Metro Planning Committee (the MPC) rejected the planning application on the grounds that the application site was not conducive to hotel development given its small site area and triangular configuration; and there was no planning merit to justify the proposed hotel development;
- (e) the applicant had submitted written representation in support of the review application as mentioned in paragraph 3 of the Paper and they were summarized below:

- i) although the application site was triangle in shape, the cross section of the proposed hotel was a rectangular one. The applicant could not see why the size and configuration of the site were factors in determining whether the site was conducive to hotel development when there was a market for it;
- ii) a set of building plans for a composite commercial/residential development without setback from the pavement had been approved. The proposed hotel, however, would set back from the pavement leaving a smooth and continuous walk for the pedestrians. The streetscape of Yat Fu Lane could be improved by the landscape treatment of the proposed hotel;
- iii) the subject site was similar to the application sites of five approved small hotels. They were all located in mixed residential neighbourhoods with convenient public transport connection;
- iv) among the twelve government departments providing comments, ten had no objection to the application. MPC's decision seemed to have just relied on the adverse comments from the PlanD; and
- v) the MPC seemed to have not considered the professional advice but had put an undue weight on those unfounded adverse comments from the local residents/groups;

Departmental Comments

- (f) the departmental comments were detailed in paragraph 5 of the Paper and the main points were:
 - i) the Commissioner of Police had no in-principle objection to the application at the s.16 stage based on the traffic impact assessment submitted by the applicant and the justification that the proposed

hotel was not expected to attract coach or minibus to use the nearby access road. However, given a recent traffic accident caused by the 'U' turn of a private car in Yat Fu Lane, and the public objections against the review application, C of P had critically reviewed the road condition of Yat Fu Lane. He objected to the review application due to the following reasons:

- given the private road nature of Yat Fu Lane, the police might face difficulty in taking enforcement action against roadside illegal parking. The traffic management problems would be aggravated by the vehicular traffic induced by the proposed hotel; and
 - C of P had concern on large vehicles entering and leaving Yat Fu Lane since it was a narrow street and it was difficult for vehicles to make a 'U' turn in the limited area. Despite the applicant's claim that the proposed hotel was not expected to attract coach or minibus, C of P had no authority to prevent coach or minibus from entering the private land portion of Yat Fu Lane;
- ii) the Commissioner for Transport (C for T) commented that in view of the small number of hotel rooms (50 rooms), the applicant's confirmation that they would require no coach operation, the proximity to the West Island Line MTR station, and the availability of loading and unloading spaces in the vicinity, the potential traffic impact of the proposed hotel was considered minimal. As the existing private land at portions of carriageway and pavement of Yat Fu Lane was under virtually unrestricted lease without right-of-way requirement and fell within an area zoned "R(A)" on the OZP, possibility of building upon the private street could not be excluded. Should this situation occur, Yat Fu Lane would be blocked and a cul-de-sac at the sloping bend section near the junction of South Lane/Yat Fu Lane would be

resulted. In this regard, TD shared C of P's concern that there were traffic management problems and safety concern at the said private land portions of Yat Fu Lane. In this regard, C for T had reservation on the review application;

- iii) the District Officer (Central & Western), Home Affairs Department (DO(C&W), HAD) advised that the C&WDC objected to the previous application for hotel use (No. A/H1/92) at the application site, which was rejected by the MPC on 5.6.2010. It was expected that some Members of C&WDC would raise concern on the current application. It was also noted that some DC members had raised strong concerns on the current application such as possible adverse impacts of the proposed hotel on the traffic, environment and air ventilation of the area;
- iv) the Commissioner for Tourism commented that the subject application was supported as the proposed development would increase the number of hotel rooms and broaden the range of accommodations for the visitors. It was, however, noted that relevant government departments would comment on the technical feasibility and compatibility of the proposed hotel with the surrounding environment;

Public Comment

- (h) a total of 140 objections were received during the publication of the review application and the further information submitted by the applicant. The public comments received were detailed in paragraph 6 of the Paper. The objections were mainly on the grounds that Yat Fu Lane was a narrow one-way back street with unsatisfactory traffic condition. A traffic accident happened near Fu Ga Building on 3.8.2011. The proposed hotel would generate adverse traffic impacts on the area. The other main grounds of objection included land use incompatibility, adverse traffic, visual and environmental impacts, blockage of air ventilation and natural lighting, affecting operation of

emergency vehicles and security, aggravating sewerage blockage problem at Yat Fu Lane, and that hotels of similar type had already been developed in the area;

Planning Considerations and Assessments

- (g) the planning considerations and assessments were detailed in paragraph 7 of the Paper and summarized as follows:
- i) the small site area and its triangular configuration made the site not really conducive to a decent hotel development. Apart from the inclusion of a small reception counter cum administration office and some BOH facilities, there was a lack of hotel amenities for the hotel guests. There was no particular planning merit demonstrated in the application to justify the proposed hotel development;
 - ii) the applicant claimed that five small hotels similar to the subject scheme had been approved. However, only two of the quoted examples, i.e. the sites at Temple Street and Reclamation Street in Yau Ma Tei and Mong Kok, required planning permission from the Board and they were rectangular in shape abutting a public street;
 - iv) Yat Fu Lane was a sloping back street with portions of carriageway and pavement fell within private land. C of P advised that the Police might face difficulty in taking enforcement action against roadside illegal parking. The traffic management problems would be aggravated by the vehicular traffic induced by the proposed hotel. C of P also had concern on large vehicles entering and leaving Yat Fu Lane. Owing to the concerns on traffic management and traffic safety problems, C of P objected to and C for T had reservation on the review application;
 - v) the proposed setback with a width of 1.71m for pavement

terminated somewhere close to the application site and was not connected to the pavement of Queen's Road West. As the relevant portion of Yat Fu Lane was private land, there existed a possibility that Yat Fu Lane might be blocked by the landowners and the benefit of the proposed setback to the pedestrians was rather limited;

- (h) PlanD's views – given the planning considerations and assessments set out in paragraph 7 of the Paper, PlanD did not support the review application.

46. A Member noted that a set of building plans for a composite commercial/residential building had been approved by the Building Authority. This Member asked whether the local residents were aware of the relevant information. Ms. Brenda Au replied that it had been set out in paragraph 1.5 of the MPC Paper No. A/H1/93A that a set of building plans for a 26-storey composite commercial/residential building with a total plot ratio of 8.49 and a domestic site coverage of 33.32% (above podium) was approved by the Building Authority on 17.2.2011. The MPC Paper was available for public inspection in the Planning Department Public Enquiry Counters.

47. In response to a Member's enquiry on the part of Yat Fu Lane under private ownership, Ms. Brenda Au referred to Plan R-3 of the Paper and said that the part of Yat Fu Lane, which was to the south of Queen's Road West and to the east of the application site, i.e. I.L. 672RP and I.L. 672 s.H, was private land.

48. Two Members asked about the concerns of C of P and C for T on the proposed hotel development. Ms. Brenda Au said that as a large portion of Yat Fu Lane fell within private land, C of P had great concern on the traffic management problem. Given its private road nature, the police might face difficulty in taking enforcement action against roadside illegal parking at Yat Fu Lane. The traffic management problem would be aggravated by the vehicular traffic induced by the proposed hotel. Since Yat Fu Lane was a narrow sloping street, C of P also had concern on large vehicles entering and leaving Yat Fu Lane as it was difficult for vehicles to make a 'U' turn in the limited area. Despite the applicant's claim that the proposed hotel was not expected to attract coaches or minibuses,

C of P had no authority to prevent coaches or minibuses from entering the private land portion of Yat Fu Lane. Hence, C of P objected to the review application. C for T also shared C of P's concern and had reservation on the review application.

49. Ms. Brenda Au continued to say that the applicant claimed that the proposed setback of 1.7m from the lot boundary at Yat Fu Lane for pavement purpose should be considered as a planning gain. However, as advised by CBS/HKW, the existing pavement along Yat Fu Lane terminated somewhere close to the application site and was not connected to the pavement of Queen's Road West. In addition, as the relevant portion of Yat Fu Lane was private land, there was a possibility that Yat Fu Lane might be blocked by the landowners in future. Since a continuous pedestrian link to Queen's Road West could not be guaranteed, the benefit of the proposed setback to the pedestrians was rather limited.

50. As Members had no further question, the Vice-chairman informed Ms. Brenda Au that the hearing procedures for the review application had been completed. The Board would further deliberate on the review application in her absence and inform the applicant of the Board's decision in due course. The Vice-chairman thanked Ms. Brenda Au for attending the meeting. Ms. Au left the meeting at this point.

Deliberation

51. The Vice-Chairman noted that C of P objected to and C for T had reservation on the review application from the traffic management problem and safety concern at the private land portion of Yat Fu Lane. A Member said that given its small site area and site constraints, the application site was considered not conducive to hotel development. In addition, Yat Fu Lane, which was a narrow sloping back street, could hardly accommodate the vehicular traffic induced by the proposed hotel development. In this regard, this Member shared C of P's concerns that the proposed hotel would aggravate the traffic management and safety problem of the private portion of Yat Fu Lane. In view of the above, this Member objected to the review application.

52. Another Member said that there was no sufficient ground to approve the review application. Noting that a set of building plans for a composite commercial/residential development had already been approved by the Building Authority,

this Member enquired about the commercial consideration of using the site for the proposed hotel development. The Vice-Chairman said that in view of the small site area, the proposed residential development would likely to have small floor plate, which was not attractive in the market. The Secretary said that the development intensity for hotel use and composite commercial/residential use was different. According to TPB Paper, the proposed hotel development had a plot ratio of about 12 whereas the composite commercial/residential development had a plot ratio of 8.49.

53. Another Member pointed out that the portion of Yat Fu Lane to the east of the application site (i.e. I.L. 672RP) was private land. This Member raised a concern that the proposed hotel would have no frontage if that portion of Yat Fu Lane was developed.

54. The Vice-Chairman concluded Members' views that the application site was not conducive to hotel development and the proposed hotel development would aggravate the traffic management and safety concern at the private land portion of Yat Fu Lane. In addition, the applicant failed to demonstrate that there was planning merit to justify the proposed hotel development.

55. After further deliberation, the Board decided to reject the review application. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the application site was not conducive to hotel development given its small site area and triangular configuration;
- (b) there was no planning merit to justify the proposed hotel development; and
- (c) the proposed hotel development would aggravate the traffic management problems and safety concern at the private land portion of Yat Fu Lane.

[Mr. Frankie Chou left the meeting at this point.]

Procedural Items

Agenda Item 6

[Open Meeting]

Information Note and Hearing Arrangement for
Consideration of Representations and Comments to the
Draft Kennedy Town and Mount Davis Outline Zoning Plan No. S/H1/18
(TPB Paper No. 8930)

[The meeting was conducted in Cantonese]

56. As the representations to the draft Kennedy Town and Mount Davis OZP related to the building height (BH) restrictions on the OZP (involving facilities of the University of Hong Kong (HKU), The Merton developed by the former Land Development Corporation, Mount Davis 33 developed by the Urban Renewal Authority (URA), Sai Wan Estate developed by the Hong Kong Housing Authority (HKHA), Kwun Lung Lau developed by the Hong Kong Housing Society (HKHS) and a site in Smithfield, the following Members had declared interests in this item:

- | | |
|---|--|
| Mr. Jimmy Leung
being the Director of Planning | - being a non-executive director of URA, a member of the Strategic Planning Committee and Building Committee of HKHA and a member of the Supervisory Board of HKHS |
| Miss Annie Tam
being the Director of Lands | - being a non-executive director of the URA, a member of the HKHA and a member of the Supervisory Board of the HKHS |
| Mr. Frankie Chou
being the Assistant
Director of Home Affairs | - being an assistant to the Director of Home Affairs who was a non-executive Director of the URA and a member of the Strategic Planning Committee and Subsidized Housing Committee of the HKHA |

- Mr. Stanley Y.F. Wong - being a former non-official member of HKHA
- Dr. W.K. Lo - being a former member of the Building Committee of the HKHA
- Mr. Maurice W.M. Lee - being a former non-executive director of URA
- Mr. Raymond Y.M. Chan - had current business dealings with HKHA and being a member of the Home Purchase Allowance Appeals Committee of URA
- Ms. Maggie M.K. Chan - being a member of the Home Purchase Allowance Appeals Committee of URA
- Professor P.P. Ho - had business dealings with URA
- Mr. B.W. Chan - being a member of the Supervisory Board of the HKHS and Chairman of the Appeal Board Panel under the URA Ordinance
- Professor Edwin H.W. Chan - being a former member of the Building Committee of the HKHA and a member of the Home Purchase Allowance Appeals Committee of URA
- Dr. James C.W. Lau - being a member of the Appeal Board Panel under the URA Ordinance and staff of HKU
- Mr. Stephen M.W. Yip - being the former Chairman of the Building Committee of HKHA and former non-executive director of URA
- Mr. K.Y. Leung] being staff of the HKU
- Professor S.C. Wong]

- Mr. Y.K. Cheng - his spouse being the Assistant Director of the Housing Department
- Mr. Timothy K.W. Ma - being an executive committee member of the HKHS
- Mr. Walter K.L. Chan - being an executive committee member of the HKHS
- Ms. Julia M.K. Lau - being a non-official member of the HKHA
- Mr. Laurence L.J. Li - owned a flat in Smithfield

57. Noting that the Chairman had tendered his apology for not being able to chair the meeting, Members agreed the Vice-Chairman should stay at the meeting to chair the meeting out of necessity. Members also agreed that as the item was procedural in nature and no deliberation was required, the other Members could be allowed to stay in the meeting. Members noted that Dr. W.K. Lo, Mr. Maurice W.M. Lee, Ms. Maggie M.K. Chan, Professor Edwin H.W. Chan, Dr. James C.W. Lau and Mr. K.Y. Leung had tendered their apologies for not being able to attend the meeting and Mr. Stephen M.W. Yip, Mr. Timothy K.W. Ma and Mr. Frankie Chou had left the meeting.

58. The Secretary reported that on 25.2.2011, the draft Kennedy Town and Mount Davis Outline Zoning Plan (OZP) No. S/H1/18 was exhibited for public inspection under section 7 of the Town Planning Ordinance. During the statutory exhibition period, a total of 638 representations were received. On 24.6.2011, the representations were published for three weeks for public comments and a total of 12 comments were received.

[Mr. Jimmy Leung and Mr. B.W. Chan left the meeting at this point.]

59. The Secretary continued to point out that as the amendments incorporated in the OZP, which were mainly related to the imposition of building height (BH) restrictions for various zones and rezoning proposals to reflect the planning intention or existing developments, had attracted wide public interest, it was recommended at paragraph 2.1 of the Paper that the representations and comments should be considered by the full Board. As

some of the representations were of similar or related nature, it was suggested to structure the hearing of the representations into two groups as detailed in paragraph 2.8 of the Paper and summarized as follows:

- (a) Group 1: collective hearing of 12 representations (R1 to R12) and 12 comments (C1 to C12) in relation to the imposition of BH and building gap restrictions; and
- (b) Group 2: collective hearing of 624 representations (R1, R5, R8 to R629) in relation to all or part of Amendment Items H1 to H5 in respect of rezoning of the government sites under the Land Use review on the Western Part of Kennedy Town to “Undetermined” (“U”).

60. The Secretary said that for R630 to R638, the representers had not provided any substance in their representations. The Secretariat of the Board had sent letters to the subject representers to seek clarification but no response had been received. After deliberation, Members agreed that these nine representations (R630 to R638) should be regarded as invalid.

61. After deliberation, the Board agreed that the valid representations and related comments should be heard collectively in two groups by the Board in the manner as proposed in paragraphs 2.1 and 2.8 of the Paper.

Agenda Item 7

[Open Meeting]

Information Note and Hearing Arrangement for
Consideration of Representations and Comments to the
Draft Tseung Kwan O Outline Zoning Plan No. S/TKO/19
(TPB Paper No. 8933)

[The meeting was conducted in Cantonese]

62. The Secretary said that Mr. Benny Wong, Deputy Director of Environment Protection Department (EPD), had declared an interest in this item as the proposed South

East New Territories Landfill Extension (SENTILFx) project was the subject of many representations received. The said project was under the purview of EPD. Members agreed that as the item was procedural in nature and no deliberation was required, Mr. Benny Wong could be allowed to stay in the meeting.

63. The Secretary reported that on 13.5.2011, the draft Tseung Kwan O (TKO) Outline Zoning Plan (OZP) No. S/TKO/19 was exhibited for public inspection under section 7 of the Town Planning Ordinance (the Ordinance). The amendments incorporated into the OZP and its Notes included the rezoning of a site to the south of the TKO sewage treatment works in TKO Area 85 to “Government, Institution or Community (9)” (“G/IC(9)”) for the proposed Radio Television Hong Kong (RTHK) new broadcasting house and undesignated ‘Government, Institution or Community’ (‘GIC’) uses. During the 2-month exhibition period, 4,095 representations were received. On 12.8.2011, the representations were published for three weeks for comments and 18 comments were received.

Representations Not Relevant to Amendments of the Plan

64. The Secretary said that of the 4,095 representations received, Representations No. R2 (part), R3 (part), R4 (part), R5 to R4095 opposed the proposed SENTLFX in Area 137, TKO with R3 (part) also opposed the SENTLFX in the Clear Water Bay Country Park. These representers mainly alleged the Board of amending the draft TKO OZP No. S/TKO/18 to designate silently and unilaterally part of the land in Area 137, TKO as landfill site under the pretext of facilitating the relocation of the RTHK to TKO. In addition to opposition to the proposed SENTLFX in Area 137, R2 (part) and R9 opposed the proposed refuse collection point (RCP) in Area 72, TKO. R9 also had submitted some further views on matters relating to TKO South as detailed in paragraph 2.2 of the TPB Paper. In this connection, Comments No. C2 to C12 (part), and C13 to C18 opposed the proposed RCP in Area 72, TKO, while C1, C2, C5, C7, C8, C9, C11 and C12 (part) also opposed the proposed SENTLFX and/or provided views on other matters in TKO South.

65. Since the representations and the related comments as detailed in paragraphs 2.1 and 2.2 of the Paper and summarized above were not relevant to the current amendments to the OZP as gazetted on 13.5.2011, Members were invited to consider

whether the representations concerned together with the related comments should be considered as invalid.

66. With respect to the representers' allegation that the Board had amended the draft TKO OZP No. S/TKO/18 to designate silently and unilaterally part of the land in Area 137, TKO as landfill site under the pretext of facilitating the relocation of the RTHK to TKO, Members were invited to note that :

- (a) the draft TKO OZP No. S/TKO/18, incorporating amendments related to the SENTLFX, was published on 7.5.2010. During the plan publication period, 2,479 representations and 205 comments were received. Hearing of the representations by the Board had not yet been conducted and decision on the representations with respect to the SENTLFX had not yet been made by the Board;
- (b) as further amendment to the draft OZP was necessary, and following the established practice of the Board, previous amendments shown on the draft TKO OZP No. S/TKO/18 were duly reflected (but not as amendment items) on the further amended OZP No. S/TKO/19 and exhibited under section 7 of the Ordinance on 13.5.2011. This carried no connotation that the amendments related to the SENTLFX, which had yet to undergo the hearing procedure, had been accepted by the Board;
- (c) upon completion of the hearing process for representations to both the draft TKO OZP No. S/TKO/18 and No. S/TKO/19, the OZPs together with the representations and comments would be submitted to the Chief Executive in Council (CE in C) for a final decision; and
- (d) the statutory plan-making process for the draft TKO OZP No. S/TKO/18 had not been completed and hence the zoning of the SENTLFX as shown on the draft TKO OZP No. S/TKO/19 had remained the same as the previous version of the OZP. The entire plan-making process had been handled in a transparent manner in accordance with the Ordinance.

67. After deliberation, Members agreed that Representations No. R2(part), R3(part), R4(part), R5 to R4095 and Comments No. C1 to C12(part), and C13 to C18 opposing the proposed SENTLFX, the proposed RCP in Area 72, TKO and/or other matters in TKO South were invalid as detailed in paragraphs 2.1 to 2.4 of the Paper. The Board also agreed that the representers and commenters concerned should be advised that the plan-making process for the draft TKO OZP as stated in paragraph 2.5 of the Paper had not yet been completed. In this regard, the Secretary informed Members that the hearing of the representations and comments to the draft TKO OZP No. S/TKO/18 was tentatively scheduled on 16.11.2011.

Hearing Arrangements for Consideration of Valid Representations and Comments

68. The Secretary said that the valid Representations R1, R2 (part), R3 (part) and R4 (part) were related to the rezoning of a site to the south of the TKO sewage treatment works in TKO Area 85 to “G/IC(9)” zone as follows:

- (a) Representation No. R1 supported the southern part of the “G/IC(9)” zone for the proposed RTHK new broadcasting house but objected to the northern part of the “G/IC(9)” zone for undesignated GIC uses. The representer proposed to retain the “Other Specified Uses” annotated “Sewage Treatment Works” (“OU(STW)”) zone for the northern part of the “G/IC(9)” zone.
- (b) Representations No. R2 to R4 supported Amendment Item A relating to the “G/IC(9)” zone. Their opposition to the proposed SENTLFX in Area 137, TKO, the proposed RCP in Area 72, TKO and planning matters in TKO South was considered invalid.
- (c) Comment No. C12 supported the development of the RTHK broadcasting house in TKO. His opposition to the SENTLFX and the RCP in Area 72, TKO was considered invalid.

69. It was suggested that the subject representations R1, R2 (part), R3 (part) and R4 (part) and the related comment (C12 (part)) of the Plan would be considered collectively by the full Board.

70. After deliberation, the Board agreed that the valid representations and comment should be heard collectively by the Board in the manner as proposed in paragraphs 3.1 and 3.2 of the Paper.

Agenda Item 8

[Open Meeting]

Information Note and Hearing Arrangement for
Consideration of Further Representations to the
Draft Sha Tau Kok DPA Plan No. DPA/NE-STK/1,
Draft Lin Ma Hang DPA Plan No. DPA/NE-LMH/1
Draft Man Kam To DPA Plan No. DPA/NE-MKT/1 and
Draft Ma Tso Lung and Hoo Hok Wai DPA No. DPA/NE-MTL/1
(TPB Paper No. 8934)

[The meeting was conducted in Cantonese]

71. The following Members had declared interests in this item as the Heung Yee Kuk New Territories (HYK) had submitted comments in respect of the five Development Permission Area (DPA) Plans covering the Closed Area including the subject four DPA Plans:

Mr. Stephen M.W. Yip	being an ex-officio Executive Councillor of the HYK
Dr. W.K. Yau] being co-opted Councillors of the HYK
Dr. C.P. Lau]

72. Members agreed that as the item was procedural in nature and no deliberation was required, the above Members could be allowed to stay in the meeting. Members noted that Mr. Stephen M.W. Yip had left the meeting.

73. The Secretary reported that on 30.7.2010, the five draft DPA Plans for the Closed Area (including the draft Sha Tau Kok DPA Plan No. DPA/NE-STK/1, the draft Lin Ma Hang DPA Plan No. DPA/NE-LMH/1, the draft Ta Kwu Ling North DPA Plan

No.DPA/NE-TKLN/1, the draft Man Kam To DPA Plan No.DPA/NE-MKT/1 and the draft Ma Tso Lung and Hoo Hok Wai DPA Plan No.DPA/NE-MTL/1) were exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, a total of 38 valid representations and 14 comments were received. On 25.2.2011, the Board considered the representations and comments on the five draft DPA plans and decided to defer a decision pending further review by PlanD on the land use proposals, in particular the “Village Type Development” (“V”) zones on these draft DPA plans.

74. On 8.9.2011, the Board gave further consideration to the representations and comments to the five DPA Plans for the Closed Area and decided to propose amendments to revise the respective “V” zones to partially meet the representations (R3 of the draft Ma Tso Lung and Hoo Hok Wai DPA Plan; R1 of the draft Man Kam To DPA Plan; R1 to R11 and R13 of the draft Sha Tau Kok DPA Plan), and to revise the “CA” zone for Lin Ma Hang stream buffer areas to “Green Belt” to partially meet the representations (R1 and R2 of the draft Lin Ma Hang DPA Plan). The proposed amendments to the four DPA Plans were published for public inspection under s.6C(2) of the Ordinance on 16.9.2011. During the statutory exhibition period, 19 valid further representations had been received.

75. Since the draft DPA had attracted wide public and local concerns, it was recommended that the further representations should be considered by the full Board. As the main subjects of the further representations were similar in nature, i.e. the “V” zone extensions within the Closed Area, and the “GB” zone for the Lin Ma Hang Stream buffer, it was suggested to consider all the further representations collectively in one group.

76. After deliberation, the Board agreed that the further representations should be heard collectively by the Board in the manner as proposed in paragraphs 2.1 and 2.2 of the Paper.

Agenda Item 9

[Confidential Item]

[Closed Meeting]

77. This item was recorded under confidential cover.

Agenda Item 10

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

78. There being no other business, the meeting closed at 11:05 a.m.