

**Minutes of 998<sup>th</sup> Meeting of the  
Town Planning Board held on 25.11.2011**

**Present**

Mr. Thomas Chow

Chairman

Mr. Stanley Y.F. Wong

Vice-Chairman

Mr. Walter K.L. Chan

Mr. B.W. Chan

Ms. Maggie M.K. Chan

Mr. Y.K. Cheng

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

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

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

Deputy Director of Environmental Protection  
Mr. Benny Wong

Assistant Director (2), Home Affairs Department  
Mr. Eric Hui

Deputy Director (General), Lands Department  
Mr. Jeff Lam

Director of Planning  
Mr. Jimmy Leung

Deputy Director of Planning/District

Secretary

Miss Ophelia Y.S. Wong

**Absent with Apologies**

Mr. K.Y. Leung

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Edwin H.W. Chan

Dr. James C.W. Lau

Mr. Maurice W.M. Lee

Dr. Winnie S.M. Tang

Ms. Julia M.K. Lau

Mr. Clarence W.C. Leung

Dr. W.K. Lo

Mr. Stephen M.W. Yip

**In Attendance**

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

Chief Town Planners/Town Planning Board  
Miss H.Y. Chu (am)  
Mr. Jerry Austin (pm)

Senior Town Planners/Town Planning Board  
Ms. Maggie Chin (am)  
Ms. Caroline Tang (pm)

## **Agenda Item 1**

[Open Meeting]

### Confirmation of Minutes of the 997<sup>rd</sup> Meeting held on 11.11.2011

[The meeting was conducted in Cantonese.]

1. The minutes of the 997<sup>rd</sup> Meeting held on 11.11.2011 were confirmed without amendment.

## **Agenda Item 2**

### Matters Arising

[The meeting was conducted in Cantonese.]

- (i) Judgment on Two Judicial Reviews

[Open meeting (Presentation only). The meeting was conducted in Cantonese.]

The Court of First Instance's Judgment on the Two Judicial Reviews lodged by Turbo Top Limited against Town Planning Board (HCAL No. 23 & 52 of 2011) in respect of the Cheung Kong Center site on the Draft Central District Outline Zoning Plan (OZP) No. S/H4/13

2. The Secretary reported that on 21.11.2011, the Court of First Instance had handed down its judgment to dismiss the two judicial reviews (JRs) lodged by Turbo Top Limited against the Board's decision on 21.1.2011 not to uphold its representation in respect of the Cheung Kong Center (CKC) site on the draft Central District OZP (1<sup>st</sup> decision - HCAL No. 23/11); and on 15.4.2011 and 13.5.2011 to partially uphold its further representation by varying the proposed amendments to the draft OZP and confirming the amendments (2<sup>nd</sup> and 3<sup>rd</sup> decisions - HCAL No. 52/11). The Court also ordered the Applicant to pay the Board's costs of both JRs. Regarding the interim stay of the submission of the draft OZP to Chief Executive in Council (CE in C) for approval granted by the Court earlier, the Court ordered that the interim stay to be lifted but such lifting will only come into effect seven days from the judgement to allow time for the

Applicant to consider whether to apply for an interim stay of the lifting pending appeal. If the Applicant applied for an interim stay, the current interim stay would continue pending consideration of the application. A copy of the judgment had been circulated to Members for information before the meeting. The Applicant had a 28-day statutory time limit to appeal against the Court's judgment.

### The Applicant's Principal Complaints

3. The Secretary said that there were five principal complaints by the Applicant as summed up by the Court in the judgment, as follows:

- (1) the three decisions were *ultra vires* as they constituted impermissible micro-managing by the Board of the uses of a specific building, rather than an area;
- (2) the proposed OZP amendments were inconsistent;
- (3) the three decisions were based on irrelevant or erroneous considerations;
- (4) the 3<sup>rd</sup> decision was vitiated by procedural irregularity; and
- (5) the three decisions were arbitrary and discriminatory.

### The Court's Judgment

4. The Secretary then reported the Court's judgment on the Applicant's five complaints, as follows:

#### *Complaint (1): Impermissible micro-managing by TPB*

- (a) first, the Court considered that the three decisions of the Board fell squarely within the functions defined in the long title to the Town Planning Ordinance (TPO) and s.3(1). It was for the "convenience and general welfare" of the community that the TPB designated the site as "Commercial (1)" ("C(1)") and imposed a restriction on the number of the public parking spaces there;
- (b) the "C(1)" zoning recognised an existing reality at the site (i.e. it had ceased to be two separate lots zoned "Government, Institution or Community" ("G/IC") and "Commercial" ("C")) while the restriction safeguarded future availability of public car parking at the site. By imposing the restriction, the TPB was preserving a public asset (the 800 car parking spaces) for use by the community in the future. There could be minor relaxation to cater for

contingencies that might arise;

- (c) the TPB exercised its power under TPO s.4(1)(b) when it designated the site area in a layout plan as a zone for commercial use. It also acted within its power under TPO s.4(1)(c) when it reserved 800 car parking spaces in the site for community purposes. Further, it also acted within the power conferred by the s.4(1) proviso as the imposition of the parking space restriction constituted making provision in a layout plan for “*any matter whatsoever... by means of such... notes or descriptive matter as the Board thinks appropriate*”;
- (d) second, the Court did not think that it was an appropriate way to label the proposed OZP amendments as the “micro-managing of a specific building”. What the TPB had actually done was to designate an area (the site) as a “C(1)” zone and to impose a car parking space restriction on that area. That there currently happened to be a single building or development in the area was only fortuitous. In reality, the instant case concerned the zoning of and the imposition of a restriction on, an area, regardless of the building or buildings that might be standing there now or in the future;
- (e) third, the TPB had not deprived the Applicant’s of its property rights. Zoning might place restrictions on the uses to which a property could be put. But zoning restrictions imposed in the public interest would not amount to deprivation of property rights. When one acquired land, one took the property subject to an implied condition that, for the public good, the Government might by regulation (including OZPs) limit the uses to which such land could be put in the future;
- (f) fourth, the Court did not believe that there was anything unworkable about the requirement of a minimum of 800 parking spaces as claimed by the Applicant.
- (g) fifth, the Court did not consider that s.4A(1) diminished the Board’s wide powers under TPO ss.3(1) and 4(1). If the TPB could “micro-manage” by imposing a restriction, say, on a particular building in a comprehensive development area under s.4A(1), the TPB should be able to do similarly in

relation to other zonings under s.4(1);

*Complaint (2): Inconsistency*

- (h) the Applicant submitted that there was an internal inconsistency within the “C” zone. On the one hand, a property owner could always use the site for purposes listed in Column 1 without seeking TPB permission. On the other hand, if an intended Column 1 use would lead to reduction in 800 car parking spaces, the owner should seek the TPB’s permission for a relaxation;
- (i) the Court ruled that there was no irrational inconsistency. The OZP was a statutory instrument and, like all statutes, should be construed in a way that would make sense of it as a whole. One could not read a part of the OZP in isolation from the rest. Column 1 description of “always permitted” was to be read as qualified by the “Remarks”;

*Complaint (3): Irrelevant or erroneous considerations taken into account*

- (j) the Applicant submitted that in zoning the site “C(1)” “*to reflect the completed development on the site*”, the TPB abdicated its responsibility of planning for the future as it solely entailed looking to the past. The existing development was not the result of the exercise by the TPB of a planning judgment. There was no requirement for the Applicant to apply for TPB permission, which was only a public relations exercise;
- (k) the Court ruled that the Applicant should be held bound by the statements and representations made in its application. The Court could not ignore the fact that an application was made at the time and that the TPB assessed from a planning perspective whether the CKC development was appropriate. The building of CKC should have involved planning considerations on the part of the TPB;
- (l) in proposing amendments to the OZP, the TPB was confirming the reality of an existing state of affairs at the site as the starting point for any future development of the area. In so doing, the TPB would have been looking not just to the past, but also to the future. It did not involve any abdication of

planning responsibilities;

- (m) on the Applicant's submission that the TPB should not act on the views of the Transport Department (TD) without any verification, the Court considered that the TPB did not place any weight on the TD's views in coming to its decisions. Instead, the TPB focused on the fact that the CKC development entailed a re-provisioning of the pre-existing 800 public spaces at the Garden Road car park. The TPB was fully entitled in the exercise of its planning functions to treat the 800 spaces as a public asset which should be preserved for the future benefit of the area;
- (n) on the under-utilised car parking spaces, the Court considered that it was a prudent planning strategy to include the preservation of an existing feature to meet unknown or unexpected contingencies, even where the feature might not be much used or appreciated at the moment;

*Complaint (4): Procedural irregularity in the 3<sup>rd</sup> decision*

- (o) the Applicant submitted that it was procedurally unfair for the TPB to remove the GFA restriction on the 800 car parking spaces under the 3<sup>rd</sup> decision without informing the Applicant or giving it the opportunity to be heard (so that it could have submitted that the whole car parking restriction should have been removed). The Court considered that there was no unfairness in that by the 1<sup>st</sup> and 2<sup>nd</sup> decisions, the TPB had already decided not to remove the car parking restriction;

*Complaint (5): Discriminatory treatment*

- (p) the Court ruled that comparing the International Finance Center (IFC) and CKC developments was akin to comparing apples and oranges. The IFC was for mixed uses (office, hotel and retail) whereas the CKC site was intended for office and car park, with limited retail space. It was not therefore possible meaningfully to compare one development with the other and conclude that, because one had or did not have some restriction, there had been arbitrary or unfair discrimination in respect of the other;



*Miscellaneous complaints*

- (q) the Court considered that the OZP was a “broad brush” plan drawn on a small scale (1:5,000) and no material confusion could result from the slight discrepancies between the OZP and the actual site boundary. Hence, the Applicant’s criticism on the TPB for failing to rectify the discrepancy was unjustified; and
  
- (r) on the Applicant’s complaint that the TPB’s reasons followed wording from PlanD’s Paper, the Court was of the view that such tracking of wording merely reflected general practice and did not necessarily mean that the TPB failed to give independent consideration to the representations before it. In this case, the minutes of TPB meetings showed that members actively engaged in discussion of the matters before them before arriving at their independent conclusions.

[Professor C.M. Hui arrived to join the meeting at this point.]

Deliberation

5. This deliberation session was recorded under confidential cover.

- (ii) Decisions of Three Town Planning Appeals Received  
[Open meeting. The meeting was conducted in Cantonese.]

**Town Planning Appeals No. 1 and 2 of 2010**

Proposed Houses (New Territories Exempted Houses – Small Houses)

in “Agriculture” zone, Lot No. 749sB, 750sA and 751sA

in D.D. 17, Ting Kok Road, Tai Po

(Applications No. A/NE-TK/283 and 284)

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6. The Secretary reported that the two subject appeals were against the Town Planning Board (TPB)’s decisions to reject on review applications (No. A/NE-TK/283 and 284) for proposed houses (New Territories Exempted Houses – Small Houses) in “Agriculture” zone on the Ting Kok Outline Zoning Plan (OZP). The appeals were heard together by the Town Planning Appeal Board (TPAB) on 28.2.2011 and dismissed

by a majority of 3 to 2 on 24.10.2011 on the following grounds:

- (a) the Appeal Board considered that the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories ('Interim Criteria'), which embodied the planning intention of the TPB, was an important and relevant consideration. As the appellant had not provided evidence to show very exceptional circumstances, there was no basis for the Appeal Board to approve the proposed development for NTEHs to be erected on the Appeal Sites;
- (b) the Appeal Board concurred with the TPB's view that if permission was granted for NTEHs to be erected on the Appeal Site, it would set an undesirable precedent; and
- (c) it was considered that none of the appellant's grounds of appeal could be established.

7. The Secretary said that two members of the TPAB held dissenting views from the majority. A member considered that by objecting to both applications on the sole reason that the application sites did not lie within a village 'environs' ('VE'), the TPB had taken an irrelevant consideration into account. This member considered that by relying on the 'Interim Criteria' alone to veto the development of Small Houses was unreasonable. Another member of the TPAB considered that in adopting and operating the "Interim Criteria" for assessing planning applications for NTEH/Small House in the New Territories, the RNTPC and the TPB had imposed and applied a parameter not found in the OZP.

**Town Planning Appeal No. 10 of 2010**

Petrol Filling Station in "Village Type Development" zone,  
Lots No. 2095 S.B RP, 2096 S.B RP and 2097 S.B RP in D.D. 111,  
Kam Tin Road, Wang Toi Shan, Pat Heung, Yuen Long  
(RNTPC Paper No. A/YL-PH/579)

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8. The Secretary reported that the subject appeal was against the decision of the

Board to reject a review application for petrol filling station (PFS) in "Village Type Development" ("V") zone on Pat Heung OZP. The appeal was heard by the Town Planning Appeal Board (TPAB) from 5 to 7 of July 2011.

9. On 4.11.2011, the TPAB decided to allow a temporary permission of 12 months, instead of a permanent approval sought by the Appellant. The considerations of the TPAB were summarized below:

- (a) the PFS had been operating on the Appeal Site for nearly 20 years. Since 1991, there were eight previous temporary planning permissions granted for generally 12 months up to five years. The last of the temporary permissions which was for a period of two years lapsed on 23.12.2010;
- (b) there were a number of lots in the vicinity of the Appeal Site that had been granted building licences for Small House development but no action had been taken to implement those rights. There were also a number of pending applications. As it was and in the immediate future, the surroundings of the Site might well remain as it was with no real changes. Hence, whilst the area had a potential to become predominantly residential, it had not achieved that status at this stage. Nevertheless, it was accepted that the village houses should have a priority in a "V" zone in this OZP.
- (c) from the evidence tendered by the expert witness of the Appellant regarding the noise and odour impacts of the PFS, the TPAB was satisfied that the noise and odour levels were within acceptable range;
- (d) the TPAB was not suggesting that the PFS was a compatible land use in a "V" zone. But that at this moment of time and in the light of the circumstances of how the PFS had been in use, the TPAB was of the view that a temporary planning permission could be given. With the temporary planning permission, the PlanD could further monitor the situation, and with proper evidence and reasons, this would enable the TPB to refuse to grant further permission when the surrounding areas were occupied by village houses. Indeed, the TPAB did not envisage that any further applications should be entertained if there were further residential developments;

- (e) with the temporary permission of 12 months, the Appellant should have enough time to consider alternative arrangements for its operation if the permission was refused after the expiration of the 12-month period.

(iii) New Town Planning Appeal Received

Town Planning Appeal No. 13 of 2011

Proposed Columbarium in “Government, Institution or Community (4)” zone,  
15 Fa Peng Road, Cheung Chau (Cheung Chau Inland Lot 11 (Part))

(Application No. A/I-CC/10)

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10. The Secretary reported that an appeal was received by the Town Planning Appeal Board (TPAB) on 8.11.2011 against the decision of the Town Planning Board (the Board) to reject on review an application for a proposed Columbarium at a site zoned “Government, Institution or Community (4)” on the Cheung Chau Outline Zoning Plan. The application was rejected by the TPB for the following reasons:

- (a) the proposed development did not comply with the Town Planning Board Guidelines No. 16 in that it was not compatible with the land uses in the surrounding areas which were mainly low-rise, low-density residential and recreational developments;
- (b) the proposed columbarium was only served by an existing 1.5m wide footpath, which was too narrow to accommodate the large number of visitors during Ching Ming and Chung Yeung Festivals causing potential pedestrian safety problems. There was no traffic impact assessment in the submission to demonstrate that the proposed development would not adversely affect pedestrian safety and would not cause adverse traffic impact on the surrounding areas; and
- (c) approval of the proposed development would set an undesirable precedent for similar applications. The cumulative impact of approving such similar applications would result in pressure on the infrastructure and degradation of the character of the Fa Peng area in Cheung Chau.

11. The hearing date of the appeal had not yet been fixed. The Secretary would act on behalf of the Board in dealing with the appeals in the usual manner.

Appeal Statistics

12. The Secretary reported that as at 25.11.2011, there were 23 cases not yet been heard by the TPAB. Details of the appeal statistics were as follow:

Allowed	: 28
Dismissed	: 120
Abandoned/Withdrawn/Invalid	: 153
Yet to be Heard	: 23
<u>Decision Outstanding</u>	<u>: 1</u>
Total	: 325

- (iv) Request for Deferral of Consideration of Further Representations to the  
Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26  
[Open Meeting (Presentation Session Only)]

13. The Secretary reported that on 27.5.2011 and 1.6.2011, the Board heard the representations and comment in relation to the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 and decided to partially uphold a number of representations. One of the proposed amendments was to revise the building height restriction (BHR) of the Kai Tak Mansion site from 110mPD to 130mPD. On 30.6.2011, the proposed amendments were gazetted under section 6(C) of the TPO. Upon expiry of the statutory exhibition period, 286 further representations (FRs) were received. The hearing of the FRs was scheduled to be held on 9.12.2011. The 286 FRs, 1299 related representers and one commenter had been notified of the hearing arrangement and the scheduled hearing date.

14. The Secretary continued to report that the Secretariat had received 18 requests for deferral of hearing of further representations. On 16.11.2011, the solicitors acting for the Oriental Generation Limited (OGL) (R6) wrote to the Secretariat of the Board stating that they were unclear of the effect of the gazettal of a new version of the OZP, i.e. S/K13/27, on the outstanding FRs on the OZP No. S/K13/26 which had not yet been heard by the Board as well as the judicial review lodged by OGL (in respect of the Board's decision on their representation on the OZP No. S/K13/26 regarding the Kai Tak Mansion site). OGL requested the Board to defer the hearing until the issue concerned was clarified. On 23.11.2011, Mr. Lam Man Fai (FR 3), a Wong Tai Sin District Councillor, submitted a deferral request on similar ground and requested the Board to defer the hearing until the end of January 2012. The other deferral requests were submitted by 16 FRs on 23.11.2011 stating that they or their representatives could not attend the hearing mainly on the grounds of being busy, having to work, or might not be in Hong Kong on the scheduled hearing date. 13 of the FRs requested to defer the hearing until the end of January 2012 and three FRs requested to defer the hearing until next year. A copy each of the deferral requests had been tabled at the meeting for Members' consideration. Members were invited to consider whether the deferral requests should be acceded to.

15. The Secretary said that the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the TPO TPB-PG No. 33 (the Guidelines) was relevant to the consideration of the deferral requests. According to the said Guidelines, due to the need to meet the statutory time limit for submission of the OZP to the Chief Executive in Council (CE in C) for approval, deferment of consideration of representations, comments or further representation would not be entertained unless with the consent of other concerned parties and there were very strong reasons to do so. According to the said Guidelines, if it was absolutely unavoidable, the Board might only adjourn the meeting for a period of a maximum of four weeks taking into account all relevant considerations and circumstances of the cases.

16. The Secretary said that on 8.8.2011, the Court of First Instance granted leave to OGL's application for judicial review of the Board's decision on its representation and on 7.9.2011, the Court ordered by consent an interim stay of the submission of the draft OZP S/K13/26 to the CE in C. Therefore, the need to meet the statutory time limit on the submission of the draft plan to the CE in C might not be a crucial consideration for this case. Regarding the consent from other relevant parties, if Members agreed to accede to the deferral request, consent would still need to be sought with the other 281 FRs, 1298 related representers and one related commenter. For the grounds of deferral submitted by OGL and the FRs, the Secretariat had already clarified with the solicitors of OGL that the proposed amendments made under section 7(1) of the TPO were made without prejudice to any outstanding representation proceedings on the previous version of the OZP. Whilst the amendments in relation to the Kai Tak Mansion Site in the draft OZP No. S/K13/26 were incorporated in the draft OZP No. S/K13/27, the hearing procedure of the draft OZP No. S/K13/26 had not yet been completed. There were FRs to the draft OZP No. S/K13/26 in relation to the Kai Tak Mansion, which would be considered by the Board on 9.12.2011. In this regard, a reply would also be issued to Mr. Lam Man Fai (FR3) to clarify the issue.

#### Deliberation

17. In response to a Member's enquiry, the Secretary said that there was no statutory time limit for the consideration of the representation or further representation. However, there was a statutory time limit for submission of the OZP to the Chief

Executive in Council for approval within nine months from the expiration of the exhibition of the draft plan. Deferment of the consideration of representations, comments and/or further representations might affect the submission of the plan to CE in C and other parties involved in the hearing. It was stipulated in the TPB Guidelines that such request would not be entertained unless with the consent of other concerned parties and there were very strong reasons to do so. For the subject OZP, as the Court had already ordered an interim stay of the submission of S/K13/26 to the CE in C, the need to meet the statutory time limit might not be a crucial consideration. A Member said that notwithstanding that the Court had ordered an interim stay of the submission of the OZP to the CE in C, the Board should still work to complete the plan-making process within the 9-month time limit. Another Member shared the view of this member.

18. A Member enquired the issue raised by OGL (R6) and Mr. Lam Man Fai (FR 3) that they were unclear of the effect of the gazettal of a new version of the draft OZP No. S/K13/27 on the outstanding further representations on the draft OZP No. S/K13/26. The Secretary said that the FRs in relation to the draft OZP No. S/K13/26 was scheduled to be heard by the Board on 9.12.2011. However, as further amendments to the draft Ngau Tau Kok and Kowloon Bay OZP were necessary, and following the established practice of the Board, previous amendments shown on the draft OZP No. S/K13/26 were duly reflected (but not as amendment items) on the further amended OZP No. S/K3/27 and exhibited under section 7 of the Ordinance on 14.10.2011. Upon consideration of the FRs, the Board would decide whether to amend the draft OZP No. S/K13/26 by the proposed amendments or the proposed amendments as varied. The amendments confirmed by the Board after the consideration of the FRs would be incorporated into the next version of the OZP to be gazetted. The proposed amendments made under s.7(1) of the TPO were made without prejudice to any outstanding representation proceedings on previous versions(s) of the OZP gazetted under s.5 or s.7 of the TPO. The Secretary said that the Secretariat had clarified with the solicitors acting for OGL. Members noted.

19. Regarding the deferral requests submitted by other FRs, a Member noted that the 16 FRs requested deferring the hearing mainly on the grounds that they or their representatives were busy, having to work, or might not be in Hong Kong on the scheduled meeting date. This Member opined that sufficient notice had been given to them about the scheduled meeting and there were no strong reasons for a deferral.



Three other Members shared this view and said that the FRs could appoint representatives to attend the meeting. The Chairman concluded that all Members agreed that the deferment request should not be acceded to as the FRs had not provided any strong reason to support the request.

20. After deliberation, the Board decided not to defer the hearing of the further representations.

### **Sai Kung and Islands District**

#### **Agenda Item 3**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/SK-TLS/38

Temporary Warehouse (Excluding Dangerous Goods Godown)

for a Period of 3 Years in “Residential (Group D)” zone,

9 Tan Shan, Tseng Lan Shue, Sai Kung

(TPB Paper 8953)

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[The meeting was conducted in Cantonese.]

21. The Secretary said that Ms. Anna S.Y. Kwong had declared an interest in this item as she had current business dealings with the consultants of the applicant. However, as Ms. Kwong had not been involved in this planning application, Members agreed that the interest of Ms. Kwong in this item was not direct and she should be allowed to stay in the meeting. Members noted that Ms. Kwong had tendered her apology for not being able to attend the meeting.

22. The following PlanD’s representative and the applicant’s representatives were invited to the meeting at this point:

Mr. Ivan Chung - District Planning Officer/Sai Kung & Islands,  
(DPO/SKIs), Planning Department (PlanD)

Mr. Cheng Hip Ming ] Applicant’s

Mr. Fung Wai Man ] Representatives

Mr. Chiu Tsz Ki ]

23. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Mr. Ivan Chung, DPO/SKIs, to brief Members on the background to the application.

[Mr. Fletch Chan arrived to join the meeting at this point.]

24. With the aid of a Powerpoint presentation, Mr. Ivan Chung, DPO/SKIs, presented the application and covered the following main points as detailed in the Paper:

*The Application*

- (a) on 1.4.2011, the applicant sought planning permission to use the existing structures at the application site (the Site) for temporary warehouse (excluding dangerous goods godown) for a period of three years. The Site fell within an area zoned “Residential (Group D)” (“R(D)”) on the Tseng Lan Shue Outline Zoning Plan (OZP);

*Decision of the RNTPC*

- (b) on 20.5.2011, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
  - i) the temporary warehouse was not in line with the planning intention of the “R(D)” zone. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
  - ii) the temporary warehouse under application would generate adverse environmental impact on the surrounding development as there were residential dwellings in its close proximity; and
  - iii) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the

“R(D)” zone. The cumulative effect of approving such applications would result in general degradation of the environment of the area;

- (c) the applicant had submitted written representation in support of the review application as mentioned in paragraph 3 of the Paper. The key points were summarized below:

**Planning Intention of “R(D)”**

- i) according to the Tseng Lan Shue OZP, ‘Recyclable Collection Centre’ (‘RCC’) was under Column 2 of the “R(D)” zone. Its inclusion in Column 2 indicated that ‘Recyclable Collection Centre’ was in line with the planning intention of “R(D)” zone. ‘RCC’ meant any premises where community-based recycling activities involving collection, storage, sorting, packing and baling of recyclable materials for recycling purposes were carried out. The proposed warehouse use was similar to that within recyclable collection centre (i.e. storage and packing) and could be considered in line with the planning intention of the “R(D)” zone;

**No Complaint from the Surrounding Sensitive Users**

- ii) the Site had been used for storage of yarns since 1994. No manufacturing and processing work had been carried out within the Site. As there was no record of pollution complaint for the storage of yarns, the sensitive users in the vicinity had already accepted the applied use at the Site;

*The Site and Its Surrounding Area*

- (d) the Site comprised four structures of one to two storeys and was being used for storage of yarns. It was accessible via Tan Shan Road branching off from Clear Water Bay Road. The entire area was rural in character and there were many existing residential dwellings along Tan Shan Road and within 30m of the existing warehouses;

*Departmental Comments*

- (e) the departmental comments were detailed in paragraph 6 of the Paper and the main points were:
  - i) District Lands Officer/Sai Kung, Lands Department (DLO/SK, Lands D) commented that the Site fell on unleased Government land. The Site was previously covered by a short term tenancy (STT) for a bleaching and dyeing factory. The STT was terminated on 1.8.1990 due to breach of tenancy condition concerning pollution control. Land control action was being taken on the illegal occupation of the government land;
  - ii) Chief Building Surveyor/NTE2 & Rail, Buildings Department had no in-principle objection under the Buildings Ordinance (BO) subject to the removal of all unauthorized building works/structures and that all building works were subject to compliance with BO;
  - iii) Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the Site;

*Public Comment*

- (f) a public comment objected the review application on the grounds that the use of the Site for storage was a blight on the environment and the proposed use was not in line with the planning intention of the “R(D)” zone;

*Planning Considerations and Assessments*

- (g) PlanD did not support the review application based on the planning considerations and assessments detailed in paragraph 8 of the Paper and the main points were:
  - i) the proposed temporary warehouse was not in line with the planning intention of the “R(D)” zone which was primarily for

improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent low-rise, low-density residential developments subject to planning permission from the Board. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis. According to the 'Definitions of Terms/Broad Use Terms Used in Statutory Plans' and the Notes of the OZP, warehouse and RCC were two different uses. Even for the RCC which was a Column 2 use, permission from the Board was required and each application would be decided on its individual merits;

- ii) the temporary warehouse under application would generate adverse environmental impact on the surrounding development as there were residential dwellings in its close proximity within 30m. According to DEP's advice, the application was not supported in view of the sensitive receivers in the vicinity of the Site. Access to the Site had to be via Tan Shan (a sub-standard local road) where there were many residential dwellings on both sides of the road. In the review application, the applicant only mentioned that there was no complaint received and the storage use would not create nuisance to the surroundings. Besides, there was no information to demonstrate that the development would not create adverse impact on the residential dwellings nearby;
- iii) the STT for the previous use of the premises (i.e. bleaching and dyeing factory) was terminated by DLO/SK on 1.8.1990 due to breach of tenancy condition concerning pollution control. The subsequent change of use to warehouse was considered not an existing use as it was not in existence on the date of the publication of the Tseng Lan Shue Interim Development Permission Area Plan No. IDPA/SK-TLS/1 on

12.10.1990. The premises were on unleased government land. Land control action was being taken by the LandsD;

- iv) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “R(D)” zone. The cumulative effect of approving such applications would result in general degradation of the environment of the area;

25. The Chairman then invited the applicant’s representatives to elaborate on the application.

26. Mr. Cheng Hip Ming, the representative of the applicant, made the following points:

- (a) the warehouse under application was located at the far end of Tan Shan Road with a site level lower than that of the residential developments in its vicinity. Hence, the warehouse would not have any adverse visual and environmental impacts on the residential uses in the surrounding area. The warehouse had been in operation for many years and no complaint had been received from the nearby villagers;
- (b) the premises were only for storage of yarns. No manufacturing of yarns would be carried out within the premises;
- (c) no further works would be undertaken for the applied use. No more extension and upgrading of those existing structures on the Site would be needed so that no construction waste and noise would be generated after obtaining approval from the Board;
- (d) its operation hours were between 10:00 am to 3:00 pm from Mondays to Fridays, and there would be no operation on Saturdays and Sundays. The development would not have any adverse impacts on the surrounding areas;

- (e) the site was accessible via Tan Shan Road which was a narrow road, and no heavy goods vehicles would be used for transporting goods to and from the Site. Moreover, only two to three goods vehicles would enter the site per week. Hence, the applied use would not generate adverse traffic impact on the area;
- (f) the approval of the application would not set a precedent effect as there was already a warehouse to the east of the Site. It was for the storage of tiles and was in operation for many years.

27. In response to a Member's enquiry on the warehouse to the east of the Site, Mr. Ivan Chung, DPO/SKIs said that according to PlanD's record, the concerned warehouse had been in existence on the date of the publication of the Tseng Lan Shue Interim Development Permission Area Plan No. IDPA/SK-TLS/1 gazetted in 1990. It was regarded as an 'existing use' under the Town Planning Ordinance.

28. The Chairman said that according to the applicant's representative, no heavy goods vehicle could be used for the application site due to the narrow access road leading to the site. However, as indicated in Plan R-4 of the Paper, there was a heavy goods vehicle parked near the Site. In response, Mr. Cheng Hip Ming said that heavy vehicles of 24 tonnes or container truck would not be used for the warehouse. The heavy goods vehicle shown in the Plan R-4 was a goods vehicle of about 3 to 5 tonnes.

29. In response to the Chairman's question, Mr. Cheng Hip Ming said that the warehouse under application had been in operation for 10 years. The Chairman further asked whether the applicant had illegally occupied the government land for 10 years. Mr. Cheng Hip Ming answered in the affirmative.

30. Mr. Jimmy Leung, Director of Planning, said that it was stated in paragraph 5.2.1 of the report submitted by the applicant at the s.16 stage that 'the subject warehouse had been used for storing yarns since 1994'. Mr. Leung enquired whether the information in the report was incorrect. Mr. Cheng Hip Ming said that it was a rough estimate that the warehouses had been in operation for about 10 years.

31. Mr. Benny Wong, DDEP(1), EPD, enquired whether it was practical for the applied warehouse to operate under such short operation hours, i.e. from 10:00 am to 3:00 pm on Mondays to Fridays, given that its Mainland customers might want the materials any day in a week. Mr. Cheng Hip Ming replied that yarns were stored in the warehouse and they would be delivered to the Mainland according to the applicant's schedule.

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

#### Deliberation

33. The Chairman and a Member said that the applicant had illegally occupied the government land for a long period of time. They enquired whether LandsD would take appropriate enforcement action. Mr. Jeff Lam, DD(G), LandsD replied that the site was previously covered by a STT for the purpose of bleaching and dyeing factory. The STT was terminated in 1990 due to the breach of tenancy condition. Land control action was being taken by the New Territories Action Team of LandsD on the illegal occupation of the government land.

34. Mr. Benny Wong, DDEP/1, EPD, said that DEP did not support the planning application as there were sensitive uses in the vicinity of the Site. Although the applicant's representatives had put forth further justifications, such as the short operation hours, etc. to support the review application, there was no sufficient information to substantiate that the warehouse would only operate from 10:00am to 3:00 p.m. on Mondays to Fridays and would not cause adverse environmental impacts on the sensitive uses in the surrounding area. The concern of DEP was still valid.

35. After further deliberation, the Chairman concluded Members' views that the applied development was not in line with the planning intention of the "R(D)" zone and the applicant had not provided strong justification for a departure from the planning



intention. The warehouses use would generate adverse environmental impacts on the surrounding area. The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “R(D)”.

36. 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 temporary warehouse (excluding dangerous goods godown) was not in line with the planning intention of the “R(D)” zone, which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent low-rise, low-density residential developments subject to planning permission from the Board. There was no strong planning justification in the submission for a departure from the planning intentions, even on a temporary basis;
- (b) the temporary warehouse under application would generate adverse environmental impact on the surrounding development as there were residential dwellings in its close proximity; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “Residential (Group D)”. The cumulative effect of approving such applications would result in general degradation of the environment of the area.

[Professor S.C. Wong left the meeting temporarily at this point.]

**Hong Kong District**

**Agenda Item 4**

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the  
Draft Kennedy Town and Mount Davis Outline Zoning Plan No. S/H1/18  
(TPB Papers No. 8952 and 8956)

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[The hearing was conducted in Cantonese and English.]

**Group 1: Representations No. R1 to R12 and Comments No. C1 to C12**

(TPB Paper No. 8952)

37. As the amendments 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 (LDC), 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<br>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               |
| Mr. Jeff Lam<br>being the Deputy Director<br>of Lands Department           | - being an assistant to the Director of Lands who was a non-executive director of the URA, a member of the HKHA and a member of the Supervisory Board of the HKHS                |
| Mr. Eric Hui<br>being the Assistant Director<br>of Home Affairs Department | - being an assistant to the Director of Home Affairs who was a non-executive director of the URA and a member of the Planning Committee and Subsidized Housing Committee of 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<br>- being a member of the Executive Committee of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) |
| 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<br>Professor S.C. Wong | ] being staff of the HKU<br>]   |
| 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

[Mr. Walter K.L. Chan arrived to join the meeting at this point.]

38. The Secretary said that HKU (R3) and DAB (R8) had submitted representations on the draft Kennedy Town and Mount Davis OZP No. S/H1/18. Members agreed that the interests of Mr. K.Y. Leung, Professor S.C. Wong, Dr. James C.W. Lau and Ms. Maggie Chan were direct and hence they should be invited to withdraw from the meeting. Members noted that Dr. James C.W. Lau had tendered his apology for not being able to attend the meeting, Mr. Y.K. Leung had not yet arrived to join the meeting and Professor S.C. Wong had left the meeting temporarily. Ms. Maggie Chan left the meeting at this point. Members also agreed that the interests of other members who had declared interests in this item were not direct as the HPA Appeals Committee was not appointed by or under the URA, the Appeal Board Panel under the URA Ordinance was to hear appeals lodged by objectors affected by development projects under the URA Ordinance. The representations and comments received were not specifically related to The Merton (LDC), Mount Davis 33 (URA), Sai Wan Estate (HKHA) or Kwun Lung Lau (HKHS).

39. As sufficient notice had been given to invite the representers and commenters to attend the hearing, Members agreed to proceed with the hearing of representations in the absence of other representers who had indicated that they would not attend or did not reply to the invitation to this meeting.

40. The following representatives from the Planning Department (PlanD), representers and their representatives, and commenters were invited to the meeting at this point:

- Ms. Brenda Au - District Planning Officer /Hong Kong (DPO/HK)
- Mr. K.S. Ng - Senior Town Planner/Hong Kong
- Mr. David Yuen - Air Ventilation Assessment Consultant, Managing Director of ENVIRON Hong Kong Ltd.

R1 : Designing Hong Kong Limited

- Ms. Eva Tam - Representative of R1

R2 : The Real Estate Developers Association (REDA)

- Mr. Ian Brownlee - Representative of R2

R3 : HKU

- Professor J.G. Malpas ]
- Mr. Kenneth Wong ] Representatives of R3
- Mr. Keith Siu ]
- Mr. Robert Lam ]

R4 : China Merchants Steam Navigation Co. Limited

- Mr. Lawrence Li ]
- Mr. Steven Liu ]
- Mr. Yin Jiang ]
- Ms. Weina Xu ]

R8 : Democratic Democratic Alliance for the Betterment and Progress of Hong Kong (DAB)

- Mr. Chan Hok Fung - Representative of R8

R10 : Chong Wing Fai

- Mr. Chong Wing Fai - Representer

R11 : Ng Hoi Yan

- Ms. Ng Hoi Yan - Representer

C10 : Alexander Schrantz & Jayne Kim Schrantz

Mr. Alexander Schrantz - C10

C3 : Welgett Tree Limited

C11 Incorporated Owners of Nos. 6 and 10 Mount Davis Road and

C12 : Trustees of the Church of England

Mr. Ronald Talyor ] Representative of C3 and C11

Mr. Ian Brownlee ] Representative of C11 and C12

Mr. Wong Ming Yin ] Representative of C12

41. The Chairman extended a welcome and explained the procedures of the hearing. He then invited DPO/HK to brief Members on the representations.

42. Members noted that a replacement page to Plan H-8b of the TPB Paper No. 8952 had been tabled at the meeting. With the aid of a Powerpoint presentation and the model illustrating the height profile of the Kennedy Town and Mount Davis Planning Scheme Area (the Area), Ms. Brenda Au made the following main points as detailed in the Paper:

- (a) on 25.2.2011, the draft Kennedy Town & Mount Davis Zoning Plan (OZP) No. S/H1/18 incorporating amendments mainly relating to the imposition of BHRs for various development zones and rezoning proposals to reflect the planning intention or existing developments was exhibited for public inspection under section 7 of the Town Planning Ordinance (the Ordinance);
- (b) during the two-month exhibition period, a total of 638 representations were received. On 24.6.2011, the representations were published for three weeks for public comments. A total of 12 comments were received;
- (c) on 14.10.2011, the Town Planning Board (the Board) decided to hear the representations and the related comments in two groups. The 12 representations (R1 to R12) and 12 comments (C1 to C12) mainly in respect of the imposition of BHRs were to be heard under

Group 1;

Air Ventilation Assessment

- (d) an Air Ventilation Assessment (AVA) by Expert Evaluation (EE) of the Area had been undertaken and attached at Annex 1b of the Paper. According to the AVA, the prevailing annual wind came from the north-east, east and south while the prevailing summer wind was mainly from the east, south and south-west. Streets were in grid system and well aligned in the Area, and the Area comprised a number of open spaces, low-rise “G/IC” and “Other Specified Uses” (“OU”) facilities along the waterfront area, slope areas with vegetation and some other open spaces and low-rise “G/IC” facilities scattered throughout the area and along Pok Fu Lam Road. Mount Davis and adjacent mountain of Lung Fu Shan allowed good penetration of wind to the built-up area. With the imposition of the BHRs and retention of the existing air paths, the wind environment in the Area was generally satisfactory. Apart from imposing suitable BHRs, building gaps had also been imposed to improve pedestrian level air ventilation;

Imposition of Building Gaps

- (e) to avoid blockage of annual prevailing wind from the northeast and to improve air permeability at Belcher’s Street and the inland areas, two building gaps of 10m wide above 20mPD (about 15m above ground level) were imposed between Des Voeux Road West and Queen’s Road West to generally align with Belcher’s Street and Woo Hop Street to facilitate prevailing northeasterly wind penetrating into the inland area. In addition, two building gaps of 12m wide above 29mPD and 60mPD (about 15m above ground level) were designated to the west of Smithfield Terrace at 71-77 Smithfield and Smithfield Garden at 50 Smithfield respectively to facilitate southerly valley wind penetrating into the Area;

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

### Public Consultation

- (f) the amendments incorporated into the OZP had been presented to the Central and Western District Council (C&WDC) and the Task Force on Harbourfront Developments on Hong Kong Island (HKTF) of the Harbourfront Commission (HC). Three local consultation forums were held in April 2011. The views expressed at these meetings and PlanD's responses had been summarized in paragraph 2.3 of the Paper. The key points were:

#### *HKTF of HC*

- (i) the attempts to improve view corridors and air ventilation as shown in the amendments to the OZP were welcomed;

#### *C&WDC*

- (ii) the existing residential buildings that had already exceeded the BHRs should comply with the BHRs upon redevelopment;
- (iii) setback requirements should be imposed for road widening/air ventilation;
- (iv) the imposition of BHRs in general was supported. There was concern on the stipulation of BHRs on old buildings which would affect the development potential of the buildings;
- (v) the proposed columbarium site should not be incorporated in the draft OZP as it was still under public consultation;

#### *Local Forums*

- (vi) supported the imposition of BHRs as a general measure to preserve the mountain backdrop and quality of the environment;
- (vii) supported the designation of building gaps as a general measure to improve air ventilation; and



(viii) the BHRs would have adverse impacts on redevelopment value of the old buildings, particularly for small sites.

- (g) PlanD's responses were detailed in paragraph 2.3 (a) to (g) of the Paper. For the "G/IC" site to the east of Chiu Yuen Cemetery, it should be noted that the BHR of 8 storeys imposed on the site had taken into account the site level and the uses always permitted in the "GIC" zone, such as school. Should the site be considered suitable for columbarium use in future, rezoning of the site was required and the C&WDC and the public would be consulted;

#### Representations and Comments under Group 1

- (h) the 12 representations under Group 1 were in respect of amendments items relating to the imposition of BH and building gap restrictions. R1 generally supported the imposition of BH and building gap restrictions. R8 also supported the imposition of BHRs, but objected to the OZP for not stipulating setback requirement for widening of footpath/road and improving air ventilation. R2 opposed all amendment items in respect of the imposition of BH and building gap restrictions. R9 to R11 provided comments on the stipulation of BHRs of 100mPD and 120mPD for residential sites which might affect the property/resumption value. R12 provided comments on the stipulation of BH and building gap restrictions, as well as other amendments. Representations submitted by R3 to R7 were related to BHRs imposed on specific sites. R3 submitted by HKU opposed the stipulation of BHRs on their properties. R4 and R5 opposed the BHRs on China Merchants Wharf (CMW). R6 and R7 opposed the BHR at sites bounded by Pokfield Path, Smithfield and Pokfield Road;
- (i) all the 12 related comments received supported R2 and opposed the rezoning of the residential sites at 2, 6 to 10 Mount Davis Road, and imposition of PR and BHRs on these sites;

***Responses to Grounds of Representations and Representers' Proposals***

- (j) the main grounds of representations and their proposals and the main responses to the general grounds of representations and their proposals were summarised in paragraphs 4.3 and 4.4 of the Paper respectively. They were highlighted below:

***Adverse Representations for More Lenient BHRs***

*Urban Design Considerations*

- (i) apart from air ventilation consideration, the BHRs had been formulated based on an overall BH concept and other relevant considerations including the existing BH profile, topography, site formation level, local characteristics, the waterfront and foothill setting, compatibility with the surrounding areas, land uses, stepped BH concept and permissible development intensity under the OZP. An Urban Design Appraisal had been conducted and the broad urban design principles set out in the Urban Design Guidelines (UDG) had also been taken into consideration;
- (ii) the BHRs were drawn up to provide better planning control on the BH of development/redevelopment. They provided a stepped BH profile appropriate to the local setting, and were sufficient to accommodate the development intensity permitted under the OZP;

*Building Height Concept and Control of Out-of-Context Buildings*

- (iii) the urban design principles adopted in the formulation of the BHRs and the building height concepts for the Area were mentioned in paragraphs 3.1.2 to 3.1.14 of the Paper. In particular, a stepped BH concept with lower developments along the waterfront and gradually increased to the uphill areas of Mount Davis and Lung Fu Shan had been adopted;
- (iv) as a general principle, existing/committed development with a

height exceeding the relevant BHR would not be affected in the stipulation of BHRs. For the two excessively tall developments (i.e. The Merton and Manhattan Heights), provision for redevelopment to the existing BH was not allowed given they were out-of-context and incompatible with the surrounding developments at the waterfront setting;

- (v) whether a development was “out-of-context” was not considered solely on the absolute BH or the number of storeys, but also with reference to the local character and site context, i.e. the characteristics of the neighbourhood. Kennedy Town was an old residential district predominantly occupied by medium-rise buildings along narrow streets. The BHRs should be sympathetic and compatible in scale and proportion with the local character, as well as relating to the scale of the streets to avoid canyon effect.
- (vi) R2’s proposal for a general increase of 20m in BH would significantly increase the overall BH profile in the neighbourhood, create canyon effect, reduce the visible areas of the mountain backdrop and the water body of the harbour from the local vantage points, and would adversely affect the local character and cityscape.

*Built form, Design Flexibility and Air Ventilation*

- (vii) the BHRs would not result in bulkier buildings or wall effect affecting air ventilation. In the course of BH review, an assessment was conducted to ensure that development intensity permitted under the OZP could generally be accommodated under BHRs. Flexibility was allowed in designing the shape and form of the buildings and the BHRs did not preclude the incorporation of innovative architectural design;
- (viii) whether a building was considered bulky or massive depended

on many factors rather than BH alone. Given the tendency to maximize the best view in certain direction (particular sea view) and to capitalize on land values on the lower floors, a development with no BH control might be even bulkier as there was a tendency to maximize the floor-to-floor height. The provision of better design buildings was not guaranteed by relaxing the BHRs;

- (ix) there was provision for application for minor relaxation of the BHRs under the OZP to cater for development/redevelopment with planning and design merits;

*More Relaxed BHRs Required for Sustainable Building Design*

- (x) the measures on SBD Guidelines/JPN and the OZP restrictions were under two separate development control regimes, i.e. the building regime and town planning regime respectively, although they were complementary to each other. The SBD Guidelines and JPN, which were administrative measures to promote a sustainable built environment, were complied on a voluntary basis for the granting of Gross Floor Area (GFA) concessions under the Buildings Ordinance (BO) and were generally applicable to all building developments with no reference to specific district characteristics and site circumstances. On the other hand, the OZP restrictions were statutory control to achieve planning objectives specific to the district;
- (xi) compliance with the SBD Guidelines would involve detailed building design matters. In the absence of detailed building schemes, it would not be possible in the OZP review stage to determine how the SBD Guidelines would impact on the building development and design at individual sites. Without any detailed scheme, there was also no basis for R2 to allege that the BHRs would jeopardize the implementation of the SBD Guidelines;

- (xii) the provision for application for minor relaxation of the BHRs under the OZP could cater for development/redevelopment with planning and design merits which may include schemes with the incorporation of SBD features;

Urban Design Vision/Planning Study

- (xiii) on formulating the overall BH concept for the Area and in determining the BHRs and relevant requirements, the broad urban design principles set out in the UDG had been taken into consideration and an Urban Design Appraisal had been conducted;

Redevelopment Potential and Development Process

- (xiv) in formulating the BHRs, it had been ensured that the development sites would generally be able to accommodate the development intensity as permitted on the OZP. The imposition of BHRs would not result in a decrease in the development intensity permitted on the OZP;
- (xv) there was provision for minor relaxation of BHR under the OZP to cater for site specific constraints and circumstances and each application would be considered by the Board based on individual merits. As there was a statutory time limit for the Board to consider such applications under the Ordinance, the development process would not be unduly lengthened;

***Building Gaps and Setback Requirements***

More Stringent Control

- (i) regarding R8's proposal to stipulate setback requirements, it should be noted that according to the AVA, the Area was of generally satisfactory air ventilation performance. Designating two 10m-wide building gaps at podium level between Des Voeux Road West and Queen's Road West could facilitate prevailing north-easterly wind to enter the

inner area, in particular Belcher's Street, to improve air ventilation at street level. Moreover, imposition of setback requirements might pose undue constraints on future development/redevelopment of small lots which were common in the Area. According to TD's advice, there was currently no comprehensive road widening scheme in the northern part of Kennedy Town. However, upon receipt of redevelopment proposal, improvement by setting back the buildings for footpath/road widening could be recommended;

*Designate Building Gaps Based on Urban Design Considerations*

- (ii) with respect to R12's comment that building gaps should be designated based on urban design considerations in addition to AVA, the purpose of designating building gaps on the OZP was to improve air ventilation in the Area. Air ventilation was subject to a combination of factors, including site topography, man-made and natural settings, building form and disposition, BH and bulk, wind/view corridors, as well as prevailing wind directions. In designating building gaps, the above considerations as well as land uses and development/redevelopment potential of the affected sites had been duly taken into account;

*Inconsistent with the Town Planning Ordinance*

- (iii) R2 opined that designation of building gaps was inconsistent with the Ordinance and might be subject to legal challenge. According to legal advice provided by the Department of Justice (DoJ), 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. Designation of building gaps could serve a positive planning purpose and might have other positive planning benefits. Provided that the Board had the necessary and sufficient planning justifications, such designation could be a part of the planning control within the Board's powers;

*No Compensation*

- (iv) as the areas designated for building gaps were relatively small in

relation to the area of the sites, the building gap requirements on the OZP should not adversely affect development intensity of the concerned sites and the development potential of the sites would not be affected. Should these areas be rezoned to “O” or ‘Road’ as suggested by R2, land resumption would be involved and the development potential would be affected;

*Public Consultation*

- (v) it was an established practice that proposed amendments involving BHRs should not be released to the public prior to gazetting. The reason was that premature release of such information before exhibition of the amendments might prompt an acceleration of submission of building plans by developers to establish “fait accompli”, hence defeating the purpose of imposing the BHRs;
  
- (vi) 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 enabled the Board to seek representations and comments on the draft OZP. During the exhibition period, PlanD also provided briefings on the OZP amendments to C&WDC, HKTF of HC and local residents in three local consultation forums. The two-month statutory exhibition period was considered adequate for the public to express their views, while maintaining the efficiency of the process.

***Representations Relating to Specific Sites***

*Sites Covering HKU's Properties:*

*Yam Pak Building (Site A) ("G/IC", 8 storeys)*

*Ricci Hall and Ho Tim Hall (Site B) ("G/IC", 6 storeys)*

*Lady Ho Tung Hall and Starr Hall (Site C) ("G/IC", 140mPD)*

*Lindsay Ride Sports Centre and Flora Ho Sports Centre (Site D) ("G/IC", 4 storeys)*

*Lee Shau Kee Hall, Suen Chi Sun Hall and Morrison Hall (Site E) ("G/IC", 135mPD)*

*Pokfield Road Residences (Site F) ("R(B)", 120mPD)*

*Proposed student hostel at Lung Wah Street (Site G) ("R(B)", 150 and 160mPD)*

R3 : Against BHRs on HKU's properties

- (i) in the course of the review of the OZP, HKU submitted a campus development direction and strategy with some preliminary proposals to redevelop three sites along Pok Fu Lam Road, including Yam Pak Building (Site A), Ricci Hall (at Site B), Flora Ho Sports Centre and Lindsay Ride Sports Centre (Site D) for academic and hostel uses. The proposals were circulated to relevant government departments for comments and expert advice from the AVA consultants was also sought. There were concerns raised on such aspects as traffic, building height and bulk and setback requirement on the redevelopment proposals. Revised proposals and technical assessments would need to be submitted by HKU to substantiate their redevelopment proposals;
- (ii) imposing BHRs for "G/IC" sites, the established practice was to reflect the BH of existing and committed developments. As HKU's redevelopment proposals were still at a preliminary stage, both HKU and the Education Bureau (EDB) had been informed that the redevelopment proposals could not be incorporated in this round of OZP amendment. The BHRs for these three sites were mainly to reflect the BH of the existing developments. Subject to availability of revised and more detailed proposals, and with policy support from



EDB and acceptance by relevant government departments, the BHRs for these sites could be amended in future to cater for HKU's redevelopment proposals;

- (iii) the buildings at Site C (i.e. Lady Ho Tung Hall and Starr Hall) and Site E (i.e. Lee Shau Kee Hall, Suen Chi Sun Hall and Morrison Hall) were recently redeveloped in 2001 and 2005 respectively. As such, imposition of the BHRs to reflect the height of these existing buildings was considered appropriate;
- (iv) the current developments at Pokfield Road Residence (Site F) were 6 to 7-storey buildings (84.7mPD-86.6mPD) with a PR of about 2.4. The site was rezoned from "R(A)" and "G/IC" to "R(B)" given staff quarters were regarded as residential use. The BHR of 120mPD was imposed with a view to achieving a stepped BH profile from Pok Fu Lam Road to Pokfield Road. Compared with the existing development, the imposition of BHR of 120mPD under the "R(B)" zoning had already provided reasonable scope for redevelopment to cater for HKU's need for expansion in future;
- (v) the site at Lung Wah Street (Site G) had been granted to HKU for student hostel use in 2008. The BHR for the site generally reflected the height of the development under construction;
- (vi) deletion of BHRs for HKU's properties would result in proliferation of high-rise developments along Pok Fu Lam Road and Lung Wah Street, which might have adverse visual, air and traffic impacts on the area;

*China Merchants Wharf (CMW):  
Godown building portion ("I", 60 and 80mPD)( Site A)*

*Pier portion ("OU(Pier)", 1 storey) (Site B)*

R4 ] against BHR on CMW (Sites A and B)

R5 ] against BHR on CMW(Site A)

*For R4*

- (i) R4 commented that the BHRs imposed on the site was unreasonable and should be deleted. As the site was located right at the waterfront, the BHRs had been imposed with a view to ensuring a harmonious waterfront. The BHRs for CMW (60mPD and 80mPD for the western and eastern buildings respectively) were similar to the existing BH of the godown buildings (Site A), would create a BH variation for the long sea frontage. With the provision for redevelopment to the existing BH, the site was allowed to redevelop to 63.7mPD and 83.9mPD at the western and eastern portions, which were the maximum tolerable BHs at the waterfront setting;
- (ii) in formulating BHRs for the site, it had been ensured that the site would be able to accommodate the PR as permitted under the OZP and the lease. CMW, with existing GFA of 46,323.42m<sup>2</sup> and plot ratio of about 7.5, had been developed to the allowable intensity under the lease. While PlanD was aware of the owner's intention to rejuvenate the site for tourism related uses in the longer term, such uses within the "I" and "OU(Pier)" zones required planning permission from the Board. Regarding R4's argument that the BHRs would discourage the rejuvenation of the site, it should be noted that the incentive for redevelopment depended on many factors rather than BH alone. The site was right on the waterfront, and appropriate BHRs should be imposed to ensure that the future redevelopment would be compatible with the waterfront setting. Should the site be redeveloped for leisure and tourism-related uses, it should be planned in a comprehensive manner. As the land use of the western part of the Kennedy Town was subject to a land use review, the representer could submit the development proposals for the site for PlanD's consideration. Moreover, development of one storey was allowed under the OZP for the pier portion of the site, and this provided some design flexibility and scope for expansion;
- (iii) with respect to R4's argument that the BHRs of 188mPD to 215mPD would not breach the 20% to 30% building free zone in the Metroplan Guidelines, it should be noted that the representer had wrongly interpreted the meaning of the building free zone and estimated the permitted BH by reducing the height of Mount Davis (269mPD) by 20% to 30%. According to Metroplan

Guidelines, building free zone referred to the requirement that developments should not be permitted to obstruct visibility of the upper 20%-30% of elevation up to the ridgelines of the Hong Kong Island when viewed from the strategic vantage points. Two local vantage points were identified to assess the visual impacts of the BHRs. As shown on Plans H-8b and H-8c of the Paper, the BH proposed by the representer would result in a significant reduction in the visual permeability to the mountain backdrop of Mount Davis and the water body of Victoria Harbour from the two local vantage points;

R5

- (iv) R5 commented that the existing godown buildings were out of scale and proposed to lower the BHR for the “T” zone. It should be noted that the BHRs for the godown building portion of CMW had taken into account the height of the existing buildings and the need to maintain a relatively low BH in the waterfront area. Reducing the BHRs would pose undue constraints on future redevelopment and had adverse impact on the development right;

Sites bounded by Pokfield Path, Smithfield and Pokfield Road (“R(A)”, 120mPD)

R6 ] against BHRs

R7 ]

- (i) R6 and R7 commented that the BH bands failed to take into account the actual topography. The subject area was situated on a higher level of about 24mPD, the BHR of 120mPD was the same as the Kennedy Town residential cluster which was situated on a lower level of about 5mPD;
- (ii) it should be noted that the BHR of 120mPD imposed on the subject site and adjacent areas was mainly acting as a transition between the low height band (100mPD) on the waterfront and the higher height bands (140mPD to 160mPD) in the uphill area. The BHR of 170mPD for University Heights was to generally reflect the existing BH at specific site;
- (iii) given the site levels of about 17mPD to 28mPD at the subject site, the BHRs

of 120mPD would allow residential developments with absolute BHs of about 92m to 103m, which were similar to the absolute BHs allowed for other height bands of 100mPD, 140mPD and 160mPD within the “R(A)” zone. The absolute BH was equivalent to around 24 to 27 storeys above a 3-storey podium. This could well accommodate the development intensity as permitted on the OZP. As such, the BHR would not adversely affect the development intensity of the sites permitted under the OZP;

- (iv) R6’s and R7’s proposals to delete the BHR or revise the BHR to 140mPD were considered inappropriate;

***Grounds of Comments and Commenters’ Proposals***

- (k) the main grounds of comments and commenters’ proposals were summarised in paragraph 5.3 of the Paper and highlighted below:

***Redevelopment Potential***

- (i) C1-C12 supported R2’s view that BHRs set too low would unnecessarily constrain the provision of good quality development. Their objections were relating to the rezoning of No. 2 and 6-10 Mount Davis Road from “R(B)” to “R(C)2” with PR restriction of 0.75, SC of 25% and BHR of 3 storeys, and rezoning the adjacent sites at No. 2A Mount Davis Road (Greenery Garden) and No. 4 Mount Davis Road (Four Winds Apartments) from “R(B)” to “R(B)1” with PR of 3 and BHR of 160mPD. They were of the view that it was illogical and inequitable to have different PR and BHRs for their sites and the neighbouring sites at No. 2A and 4 Mount Davis Road. Their property value had been significantly reduced without prior consultation and any form of compensation;
- (ii) it was inappropriate to impose BHRs to reflect the existing development intensity at the sites and under the lease conditions, or on the basis of Pok Fu Lam Moratorium (PFLM) which was a temporary administrative measure;
- (iii) C1-C12 suggested to rezone the sites at No. 2 and 6-10 Mount

Davis Road to “R(B)1” with a maximum PR of 3 and a maximum BH of 160mPD;

Spot Zoning Approach

- (iv) the BHRs constituted a form of “spot” zoning which was inappropriate and unlawful (C11 & C12);

Public Consultation

- (v) C1-C12 opposed the rezoning of the sites without prior consultation. C10 also opposed the Board’s refusal to recognize the prior representation from the owners at Mount Davis Village on the basis that it was received two days late.

***Responses to Grounds of Comments and Commenter’s Proposals***

- (l) the main responses to the general grounds of comments and commenters’ proposals were summarised in paragraph 5.4 of the Paper and highlighted below:

Redevelopment Potential

Rezoning of No. 2 and 6-10 Mount Davis Road to “R(C)2”

- (i) the concerned sites were located at the foothill of Mount Davis with a green natural setting. The existing developments at Mount Davis Road were predominantly low-rise residential buildings (1 to 4 storeys). The planning intention for the area was to maintain a low BH profile and development intensity along Mount Davis Road so as to preserve the high landscape value and the local character;
- (ii) the development intensity allowable under the lease had been taken into account in formulating the development restrictions for the sites. Rezoning of the sites to “R(C)2” with PR restriction of 0.75, SC restriction of 25% and BHR of 3 storeys would not adversely affect the lease entitlements. PFLM was not one of the considerations in the imposition of the restriction;

- (iii) the rezoning of the sites to “R(C)2” reflected the planning intention to maintain a low-rise neighbourhood along Mount Davis Road so as to preserve the local character and high landscape value. This would also achieve a compatible development profile with the adjacent “R(C)3” sites on the opposite side of Mount Davis Road, which were subject to basically the same development restrictions under the Pok Fu Lam OZP. To cater for site-specific circumstances and schemes with planning and design merits, there was provision for minor relaxation of the BHR and each application would be considered on its individual merits;
  
- (iv) TD advised that higher development intensity at Mount Davis Road would have adverse traffic impact given the limited capacity of the narrow 2-way 2-lane single carriageway of Mount Davis Road and the busy junction at Pok Fu Lam Road/Smithfield;

Rezoning of No. 2A and 4 Mount Davis Road to “R(B)1”

- (v) No. 2A and 4 Mount Davis Road had been developed into four 18-storey residential blocks and a 13-storey residential building (both including 1 storey of car park) by technical modification and lease modification in 1980s and 1960s respectively. Rezoning of No. 2A and 4 Mount Davis Road to “R(B)1” with PR restriction of 3 and BHR of 160mPD had taken account of the lease entitlements

Spot Zoning Approach

- (vi) according to legal advice provided by DoJ, 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. On that basis, the Board had the powers to impose BHRs on individual sites or for such area within the boundaries of the OZP if there were necessary and sufficient planning justifications. From the planning perspective, the imposition of BHRs was considered justified as it could provide better planning control on the BH of development/redevelopment and avoid

out-of-context development;

Public Consultation

(vii) with respect to C10's objection to the Board's refusal to recognize the prior representation, it should be noted that representations submitted after the expiration of the specified public inspection period should be treated as not having been made as stated in the Ordinance;

(m) PlanD's view : the support of R1 and R8 (Part) for the imposition of BHRs and building gaps was noted. The comments submitted by R9-R11 on the redevelopment potential and R12's comment on built form were noted. Based on the assessments in paragraph 4 of the Paper, the representations of R2 to R8 (Part) should not be upheld.

43. The Chairman then invited the representers, representer's representatives and commenter to elaborate on their submissions.

Representation No. 1 : Designing Hong Kong Limited

44. Ms. Eva Tam, the representative of R1, made the following main points:

- (a) traffic congestion was one of the prominent problems in the area. The Board should urge the relevant government departments to undertake a comprehensive traffic study for the area. The findings of the study should be reflected in the future planning of the area;
- (b) Kennedy Town had a large population of elderly people. The proposed rezoning of the "G/IC" sites to "U" zoning would affect the provision of the community facilities and services for the elderly. The "G/IC" sites should be retained unless there were study findings to demonstrate that there were sufficient provision of community facilities and services for the elderly in the area; and
- (c) it was noted that the western part of Kennedy Town was subject to a land

use review. Temporary measures should be adopted to enhance the aesthetic value of the “U” sites, such as gardening and planting, to strengthen the community’s sense of attachment.

Representation No. 2 The Real Estate Developers Association of Hong Kong (REDA)

45. With the aid of some photographs and plans shown at the visualizer, Mr. Ian Brownlee, the representative of R2, made the following main points:

- (a) R2 was concerned about the general issues affecting the broad interests of Hong Kong as a whole and the interests of maintaining a fair, efficient and sustainable urban development system. The representation was not related to any particular site;

Out of Context Buildings

- (b) REDA did not oppose the imposition of BHRs in principle but opposed the BHRs that had been set so low which resulted in a poor living environment;
- (c) there was no need to set the BHRs so low at 100mPD to protect out of context buildings. Low buildings were bulkier and would block light and ventilation;
- (d) the existing built context in the Area was consistent without many ‘out-of-context’ buildings. The Area was not within the views of the seven recognised view points. A slightly higher BHR of 120mPD to 140mPD could be allowed as illustrated in Plan H-8b;
- (e) in formulating the BHRs, PlanD had not taken into consideration the adverse impact on private urban renewal initiatives. One example was the BHR for the Merton, which was a URA project with planning merits. With the imposition of a BHR of 120mPD, it was impossible to redevelop the site with the provision of open space, which was a planning merit;



- (f) the Board/PlanD had not provided the assumptions on formulating the BHRs proposed in the OZP. It was stated in paragraph 7.2 (c) of the Paper that ‘the proposed BHR would have no adverse impact on the development intensity permitted under the OZP and property value in general’. However, no information had been provided to support the statement;

#### SBD Guidelines

- (g) SBD Guidelines were relevant matters to be considered by the Board. These guidelines were means to ensure greater permeability in the building mass of Hong Kong and were particularly relevant to Kennedy Town;
- (h) GFA concessions were an incentive to build better buildings. The Guidelines were generally applicable to the whole area and would have great benefit. A general increase of the BHRs by about 20m in the Area would enable the provision of set-backs and greenings for buildings, and enhance permeability in the building mass. The BHRs were too low to accommodate the SBD requirements;
- (i) PlanD argued that the SBD Guidelines were not relevant. However, it was stated in paragraph 4.4.3(b) of the TPB Paper that ‘incentive has been provided by the SBD Guidelines to encourage basement car park with greater concession’;
- (j) SBD Guidelines were relevant and should be encouraged by the Board. This should be taken into account in setting the BHR. R2 requested to meet jointly with PlanD and other professional groups to have a better understanding of the technical basis for setting the BHRs generally and the implication of SBD Guidelines on BHRs;

#### Relaxation of BHRs by 20m

- (k) the proposed 20m increase in BH profile was acceptable in terms of

visual impact. The Area was not within any of the recognised important viewpoints from the Harbour. Increase of 20m would not have a significant negative effect as many buildings were already taller than the BHRs imposed on the OZP by 20m;

#### Air Ventilation Assessment

- (l) according to the AVA report, there was no particular AVA issue in this Area. R2 challenged the whole basis of the EE approach. There was no detailed information to justify a specific restriction such as the building gaps. There was no discussion on the impacts of not providing the building gaps or provision of other alternatives;

#### Lack of Consultation

- (m) there was no prior consultation on the proposed amendments to the OZP. Consultations after gazetting of the amendments had not resulted in any recommendation for revising the proposed amendments;
- (n) R2 opposed the approach adopted in imposing the different BHRs for sites along Mt. Davis Road in relation to Amendment Items B3 - B5. No justifications had been provided for imposing different PRs and BHRs on these sites. The Board should adopt a broad and consistent planning approach in setting the development restrictions;

#### Proposals

- (o) the Board should defer a decision on the representations and request PlanD to provide details of the assumptions in setting BHRs and to re-assess the BHRs by taking the SBD Guidelines into account; or increase the height bands within the Area by 20m generally;
- (p) to delete the building gaps imposed; and
- (q) to conduct a consultation on the proposed amendments to the OZP.

Representation No. 3 : HKU

46. With the aid of a Powerpoint Presentation, Professor J.G. Malpas and Mr. Robert Lam, the representatives of R3, made the following main points:

- (a) in the 2009/2010 Policy Address, the Chief Executive stated that Hong Kong should develop an education hub in the region. HKU, as one of the top-ranking universities in Asia and worldwide, should maintain her status by academic growth;
- (b) it was estimated that HKU would have 25,500 students at 2012/2013. The average non-residential space per student was 35m<sup>2</sup> in research-led universities in North America, Australia and UK. Based on this average figure, the total non-residential area for HKU students should be 892,500m<sup>2</sup> compared to the provision of 448,000m<sup>2</sup> in 2012/2013. Hence, there was a serious shortfall of 444,500 m<sup>2</sup> (gross);
- (c) limited space for development would constrain the achievement of HKU for further excellence;
- (d) there was a great demand of space for academic purposes due to the change of curriculum to four years, changes in pedagogy, new research directions, more multi-disciplinary research activities, and more collaboration with other local and international institutions;
- (e) there was a great demand of space for providing student residences due to the new curriculum, increasing number of non-local students and research postgraduates;
- (f) there was a great demand of space for sport facilities;
- (g) due to the shortage of space, some offices which had been located off-campus would have to remain off-campus. When constructing the Centennial Campus, an existing reservoir had to be relocated inside a cavern to make space for the development. This had significant

financial implication ;

- (h) the Government had advised HKU that no new land would be available for academic development on HK Island. HKU had seriously reviewed its land holdings and determined that significant redevelopment would need to take place on its own sites;
- (i) three sites, namely, Ricci Hall site, Yam Pak Building site, and Flora Ho and Lindsay Ride Sports Centre site, were located close to the HKU main campus. There were no restriction on GFA and building height on these three sites before. The Ricci Hall fell within the same “G/IC” zone as Starr Hall and Lady Ho Tung Hall, which had building heights of over 20 storeys;
- (j) in the past years, HKU had rationalized and optimized its sites where possible. Future development would be carried out on these sites taking into account infrastructure, visual and ventilation issues, and public concerns;
- (k) HKU would engage all relevant stakeholders such as the Government, District Council, the local community, students and staff, Alumni and the general public in working out the development proposals. The development of the Centennial Campus was a good example;

#### Yam Pak Building Site

- (l) it was proposed that the BHR be relaxed to 120mPD. Taking into account the comments of PlanD on the previous preliminary development proposal, R3 had reduced the proposed BH from 140mPD to 120mPD. The photomontage in the Powerpoint presentation showed that that the proposed redevelopment complied with the stepped BH concept with the dominant buildings of The Belcher’s (over 200mPD) at the back, the Centennial Campus with 140 to 160mPD to the south of the Site. The building would provide academic space for the development of the Engineering Faculty to run courses like the

‘bio-engineering’ and ‘bio-medical’ courses ;

Flora Ho and Lindsay Ride Sports Centre Site

- (m) the site would be redeveloped into two building blocks which would be for the Faculty of Architecture Building and Faculty of Education Building respectively. Taking into account PlanD’s comments, the proposed building blocks had been re-positioned to have a building separation of 15m. This would enhance the visual permeability and air ventilation in the area. The proposed development also complied with the SBD Guidelines. The existing sports facilities would be reprovisioned at the rear of the Site. The proposed building height of 140mPD was in-line with the building heights of the surrounding developments, in particular the University Heights which was 194mPD, the King Court of 170mPD and the Academic Terrace of 152mPD;

Ricci Hall Site

- (n) in view of PlanD’s comments, R3 had revised the built form of the redevelopment from linear to ‘square-shape’ building. This would enhance visual permeability and air flow in the site. The proposed building would provide residential dormitory for 598 students. The proposed BH of 140mPD was in-line with the building height profile of the area and Centennial Campus of 140mPD;
- (o) relaxation of BHR for these sites was supported by the Secretary of Education and would not have any adverse visual and air ventilation impacts. R3 requested the Board to relax the BHR for the Yam Pak Site from 8 storeys to 120mPD, the Flora Ho and Lindsay Ride Sport Centre Site and the Ricci Hall Site from 4 storeys and 6 storeys respectively to 140 mPD.

Representation No. 4 China Merchants Steam Navigation Co. Ltd.

47. Mr. Lawrence Li, the representative of R4, made the following main points:

- (a) the China Merchants Wharf (CMW) comprised two portions, the

godown building portion (with a BHR of 60/80mPD) and the pier portion (with a BHR of one storey). There was a lack of vacant land in Hong Kong's core business districts to meet the growing demand for office space. That was why the Government was drawing up development strategies for East Kowloon. Being located in Kennedy Town which was the urban core, the CMW Site had great redevelopment potential. However, the BHRs imposed on the Site only reflected the building heights of the existing developments. This approach failed to take into account the redevelopment potential of the Site and the changing needs of society;

- (b) the area adjacent to the Site had been progressively changed from industrial uses to residential developments. It was noted that the western part of the Kennedy Town was under an ongoing land use review. A number of "G/IC" sites had been rezoned to "U" without any BHR pending the completion of the land use review. The CMW Site was the core of the review area and the imposition of a stringent BHR at this stage was not beneficial to the overall planning of the area;
- (c) it was noted that the redevelopment proposal of the site would be taken into account in the overall consideration of the long-term development of the western part of Kennedy Town;
- (d) the submission of R4 in respect of the building free zone was to demonstrate that high-rise developments up to 188mPD and 215mPD on the site would not have any adverse visual impact. However, R4 did not have any intention to redevelop the CMW site to 188mPD and 215mPD. The relatively large area of the Site (about 140,000ft<sup>2</sup>) would allow design flexibility to ensure that the future redevelopment of the Site would be compatible with the waterfront setting. As such, there was no need to impose the stringent BHRs on the Site.

48. Mr. Chan Hok Fung, a Central and Western District Councillor and the representative of R8, made the following main points:

- (a) R8 supported the imposition of BHRs, but considered that they should have been imposed earlier. The Area was subject to great development pressure since it had many old and low-rise buildings which had high redevelopment potential and the West Island Line would be extended to the area in 2014. The supporting infrastructure and community facilities could not meet the increasing population. BHRs should have been imposed earlier to provide planning control;
- (b) Kennedy Town was an old residential district occupied by high-rise buildings along narrow streets, e.g. the Belcher's Street. The heavy vehicular traffic in the streets had created air pollution and ventilation problems. Redevelopments should be required to set back from the lot boundary of the sites for better air ventilation and footpath widening;
- (c) it was unreasonable to rely on the Buildings Department to impose set back requirement upon receipt of redevelopment proposal. PlanD should undertake a comprehensive review for the whole District and impose set back requirements at appropriate locations;
- (d) it was unfair to impose a BHR of three storeys on No. 2 and 6 - 10 Mount Davis Road, while the adjacent "G/IC" site had a BHR of 8 storeys. The proposed columbarium use on the GIC site would have adverse traffic impacts on Mount Davis Road and Pokfulam Road. The feasibility of the proposed columbarium was not supported by any technical assessment; and
- (e) R8 requested the Board to impose setback requirement on Belcher's Street; and delete the BHR of 8 storeys on the "G/IC" site to the east of Chiu Yuen Cemetery.

49. Members noted that Mr. Chong Wing Fai, R10 and a member of the Democratic Party, tabled a written submission from R9 (Office of Democratic Party (Kam Nai Wai, Yeung Ho Yin, Wong Kin Shing, Ho Chun Ki, Cheng Lai King, Yuen Bun Keung), R10 and R11. Mr. Chong Wing Fai made the following main points:

- (a) the imposition of BHRs was supported so as to improve the air ventilation and quality of the environment; and
- (b) it was noted with concern that development schemes with approved building plans exceeding the BHRs would not be affected by the imposition of BHRs. R10 had reservation on this approach as this would prompt the submission of building plans by developers even they had not yet acquired the concerned sites to establish 'fait accompli'. This would defeat the purpose of imposing the BHRs.

Comment No. 11: The Incorporated Owners of No. 6 & 10 Mount Davis Road

Comment No. 12 : The Trustees of the Church of England.

50. With the aid of a Powerpoint presentation, Mr. Ian Brownlee, the representative of C11 and C12, made the following points:

- (a) the commenters were in support of R2 and related to Amendment Items B3, B4 and B2;
- (b) the down-hill side of Mount Davis Road were zoned "R(C)3", with a maximum building height of 3 storeys and a PR of 0.75 under the Pok Fu Lam OZP. The development restrictions were imposed with a view to preserving public views from Mt Davis Road. As reflected in most of the OZPs covering the southern part of Hong Kong Island, the long-term planning intention for the sites on the down-hill side of major roads (Mt Davis Road, Pokfulam Road, Repulse Bay Road, etc.) were for low-rise developments, whereas the sites located on the up-hill sides were for medium-density developments;



- (c) the up-hill side of Mount Davis Road was zoned “R(B)” since the first Kennedy Town and Mount Davis OZP gazetted in 1986. The planning intention of taller buildings on the up-hill side and lower buildings on the down-hill side had been a development policy;
- (d) the rezoning of No. 2, 6 -10 Mount Davis Road (the concerned sites) to “R(C)2” was unfair and inconsistent with the requirements of the Ordinance that the Board should take a broad approach in designating the appropriate zonings for the sites. There was no adequate reason for the zoning amendments;

#### The Pok Ful Lam Moratorium

- (e) as indicated in the MPC Paper No. 2/11 (paragraphs 10.7 and 14.2) and the TPB Paper No. 8952 (paragraph 5.2.2), the Pok Fu Lam Moratorium was a relevant consideration in relation to the zoning amendment. However, the Moratorium was a temporary traffic and land administration measure. The zoning on the OZP represented the long-term planning intention of the site, i.e. medium-density development of “R(B)” zone;
- (f) the owners of the concerned sites had reasonable and legitimate expectation that the Moratorium would eventually be lifted and that they would be able to proceed to redevelop their properties as per “R(B)” zoning. It was inequitable that whilst redevelopment of the concerned sites was held up due to the Moratorium, the Moratorium had been partially lifted to allow the Cyberport development to proceed;

#### Lease Conditions

- (g) the Moratorium and the existing leases had been the determining factors that the existing old buildings on the concerned sites had not been redeveloped;
- (h) PlanD had taken the lease restrictions as the sole basis for imposing the

development restrictions on the sites. The leases, however, reflected the outdated historical situation on the site, rather than the long-term planning for the sites. Under the previous OZP, the long-term planning intention for the sites was a medium-density residential development under the “R(B)” zoning;

#### Character of the Area

- (i) the building heights of the adjacent developments, i.e., Four Winds Apartments and Greenery Garden, were 13 and 18 storeys respectively. The sites to the west had also been redeveloped to 10 to 21 storeys. The dominant form of development in the area was medium-rise development of 10 to 21 storeys. The concerned sites were the only low-rise development in the area;
- (j) the 160mPD BHR imposed on the Four Winds Apartments site and the Greenery Garden site was taller than the existing building heights, i.e. 144.9mPD and 148.7mPD respectively;
- (k) the low-rise character of the down-hill sites could be maintained through the existing “R(C)” zoning on the Pok Fu Lam OZP. There was no need to change the planning intention and development restrictions on the concerned sites;

#### Landscape Value

- (l) the rezoning of the concerned sites to “R(C)2” had no relevance to the landscape character of the area. The sites were private land and were developed for residential purposes. The high landscape value of the general area was derived from the green mountain backdrop of Mount Davis;
- (m) in imposing the development restrictions, PlanD made reference to the Metroplan Landscape Strategy which was an outdated proposal prepared in the 1980’s and was not a statutory document. A more relevant and recent reference was the “Landscape Value Mapping of

Hong Kong Technical Report No. 5” 2005. In the report, ‘Residential Urban Fringe Landscape’ referred to, amongst others, ‘residential landscapes characterised by intermittent tall residential towers on steep hillsides, with winding roads, interspersed by wooded hillsides, e.g. Robinson Road, Conduit Road, Pokfulam’. This covered the Four Winds Apartments, Greenery Garden and the concerned sites;

#### Traffic

- (n) in the planning application submitted in relation to the redevelopment of the Ebenezer School site, a traffic impact assessment had been undertaken. The assessment indicated that the Pok Fu Lam Road had no significant traffic problem;
  
- (o) PlanD had not provided any traffic or transport study to support the rezoning amendments. According to paragraph 5.4.3 of the TPB Paper, TD advised that a higher density of developments on the concerned sites would have adverse traffic impact on the busy junction at Pokfulam Road. It was noted that the subject junction had recently been up-graded and the concerned site had been zoned “R(B)” under the previous OZP;

#### Inconsistent Zonings

- (p) it was unfair to impose different zonings and development restrictions on sites with similar characteristics. The previous approach of having all the uphill sites on Mount Davis Road zoned “R(B)”, with the same development rights and restrictions, was appropriate;
  
- (q) the rezoning of the concerned sites to “R(C)2” would result in an unreasonable reduction of development intensity and building height. The imposition of a BHR of three storeys on the site would result in the creation of an incompatible building height profile. The low-rise developments on the concerned sites was incompatible with the other medium-rise developments along Mount Davis Road;

- (r) the rezoning had placed an unreasonable level of control on the private lots without any justifiable public benefit. It would result in the loss of high-quality residential development; and
- (s) C11 and C12 requested the Board to rezone their sites to the original “R(B)” zoning as allowed for the adjacent sites.

Comment No.3 : Welgett Tree Limited

Comment No. 11 : Incorporated Owners of Nos. 6 & 10 Mount Davis Road

51. With the aid of a Powerpoint presentation, Mr. Ronald Taylor, the representative of C3 and C11, made the following main points:

- (a) No. 2 and 6 -10 Mount Davis Road (the concerned sites) were located in an area of high-rise development at the uphill side of Mount Davis Road;
- (b) the only justification given in the MPC Paper No. 2/11 for rezoning the sites from “R(B)” to “R(C)2” was to maintain the existing building heights in the immediate area. No reason had been given as to how the “high landscape value” of Mount Davis would be adversely affected by a development under the “R(B)” zoning. A BHR of 160mPD allowed for the adjacent Greenery Garden and Four Winds Apartments would result in a further increase of building heights of these two developments by 11 metres and 15 metres respectively. This was against the planning intention put forth by PlanD;

Traffic - Mount Davis Road

- (c) the traffic flow along Mount Davis Road was low. There was no traffic study to support the rezoning amendment. There was no assessment to demonstrate that the Mount Davis Road could not accommodate the traffic generated by a “R(B)” development on the concerned sites;

Traffic – Junction of Pokfulam Road

- (d) the design of the junction should have taken into account the scale of development as permitted under the OZP, i.e. a “R(B)” development. There was no basis for rezoning the sites to “R(C)2” on traffic grounds;

#### Pok Fu Lam Moratorium

- (e) the Pok Fu Lam Moratorium was imposed in 1972 as a short-term measure, pending the completion of the relevant transport infrastructure improvements for the area. Since then, the Aberdeen Tunnel had been opened, Pokfulam Road had been widened from two lanes to four lanes and the new road along the waterfront with connections to Pokfulam Road had been built;
- (f) the Moratorium was out of date and should have been lifted. There was no information on the latest position in respect of the Moratorium. Partial lifting of the Moratorium for the Cyberport development had undermined the reasons for retaining the control. The failure to lift the Moratorium had a material impact on the development of the sites;

#### Property Value

- (g) in 1996, it was estimated that if the site could be redeveloped to a plot ratio of 3, the value of the lot would be increased by 25% (after the payment of land premium). Property values had increased significantly since then and the difference now would be in the order of \$150 to \$200 million. The redevelopment could not proceed at that time as a result of the Pok Fu Lam Moratorium;
- (h) there was no consultation on the rezoning amendment. There was a notice posted by the District Office stating that there was a consultation workshop to solicit views on the draft Kennedy Town and Mount Davis OZP. There was no indication in the notice that the draft OZP had already been gazetted and that the time for submitting representation would expire in seven days from the date of the workshop. The notice prepared by the District Officer wrongly indicated that no amendment

had been made for the concerned sites. The District Office had tendered its apology for the misleading information. The representations submitted after the statutory publication period were treated as invalid; and

Proposal

- (i) the Board was requested to rezone the concerned sites to its original “R(B)” zoning with a PR of 3.

[Mr. P.P. Ho left the meeting at this point.]

Comment No. 10 : Alexander Schrantz & Jayne Kim Schrantz

52. With the aid of a Powerpoint presentation, Mr. Alexander Schrantz, C10, made the following main points:

- (a) the comments were related to No. 6-10 Mount Davis Road;
- (b) according to the MPC Paper No. 2/11 (paragraph 10.7), ‘in view of the high landscape value and the predominantly low-rise neighbourhood on both sides of Mount Davis Road, the existing BH profile should be maintained.’. It was only due to these two reasons that the site was rezoned from “R(B)” to “R(C)2” ;
- (c) the area was not a predominantly low-rise neighbourhood. The Four Winds Apartments and Greenery Garden, with the building heights of 145mPD and 149mPD, were medium-rise developments. There were 11 medium-rise residential blocks and towers along Mount Davis Road. The character of the area should properly be described as medium-rise on the uphill side and low-rise on the downhill side of Mount Davis Road;

High Landscape Value Not Meant ‘As-built’ Forever

- (d) the concerned sites were not visible in the view fan of the seven strategic vantage points identified in the Metroplan Landscape Strategy. They

were also not visible from the two additional local vantage points selected by PlanD for evaluating visual impacts of the BHRs imposed on the OZP. A medium-rise development on the site would be compatible with the adjacent developments. Retaining the “R(B)” zoning would not impair the landscape value and was not in conflict with the stated urban design principles;

#### Rezoning Amendment was Unfair

- (e) it was stated in the TPB Paper No. 8952 that the BHRs on the OZP were stipulated to prevent development of excessively tall buildings or buildings that would be incompatible with the surrounding environment. The original “R(B)” zoning for the concerned site would not result in excessively tall buildings or buildings incompatible with the surrounding area;
- (f) it was also stated that in imposing the BHRs, due regard had been given to the PR of the development sites permitted under the OZP. However, the proposed rezoning had resulted in a reduction of the development intensity of the site by 80%;
- (g) the rezoning amendment had significant adverse impact on the private owners as compared to the minimal, if any, impact on the landscape and character of the area;

#### Inconsistent Amendments

- (h) the adjacent sites were allowed to have higher BHRs than their existing building heights, such as Greenery Garden, Four Winds Apartments, and St. Clare’s School. The subject site was however restricted to 3 storeys and a PR of 0.75;

#### Rezoning Not Justified

- (i) the lease of the site was entered into in 1970. Subsequently, the Pok Fu Lam Moratorium came into effect as a temporary measure. There were, however, no changes to the zoning of the site. The first

Kennedy Town and Mount Davis OZP was gazetted in 1986 and at that time the lease had already existed for 16 years. The site and its adjacent areas was zoned “R(B)” despite different lease conditions;

- (j) the Metroplan Landscape Strategy was prepared in 1989. There was no change to the zoning of the site in the last 22 years; and
- (k) there was no justification to support that the existing as-built conditions should be retained. There should be other alternatives to allow suitable redevelopment of the site to a PR of 3. Rezoning the site to “R(C)2” seriously affect the redevelopment of the site.

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

53. As the presentations from the representers and the representatives of the representers and commenters had been completed, the Chairman invited questions from Members.

#### *BHRs and SBD Guidelines*

54. In response to a Member’s enquiry on the SBD Guidelines, Mr. Ian Brownlee said that the SBD Guidelines were introduced to achieve better building designs and they should be taken into account in setting the BHRs. Both the OZP amendments and the SBD Guidelines had the same or similar objectives of achieving a quality living environment. However, the BHRs imposed on the OZP were set too low that the SBD Guidelines could not be implemented. Mr. Brownlee said that the Board should review the criteria used in formulating the BHRs and the impacts of the BHRs on the implementation of the SBD Guidelines.

55. This Member asked whether the SBD Guidelines were mandatory requirements. Ms. Brenda Au replied that the SBD Guidelines set out the prerequisites for granting GFA concessions such as building separation, building set back, and site coverage for greenery, etc. The SBD Guidelines were not mandatory but were administrative measures. They could only be applicable for the granting of GFA concessions under the Buildings Ordinance (BO). Developers could choose not to apply for GFA concessions and in such



cases the SBD Guidelines would not be applicable.

56. Another Member noted that R2 requested the Board to allow a general increase of the BHRs by 20m. This Member enquired about the basis for the proposed relaxation. Mr. Ian Brownlee said that the '20m' relaxation was worked out by REDA based on their representations submitted in relation to the BHRs imposed on various OZPs, such as Mong Kok, Causeway Bay, Wan Chai, Ngau Tau Kok and Kowloon Bay, etc. REDA had no information on the assumptions adopted by PlanD in formulating the BHRs. However, by relaxing the BHRs by 20m, the desirable SBD features could generally be implemented in the development scheme without the need to submit a s.16 application for minor relaxation. If the request was considered unacceptable, the Board could defer the consideration of the representations and request PlanD to discuss with the stakeholders on their working assumptions and assess whether relaxation of the BHRs was required in order to take into account the SBD Guidelines.

*Proposed Redevelopment of three HKU Sites*

57. A Member asked whether HKU had explored the possibility of obtaining new sites for development. Professor J. G. Malpas said that HKU had made great effort in the last 10 years in securing new sites for development. Two small pieces of land at Hospital Road and Mui Fong Road had been granted to HKU for development. However, the Government had advised HKU that no further new land would be available for academic development on HK Island. With the support of the relevant government bureaux, HKU was exploring the potential of redeveloping three less developed sites, namely, the Yam Pak Building site, the Ricci Hall site and the Flora Ho Sports Centre and Lindsay Ride Sports Centre site.

58. A Member noted that R3 requested the Board to relax the BHRs imposed for these three sites. This Member asked whether there was any planning and design merits that had been incorporated in the development schemes to justify the proposed relaxation. Mr. Robert Lam said that the revised development schemes would comply with the SBD Guidelines. By relaxing the BHRs, the building towers would be taller and slimmer and this would enhance visual permeability and air ventilation for the area.

59. The Chairman asked whether the proposed building height was the sole concern

in assessing the redevelopment proposals submitted by R3. Ms. Brenda Au said that in the course of reviewing the OZP, HKU had submitted some preliminary proposals to redevelop three sites and discussed with PlanD. These proposals had been circulated to relevant government departments and bureaux for comments and expert advice from the AVA consultants was also sought. There were concerns regarding traffic, air ventilation and setback requirements. As an increase in building heights for the redevelopment schemes would have implications on the development scale and, hence, the traffic impact, HKU would need to submit revised proposals and technical assessments such as traffic impact assessment to substantiate their redevelopment proposals. In their presentation at the meeting, HKU's representatives indicated that their redevelopment proposals had been revised with reduced building heights. However, due to the lack of detailed information and comments from relevant government departments and bureaux, it was considered premature to accept the revised development proposals at this stage. Subject to availability of more detailed information on these proposals, and with policy support from EDB and acceptance by relevant government departments, the BHRs for these sites could be amended in future to cater for HKU's redevelopment proposals.

60. Mr. Robert Lam said that the relevant government departments generally supported the development proposals submitted by R3. The proposed redevelopment would unlikely have significant traffic impacts as most of the staff and students would make use of the public transport facilities. As there was a pressing need to take forward the redevelopment proposals, R3 requested the Board to relax the BHRs for the three sites. To address the concern on adverse traffic impact, the Board could impose a condition that the BHR relaxation was granted subject to the provision of appropriate traffic mitigation measures.

#### *Development Intensity/Property Value*

61. In response to the Chairman's enquiry, Ms. Brenda Au said that in formulating the BHRs, it had been ensured that the development sites would generally be able to accommodate the development intensity as permitted on the OZP. There might be a certain situation that the imposition of development restrictions such as building gap would affect the disposition and layout of the development. This might possibly have some impact on the property value. However, the BHRs were imposed to provide better planning control to meet public aspirations for better living condition and hence for public

good. The lack of building height control would result in a proliferation of out-of-scale tall buildings causing adverse air ventilation and visual impacts on the area.

62. Mr. Ian Brownlee said that it was unlikely that any down-zoning or imposition of BHRs would not have any adverse impacts on the property value of the site. No information had been provided by PlanD to support its comments that the OZP amendments would not affect property value of the concerned sites, although ‘property value’ might not be a relevant consideration to be taken into account in reviewing the OZP.

#### *Spot Zoning*

63. In response to a Member’s enquiry on the recent High Court judgment on two JRs in respect of ‘spot zoning’, Mr. Ian Brownlee said that the subject matter for the two JRs was the 800 car parking spaces which were considered as a public asset for use by the community. However, the sites at No. 2 and 6 -10 Mount Davis Road were private land. Under the previous OZP, these two sites and the adjacent areas, namely, Four Winds Apartments and Greenery Garden, were all under “R(B)” zoning with the same development restrictions. The concerned sites were not redeveloped to the development intensity permitted under the “R(B)” zone due to the Pofulam Moratorium. As such, the crux of the matter of the concerned sites was different from that of the two JRs. It was unfair to rezone the sites to “R(C)2” subject to maximum building height of 3 storeys whereas the adjacent two sites were imposed with a BHR of 160mPD.

#### *“G/IC” site near Chiu Yuen Cemetery*

64. In response to the comments submitted by R8 on the BHR imposed on the subject “G/IC” site, Ms. Brenda Au said that the use of the “G/IC” site had not yet been confirmed at this stage. In view of the fact that there was a shortage of school sites in the area, a BHR of 8-storey which was the building height of a standard school was imposed. Regarding the proposed columbarium use, it was not permitted under the “G/IC” zoning. Should the site be considered suitable for columbarium use after technical study in the future, the rezoning of the site would still be required. The relevant stakeholders would be consulted on the columbarium proposal (including the BHR) at that stage.

#### *Set-back Requirement*

65. The Chairman asked whether R8’s comments that it was unreasonable for

PlanD to rely on the Buildings Department to impose set back requirements along Belcher's Street upon receipt of redevelopment proposal was valid. Ms. Brenda Au replied that according to the AVA, the air ventilation performance of the Area was generally satisfactory. Therefore, incorporation of setback requirements at street level for improving air ventilation was considered not absolutely necessary for the Area. In reviewing the OZPs, PlanD had been working closely with TD in setting the appropriate development restrictions. Setback requirements had been imposed in some other OZPs, such as the Causeway Bay OZP, to improve the pedestrian walking environment. TD had advised that there was currently no comprehensive road widening scheme in the northern part of Kennedy Town. However, upon receipt of redevelopment proposal, improvement by setting back the buildings for footpath/road widening could still be recommended to Buildings Department for consideration where necessary.

*Rezoning of No. 2 and 6 – 10 Mount Davis*

66. The Chairman asked whether rezoning the sites at No. 2 and 6-10 Mount Davis Road to "R(C)2" was mainly due to the traffic concerns. Ms. Brenda Au said that as set out in the TPB Paper, Pok Fu Lam Moratorium was not one of the considerations in the imposition of the restrictions and so the commenter's allegation that it was inappropriate to impose BHRs based on the temporary administrative measures of Pok Fu Lam Moratorium was irrelevant. By referring to a photograph, Ms. Au said that the rezoning of the sites to "R(C)2" mainly reflected the planning intention to maintain a low-rise neighbourhood along Mount Davis Road so as to preserve the local character and high landscape value. With respect to the commenters' proposal to rezone No. 2 and 6-10 Mount Davis Road to "R(B)1" with plot ratio restriction of 3 and BHR of 160mPD, TD had advised that higher development intensity at Mount Davis Road would have adverse traffic impact given the limited capacity of the Mount Davis Road and the busy junction at Pok Fu Lam Road/Smithfield. Besides, it would affect the effectiveness of the planning intention to preserve the landscape value and low-rise character of the neighbourhood.

67. Ms. Brenda Au continued to state that apart from the planning intention, the development intensity allowable under the lease had also been taken into account in formulating the development restrictions for the sites. No. 2 Mount Davis Road was subject to a maximum building height of 3 storeys and a maximum roofed area of 25 % under the lease. For No. 6-10 Mount Davis Road, development was subject to a maximum

roofed over area of 30% for 2-storey and 25% for 3-storey buildings. Rezoning these two sites to “R(C)2” with PR restriction of 0.75, site coverage of 25% and BHR of 3 storeys would not adversely affect the lease entitlements. However, for the Greenery Garden, it had already been developed into four 18-storey residential blocks (148.7mPD) with an existing PR of about 5.93, whereas Four Winds Apartments was a 13-storey (144.9mPD) residential block. As such, these two sites were rezoned to “R(B)1” with a PR of 3. Given that these existing developments had a generally low floor-to-floor height, e.g. about 2.65m for Greenery Garden, a BHR of 160mPD which was slightly higher than the existing building height was imposed so as to allow a more reasonable floor-to-floor height upon future redevelopment.

68. Mr. Ian Brownlee said that PlanD had taken the lease restrictions as the basis for imposing the development restrictions on the subject sites. Instead of reflecting the existing development based on the out-dated leases, the OZP should reflect the long-term planning intention for the area. In response to a Member’s enquiry on the lease conditions of the concerned sites, Mr. Brownlee replied that the original lease for the Mount Davis Village at No. 6-10 Mount Davis Road was entered in 1922 and was modified in 1970s. Four Winds Apartments, Greenery Garden, No. 2 and 6-10 Mount Davis Road shared the same character. There was no change in the planning circumstances in the area. It was not fair to impose different development restrictions on the concerned sites solely based on the lease entitlements.

69. Mr. Ronald Taylor said that the sites of Mount Davis Village and Four Winds Apartments were originally covered by one single lot with its lease condition entered in 1922. In the 1960s, the owner sold part of the lot for redevelopment and premium had been paid for the redevelopment. However, with the imposition of the Pok Fu Lam Moratorium in 1972, redevelopment and lease modification for No. 2 and 6-10 Mount Davis Road was not allowed. It was against this background that these sites were subject to different lease entitlements.

70. 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.

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

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

### Deliberation Session

#### *Development Intensity*

71. The Chairman said that as a general principle, the imposition of the BHRs would not have adverse impacts on the development intensity of the site permitted under the OZP. It was not appropriate to consider the property value in formulating the BHRs. In response to a question raised by a Member, the Secretary said that as set out in the TPB Paper, in formulating the BHRs, it had been ensured that the development sites would generally be able to accommodate the development intensity as permitted on the OZP. However, there might be exceptions. For the purpose of public interest, there might be cases that the development intensity and property value might be affected. But, this must be fully justified for the public good and in the wider interests of the community. In this regard, Members agreed that the BHRs imposed on the OZP were appropriate and would meet the public aspiration for a better living environment and hence for public interest. In formulating the BHRs, the Board had already struck a balance between community aspiration for a better living environment and private development right. Besides, there was provision for minor relaxation of BHR under the OZP to cater for site specific constraints and circumstances and each application would be considered by the Board based on individual merits.

#### *BHRs and SBD Guidelines*

72. The Chairman said that the SBD Guidelines and the OZP restrictions were under two different regimes, i.e. the building regime and the town planning regime respectively. The SBD Guidelines were administrative measures to promote a quality and sustainable built environment. Under the SBD Guidelines, which were not statutory requirements, developers were encouraged to provide sustainable building design through the granting of GAF concessions under the Buildings Ordinance and the prerequisite for

such grant was in compliance with the requirements under the SBD Guidelines. The SBD Guidelines were generally applicable to all building developments with no reference to specific district characteristics and site circumstances. Developers did not have to follow the SBD Guidelines if they chose not to apply for GFA concession. On the other hand, the OZP restrictions, which were statutory, were imposed at a district level to achieve certain urban design and planning objectives. The SBD Guidelines and the OZP restrictions were complementary to each other. They had different considerations and were formulated to achieve different objectives with reference to two different statutory provisions. Members noted and agreed that the comment of R2 that the BHRs would jeopardize the implementation of the SBD Guidelines was not substantiated. The Chairman also pointed out that there was provision for application for minor relaxation of the BHRs under the OZP to cater for development/redevelopment with planning and design merits.

73. In considering R2's proposal for a general relaxation of the BHRs by 20m, Members made reference to the model illustrating the proposed height profile of Kennedy Town and Mount Davis Planning Scheme Area which was displayed at the meeting. Members considered that the representer had not put forth sufficient justifications to substantiate his proposal. A blanket relaxation of the BHRs by 20m was not supported as it would significantly increase the overall BH profile in the neighbourhood, create canyon effect, reduce the visible areas of the mountain backdrop and the waterbody of the harbour from the local vantage points and adversely affect the local character and cityscape. The request submitted by R2 was not supported.

74. Regarding the assumptions adopted in formulating the BHRs, the Secretary referred Members to the TPB Paper which mentioned that in the course of BH review, an assessment had been conducted to ensure that development intensity permitted under the OZP could generally be accommodated under BHRs. The assessment took into account the basic information such as site area, site level, maximum site coverage under the Buildings Ordinance (BO) as well as some assumptions on the redevelopment scheme including the type of redevelopment (e.g. pure residential, composite commercial/residential development), the provision of car park and loading/loading facilities and some of the plant rooms at basement level, reasonable floor-to-floor height and possible GFA concession under the BO. Apart from these, other relevant factors including the Urban Design Appraisal and Urban Design Guidelines, existing topography, stepped BH concept, local

characteristics, existing BH profile, site formation level, land uses, compatibility with surrounding developments, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration in working out the BHRs. Members noted.

75. Members noted the comments of R12 that the imposition of BHRs without reducing the plot ratio would result in bulkier buildings. However, Members considered that the bulk of a building depended on many factors rather than BH alone. Given the tendency to maximize the best view in certain direction and to capitalize on land values on the lower floors, a development with no BH control would become bulkier as there was a tendency to maximize the floor-to-floor height.

#### *Building Gaps*

76. Regarding the query on the legal basis for the Board to impose setback and building gap requirements, Members noted that DoJ's advice had been sought before and it remained valid. 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 in any part of Hong Kong. From the planning perspective, designation of building gaps could serve a positive planning purpose and have other positive planning benefits. Provided that the Board had the necessary and sufficient planning justifications, such designation could be a part of the planning control within the Board's powers.

#### *Building Plans Submission*

77. Regarding the comments of R10 on the submission of building plans, the Chairman said that when submitting new general building plans, the Authorized Person needed to demonstrate 'particulars of ownership' or 'realistic prospect of control of land forming the site'. Failing to provide the particulars or documentary proof might lead to refusal of approval by the Building Authority under s.16(1) of the Buildings Ordinance.

#### *Consultation*

78. 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.

79. Regarding the comments of C10 on the Board's refusal to accept the representation submitted from the owners of Mount Davis Village, the Secretary said that as stipulated in the Ordinance, representations submitted after the expiration of the specified public inspection period should be treated as not having been made. The Secretary said that R2 opposed the imposition of BHRs and building gap restrictions in general. Although C1 to C12 claimed that they supported R2's representation, their comments were in fact related to the rezoning of No. 2 and 6 – 10 Mount Davis Road to "R(C)2" with the imposition building height and plot ratio restrictions. Judging from the nature of the comments and the commenters' proposals, they could have been submitted as representations within the statutory exhibition period. According to the TPO, representations were required to be published for public comments, but there was no requirement to publish comments on representations. Members noted.

#### *Sites Covering HKU's Properties*

80. Members noted HKU's need to provide more teaching facilities and student hostels to cater for future growth and redevelopment. Members considered that in the absence of the detailed information and supporting technical assessments, it was premature to revise the BHRs to accommodate the revised redevelopment proposals for three sites, namely, Yam Pak Building site, Flora Ho and Lindsay Ride Sports Centre site, and Ricci Hall site. The representer should further liaise with PlanD in revising the redevelopment proposals.

#### *The CMW Site at Sai Ning Street*

81. Members noted the owner's intention to redevelop the Site for tourism related uses in the longer term. However, given that the Site was located right at the waterfront, Members considered that the BHRs imposed on the Site were appropriate to ensure that the future redevelopment would be compatible with the waterfront setting. The request of the representer to delete the BHRs was not supported.

#### *Sites bounded by Pokfield Path, Smithfield and Pokfield Road*

82. Members agreed that a stepped BH concept with lower building heights for developments along the waterfront and gradation of height profile in the inland and uphill areas should be adopted. The BHRs imposed on the sites had already provided reasonable scope for redevelopment, and at the same time would maintain the integrity of the overall stepped BH profile of the area. The proposals of the representers either to delete the BHR or revise the BHR from 120mPD to 140mPD were not supported.

*Four Sites at Mount Davis*

83. A Member said that the sites were located at the foothill of Mount Davis with a green natural setting. In view of the high landscape value and the predominant occupation of low-rise residential buildings in the area, the planning intention to maintain a low BH profile and development intensity along Mount Davis Road was appropriate. Hence, the “R(C)2” zoning for No. 2 and 6-10 Mount Davis was supported. It was also noted that rezoning of the sites to “R(C)2” with PR restriction of 0.75, SC restriction of 25% and BHR of 3 storeys would not adversely affect the lease entitlements. This Member opined that rezoning No. 2 and 6-10 Mount Davis Road to “R(B)1” with a plot ratio of 3 and a maximum BHR of 160mPD as proposed by the commenters would result in proliferation of high-rise developments in the low-rise neighbourhood. Other Members agreed.

Representation No. 1

84. After deliberation, the Board noted the support of R1 for the imposition of BHRs and building gaps.

85. Members then went through the reasons for not upholding the representations as detailed in paragraph 7 of the Paper and considered that they were appropriate.

Representation No. 2

86. After deliberation, the Board decided not to uphold R2 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 Appraisal and Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level, land uses, compatibility with surrounding developments, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration.

- (b) 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 BHRs and building gaps on individual sites or for such areas within the boundaries of the OZP where there were necessary and sufficient planning justifications.
- (c) The BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. The BHRs would not result in larger building bulk. The provision of better designed sustainable buildings was not guaranteed with more relaxed BH control.
- (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.
- (e) The measures on SBD Guidelines/JPN and the OZP restrictions were under two separate development control regimes, although they were complementary with each other. The SBD Guidelines and JPN were administrative measures which were complied on a voluntary basis without reference to specific district characteristics. OZP restrictions were statutory control to achieve planning objectives specific to the district.
- (f) Blanket relaxation of the BHRs by 20m was not supported as it would

significantly increase the overall BH profile in the neighbourhood, create canyon effect, reduce the visible areas of the mountain backdrop and the waterbody of the harbour from the local vantage points and adversely affect the local character and cityscape, which was not in line with the intended planning control.

- (g) Designation of building gap requirements on the OZP could serve a positive planning purpose and have positive planning benefits by improving air ventilation. It had legal basis as it would form part of the planning control of the Board, which had the necessary and sufficient justifications. Designation of building gaps would not adversely affect the development potential of the affected sites.
- (h) The two-month statutory exhibition period and provision for representations and comments formed part of the public consultation process under the Town Planning Ordinance. 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 and building gap requirements on the OZP including the AVA Report and Urban Design Appraisal, was available for public inspection.

### Representation No. 3

87. After deliberation, the Board decided not to uphold R3 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 Appraisal and Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH

profile, site formation level, land uses, compatibility with surrounding developments, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration;

- (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; and
- (c) Deletion of BHRs for HKU's properties would result in proliferation of high-rise developments along Pok Fu Lam Road and Lung Wah Street, which might have adverse visual, air and traffic impacts.

#### Representation No. 4

88. After deliberation, the Board decided not to uphold R4 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 Appraisal and Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level, land uses, compatibility with surrounding developments, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration.
- (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.
- (c) Deletion of BHRs for the CMW site would jeopardize the integrity of

the stepped BH concept and result in out-of-context development on the waterfront, resulting in a significant reduction in the visual permeability to the mountain backdrop of Mount Davis and the water body of Victoria Harbour from the two local vantage points.

- (d) The two-month statutory exhibition period and provision for representations and comments formed part of the public consultation process under the Town Planning Ordinance. 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 and building gap requirements on the OZP including the AVA Report and Urban Design Appraisal, was available for public inspection.

#### Representation No. 5

89. After deliberation, the Board decided not to uphold 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 Appraisal and Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level, land uses, compatibility with surrounding developments, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration.
- (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.

- (c) Reducing the BHRs for the CMW site would pose undue constraints on future redevelopment and have adverse impact on the development right.

Representation No. 6

90. After deliberation, the Board decided not to uphold R6 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 Appraisal and Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level, land uses, compatibility with surrounding developments, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration.
- (b) There would not be adverse impacts on the development intensity permitted under the OZP 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 unless otherwise specified. The BHRs had struck a balance between public aspirations for a better living environment and private development rights.
- (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.
- (d) The proposal to delete or revise the BHR for the site bounded by Pokfield Path, Smithfield and Pokfield Road from 120mPD to 140mPD

would jeopardize the integrity of the overall stepped BH profile. The BHR had provided reasonable scope for redevelopment.

Representation No. 7

91. After deliberation, the Board decided not to uphold R7 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 Appraisal and Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level, land uses, compatibility with surrounding developments, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration.
- (b) There would not be adverse impacts on the development intensity permitted under the OZP 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 unless otherwise specified. The BHRs had struck a balance between public aspirations for a better living environment and private development rights.
- (c) The BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity permissible under the OZP. The BHRs would not result in larger building bulk. The provision of better designed sustainable buildings was not guaranteed with more relaxed BH control.
- (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.

- (e) Revising the BHR for the site bounded by Pokfield Path, Smithfield and Pokfield Road from 120mPD to 140mPD would jeopardize the integrity of the overall stepped BH profile. The BHR had provided reasonable scope for redevelopment.

#### Representation No. 8

92. After deliberation, the Board noted the support of R8 for the imposition of BHRs and decided not to uphold the remaining part of R8 for the following reason:

- (a) With the imposition of BHRs and designation of building gaps, the Area was of generally satisfactory air ventilation performance. There was currently no comprehensive road widening scheme in the northern part of Kennedy Town. However, upon receipt of redevelopment proposal, improvement by setting back the buildings for footpath/road widening could be recommended to the Buildings Department for consideration where necessary. Besides, the stipulation of setback requirement would pose undue constraints on future development/redevelopment of small lots which were common in the Area.

#### Representations No. 9 to 11

93. After deliberation, the Board noted the comments submitted by R9 to R11 and agreed to advise the representers of the following:

- (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 Appraisal and Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH

profile, site formation level, land uses, compatibility with surrounding developments, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration.

- (b) There would not be adverse impacts on the development intensity permitted under the OZP 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 unless otherwise specified. The BHRs had struck a balance between public aspirations for a better living environment and private development rights.
- (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.

#### Representation No. 12

94. After deliberation, the Board noted the comments submitted by R12 and agreed to advise the representer of the following:

- (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 Appraisal and Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level, land uses, compatibility with surrounding developments, the wind performance of the existing condition and the recommendations of the AVA, had been taken into consideration.
- (b) The BHRs were formulated on the basis of reasonable assumptions with

allowance for design flexibility to accommodate development intensity permissible under the OZP. The BHRs would not result in larger building bulk. The provision of better designed sustainable buildings was not guaranteed with more relaxed BH control.

- (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.

[Dr. K.W. Yau and Mr. Fletch Chan left the meeting whilst Mr. Timothy K.W. Ma and Professor Paul K.S. Lam arrived to join the meeting at this point.]

**Group 2 (Representation Nos. R1, R5, R8 to R629)**

(TPB Paper No. 8956)

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[The meeting was conducted in Cantonese.]

95. The following representatives from the Planning Department (PlanD), representers and their representatives were invited to the meeting at this point:

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

Mr. K.S. Ng - Senior Town Planner/Hong Kong

R8 : Democratic Alliance for the Betterment and Progress of Hong Kong (DAB)

Mr. Chan Hok Fung - Representative of R8

R11 : Ng Hoi Yan

Ms. Ng Hoi Yan Representer

R14 : 西區被逼遷租客大會

Ms. Lau Ka Sin, Cynthia ]

Ms. Lois Lee ] Representatives of R14

Mr. Cheung Wai Ming ]

R20 : 社區大使隊城市規劃行動組

Mr. Law Kwok Wai ] Representatives of R20

Ms. Tse Tsz Ying ]

R184 : Erica Wong

Ms. Wong Fung Yu - Representer

96. The Chairman extended a welcome and explained the procedures of the hearing. He then invited PlanD's representative to brief Members on the representations.

97. With the aid of a Powerpoint presentation, Mr. K.S. Ng, STP/HK made the following main points as detailed in the Paper:

- (a) on 25.2.2011, the draft Kennedy Town & Mount Davis Zoning Plan (OZP) No. S/H1/18 was exhibited for public inspection under section 7 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 638 representations were received. On 24.6.2011, the representations were published for three weeks for public comments. A total of 12 comments were received;
- (b) on 14.10.2011, the Town Planning Board (the Board) decided to hear the representations and the related comments in two groups;

Representations under Group 2

- (c) Group 2 was on 624 representations (R1, R5, R8 to R629) in relation to all or part of Amendment Items H1 to H5 in respect of the western part of Kennedy Town which was under an ongoing land use review ('Land Use Review'). Under the Amendment Items, the government sites involved were rezoned to "U" as follows:
  - (i) Amendment Item H1 : rezoning of Kennedy Town Temporary Recreation Ground at Sai Ning Street from "OU" annotated "Cargo Handling Area", "Government, Institution or Community" ("G/IC") and "Industrial" ("I") to "Undetermined" ("U");
  - (ii) Amendment Item H2: rezoning of a "G/IC" site at Sai Ning Street (i.e. the site adjacent to Huncliff Court) from "G/IC" to "U";
  - (iii) Amendment Item H3: rezoning of the bus terminus and sitting-out areas at Sai Ning Street from "G/IC" to "U"

- (iv) Amendment Item H4: rezoning of the ex-Kennedy Town Incinerator and Abattoir site from “G/IC” and areas shown as ‘Road’ to “U”; and
- (v) Amendment Item H5: rezoning of the ex-Police Married Officers Quarters and the temporary school of Hong Kong Academy (HKA) at 14 and 12 Ka Wai Man Road respectively from “G/IC” to “U”;

#### Public Consultation

- (d) the amendments incorporated into the draft OZP No. S/H1/18 had been presented to the Central and Western District Council (C&WDC) and the Task Force on Harbourfront Developments on Hong Kong Island (HKTF) of the Harbourfront Commission (HC). Three local consultation forums were held in April 2011. The views expressed at these meetings and PlanD’s responses had been summarized at paragraph 2.3 of the Paper. The key points were:

#### *HKTF of HC*

- (i) Government’s proposal to develop a continuous waterfront promenade was supported. The Kennedy Town Temporary Recreation Ground should be converted into a permanent soccer pitch or for uses dependent on water access;
- (ii) the proposal of earmarking part of the ex-Police Married Officers Quarters/the temporary school of HKA and the ex-Mount Davis Cottage Area for public housing was supported;

#### *C&WDC*

- (iii) the rezoning of the “G/IC” sites to “U” was opposed;
- (iv) the draft OZP should show the development of the promenade, public housing and community facilities and increase the provision of public open space in the district;

- (v) the former site of Kung Man Village (ex-Mount David Cottage Area) should be reserved for public housing development;

*Local Forums*

- (vi) the rezoning of the sites to “U” was to pave way for residential development;
- (vii) the site adjacent to Huncliff Court (covered by Amendment Item H2) and the ex-Police Married Officers Quarters/the temporary school of HKA should be for residential development;
- (viii) the Kennedy Town Temporary Recreation Ground, the bus terminus and sitting-out areas and the ex-Kennedy Town Incinerator and Abattoir site should be for GIC and open space uses;
- (ix) tourism-related uses should be provided at the China Merchant Wharf (CMW) site;
- (x) the bus terminus at Shing Sai Road should be combined with the bus terminus at Sai Ning Street so as to free up the land for open space use; and
- (xi) there were diverse views on the use of the ex-Police Married Officers Quarters/the temporary school of HKA and the ex-Mount Davis Cottage Area. Some supported the provision of public housing to include elderly housing and community facilities, some supported low-rise private residential development and some proposed to have a mix of public and private housing;

- (e) PlanD's responses were detailed in paragraph 2.7 of the Paper. The Land Use Review on the western part of Kennedy Town was still on-going and would be completed in 2012. The government sites had been rezoned to "U" as the future uses of these sites had not yet determined. In formulating the land use proposals for the review areas, views expressed by the HKTF of HC, C&WDC and local residents would be duly taken into account. Consultations on the proposed land use options would be conducted before incorporating the proposed land uses and BHRs in the OZP in the next round of amendment;

#### Representations

- (f) - supportive representations : R13 supported all Amendment Items, while R14 - R19 supported part of Amendment Items H1 to H5;
- representations which offered comments: R1, R42 - R187, R628 & R629 commented on all Amendment Items, while R5, R12, R37, R39 - R41, R188 - R627 commented on part of Amendment Items H1 to H5;
- adverse representations : R8 - R11 and R20 opposed all Amendment Items, while R15 - R19, R21 - R39 opposed part of Amendment Items H1 to H5. R8 (DAB) submitted a representation report and an improvement plan for Kennedy Town;
- (g) the general grounds of representations and their proposals were summarised in paragraph 3.2 of the Paper. The proposals submitted by the representers were highlighted below:

#### Waterfront Promenade/Open Space

- (i) the representers requested PlanD to formulate a long-term plan for the provision of a continuous waterfront promenade on the northern harbourfront of Hong Kong Island, in particular at New Praya, Kennedy Town (R8 to R11, R20), and increase the provision of greening and open space in the area (R9 to R11).



The Kennedy Town Temporary Recreation Ground and/or the ex-Kennedy Town Incinerator and Abattoir site should be rezoned to “O” or for recreation use (R19, R22-R35 and R39);

- (ii) the representers proposed to rezone the Kennedy Town Temporary Recreation Ground and the site adjacent to Huncliff Court from “U” to “Other Specified Uses” (“OU”) annotated “Waterfront Related Commercial, Cultural and Leisure Uses”, with stipulation of appropriate development restrictions. These sites should be connected with the “Open Space” (“O”) site to the south of Sai Ning Street to enhance the waterfront area for public enjoyment (R8).

#### Commercial Development/Tourism-related Uses

- (i) R8 proposed to rezone the bus terminus and sitting-out areas from “U” to “Comprehensive Development Area” (“CDA”), with stipulation of appropriate development restrictions, for comprehensive development of tourism-related and residential uses;
- (ii) R8 proposed to rezone the ex-Kennedy Town Incinerator and Abattoir site from “U” to “CDA”, with stipulation of appropriate development restrictions, for a comprehensive development of shopping centre cum residential uses, with the incorporation of community facilities, as well as underground bus terminus and public car park;
- (iii) there were proposals to provide commercial and tourism-related uses at ex-Incinerator and Abattoir site (6 representations) and ex-Police Quarter/HKA (14 representations);
- (iv) R8, R41, R133, R134 and R560 proposed to provide tourism-related uses such as cruise terminal and hotel at CMW site;

### Community Facilities

- (i) the ex-Police Married Officers Quarters/the temporary school of HKA should be reserved for low-density community development (88 representations);
- (ii) public transport terminus with community/recreational facilities/open space above should be provided at the ex-Kennedy Town Incinerator and Abattoir site (22 representations);
- (iii) the bus terminus at Sai Ning Street should be retained (9 representations);
- (iv) international school/school should be provided in the review area/the ex-Kennedy Town Incinerator and Abattoir site (4 representations);

### Private Housing Development

- (i) there were diverse views on residential development at the sites covered by Amendment Items H1 to H5;
- (ii) for those supporting private housing development, some were of the view that the site adjacent to Huncliff Court (21 representations) and the ex-Police Married Officers Quarters/the temporary school of HKA (7 representations) should be disposed by auction. 21 representations proposed residential uses at the sites covered by the ex-Police Married Officers Quarters/the temporary school of HKA and/or the ex-Mount Davis Cottage Area. R8 proposed to rezone the ex-Mount Davis Cottage Area and ex-Police Married Officers Quarters to “CDA” zone for low to medium-rise residential development;
- (iii) for those opposing residential development, four representations

opposed residential development at the Kennedy Town Temporary Recreation Ground and one representation opposed residential development at the ex-Kennedy Town Incinerator and Abattoir site and the ex-Police Married Officers Quarters/the temporary school of HKA;

#### Public Housing Development

- (i) there were 131 representations opposing public housing development at some of the sites covered by Amendment Items H1 to H5 or in the area in general. 429 representations opposed public housing development at the ex-Police Married Officers Quarters/the temporary school of HKA and/or the ex-Mount Davis Cottage Area. Besides, six representations and one representation opposed public housing development at the ex-Kennedy Town Incinerator and Abattoir site and the Kennedy Town Temporary Recreation Ground respectively;
- (ii) one representer agreed in principle to public housing development at the sites covered by Amendment Items H1 to H5. Besides, eight representations supported public housing development at the ex-Police Married Officers Quarters/the temporary school of HKA and/or the ex-Mount Davis Cottage Area;

#### Responses to Grounds of Representations and Representers' Proposals

- (h) PlanD's responses to the general grounds of representations and their proposals were summarised in paragraph 4.4 of the Paper and highlighted below:

Rezoning the government sites under the land use review to "U"

- (i) the Land Use Review was ongoing and would be completed in 2012. It was a normal practice to rezone areas under review to "U". The government sites covered by Amendment Items H1 to H5 were rezoned to "U" because the future uses of these sites had not yet been determined. In the course of the Land Use Review, various land use

components would be considered taking into account the needs of the local community as well as the community at large. Upon completion of the Land Use Review, consultations on the proposed land use options would be conducted before incorporating the proposed land uses and BHRs were incorporated in the OZP in the next round of amendment;

#### Waterfront Promenade and Open Space

- (ii) the area was of great importance as it covered a large piece of harbourfront land and would give opportunities for harbourfront enhancement. Moreover, opportunity to increase the provision of open space and GIC facilities to address the shortfalls of local open space in the Area and to meet additional needs arising from any increase in population was being explored. On open space provision, the existing and planned open spaces in C&W District amounted to about 57.1ha. With the completion of all the planned open spaces, the overall open space provision (comprising all existing and planned facilities) in the District would exceed the provision standards of Hong Kong Planning Standards and Guidelines by about 3.9 ha;

#### Commercial Development/Tourism-related Uses

- (iii) it was PlanD's intention to encourage commercial and tourism-related uses in the waterfront area with a view to revitalizing the area. For China Merchants Wharf pier, it was currently used as a temporary cruise terminal under short term waiver in addition to cargo handling. C for T advised that the new cruise terminal at Kai Tak was expected to commence operation in 2013. Whether the pier was still needed to be used as cruise terminal, or making other alternative berthing arrangements would be subject to prevailing circumstances;

#### Community Facilities

- (iv) GIC facilities such as primary school and social welfare facilities would be provided in the area to meet the needs of the local residents based on the advice of the relevant government departments. The two existing bus termini at Shing Sai Road and Sai Ning Street would be combined with a view to releasing the site to the west of Public Cargo Working Area for open space development;

#### Public Housing Development

- (v) the C&WDC had long been in support of public housing development in the Western District. In view of C&WDC's request for more public housing in the district, the ex-Mount Davis Cottage Area and the ex-Police Married Officers Quarters/the temporary school of HKA might be considered for public housing development. In general, the traffic generated by public housing development was lower than private housing development and would be preferred should there be traffic capacity constraints;

#### *Private Housing Development*

- (vi) a combination of land use components would be incorporated in the recommended land use proposal to meet the needs of the local residents. Should there be a plan to provide private housing, technical assessments such as visual impact, air ventilation and traffic impact assessments would be conducted to minimize any adverse impacts on the surrounding areas;

#### Planning Department's Views

- (i) R36 opposed Amendment Items H1 and H5, including the hillside of Mount Davis covering the ex-Mount Davis Cottage Area. As the "U" zoning of the ex-Mount Davis Cottage Area was not the subject of amendment, this part of R36's representation should be regarded as invalid;
- (j) based on the assessments in paragraph 4 of the Paper, PlanD did not support Representations No. R8-R11, R15-R35, R37-R39 and the remaining part of R36.

97. The Chairman then invited the representers and the representers' representatives to elaborate on their submissions.

R8 : Democratic Alliance for the Betterment and Progress of Hong Kong (DAB)

98. With the aid of a Powerpoint presentation, Mr. Chan Hok Fung, a Central and Western District Councillor and the representative of R8, made the following main points:

- (a) DAB had prepared an improvement plan, '點亮堅城', for Kennedy Town which was generally supported by the local community. The land use proposals contained in the report should be duly taken into account in the Land Use Review being conducted by PlanD;

Waterfront Promenade

- (b) a continuous waterfront promenade from New Praya to the Kennedy Town Temporary Recreational Ground should be provided for public enjoyment. Commercial, tourism-related and recreational facilities should be provided in the waterfront area to promote vibrancy and utilization of the waterfront. To enhance its accessibility, the promenade should be well connected with other commercial, dining and recreational facilities in the district;
- (c) to revitalize the pier portion of the China Merchants Wharf site, it should be used as a cruise terminal with the provision of other water based recreational facilities;
- (d) the godown building part of the China Merchants Wharf site should be redeveloped for hotel, tourism-related uses and comprehensive residential development to support the cruise terminal development. The proposed uses would greatly enhance the economic development in the Western District;
- (e) the Cadogan Street Temporary Garden site should be used to provide open space and community facilities such as elderly centre and day-care

centre to serve the local residents. The development should be small in scale with a building height of two to three storeys and provision of open space and landscaped garden at the roof-top or podium level. In view of the insufficient provision of public car parking spaces in the Western District, an underground public carpark should be provided in the site;

- (f) the ex- Kennedy Town Incinerator and Abattoir site was located at the core of the District. It was appropriate to rezone the area for a comprehensive development of shopping centre cum residential uses with landmark features. The proposed shopping centre should have a total GFA of about 45,000 to 50,000 m<sup>2</sup>, similar to that of the Maritime Square. The proposed comprehensive development should also provide a public transport interchange (PTI). The existing tram terminus had adverse noise impacts on the nearby residents. The relocation of the tram terminus to the proposed PTI would address the noise problem and enhance the living environment in the area;
- (g) the waterfront promenade should be well connected with major commercial, tourism-related uses and residential areas in the district by environmental-friendly pedestrian walkways, such as Cadogan Street, Davis Street, Smithfield Street, Sai Ning Street, etc. Landscaping/greenings should also be provided on these walkways, as appropriate. Set-back requirements should be imposed at appropriate locations for widening of footpath/road,;
- (h) to meet the housing demand, the ex-Police Married officers Quarters should be redeveloped for medium-density residential development, whereas the ex-Mount Davis Cottage Area should be rezoned for low-rise residential development;

#### Proposals for “U” zones

- (i) the Kennedy Town Temporary Recreation Ground and the site adjacent to Huncliff Court should be rezoned from “U” to “Other Specified Uses” (“OU”) annotated “Waterfront Related Commercial, Cultural and

Leisure Use”;

- (j) the bus terminus and sitting out areas at Sai Ning Street should be rezoned from “U” to “CDA” for comprehensive development of tourism-related and residential uses;
- (k) the ex-Kennedy Town Incinerator and Abattoir should be rezoned from “U” to “CDA” for a comprehensive development of a shopping centre cum residential uses. Appropriate development restrictions, such as a BHR of 100mPD for residential development and low-rise development for the shopping centre, should be imposed to avoid adverse impact on air ventilation;
- (l) the ex-Police Married Officers Quarters/the temporary school of HKA site should be rezoned from “U” to “CDA” for medium-density residential development (at a maximum BHR of 120mPD) with the incorporation of community facilities and open spaces;

#### Other Proposals

- (m) a continuous waterfront promenade on the northern harbourfront;
- (n) the China Merchants Wharf site should be redeveloped for hotel, cruise terminal and tourism-related facilities; and
- (o) the ex-Mount Davis Cottage Area should be rezoned to “CDA” zones for low to medium-rise residential development;

#### R11 : Ng Hoi Yan

99. Ms. Ng Hoi Yan, R11 and a member of the Democratic Party, made the following main points:

- (a) the government sites had been left vacant for many years, it was regretted to note that the sites were rezoned to “U” pending further land use review;



- (b) there was a strong request for the provision of a continuous waterfront promenade along the harbourfront. It should be implemented as soon as possible; and
- (c) as there was insufficient provision of open space in the district, PlanD should assess whether some of the government sites could be used as temporary open spaces or recreational uses to serve the local community.

Representer No. 14 : : 西區被逼遷租客大會

100. Ms. Lau Ka Sin, Cynthia, the representative of R14, made the following points:

- (a) the Kennedy Town was subject to great development pressure since the West Island Line would be extended to the area in 2014. The old low-rise residential buildings in the district would be redeveloped and most of the affected tenants would like to be relocated within the same district. As such, there was a great demand for public housing;
- (b) the “U” sites including the ex-Police Married Officers Quarters, the Mount Davis Cottage area provided good opportunity for the provision of more public housing to meet local needs. The public housing development would also provide employment opportunities and enable sustainable development of the local community;
- (c) the proposed public housing development would not affect the property value of the adjacent developments. The public housing development would not have adverse traffic impacts as the traffic generated by public housing development would be lower than private housing development;
- (d) a continuous waterfront promenade should be provided as soon as possible. Set back requirements should also be imposed on the

narrow streets to create a pleasant pedestrian walkway. Upon development/redevelopment, the space at the ground floor of buildings should be used for public passage purpose such as the public passage at the ground floor of the HSBC building in Central;

- (e) in planning the future uses of the “U” sites, appropriate development intensity should be imposed to avoid high-rise and massive developments. It was noted that a BHR of 140m had been imposed on the sites along Ka Wai Man Road. As these sites were situated on the hilltop, redevelopment of the sites up to 140m (i.e. about 40 storeys) would create wall effect on the surrounding areas; and
- (f) the Western District was an old urban area. Efforts should be made in preserving the cultural heritage and local character of the district.

R20 : 社區大使隊城市規劃行動組

101. Mr. Law Kwok Wai, the representative of R20, made the following points:

- (a) the provision of a continuous waterfront promenade was supported. PlanD should provide an implementation programme for the development;
- (b) PlanD commented that there was a surplus of 3.9 ha of open space provision in the district. However, it was anticipated that population in Kennedy Town would grow rapidly due to the introduction of the West Island Line. Additional open spaces should be provided to meet the needs arising from the increase in population;
- (c) there were inadequate community and social services for the elderly. It was proposed to use part of the “U” sites to provide large-scale elderly centres or recreational facilities;
- (d) the ex-Kennedy Town Incinerator and Abattoir site should be used to provide recreational facilities or temporary open space to serve the

local community;

- (e) the Sai Wan Estate would likely be redeveloped in the next 10 years. The affected tenants should be relocated within the same district. The need for public housing development should be taken into account in the Land Use Review; and
- (f) the “U” sites should not be used for private housing development. It was proposed to rezone these sites from “U” to “Open Space”.

102. As the presentations from the representers and the representatives of the representers had been completed, the Chairman invited questions from Members.

103. In response to the Vice-Chairman’s enquiry on the open space provision in the district, Ms. Brenda Au replied that the existing and planned open spaces in the Central and Western District amounted to about 57.1ha. The planned population of the District, which included estimated population growth, was 265,900. According to the Hong Kong Planning Standards and Guidelines (HKPSG), a minimum of 20ha of open space, including 10ha of district open space and 10ha of local open space, should be provided per 100,000 persons (at a rate of 1m<sup>2</sup> of district open space and 1m<sup>2</sup> of local open space per person). Based on the planned population for the Area, a total of 53.18 ha of open space were required for the Area. With the completion of all the planned open spaces, the overall open space provision (comprising all existing and planned open spaces) in the District would exceed the provision standards by about 3.9ha.

104. In response to the comments of Ms. Lau Ka Sin, Cynthia, on the BHR imposed on Ka Wai Man Street, Ms. Brenda Au said that a BHR of 140mPD, which was measured from the mean sea level, was imposed on the two “R(A)” sites at Ka Wai Man Road. Given the site level of about 20 to 25mPD of the subject sites, the BHRs of 140mPD would allow residential developments with absolute building heights of about 115m to 120m.

105. As Members had no further question 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 their representatives. They would

be informed of the Board's decision in due course. The Chairman thanked the representers, representers' representatives, and the PlanD's representatives for attending the hearing. They all left the meeting at this point.

#### Deliberation Session

106. The Chairman said that the Land Use Review for the "U" sites was being undertaken by PlanD and would be completed in 2012. Members considered that it was appropriate to rezone the government sites to "U" as the future uses of these sites had not yet been decided. Members also noted that in formulating the land use proposals, views of the HKFT of HC, C&WDC, local residents and the representers would be duly taken into account. Consultations on the proposed land use option would be conducted before incorporating the proposed land uses and BHRs in the OZP in the next round of amendment.

107. After further deliberation, the Chairman concluded that Members noted the support of R13, R14, R15(part), R16(part), R17(part), R18(part) and R19(part) on the proposed amendments. For the part of the representation of R36 in relation to the hillside of Mount Davis covering the Mount Davis Cottage Area, which was not subject to the current OZP amendment, Members agreed that it should be considered as invalid. For the remaining part of the representation of R36 as well as R8 – R11, R15(part), R16(part), R17(part), R18(part), R19(part), R20 – R35, R37(part), R38 and R39(part), Members agreed that they should not be upheld. Regarding the comments submitted by R1, R5, R12, R37(part), R39(part), R40 – R629, these should be taken into account in the Land Use Review in formulating the land use proposals for the review area. Members also noted that consultations on the proposed land use options would be conducted before the proposed land uses and BHRs were incorporated in the OZP in the next round of amendment.

#### Representations No. R13, R14, R15(part), R16(part), R17(part), R18(part), R19(part)

108. After deliberation, Members noted the supportive views of R13, R14, R15(part), R16(part), R17(part), R18(part), R19(part).

#### Representation No. 36

109. After further deliberation, the Board decided that the part of the representation

in relation to the hillside of Mount Davis covering the ex-Mount Davis Cottage Area, which was not the subject of amendment, should be regarded as invalid.

110 Members then went through the reason for not upholding the representations as detailed in paragraph 6 of the Paper and considered that it was appropriate.

Representations No. R8 – R11, R15(part), R16(part), R17(part), R18(part), R19(part), R20 – R35, R36 (part), R37(part), R38, R39(part)

111. After further deliberation, the Board decided not to uphold R8 – R11, R15(part), R16(part), R17(part), R18(part), R19(part), R20 – R35, R36 (part), R37(part), R38, R39(part) for the following reason:

- (a) the sites under Amendment Items H1 to H5 were rezoned to “U” as the land use review covering the sites was still on-going. It was premature to incorporate detailed zoning proposals and BHRs for the review area in the OZP. In formulating the land use proposals for these sites, PlanD would take into consideration the comments and proposals submitted by the representers. Upon completion of the land use review, further amendments to the OZP would be made and prior consultations with the concerned stakeholders would be conducted before exhibition of the amendments.

Representations No. R1, R5, R12, R37(part), R39(part), R40 – R629

112. After deliberation, Members noted that comments submitted by R1, R5, R12, R37(part), R39(part), R40 – R629. Members also agreed to advise the representers that the sites under Amendment Items H1 to H5 were rezoned to “U” as the land use review covering the sites was still on-going. In formulating the land use proposals for these sites, PlanD would take into consideration the comments and proposals submitted by the representers.

113. The morning session of the meeting was adjourned at 3:15pm.

114. The meeting was resumed at 3:25 p.m..

115. The following Members and the Secretary were present in the afternoon session of the meeting:

Mr. Thomas Chow	Chairman
Mr. Stanley Y.F. Wong	Vice-chairman
Mr. B.W. Chan	
Mr. Y.K. Cheng	
Professor Paul K.S. Lam	
Dr. C.P. Lau	
Mr. Laurence L.J. Li	
Mr. Roger K.H. Luk	
Professor S.C. Wong	
Ms. Pansy L.P. Yau	
Deputy Director of Environmental Protection Mr. Benny Wong	
Assistant Director (2), Home Affairs Department Mr. Eric Hui	
Deputy Director (General), Lands Department Mr. Jeff Lam	
Director of Planning Mr. Jimmy Leung	

**Sha Tin, Tai Po and North District**

**Agenda Item 5**

[Open Meeting (Presentation and Question Session only)]

Consideration of Further Representations to the  
Draft Tai Po Outline Zoning Plan No. S/TP/22  
(TPB Paper No. 8951)

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[The hearing was conducted in Cantonese and English.]

[Mr. Laurence L.J. Li arrived to join the meeting at this point.]

116. The following Members had declared interests in this item:

- |  |  |
|--|--|
| Mr. Stanley Y.F. Wong<br>(the Vice-chairman) | - co-owned with his spouse a flat and two car parks in Tai Po  |
| Dr. W.K. Yau                                 | - owned some properties and land in Tai Po and being the Chairman of the Management Committee of the Tai Po Environment Association which managed the Fung Yuen Butterfly Reserve and Education Centre |
| Dr. W.K. Lo                                  | - owned some properties in Tai Po  |
| Mr. Laurence L.J. Li                         | - worked in the same Chamber as Mr. Ruy Barretto S.C. (F4)   |

117. Members noted that Dr. W.K. Lo had tendered apology for being unable to attend the meeting and Dr. W.K. Yau had already left the meeting. Members noted that the interests of the Vice-chairman were indirect and remote as his property and car parks would not be affected by the further representations to be considered at the meeting and agreed that he could stay at the meeting. Members also agreed that as the interests of Mr. Laurence L.J. Li were indirect, he could stay at the meeting.

Presentation and Question Session

118. The Chairman said that sufficient notice had been given to invite all the further representers and relevant representers and commenter to attend the hearing, but other than those who were present at the meeting, the rest had either indicated not to attend the hearing or made no reply. As sufficient notice had been given to all the further representers and relevant representers and commenter, Members agreed to proceed with the hearing in their absence.

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

- |                |   |
|----------------|---|
| Mr. W.K. Hui   | - District Planning Officer/Shan Tin, Tai Po and North (DPO/STN), PlanD |
| Ms. Lisa Cheng | - Senior Town Planner/Tai Po (STP/TP), PlanD                            |

120. The following further representer and representers were also invited to the meeting at this point:

F4 – Ruy Barretto S.C.

- |                       |                       |
|-----------------------|-----------------------|
| Mr. Ruy Barretto S.C. | - Further representer |
|-----------------------|-----------------------|

R10 – David King

- |                |               |
|----------------|---------------|
| Mr. David King | - Representer |
|----------------|---------------|

R12 – Koon E Le, Teresa

- |                       |               |
|-----------------------|---------------|
| Ms. Koon E Le, Teresa | - Representer |
|-----------------------|---------------|

121. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the further representations.



122. With the aid of a powerpoint presentation, Ms. Lisa Cheng made the following main points as detailed in the Paper:

Background

- (a) on 17.9.2010, the draft Tai Po Outline Zoning Plan (OZP) No. S/TP/22 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 13 valid representations (i.e. R1 to R13) were received. On 26.11.2010, the representations were published for public comments, and in the first three weeks of the publication period, three comments were received;
- (b) after giving consideration to the representations and comments on 25.2.2011 and 27.5.2011, the Town Planning Board (the Board) decided to propose amendments to the Plan to partially meet six representations (i.e. R4 in respect of the Ting Lai Road Substation and R8 to R12 in respect of the “Green Belt” (“GB”) zone), as follows:
  - (i) to amend the building height restriction for the “Government, Institution or Community” (“G/IC”) zone covering the Ting Lai Road Substation from two storeys to four storeys; and
  - (ii) to amend the Notes for the “GB” zone to include ‘House (rebuilding of New Territories Exempted House (NTEH) or replacement of existing domestic building by NTEH only)’ under Column 1 and to correspondingly amend ‘House’ in Column 2 to ‘House (not elsewhere specified)’;
- (c) on 17.6.2011, the proposed amendments were published under section 6C(2) of the Ordinance for further representations, and in the first three weeks of the publication period, four further representations (i.e. F1 to F4) in opposition to the proposed amendments to the Notes of the “GB” zone were received;

- (d) on 11.11.2011, the Board decided to hear the four further representations in one group;

#### The Further Representations

- (e) F1 was submitted by Ms. Tam Tak Nga Claire, one of the lot owners of Lot 197 in D.D.35 covered by the subject “GB” zone. F2 was submitted by the Hong Kong Bird Watching Society. F3 was submitted by the Conservancy Association. F4 was submitted by Mr. Ruy Barretto S.C. who had previously submitted a representation on the conservation aspect under R7;

#### Grounds of the Further Representations, Further Representers’ Proposals and PlanD’s Responses

- (f) the main grounds of the further representations, their proposals and PlanD’s responses were summarised below:

##### *Amendments to the Notes of “GB” Zone*

##### F1’s views

- (i) F1 considered that the revision to the Notes for the “GB” zone was too stringent, which would adversely affect the design flexibility of the existing two blocks of 3-storey houses upon redevelopment and hence infringed the private property rights of the lot owners;

##### F1’s proposal

- (ii) F1 proposed to revise the Notes for the “GB” as ‘House (rebuilding of existing domestic building(s) not resulting in total redevelopment in excess of the plot ratio, site coverage and height of the existing domestic building(s))’;

PlanD's responses

- (iii) development on the lot owned by F1 (i.e. Lot 197 in D.D. 35) was restricted under the lease to two houses with specific size and dimensions not exceeding that for NTEH. If the houses were to be rebuilt up to the size and dimensions of the existing lease, planning permission from the Board was not required. In this respect, the owners' right would not be affected by the subject amendments. It should be noted that variations in the form of building that were very different from that of NTEHs might have wider ramifications on the rural character and should require the prior approval from the Board. F1's proposal was therefore not supported;

F2 and F3's views

- (iv) F2 and F3 were concerned that the revision to the Notes for the "GB" zone would lead to disorganised/unplanned village developments causing negative impacts to the landscape and environment;

F2 and F3's proposals

- (v) F2 proposed that all rebuilding of NTEHs and "domestic structures" should be put under Column 2 for the Notes of the "GB" zone;
- (vi) F3 proposed that 'House (rebuilding of NTEH or replacement of existing domestic building by NTEH only)' should be put under Column 2 for the Notes of the "GB" zone;

PlanD's responses

- (vii) the intention of the Board to partially meet R8 to R12 was to respect the right of the property owners to rebuild their houses without the need to seek planning permission from the Board. To adopt the proposals of F2 and F3 would defeat this purpose. Moreover, for the purposes of protecting the "GB" zone, it was

considered adequate to restrict the scale and form of such rebuilding to not more than that permitted for NTEHs;

[Mr. Eric Hui arrived to join the meeting at this point.]

F4's views

- (viii) F4 considered that the revision to the Notes for the “GB” zone would facilitate rebuilding. If the rebuilding was allowed near the “Conservation Area” (“CA”) zones, then those “CA” zones needed to be protected with ecological corridors and linkages so as to reduce the risk of local extinctions of wildlife populations. He also considered that it was bad planning to permit rebuilding without providing adequate mitigation and protection to the environment;

F4's Proposal

- (ix) F4 proposed that the two slopes in Area 10 of Tai Po Kau Headland (i.e. Areas A and B as mentioned in R7) should be rezoned from “GB” to “CA”;

PlanD's responses

- (x) the “GB” zone in Area 10 only had five lots with building status which were located at a distance from the “CA” zone. The rebuilding of the existing domestic buildings to what was permitted for NTEHs would unlikely cause adverse environmental impact on the “CA” zone;

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

*Other Comments*

- (xi) F2 also supported the intention of Amendment Item H1 to provide better protection of landscape and vegetation of the area which acted as an important buffer between developments and

the ecologically sensitive Tai Po Kau Special Area. He suggested that a higher conservation status for the area should be considered;

- (xii) F4 repeated his submissions in R7 as part of his further representation, claiming that he was dissatisfied with the hearing and decision. He suggested that as the Central People's Government had extended the Convention on Biological Diversity to Hong Kong on 9.5.2011, there was a requirement to protect the ecological linkages and corridors; and

PlanD's responses

- (xiii) as these comments were not relevant to the proposed amendments under section 6C(2) of the Ordinance, they were considered invalid;

PlanD's Views

- (g) based on the assessments set out in paragraph 3 of the Paper, PlanD did not support the further representations and considered that they should not be upheld for the reasons as set out in paragraph 5.1 of the Paper; and
- (h) the draft Tai Po OZP No. S/TP/23 should be amended by the proposed amendments.

123. The Chairman then invited the further representer and representers to elaborate on their submissions.

F4 – Ruy Barretto S.C.

124. With the aid of some photos, a plan and a written submission that were tabled at the meeting, Mr. Ruy Barretto S.C. made the following main points:

*Disagreement with the Board's Previous Decisions*

- (a) errors were found in the decisions made by the Board, which were summarised in his submissions dated 27.5.2011, 10.6.2011 and 23.8.2011. The Board should not simply follow the expert opinions of the government departments and should make its own decision. There was no explanation in the minutes of the Board's meetings on what facts, reasons and opinions were considered and not considered, and what findings were made on the points that were raised by the representer at the previous hearings. Noting that a Member commented at the Board's meeting held on 25.2.2011 that the Director of Agriculture, Fisheries and Conservation's comment was not substantial enough, he reiterated that there was a need for the Board to review its decision on retaining the "GB" zoning for Areas A and B;
- (b) it was unfair that he was not invited to the meeting held on 24.6.2011 when the Board considered his letter dated 10.6.2011 raising issues of procedural impropriety concerning the Board's meetings held on 25.2.2011 and 27.5.2011;

*Ecological Value of Wildlife Corridors*

- (c) the photos taken by the Agriculture, Fisheries and Conservation Department (AFCD) and presented at the hearing held on 27.5.2011 had not truly reflected the landscape quality of Areas A and B as they were taken at the edges of the proposed wildlife corridor areas. Areas A and B should be a wildlife corridor and buffer zone. In order to perform this function, these two areas needed to be zoned "CA" so that enforcement action could be taken by relevant government departments;
- (d) it was the duty of the Board to amend the zoning so that the wildlife corridor could be widened and protected for conservation purposes. The evidence showed that Areas A and B met the requirements of a "CA" zone and thus should be zoned accordingly so as to avoid any

disturbance by future development;

- (e) it was wrong to say that the subject of the proposed amendment to the Notes was not related to conservation;
- (f) making reference to a new butterfly species, *Lethe chandica*, and a new moth species, *Endochlita davidii*, that were recently found at Tai Po Kau Headland, he reiterated that Areas A and B were worth protecting and the corridor needed to be widened to facilitate the movement of wildlife in the Tak Po Kau Special Area;

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

*Proposed "CA" zoning*

- (g) the Board should consider whether the protected corridor linking Tai Po Kau Headland to Pai Mun Shan was wide enough to serve as a corridor and whether Areas A and B, which were steep slopes, were suitable for conservation purposes;
- (h) as the planning changes would allow houses to be redeveloped, the roads would also need to be built or widened and this would cause adverse impact on the nearby forest. To avoid this, Areas A and B should be protected by proper zoning before the damage was done;
- (i) the appropriate way for PlanD to maintain the ecological corridor for wildlife/birds in the area was to rezone it as "CA". This was also consistent with its current practice;
- (j) redevelopment of houses and construction of roads would lead to extensive slope works on the steep slopes which would involve removal of trees and vegetation and cause a degradation of the landscape quality of the area; and

- (k) the Board should follow the international planning and conservation principles. In doing so, the Board should rezone all or most of Areas A and B as “CA” based on the evidence.

R10 – David King

125. With the aid of Plan Ha-6 of the Paper, Mr. David King made the following main points:

- (a) R8 to R12 and F1 were the owners of Lot 197 in D.D.35 (the subject lot). There were two existing old houses (over 70-80 years) at the subject lot. Some residential developments such as Deerhill Bay and Constellation Cove were found in the surroundings. The subject lot was about 480m<sup>2</sup> in area and the two houses had a total gross floor area of about 400m<sup>2</sup> and a plot ratio of about 1. As the “GB” zoning and its relevant Notes would affect the property right of the owners, the subject lot should be given a residential zoning to reflect its existing use. It should be zoned “R(C)” with a plot ratio of 1 so that the owners could redevelop the two existing houses into one single house;
- (b) although PlanD claimed that small building lots within a wider “GB” zone should not be given a specific residential zoning, he noted that there were many sporadic “R(C)” zones encompassed by “GB” or “CA” zone on the same OZP (e.g. in the Tai Po Kau Lo Wai area and within a narrow strip of “GB” zone in between Tai Po Road and the East Rail Line to the east of Ha Wong Yi Au). The subject lot was similar in size to these “R(C)” sites. In this regard, the proposal to rezone the subject lot as “R(C)” was in line with the existing practice for the other “R(C)” zones on the same OZP;
- (c) it was inappropriate for PlanD to dismiss his proposal to rezone the lot to “R(C)” on the ground that the lease did not permit redevelopment of the two houses into one single house as planning control and lease restrictions should be dealt with separately. Taking the example of the



imposition of building height restrictions on the OZP, he noted that the Board's decisions were not bound by lease restrictions; and

- (d) the amended Notes for the "GB" zone were too restrictive because existing owners would need to seek planning permission from the Board should they wish to redevelop two houses into one. The Board should amend the Notes of the "GB" by including 'House (rebuilding of existing domestic building(s) not resulting in total redevelopment in excess of the plot ratio, site coverage and height of the existing domestic building(s))' under Column 1.

R12 – Koon E Le, Teresa

126. Ms. Koon E Le, Teresa said that she intended to redevelop the two existing houses into one single house for the whole family on Lot 197 in D.D.35. In this regard, she requested the Board to give favourable consideration to her case.

127. As the further presenter and presenters had completed their presentations, the Chairman invited questions from Members.

128. In response to a Member's enquiry on whether the Board had the authority to re-consider the zoning for Areas A and B at this meeting, Mr. W.K. Hui said that the zoning for Areas A and B had been considered by the Board at its meetings held on 25.2.1011 and 27.5.2011 and the Board had already completed its deliberation on the matter on 27.5.2011.

129. The same Member asked whether the redevelopment of an NTEH would necessarily involve the construction of an access road or the carrying out of slope works outside the building lot. In response, Mr. W.K. Hui explained that NTEH was restricted to a specific size and dimensions under the Buildings Ordinance (Application to New Territories) Ordinance (Cap. 121) which included a maximum built-over area of 65.03m<sup>2</sup> and a maximum building height of 8.23m (3 storeys), among others. Any house development in excess of the specific size and dimensions could not be regarded as a NTEH and would require planning permission from the Board under the "GB" zone. If

the redevelopment involved the construction of an access road that was outside the lot and was within the “GB” zone, the proposed road works would be considered as a use ancillary to the NTEH (i.e. a house use) which would require planning permission. Mr. Jeff Lam supplemented that for building a NTEH on a private lot, generally certificates of exemption in respect of building works, site formation works and drainage works were required. If a house development did not meet the requirements of NTEH, the lot owner could consider submitting building plans for the proposed building to the Buildings Department for approval.

130. The same Member further enquired whether the representers/further representer’s proposal of redeveloping the two houses at Lot 197 in D.D.35 could be implemented under the subject amendment. In response, Mr. W.K. Hui said that any house development in excess of an NTEH within a “GB” zone would require planning permission from the Board. In this respect, the redevelopment proposal of combining two houses into one would require planning permission from the Board.

[Mr. Benny Wong returned to join the meeting at this point.]

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

#### Deliberation Session

132. The Chairman noted that the zoning for Areas A and B had already been considered by the Board at its previous meetings. Based on the expert advice of AFCD that the ecological value of Areas A and B could not justify a “CA” zoning for these two areas, the Board considered that a “GB” zone was more appropriate. As such, he sought Members’ view as to whether it was necessary to re-open discussion on this matter. Members agreed that it was unnecessary to re-open the case. The Chairman said that the other issue was mainly on whether redevelopment of two houses into one within the “GB”

zone should be permitted as of right. Members considered that since such a redevelopment might generate adverse impact on the rural character, it would be prudent not to amend the Notes and subject such redevelopment to planning permission from the Board. It was a proper balance between development control and flexibility. If the redevelopment proposal was considered acceptable, planning approval could be granted.

133. The Secretary said that Mr. Ruy Barretto S.C. (F4)'s request to rezone Areas A and B to "CA" was not relevant to the consideration of further representations related to the further amendments made by the Board on 27.5.2011. However, Mr. Barretto had concerns on the revision to the Notes of the "GB" zone by allowing rebuilding of NTEHs as of right as the road/slope works arising from such redevelopment would inevitably generate adverse impact on the surroundings. The Secretary pointed out that whilst NTEHs were subject to specific requirements, rebuilding of a domestic structure in excess of the specific size and dimensions and/or involving an access road and slope works, which was beyond the NTEH requirements, would require planning permission from the Board. In this regard, the concern of F4 had been addressed. Members agreed.

134. Mr. Jimmy Leung said that the Board had already considered the request of F4 at its previous meetings and the proposed amendments to the Plan would be submitted to the Chief Executive in Council for approval. As this round of plan-making process was already at its final stage, any new findings concerning the ecological value of the wildlife corridors at Tai To Kau could be forwarded to the relevant government departments for their reference.

135. The Vice-chairman raised a concern that the expert opinions given by the government departments were increasingly challenged by the representers. He suggested that the requirement for a joint expert report to be submitted by the Government and the representers should be considered. The Chairman said that the Board had taken into account the expert opinions from both sides and all relevant considerations and information. The Board had made a decision based on its own judgement and the decision did not rely solely on the advice of the experts. He noted that it would not be in line with the procedures to re-open discussion on the "GB" zoning of the two areas mentioned by F4. Moreover, he considered that the experts from government departments were able to perform their roles properly and such practice should be

continued. Members agreed with the assessment.

136. After further deliberation, the Chairman concluded that Members generally considered it appropriate not to amend the Notes of the “GB” zone. Members also considered that the balance should be struck between development control and development flexibility, and that the current restrictions on the scale and form of rebuilding to not more than that permitted for NTEHs was sufficient. Members also agreed that F4’s proposal of rezoning Areas A and B as “CA” had already been duly considered at the previous meetings of the Board. In view of the above, F1 to F4 should not be upheld. Members agreed. Members then went through the reasons for not upholding F1 to F4 as stated in paragraph 5.1 of the Paper and agreed that they should be suitably amended.

#### Further Representation No. F1

137. After further deliberation, the Board decided not to uphold F1 for the following reasons:

- (a) the proposed amendments to the Notes for the “Green Belt” (“GB”) zone were considered appropriate as it would facilitate rebuilding of New Territories Exempted House (NTEH) or replacement of existing domestic building by NTEH and provide proper development controls on and flexibility for the Town Planning Board to consider applications for developments within the “GB” zone; and
- (b) no strong planning justification had been submitted to support the proposed revision to the Notes of the “GB” zone.

#### Further Representation No. F2

138. After further deliberation, the Board decided not to uphold F2 for the reason that the proposed amendments to the Notes for the “Green Belt” (“GB”) zone are considered appropriate as it would facilitate rebuilding of New Territories Exempted House (NTEH) or replacement of existing domestic building by NTEH and provide proper

development controls on and flexibility for the Town Planning Board to consider applications for developments within the “GB” zone.

139. The Board also agreed to advise further representer F2 that part of the further representation relating to rezoning of “GB” to “Conservation Area” was considered invalid as it was not an amendment item of the Tai Po Outline Zoning Plan made under section 6C(2) of the Town Planning Ordinance.

#### Further Representation No. F3

140. After further deliberation, the Board decided not to uphold F3 for the reason that the proposed amendments to the Notes for the “Green Belt” (“GB”) zone were considered appropriate as it would facilitate rebuilding of New Territories Exempted House (NTEH) or replacement of existing domestic building by NTEH and provide proper development controls on and flexibility for the Town Planning Board to consider applications for developments within the “GB” zone.

#### Further Representation No. F4

141. After further deliberation, the Board decided not to uphold F4 for the reason that the rebuilding of the existing domestic buildings to what was permitted for NTEH in the “Green Belt” (“GB”) zone would unlikely cause adverse environmental impact on the “Conservation Area” (“CA”) zone in Tai Po Kau Headland.

142. The Board also agreed to advise further representer F4 that part of the further representation relating to rezoning of “GB” to “CA” was considered invalid as it was not an amendment item of the Tai Po Outline Zoning Plan made under section 6C(2) of the Town Planning Ordinance.

143. The Board also agreed that :

- (a) the draft Tai Po Outline Zoning Plan (OZP) No. S/TP/23 should be amended by the proposed amendments and such amendments should form part of the draft OZP. In accordance with section 6H of the Town

Planning Ordinance (the Ordinance), the OZP should thereafter be read as including the amendments;

- (b) the amendments should be made available for public inspection until the Chief Executive in Council had made a decision in respect of the draft OZP under section 9 of the Ordinance; and
- (c) administratively, the Building Authority and relevant government departments would be informed of the decision of the Board and would be provided with a copy/copies of the amendments.

[Professor S.C. Wong left the meeting temporarily at this point.]

### **Special Duties Section**

#### **Agenda Item 6**

[Open Meeting (Presentation and Question Session only)]

Section 12A Application No. Y/H24/3

Application for Amendment to the Approved Central Outline Zoning Plan S/H24/6 by adding a statement “On-site preservation of the Queen’s Pier located at the north of the City Hall” to paragraph (8) of the covering Notes and the Remarks in the Notes for “Open Space” and “Other Specified Uses” annotated “Elevated Walkway” zones; and by adding a statement “On-site preservation of the Queen’s Pier located at the north of the City Hall and “Government, Institution or Community (1)” (“G/IC(1)”)” to the Remarks in the Notes for “G/IC” zone, Queen’s Pier, Central

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[The meeting was conducted in Cantonese.]

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

144. As the Queen Pier (QP) was assessed and graded by the Antiquities Advisory Board (AAB) as a Grade 1 historic building, the following Members had declared interests in this item:

- Mr. Lawrence L.J. Li - being a member of AAB and a legal representative of Protection of the Star Ferry Pier and Queen's Pier Activists
- Dr. C.P. Lau - being a member of AAB

145. Members noted that the subject application was not about the heritage value of QP and the interests of the above Members were indirect. Members agreed that they could stay at the meeting.

146. The following government representatives were invited to the meeting at this point:

- Miss Fiona Lung - Chief Town Planner/Special Duties (CTP/SD), Planning Department
- Mr. Li Kam Sang - Senior Engineer/Hong Kong Island Division 1, Civil Engineering and Development Department
- Mr. Yiu Fan Lai - Senior Engineer/Technical Services, Highways Department

147. The following applicant's representatives were invited to the meeting at this point:

- Ms. Cheng Lai King ] Applicant's representatives
- Mr. Lee Ka Ho ]

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

148. The Chairman extended a welcome and explained the procedures of the hearing. He then invited CTP/SD to brief Members on the application.

149. With the aid of a powerpoint presentation, Miss Fiona Lung presented the application and covered the following main points as detailed in the Paper:

- (a) on 18.1.2007, the applicant submitted an application under s.12A of the Town Planning Ordinance (the Ordinance) for amendments to the covering Notes and the remarks of the “Open Space” (“O”), “Government, Institution or Community” (“G/IC”), “Other Specified Uses” annotated “Elevated Walkway” (“OU(EW)”) zones of the approved Central District (Extension) Outline Zoning Plan (OZP) No. S/H24/6 to incorporate a statement “On-site preservation of the Queen’s Pier (QP) located at the north of City Hall and G/IC(1)”;
- (b) the application site mainly fell within an area shown as ‘Road’ with a small portion falling within an area zoned as “O”, “OU(EW)” and “G/IC(1)”;
- (c) at the time when the s.12A application was submitted by the applicant, the Government had been discussing with the Legislative Council (LegCo) on how best to preserve QP having regard to the technical feasibility and other relevant considerations;
- (d) on 23.1.2007, the Panel on Planning, Lands and Works (PLW Panel) of LegCo recommended the Administration to engage the professional bodies and community groups with a view to working out an acceptable arrangement for preserving QP;
- (e) on 27.3.2007, the Administration reported to the PLW Panel of LegCo the outcome of discussions with four professional bodies and provided an analysis on the technical feasibility, possible additional costs incurred and delay caused to the Central Reclamation Phase III (CRIII) contract in respect of the four options for preservation of QP put forward by various parties;
- (f) on 13.4.2007, the Metro Planning Committee (MPC) of the Town Planning Board (the Board) decided to defer a decision on the application as requested by the Planning Department (PlanD) and the applicant until the Government had a more detailed proposal on the QP;



- (g) on 23.4.2007, the Administration presented to PLW Panel its further discussions with the professional bodies and 11 concerned bodies/individuals and recommended that the option “to preserve the above-ground structure of the Pier as far as practicable for reassembling in close proximity to its original location or at other appropriate location” should be adopted. A motion put forward by Dr. Kwok Ka-ki (a former LegCo member) urging the Government to preserve the QP in-situ was turned down while the Administration’s proposal was supported by majority votes;
- (h) the Administration undertook to consult the public on whether to reassemble the QP in-situ or at another location in the “Urban Design Study for the New Central Harbourfront (UDS)” commissioned by PlanD in March 2007;
- (i) QP was officially closed in April 2007 with retainable parts of its above-ground structures preserved in February 2008;
- (j) the results of the public engagement exercise conducted during the UDS showed that the reassembly of QP in-situ received lesser public support. In August 2009, the Administration decided to reassemble QP at the harbourfront between Central Piers 9 and 10;
- (k) upon completion of the planning and design briefs for key sites and the remaining tasks of UDS in July 2011, the applicant’s view on reactivating the s.12A application was sought. On 20.9.2011, the applicant wrote to the Secretariat of the Board to reactivate the application;
- (l) on 21.10.2011, MPC agreed that given the preservation of QP was of wide public interest and territorial significance, the application should be submitted to the Board for consideration;

- (m) the justifications put forth by the applicant in support of the application were summarised as follows:
- (i) QP was built in 1961 and was commonly used by overseas visitors and local residents embarking for harbour cruise;
  - (ii) since the completion of City Hall and Edinburgh Place in 1962, all the Colonial Governors would come ashore at QP and a welcoming ceremony would be held nearby. QP had become an important landmark of Hong Kong and a collective memory of the colonial era;
  - (iii) the proposed in-situ preservation of QP was to preserve the historical significance of QP and its surrounding areas;
  - (iv) with increasing public aspirations to preserve local culture and history, the community would no longer accept a replica or a signage but demanded the preservation of the building itself as a collective memory;
  - (v) while there were heated debates in society on CRIII, the focus was mainly on the legality and necessity of reclamation. There was insufficient information to allow public discussion on the preservation of buildings with significant historic value;
  - (vi) the Government had not provided any detailed explanation on the technical constraints for in-situ preservation of QP;
  - (vii) according to Professor Hung Wing Tat's initial assessment, the in-situ preservation of QP was possible with minor adjustment to the alignment of Road P2; and
  - (viii) the Board should recognise the change in societal value on preservation of historic buildings and the historical significance

of QP and should amend the OZP for in-situ preservation of QP;

- (n) a previous application (No. Y/H24/4) was submitted by Designing Hong Kong, which included, inter alia, a proposal to rezone QP site to “OU (Historic Structure to be Retained)”. The application was rejected by the Board on 11.1.2008 on the grounds that the location and design concept of reassembly of QP were being examined in the UDS and it was not appropriate to rezone the site at that stage;
- (o) the departmental comments were summarised in paragraph 9 of the Paper, which had been taken into account in assessing the application;
- (p) public comments – a total of 271 public comments were received. Among which, 266 public comments were submitted in four types of standard forms while five were individual submissions. Majority of the public comments (269 nos.) generally supported the application. Their views were that amendments to the covering Notes and Remarks of relevant zones under the OZP for in-situ preservation of QP was supported; QP was an important built-heritage of Hong Kong; to demolish QP was to destroy a physical link to the past; the spatial integrity between QP, Edinburgh Place and City Hall should be maintained; a “collective memory” zone to commemorate QP should be included; built-heritage in Central should be valued as a whole, the criteria for determination of heritage value should not be limited to “age” alone and conservation should include protection of ensembles and through urban design controls in sensitive zones; QP should be a marker for the change in the coastline; Road P2 should be realigned and reduced in width to preserve QP and to maintain Edinburgh Place and the surrounding areas as a public open space; roads should be kept underground to avoid partitioning the waterfront park; preservation of QP was technically feasible without causing major disruption to planned infrastructures; a “Museum of Civil Rights” at the original site for Star Ferry Pier should be built; and the need and scale of reclamation should be reconsidered. Two public comments objecting to the application

were received and the opposing views were mainly that as land was a valuable asset, demolition of QP was supported; early completion of the Central and Wan Chai Bypass to resolve traffic congestion was supported; and other preservation methods such as to designate a “collective memory” zone or a commemorative hall and to preserve the QP plaque for display, etc. should be adopted;

- (q) the planning considerations and assessments as set out in paragraph 11 of the Paper were summarised below:

*Preservation of QP*

- (i) the Government had extensively consulted and discussed with the professional bodies and other stakeholders on different proposals for preserving QP;
- (ii) to shift planning infrastructures (including Road P2, Airport Railway Extension Overrun Tunnel (AREOT), and the extension of the stormwater drainage culvert at Man Yiu Street) for in-situ preservation of QP was not reasonably practical;
- (iii) the major considerations were that realignment of Road P2 would cause serious delay to completion of road and major cost implications on CRIII contract; the alignment of AREOT and the North Island Line (NIL) was fixed by a number of control points and could not be shifted to avoid the footprint of QP; and drainage culvert was in conflict with QP and its alignment was constrained by AREOT, General Post Office, cooling water mains and a 1,350mm diameter trunk sewer;
- (iv) after careful consideration, a more practical proposal would be to preserve the above-ground structures of QP in close proximity to its original location or at another appropriate location;

- (v) a motion put forward by Dr. Kwok Ka Ki, former LegCo member (the representative of this application), urging Government for in-situ preservation of QP had been turned down at the PLW of LegCo on 23.4.2007. At the same meeting, the Administration's proposal to preserve the above-ground structures of QP was supported;
- (vi) to preserve the above-ground structures of QP was in line with QP's "Grade 1" historic building status accorded by AAB on 9.5.2007 and its recommendation to preserve significant relics of QP and consider reassembling them in the new harbourfront;

*Reassembly of QP*

- (vii) identification of suitable location and design ideas for QP (including in-situ preservation) had been carried out with several rounds of public engagement;
- (viii) written submissions with alternative design and planning proposals were critically examined by the TGUDS together with concerned departments;
- (ix) reassembly of QP by the harbour between Central Piers 9 and 10 to revive its pier function was supported by the public and District Councils (DCs). 16 out of 18 DCs including the Central & Western DC passed a motion in support of reassembly of QP by the harbour;
- (x) under the UDS recommendations, memorial elements through paving and landscaping design would be added to the original site of QP to commensurate QP's historical significance. Moreover, Edinburgh Place fronting the City Hall would be retained as a historical open space;

- (xi) the UDS recommendations (including the Reassembly of QP by the harbour) were presented to the former Harbourfront Enhancement Committee in August 2009, Sub-Committee on Harbourfront Planning under the LegCo's Panel on Development in November 2009 and Town Planning Board in November 2009; and

*Public Comments*

- (xii) some of the comments on “in-situ preservation of QP” had been covered in the above planning considerations and assessments. The responses of relevant government departments to the public comments on the establishment of a “Civil Rights Museum”, the criteria for assessing heritage value, alignment and width of Road P2 and the public space at Edinburgh Place were set out in paragraph 9 of the Paper. Other public comments were duly considered in revising the planning and design concepts of UDS;
- (r) PlanD did not support the application for the reasons stated in paragraph 12.1 of the Paper and summarised below:
- (i) the different proposals for preservation of QP had undergone extensive community engagement;
  - (ii) as it was not reasonably practical to shift the planned infrastructure so as to preserve QP in-situ, the more practical proposal was to preserve the above-ground structures of QP for reassembling at an appropriate location; and
  - (iii) the UDS's recommended option of “reassembly of QP by the harbour” to revive its pier function had taken into account public views and the support of District Councils gathered through extensive public engagement; and

- (s) based on the above considerations, the proposed amendments to the Notes of the OZP for in-situ preservation of QP were considered not appropriate.

150. The Chairman then invited the applicant's representatives to elaborate on the application. Ms. Cheng Lai King made the following main points:

- (a) the application was submitted on 18.1.2007 but had been deferred for more than four years and ten months. The proposal had been overtaken by events as QP had already been demolished;
- (b) owing to the need for reclamation, the Blake Pier was firstly demolished, followed by the Star Ferry Pier and then QP;
- (c) the example of Murray House which was reassembled in Stanley demonstrated that the reassembly of QP at another location would deprive it of its historical value because the reassembled site would lack a historical ambience;
- (d) it was regrettable that implementation of Road P2, AREOT and a 1,350mm diameter trunk sewer underground was considered more important than preservation of QP in-situ;
- (e) notwithstanding the suggestion that the alignment of Road P2 could be slightly adjusted in order to preserve QP, the proposal was rejected by the Government;
- (f) although 16 out of 18 DCs supported the reassembly of QP by the harbour, it should be noted that most of the public comments (269 nos.) supported the application while only two public comments objected to the application;
- (g) relocation of QP to a site between Central Piers 9 and 10 as recommended under UDS might maintain its function as a pier but

would not restore the political and historical significance of the pier as a collective memory of the colonial era;

- (h) QP and its surroundings including the Edinburgh Place and the City Hall represented part of Hong Kong's history which could not be separated. If QP was preserved in-situ, it would become a focal point of significance;

[Professor S.C. Wong returned to join the meeting at this point.]

- (i) as QP was graded as a Grade 1 historic building by AAB, in-situ preservation of QP should be considered by the Government; and
- (j) given the changing planning circumstances and a change in societal value on the preservation of historic buildings, the Board should consider the proposal of in-situ preservation of QP.

151. Noting that the results of public consultation did not favour in-situ preservation of QP and the QP had already been demolished, a Member asked the applicant whether discussion on the topic should be re-opened. In response, Ms. Cheng Lai King said that QP, which represented part of Hong Kong's history during the colonial era, was worth preserving. Particularly, it was graded as a Grade 1 historic building. Even though 16 out of 18 DCs were in support of the reassembly of QP by the harbour, she considered it worthwhile to re-open discussion of the matter and to conduct further public consultation. Ms. Cheng opined that in-situ preservation of QP was preferred to the reassembly of QP by the harbour in view of its historical and cultural significance. She agreed that there were practical difficulties to preserve QP in-situ at this stage but she said that the Board should re-consider the choice between in-situ preservation and reassembly of QP by the harbour.

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



The Chairman thanked the government representatives and the applicant's representatives for attending the meeting. They all left the meeting at this point.

### Deliberation Session

153. The Vice-chairman remarked that the subject application was overtaken by events. Since QP had been demolished and the area was already reclaimed, it would be more appropriate to relocate QP to the harbourfront. He considered that whether QP was relocated to a harbourfront location or remained at its original location after reclamation would not affect its historical significance. However, it would be odd to reassemble QP on a land-locked site. Another Member shared his view and said that there could be alternative ways to express the historical significance of QP at the new location.

154. Two Members considered that as the QP had already been demolished after going through a prolonged consultation process, there was no point to conduct further consultation and to re-open discussion on whether QP should be preserved in-situ. As such, they did not agree with the proposed amendment to the Notes of the OZP.

155. A Member said that the historical significance of QP was relatively low when compared with other historic sites of Hong Kong. Another Member noted that the applicant wanted to go through the motion and complete the planning application procedures.

156. To conclude, the Chairman said that Members acknowledged that the history of QP should be respected. However, Members noted that extensive consultation had been conducted and the majority views of the society were in support of the reassembly of QP by the harbour. Besides, it was confirmed by relevant government departments that reassembly of QP at the harbour was a more practical option. In view of the above, Members agreed that the application should be rejected.

157. After further deliberation, the Board decided not to agree to the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the different proposals for preserving the Queen's Pier (QP) had undergone extensive community engagement. The QP was in conflict with the planned infrastructures including Road P2, Airport Railway Extended Overrun Tunnel and the extension of the stormwater drainage culvert at Man Yiu Street. Concerned government departments had confirmed that it was not reasonably practical to shift the planned infrastructure so as to preserve the QP in-situ. The more practical proposal was to preserve the above-ground structure of the QP for reassembling at another appropriate location; and
  
- (b) there had been extensive public engagement conducted under the Urban Design Studies for the New Central Harbourfront (UDS) on the locations for the reassembly of the QP. Taking into account the public views and the support of the District Councils, the UDS recommended reassembling the QP by the harbour to revive its pier function, and to add paving and landscaping design at the original site of the QP to commemorate its historical significance. The proposed amendments to the Outline Zoning Plan for in-situ preservation of the QP were not appropriate.

[Dr. C.P. Lau left the meeting at this point.]

### **Kowloon District**

#### **Agenda Item 7**

[Open Meeting]

Request for Deferral for Review of Application No. A/K11/203

Proposed Houses in "Government, Institution or Community" zone,

99 Shatin Pass Road and the Adjoining Government Land, Wong Tai Sin

(TPB Paper No. 8954)

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[The meeting was conducted in Cantonese.]

158. The Secretary reported that on 10.11.2011, the applicant wrote to the Secretary of the Town Planning Board (the Board) requesting the Board to defer making a decision on the review application for two weeks until 9.12.2011 in order to allow extra time for preparing supplementary information for presentation at the review hearing. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No. 33) in that the applicant needed more time to prepare supplementary information for the review hearing, the deferment period was not indefinite and the deferment would not affect the interest of other relevant parties.

159. After deliberation, the Board agreed to defer consideration of the review application as requested by the applicant. The Board also agreed that the review application should be submitted for its consideration on 9.12.2011. The applicant should be advised that the Board had allowed two weeks for preparation of relevant documentation for the review, and no further deferment would be granted unless under very special circumstances.

### **Sha Tin, Tai Po and North District**

#### **Agenda Item 8**

[Open Meeting]

Request for Deferral for Review of Application No. A/DPA/NE-TKP/4  
Proposed 16 Houses (New Territories Exempted Houses – Small Houses)  
in areas designated as “Unspecified Use”, Various Lots in D.D. 293,  
To Kwa Peng, Sai Kung North  
(TPB Paper No. 8955)

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[The meeting was conducted in Cantonese.]

160. The Secretary said that Ms. Anna S.Y. Kwong had declared an interest in this item as she was the authorised person for a residential development project in the To Kwa Peng area. Members noted that Ms. Anna S.Y. Kwong had already left the meeting.

161. The Secretary reported that on 3.11.2011, the applicants' representative wrote to the Secretary of the Town Planning Board (the Board) requesting the Board to defer making a decision on the review application for two months due to the need for additional time to provide technical reports. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No. 33) in that the applicants needed more time to prepare further information to address the comments/concerns from government department(s), the deferment period was not indefinite and the deferment would not affect the interest of other relevant parties.

162. After deliberation, the Board agreed to defer consideration of the review application as requested by the applicant. The Board also agreed that the review application should be submitted for its consideration within three months upon receipt of the further submission from the applicant. The applicant should be advised that the Board had allowed two months for preparation of submission of further information, and no further deferment would be granted unless under very special circumstances.

### **Procedural Matters**

#### **Agenda Item 9**

[Open Meeting]

Submission of the Draft Sha Tau Kok Development Permission Area (DPA) Plan No. DPA/NE-STK/1A, Draft Lin Ma Hang DPA Plan No. DPA/NE-LMH/1A and Draft Ma Tso Lung and Hoo Hok Wai DPA Plan No. DPA/NE-MTL/1A under Section 8 of the Town Planning Ordinance to the Chief Executive in Council for Approval (TPB Paper No. 8959)

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[The meeting was conducted in Cantonese.]

163. Members noted that the Heung Yee Kuk New Territories (HYK) had submitted comments in respect of the five DPA Plans and the following Members had declared interests in this item:

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	]	

164. Members noted that Mr. Stephen M.W. Yip had tendered apology for being unable to attend the meeting and Dr. W.K. Yau and Dr. C.P. Lau had already left the meeting.

165. The Secretary briefly introduced the Paper. On 30.7.2010, the three DPA Plans (i.e. draft Sha Tau Kok DPA Plan No. DPA/NE-STK/1, draft Lin Ma Hang DPA Plan No. DPA/NE-LMH/1 and draft Ma Tso Lung and Hoo Hok Wai DPA Plan No. DPA/NE-MTL/1) together with two other DPA Plans (i.e. draft Ta Kwu Ling North DPA Plan No. DPA/NE-TKLN/1 and draft Ma Kam To DPA Plan No. DPA/MKT/1) were exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 29 representations in respect of the three DPA Plans under concern were received. On 8.10.2010, the representations were published for public comments and in the first three weeks of the publication period, 12 public comments were received. On 25.2.2011, the Town Planning Board (the Board) considered all the representations and comments in respect of the five DPA Plans, including those on the three DPA Plans under concern, and decided to defer a decision on the representations/comments pending further review by the Planning Department on the land use proposals, in particular on the “Village Type Development” (“V”) zones.

166. On 8.9.2011, after giving further consideration to the representations and comments, the Board decided to propose amendments to revise the “V” zones for Tong To, San Tsuen, Muk Min Tau and Tsiu Hang, and Tam Shui Hang and Shan Tsui (Sha Tau Kok DPA), Fung Wong Wu (Man Kam To DPA) and Liu Pok (Ma Tso Lung and Hoo Hok Wai DPA) as well as to amend the zoning for the Lin Ma Hang stream buffer from “Conservation Area” to “Green Belt” to partially meet the representations. On 16.9.2011, these proposed amendments were published for public inspection. A total of 19 further representations were received. On 11.11.2011, after giving consideration to the further

representations, the Board decided not to uphold the further representations and agreed to amend the DPA Plans by the proposed amendments under section 6F(8) of the Ordinance. As the plan-making process had been completed, the three DPA Plans under concern were ready for submission to the Chief Executive in Council (CE in C) for approval.

167. After deliberation, the Board agreed:

- (a) that the draft Sha Tau Kok DPA Plan No. DPA/NE-STK/1A, draft Lin Ma Hang DPA Plan No. DPA/NE-LMH/1A and draft Ma Tso Lung and Hoo Hok Wai DPA Plan No. DPA/NE-MTL/1A at Annexes A1, B1 and C1 of the Paper together with their respective Notes at Annexes A2, B2 and C2 of the Paper were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) to endorse the updated Explanatory Statements for the draft Sha Tau Kok DPA Plan No. DPA/NE-STK/1A, draft Lin Ma Hang DPA Plan No. DPA/NE-LMH/1A and draft Ma Tso Lung and Hoo Hok Wai DPA Plan No. DPA/NE-MTL/1A at Annexes A3, B3 and C3 of the Paper as an expression of the planning intention and objectives of the Board for various land-use zones on the draft DPA Plans and issued under the name of the Board; and
- (c) that the updated Explanatory Statements were suitable for submission to CE in C together with the draft DPA Plans.

### **Agenda Item 10**

[Closed Meeting]

168. This item was recorded under confidential cover.

**Agenda Item 11**

[Open Meeting]

**Any Other Business**

[The meeting was conducted in Cantonese.]

169. The Secretary said that the Secretariat of the Town Planning Board was just informed by the Department of Justice that the applicant of the two judicial reviews (JRs) HCAL No. 23/2011 and HCAL No. 52/2011, Turbo Top Limited, would take out summonses for continuing the interim stay pending appeal for the JR proceedings. Members would be informed of the progress in due course.

170. There being no other business, the meeting closed at 5:15 p.m..