

**TPB Paper No. 10656
For Consideration by the
Town Planning Board on 14.8.2020**

REVIEW OF APPLICATION NO. A/H6/87

**PROPOSED 'FLAT' USE (ACCESS ROAD FOR THE RESIDENTIAL
DEVELOPMENT AND PEDESTRIAN LINK)
IN "GREEN BELT", "RESIDENTIAL (GROUP A) 1" AND
"RESIDENTIAL (GROUP B)" ZONES AND
AREA SHOWN AS 'ROAD'**

**4-4C TAI HANG ROAD (PART) AND ADJOINING GOVERNMENT LAND
TAI HANG ROAD, HONG KONG**

REVIEW OF APPLICATION NO. A/H6/87
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed ‘Flat’ Use (Access Road for the Residential Development and Pedestrian Link)
in “Green Belt”, “Residential (Group A) 1” and
“Residential (Group B)” zones and area shown as ‘Road’
4-4C Tai Hang Road (Part) and Adjoining Government Land
Tai Hang Road, Hong Kong**

1. Background

- 1.1 On 20.6.2018, the applicant, Century Shiner Limited, represented by Kenneth To & Associates Limited, sought planning permission under s.16 of the Town Planning Ordinance (the Ordinance) for a proposed access road from the upper section of Tai Hang Road (upper Tai Hang Road) to serve exclusively a permitted residential development at an adjoining site (4-4C Tai Hang Road) and a pedestrian link connecting the planned residential development to the upper Tai Hang Road and the lower section of Tai Hang Road (lower Tai Hang Road) and further extending to Ormsby Street/Wun Sha Street in the lower part of Tai Hang area. The application site (the Site) is about 2,203.9m² in size and of which, about 94.8% is government land (**Plans R-1 to R-3**). The Site falls within areas zoned “Green Belt” (“GB”) (about 53%), “Residential (Group A) 1” (“R(A)1”) (about 36%), “Residential (Group B)” (“R(B)”) (about 5%) and area shown as ‘Road’ (about 6%) on the draft Causeway Bay Outline Zoning Plan (OZP) No. S/H6/16 when the s.16 planning application was submitted. The zonings and development restrictions of the Site remain unchanged on the current approved OZP No. S/H6/17 gazetted on 18.1.2019.
- 1.2 On 18.1.2019, the Metro Planning Committee (MPC) of the Town Planning Board (the Board) decided to reject the application on the following grounds:
- (a) the proposed development is not in line with the planning intention of the “GB” zone which is primarily for conservation of the natural environment and to safeguard it from encroachment by urban-type development. There is a general presumption against development in “GB” zone, and there is no strong justification for a departure from such planning intention;
 - (b) the applicant fails to demonstrate that the proposed access road is the only viable option in geotechnical terms to serve the planned residential development and that the proposed access road does not result in adverse visual and landscape impacts; and
 - (c) the applicant fails to demonstrate the implementability of the proposed pedestrian link and that the proposed link does not result in adverse visual and landscape impacts.

1.3 The proposed access road from the upper Tai Hang Road falls primarily on vegetated government land zoned “GB” comprising a 6m wide carriageway and a 2.5m wide footpath (**Plan R-3**). It will be built in the form of an elevated structure connecting upper Tai Hang Road with the podium of the planned residential development which is zoned “R(B)” (**Drawing R-6**) and then via a one-way spiral down ramp to lower Tai Hang Road (**Drawings A-5a to A-5d in Annex A**). The proposed pedestrian link, which also falls mainly on vegetated government land, is about 147.5m long and will connect upper Tai Hang Road via the podium of the planned residential development with an elevated footbridge system over lower Tai Hang Road and Ormsby Street/Wun Sha Street (**Drawing R-6**). Three passenger lifts are proposed along the pedestrian link (**Plan R-2b & Plan R-3** and also **Drawings A-2a & A-2c in Annex A**). The proposed pedestrian link will be open 24 hours to the public. The applicant proposes to design, build, maintain and manage the pedestrian link until it is taken back by relevant government departments (**Annex A-1**). The applicant proposes to reduce the podium height of the planned residential development from about 75.35mPD to about 71.9mPD (i.e. by 3.45m).

1.4 For Members’ reference, the following background documents are attached:

- (a) MPC Paper No. A/H6/87A (Annex A)
- (b) Extract of minutes of the MPC meeting held on 18.1.2019 (Annex B)
- (c) Secretary of the Board’s letter dated 1.2.2019 (Annex C)

2. Application for Review

2.1 On 22.2.2019, the applicant applied, under s.17(1) of the Ordinance, for a review of the MPC’s decision to reject the application through a letter to the Board (**Annex D**). In support of the review, the applicant has submitted the following documents:

- (a) Letter dated 22.2.2019 setting out the grounds for review (Annex D)
- (b) Letter dated 18.4.2019 providing further information (FI) to address comments from government departments with a technical paper in support of the proposed pedestrian link [**FI-1**]* (Annex E-1)
- (c) Letter dated 28.6.2019 providing responses, technical clarifications on the proposed pedestrian link and revised drawings in response to comments from government departments [**FI-2**][#] (Annex E-2)
- (d) Letter dated 13.9.2019 providing responses with revised proposal on the proposed access road and pedestrian link and revised drawings to address comments from government departmental [**FI-3**][#] (Annex E-3)

- (e) Letter dated 14.2.2020 providing revised feasibility study on slope stabilization measures and copy of a letter to the Development Bureau (DevB) seeking support of the proposed pedestrian link [FI-4] * (Annex E-4)
- (f) Letter dated 24.4.2020 providing technical clarifications including calculations of the options of slope stabilization measure [FI-5] # (Annex E-5)

* *accepted but not exempted from the publication and recounting requirements*

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2.2 The review application was originally scheduled for consideration by the Board on 12.7.2019. The Board decided on 12.7.2019 and 6.12.2019 respectively to defer making a decision on the review application for two months each at the applicant's requests pending the submission of FI to address comments from government departments. On 13.9.2019, 14.2.2020 and 24.4.2020, the applicant submitted FIs (i.e. FI-3 to FI-5 as mentioned in paragraph 2.1(d) to (f) above).

2.3 In view of the novel coronavirus infection, some meetings of the Board have to be rescheduled. The review application was initially rescheduled for consideration by the Board on 8.5.2020. Considering that there would not be sufficient time for the Board to consider the review application and other priority cases such as representation hearing, the Board, at the request of PlanD on 8.5.2020, agreed to defer consideration of the review to a later date. The review application is subsequently scheduled for consideration by the Board at this meeting.

3. Justifications from the Applicant

3.1 The grounds for review and the justifications put forward by the applicant in support of the review application are detailed in the applicant's letter and submissions at **Annexes D and E-1 to E-5** respectively. They can be summarised as follows:

- (a) the materials submitted by the applicant have not been thoroughly reviewed and assessed by relevant government departments and they did not take into account the geotechnical and engineering constraints of the Site;
- (b) the applicant has already demonstrated through evaluating different slope stabilization options (**Annexes E-4 & E-5**) that the current proposal is the only viable option, taking into account the geotechnical constraints and standard requirements for car parking and loading/unloading facilities as well as building services. Options with either two-way ramp or car-lift have been assessed and considered technically not feasible or resulting in sub-standard transport facilities and building services (**Drawing R-3b**);
- (c) the proposed pedestrian link is able to provide a direct and comfortable environment to encourage people to walk from upper and lower Tai Hang Road to Tin Hau MTR Station (**Drawings R-1 & R-2**). The proposed

pedestrian link is in line with the Policy Address and should be supported. The applicant also seeks policy support from the Transport and Housing Bureau and DevB (**Annex E-4**);

- (d) the applicant welcomes any discussions and liaisons with relevant government departments for lease modification or setting up of necessary financial arrangement(s) such as funds for the future management and maintenance of the proposed pedestrian link to be borne by the applicant. The proposed undertaking letter from the applicant (**Annex A-1**) is a strong proof of implementability to ascertain that the applicant's company will be responsible for the implementation, management and maintenance of the proposed pedestrian link; and
- (e) the photomontages submitted have already demonstrated that there will not be unacceptable visual and landscape impacts, the viewpoints for the visual impact assessment were selected based on the Town Planning Board Guidelines (TPB PG-No.41) (**Drawings R-4 & R-5**). To address departmental concerns, the height of the proposed podium at upper Tai Hang Road is reduced from about 75.35mPD (**Drawing A-5d in Annex A**) to about 71.9mPD (**Drawing R-6**) (i.e. by 3.45m).

4. The Section 16 Application

The Site and its Surrounding Areas (Plans R-1 to R-8)

- 4.1 The situation and characteristics of the Site and its surrounding areas at the time of the consideration of the s.16 application by MPC were described in paragraph 7 of **Annex A**. There has been no material change of the situation since then.

Planning Intention

- 4.2 There has been no change to the planning intention of the "GB", "R(A)1", "R(B)" zones and areas shown as 'Road' as mentioned in paragraph 8 in **Annex A**.

Town Planning Board Guidelines

- 4.3 The Town Planning Board Guidelines for 'Application for Development within "GB" Zone under Section 16 of the Town Planning Ordinance' (TPB PG-No. 10) is relevant to this application. The relevant assessment criteria of the TPB PG-No.10 are set out in paragraph 4 in **Annex A**.

Previous and Similar Application

- 4.4 There is no previous application in respect of the Site¹ and no similar application in the Causeway Bay planning scheme area.

¹ Two planning applications (Nos. A/H6/80 and A/H6/82) for a proposed access road and associated works in relation to the planned residential development were submitted by the same applicant but subsequently withdrawn.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant government departments are stated in paragraph 9 in **Annex A**.
- 5.2 For the review application, the following government departments have been further consulted. They generally maintain their previous views/comments on the s.16 application as outlined in **paragraph 9 and Appendix II in Annex A**, and their major comments together with their further comments on the applicant's submissions including grounds for review and FIs are summarized as follows:

Land Administration Aspects

- 5.2.1 Comments of the District Lands Officer/Hong Kong East, Lands Department (DLO/HKE, LandsD):

Access Road

- (a) the existing lease of IL 7426 permits access to and from Tai Hang Road fronting the lot (the lower Tai Hang Road) through a right of way;
- (b) it is noted from **Annex E-4** that only Schemes 4, 5, 7A and 7B of slope stabilization measures are technically feasible. If the proposed slope stabilization measures are for the redevelopment of IL 7426, it appears that the applicant has not demonstrated whether vehicular access from lower Tai Hang Road through the right of way provided in the lease of IL 7426 is not feasible bearing in mind the lease restriction on the maximum GFA of 2,928.656m² stipulated in the modification letter dated 20.6.2011;
- (c) among the feasible schemes, it is noted that there will be soil nails/pre-stressed ground anchor to be inserted within government land designated as "Green Hatched Black Area" (GHBA) to be maintained by the owner of IL 7426. If the proposed use and occupation of the GHBA is for constructing a new access road and pedestrian link, this would not be complying with the lease condition. In general, direct grant of government land will not be entertained where the concerned land is capable of separate alienation;

Pedestrian Link

- (d) there is reservation on the future maintenance and management liability of the proposed pedestrian link, the proposed access road and the nearby government slope features to be affected if it is proposed to be borne by the future owners of individual units of the planned residential development taking into account the scale of the development. Despite the applicant suggests in FI-3 (**Annex E-3**) that the lessee of IL 7426 to bear the management and maintenance responsibilities for the proposed pedestrian link and not to transfer the responsibilities to the future owners of individual units of the planned residential development, the applicant has not addressed his concern on its management and maintenance responsibilities;

- (e) it is noted from the applicant's submissions that the proposal is "for the benefit of the neighbourhood to enhance pedestrian safety and accessibility". As such, the proposed pedestrian link is not contingent to the development on the lot and therefore the proposed pedestrian link and its gazettal arrangement under the Roads (Works, Use and Compensation) Ordinance fall outside LandsD's purview;
- (f) if the planning application is approved, the owner needs to apply for a lease modification and/or other appropriate land documentation for such new proposed access arrangement under lease and for such new road and associated works on government land. However, there is no guarantee that such application will be approved, and if approved, it will be subject to such terms and conditions, including payment of premium and fees, as imposed; and
- (g) other detailed comments are at **Annex F**.

5.2.2 Comments of the Senior Engineer (Harbour) (SE(H)), Harbour Office, DevB:

In February 2020, the applicant submitted a premium waiver application for a proposed pedestrian link connecting upper Tai Hang Road to Wun Sha Street passing through a planned development at 4 to 4C Tai Hang Road to DevB under the scheme related to "Facilitating Provision of Pedestrian Links by the Private Sector" under lease modification, which is aimed to provide suitable incentive by way of waiving the land premium payable for lease modification for provision of the pedestrian links. The applicant has already been informed that processing of the premium waiver application could only be further taken forward until supplementary information, including but not limited to the required planning approval from the Board, are submitted for further review by DevB.

Geotechnical Aspect

5.2.3 Comments of the Head (Geotechnical Engineering Office), Civil Engineering and Development Department (H(GEO), CEDD):

Access Road

- (a) concerning the applicant's claim that the proposed access road is the only viable option, our previous geotechnical comments are still valid that the geotechnical planning review report (GPRR) (**Appendix Ia in Annex A**) suggested that the proposed slope stabilisation works is 'the preferred solution'². It is also noted that the applicant could retain the current vehicular access from lower Tai Hang Road while

² The applicant examined 5 options of slope stabilization measures under the GPRR (Appendix 3 of **Appendix Ia in Annex A**). Three options were identified as feasible, and the option recommended is to accommodate slope stabilization measures and the new transport arrangement and requirements in developing the Site. The applicant has submitted revised feasibility study on slope stabilization measures at **Annex E-4 & Annex E-5** which include various engineering schemes. Amongst the options, two schemes are considered as feasible and Scheme 7A is recommended as it could provide the maximum space for construction of the proposed access.

maintaining the stability of land, therefore, the new access road from upper Tai Hang Road is not the only viable alternative;

- (b) based on Section 4 at **Annex E-4**, the applicant considers that Scheme 5 forming a 17m wide excavation zone at lower Tai Hang Road is a feasible scheme (**Drawing R-3a**). Such excavation zone can be further extended according to the sensitivity analyses carried out by the applicant. That is to say, the applicant's submission has shown that there is at least one feasible alternative scheme which can retain the current vehicular access from lower Tai Hang Road while maintaining the stability of land. Therefore, the applicant's allegation that "new access road from the upper portion of Tai Hang Road is the only viable alternative" is self-contradicting;
- (c) soil nailing is a versatile and robust slope stabilization measure frequently adopted by the geotechnical engineering profession of Hong Kong for decades. The applicant should provide further justification to support his allegation that the soil nailing scheme (Scheme 2) at **Annex E-4** is not geotechnically feasible;

Pedestrian Link

- (d) the revised pile foundation proposal for the proposed pedestrian link involves 8 nos. of piles/columns to be constructed at the service lane behind the buildings at No. 44-50 Sun Chun Street (Kanfield Mansion) (**Plan R-2b**). The concerned service lane would be obstructed by the foundation/ columns of the pedestrian link permanently. Relevant departments should be consulted on this aspect as appropriate; and
- (e) other detailed comments are at **Annex F**.

Traffic Aspect

5.2.4 Comments of the Commissioner for Transport (C for T):

Access Road and Traffic Arrangement

- (a) there is no strong justification for the proposed vehicular access at upper Tai Hang Road from the traffic point of view. There will be no noticeable traffic improvement or effect on vehicular traffic to the overall road network arising from the access road and traffic management scheme proposed by the applicant. While the "left-in/left-out" arrangement is proposed for lower Tai Hang Road, a majority of the development-related vehicles will still need to travel along upper Tai Hang Road and right turn into the planned residential development. The proposed access road at upper Tai Hang Road will not bring overall traffic benefit to the adjacent road network;
- (b) the applicant advises that the proposed scheme for vehicular access on upper Tai Hang Road is "the only viable solution" and that the provision of two-way ramp system and the use of car-lift system are not feasible based on geotechnical and other engineering constraints. The necessity of the proposed access road depends on whether there

are other practical solutions to overcome the geotechnical and other constraints for maintaining a vehicular access at lower Tai Hang Road. Nevertheless, it is noted from the applicant's schematic drawings in the s.16 application (**Drawing R-3b**) that the proposed ramp system and the notional car-lift system will only occupy a relative small portion of the subject lot IL 7426. From traffic point of view, provided that the lot area can be largely or fully utilized, it seems not impossible to provide vehicular ingress and egress to the lot at lower Tai Hang Road;

- (c) should there be site constraints to hinder the provision of internal transport facilities in accordance with the upper end of the requirements as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG) for the planned residential development, the applicant should submit detailed justifications for the Transport Department (TD)'s consideration;

Pedestrian Link

- (d) no objection in principle to the proposed pedestrian link which could improve accessibility and walkability around the area. Indeed the public has already suggested a hillside escalator/elevator link between Wun Sha Street area and Tai Hang Road. Nevertheless, there are issues on technical feasibility, land and gazettal issues, management and maintenance responsibilities of the proposed pedestrian link to be resolved;
- (e) TD does not support the application if the proposed pedestrian link is not included in the applicant's proposal for the reason that the proposed access road alone will not bring overall traffic benefit to the adjacent road network and there is no strong justification for the proposed vehicular access at upper Tai Hang Road from traffic planning perspective;
- (f) the applicant proposed to design and build the pedestrian link at his own cost and undertake the future management and maintenance responsibilities of the pedestrian link. Should the application be approved, this should be included as an approval condition and in land documents as appropriate;
- (g) the applicant has proposed preliminary traffic diversion scheme for installing the steel frame of the proposed pedestrian link across Tai Hang Road (**Appendix 1g in Annex A**). Prior to commencement of works, the applicant should submit a construction traffic impact assessment and detailed temporary traffic arrangement plans to relevant departments (including TD and Hong Kong Police Force) for approval with a view to minimizing disruption to traffic in the vicinity. This submission should be included as an approval condition, should the application be approved by the Board;
- (h) regarding the previous public comment at the s.16 application stage, stating a cautionary crossing outside 8 Tai Hang Road (i.e. Jolly Villa)

proposed by TD (**Plan R-2a**), the cautionary crossing is under planning stage and Highways Department (HyD) has not yet been requested to carry out the works. As advised by HyD, site investigation works were recently carried out to examine the underground conditions and the feasibility of utility diversion for constructing the proposed cautionary crossing is being studied; and

- (i) other detailed comments are at **Annex F**.

5.2.5 Comments of the Commissioner of Police (C of P):

No specific comment from the Wan Chai Police District. Nonetheless, the developer should be reminded to take note of any requirement to notify/apply permit from relevant departments in respect of any possible road works, loading/unloading on the street, etc.

Highways Aspect

5.2.6 Comments of the Chief Highway Engineer/Hong Kong (CHE/HK), HyD:

Highways Structure and Maintenance

- (a) the proposed pedestrian link would be erected next to the existing elevated covered walkway (HyD's Structure no. HF136), the applicant should carry out impact assessment on the existing HyD's structure for comment;
- (b) the applicant should carry out feasibility study to identify the site constraints and provide the relevant method statements with associated temporary traffic arrangement to demonstrate the constructability for the whole proposed access road and pedestrian link within a limited working space;
- (c) as mentioned in the construction method (**Appendix Ic in Annex A**), part of the proposed pedestrian link would be prefabricated off-site, a comprehensive temporary traffic arrangement scheme should be provided to demonstrate the feasibility of the works;
- (d) the applicant proposes to take up the management and maintenance responsibilities of the proposed pedestrian link, and should therefore provide a management and maintenance demarcation plan to identify the management and maintenance parties for HyD's comment, the applicant should also provide the justification on connectivity and walkability, and implication on environment and sustainability for consideration of relevant government departments;
- (e) given that the proposed works will affect and modify relevant slope features no. 11SE-A/FR106, 11SE-A/CR409 and 11SE-A/F107 (**Plan R-2**) and the proposed pedestrian link will be maintained by the applicant but not the future owners of the planned residential development as detailed at **Annex E-3**, the applicant should also take up the maintenance responsibility of all these relevant slope features;

Landscape and Vegetation Maintenance

- (f) HyD reserves comments from highway landscape and vegetation maintenance point of view upon receipt of future tree preservation and removal proposal and compensatory planting proposal in accordance with DEVB TC(W) No. 6/2015 – “Maintenance of Vegetation and Hard Landscape Features” and DEVB TC(W) No. 7/2015 – “Tree Preservation”;
- (g) the applicant is reminded that submission to the Advisory Committee on the Appearance of Bridges and Associated Structures is required for the proposed pedestrian link in accordance with ETWB TCW No. 36/2004; and
- (h) other detailed comments are at **Annex F**.

Building Aspect

5.2.7 Comments of the Chief Building Surveyor/Hong Kong East and Heritage Unit, Buildings Department (CBS/HKE&H, BD):

- (a) no objection in principle under the Buildings Ordinance (BO) and no comment under BO on the review application;
- (b) for this development proposal, the provision of car parking spaces, loading/unloading facilities and the associated access road from upper Tai Hang Road is not a requirement under BO;
- (c) any covered pedestrian walkway system/footbridge within the private lot should be accountable for gross floor area calculation under regulation 23(3)(a) of the Building (Planning) Regulations and no building/part of building including footbridge should project over street under section 31(1) of BO unless exempted; and
- (d) other detailed comments are at **Annex F**.

Fire Safety Aspect

5.2.8 Comments of the Director of Fire Services (D of FS):

- (a) no objection to the application subject to fire services installations and water supplies for fire fighting being provided to the satisfaction of his department;
- (b) as no details of the emergency vehicular access (EVA) have been provided, comments could not be offered by D of FS at the present stage. Nevertheless, the applicant is advised to observe the requirements of EVA as stipulated in Section 6, Part D of Code of Practice for Fire Safety in Buildings 2011 which is administered by BD; and
- (c) detailed fire service requirements will be formulated upon receipt of

formal submission of general building plans.

Architectural and Visual Aspects

5.2.9 Comments of the Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD):

Access Road

- (a) having considered the applicant's responses and the FIs submitted, it is noted in **Annex E-3** that the reduced podium height and adjusted gradient of the proposed access road and pedestrian link from upper Tai Hang Road could not satisfactorily respond to his comments. As such, his previous comments are still valid;
- (b) the proposed access road would be setting an undesirable precedent and cause severe damage to existing slope and trees;
- (c) the huge blank wall along and under the proposed access road, and the huge columns will have significant undesirable visual impact to the surrounding areas;
- (d) the compensatory trees are overcrowded and therefore will affect their survival rate, as indicated in **Drawings A-4a & A-4b in Annex A**, the full grown tree crowns will overlap with each other and existing trees;
- (e) the land issue of the proposed access road passing through government land should be settled at the planning application stage;

Pedestrian Link

- (f) the proposed huge footbridge structure running across Tai Hang Road will have significant undesirable visual impact to the surrounding area;
- (g) there is pedestrian zebra crossing with traffic light in close proximity (**Plan R-2a**), the effectiveness of the proposed footbridge structure running across lower Tai Hang Road for public usage is doubtful;
- (h) the land issue of part of the proposed pedestrian walkway and the proposed passenger lifts located on government land should be settled at the planning application stage;
- (i) the maintenance agent for the proposed pedestrian link should be identified and confirmed by the applicant at the planning application stage to avoid confusion and uncertainty of the maintenance responsibility; and
- (j) the maintenance agents for the future maintenance of the compensatory plantings (including vegetation on the footbridge, etc.) and of irrigation system should be identified and confirmed by the applicant at the planning application stage rather than at the detailed design stage to ensure survival of all the plantings and vegetation could be ascertained.

5.2.10 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

Access Road

- (a) the proposed access road mainly falls within an area zoned “GB”, where there is a general presumption against development. Unless there are strong justifications, development should not be allowed within the “GB” zone. Confirmation is required from relevant departments on the necessity of the proposed access road arrangement and whether the proposed access road from upper Tai Hang Road is the only viable alternative to serve the planned residential development noting that many adjacent residential developments are directly accessible from lower Tai Hang Road. Otherwise, it would undermine the planning intention of the “GB” zone;
- (b) it is noted the access road is now proposed at 71.9mPD to 74mPD, having a reduction of about 3.45m as compared to the previous proposal (**Drawing R-6**). As commented above, the major consideration for the application is whether the proposal is the only viable option to serve the planned residential development. Besides, the reduction in the level of the proposed access road is relatively minor in view of the overall context of the proposed development;
- (c) subject to the comments of C for T and H(GEO) on whether the scheme is the only viable option, the necessity of raising the proposed development by stilted structures with more than 47m in height (assuming the revised podium level to be taken as the proposed access road level of 71.9mPD as indicated in **Drawing R-6** and the existing level of 23.5mPD in lower Tai Hang Road based on the “Retaining Wall Stability Checking” in **Annex E-4**) is yet to be ascertained;
- (d) in case the proposed access road is considered by concerned departments to be the only viable option for the proposed residential development, consideration should be given to incorporate further design improvement measures with a view to mitigating the visual impact arising from the stilted structures supporting the proposed access road on the area;
- (e) alternatively, in case it is not the only viable option, the base structure of such scale and more than 47m high would likely have an imposing visual impact on the pedestrians on lower Tai Hang Road and the applicant should explore other alternatives to avoid such an imposing visual impact; and

Pedestrian Link

- (f) while there are merits from urban design perspective for better connectivity and provision of barrier-free access, whether the proposed pedestrian link is necessary given there is crossing about 100m from the Site would be subject to the comments of C for T. The applicant should ensure measures and quality design have been adopted to reduce visual bulkiness of the footbridge and enhance compatibility with the surrounding setting.

Landscape Aspect

5.2.11 Comments of CTP/UD&L, PlanD:

- (a) notwithstanding the proposed compensatory planting (**Drawings A-4a & A-4b in Annex A**), it is considered that the residue impact after mitigation of the adverse impact on the existing landscape resources imposed by the proposed development remains substantial. We maintain our reservation on the application from the landscape planning perspective;

Access Road

- (b) there is a general presumption against development in the “GB” zone. Approximate 30% of extensive vegetated areas are inevitably affected due to proposed works. The function and continuity as a green buffer to the surrounding environment will be compromised to some extent and this will adversely affect the general landscape quality of the area;
- (c) noting the preserved trees are generally semi-mature, there is concern if the stability of these trees will be affected by the proposed formation and construction work at the slope in close proximity. The practicality of tree preservation and proposed compensatory tree planting at the affected slope should be critically assessed;

Pedestrian Link

- (d) more than half of existing trees are proposed to be felled due to the proposed works (**Appendix Id & Appendix Ig in Annex A**). There will be compensatory tree planting on the affected slopes, agreement from relevant department in relation to vegetation maintenance has not been sought. The feasibility of tree compensatory proposal cannot be ascertained;
- (e) the applicant should keep new trees outside the canopy spread of existing trees for healthy tree growth and the applicant should improve the tree compensation ratio for quality and the landscape and tree planting proposal for enhancement of the overall greenery effect in the area; and
- (f) should the Board approve the application, the following landscape condition is suggested to be included in the planning approval:

submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Board.

5.2.12 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) there should be sound justification according to the engineering consideration and intrinsic conditions of each individual tree in supporting the tree removal. By generalizing the affected trees are of poor form and fair health may not be justified enough for tree

removal;

- (b) it is observed that some of the mature trees locating within the Site are said to be in conflict with the works and proposed to be felled. From tree preservation perspective, the applicant shall review the proposed design and layout so that they could be preserved and retained on site as far as possible;
- (c) according to the tree compensatory proposal (**Appendix 1d & Appendix Ig in Annex A**), 39 nos. of new trees are proposed to be planted to compensate for the felling of 38 nos. of existing trees within the Site. It is at 1:1.03 ratio by quantity and 1:0.19 ratio by quality. The applicant shall further review the opportunity to maximize the greening/tree planting in the landscape and tree compensation proposal and explore any possible of maximizing shrub planting on site to compensate for loss of greenery under the development; and
- (d) for the compensatory planting proposal, the applicant should advise the demarcation for the management and maintenance responsibility on the proposed compensatory trees. The future management and maintenance responsibilities for the compensatory landscape work and irrigation system amongst parties concerned should be ascertained at the earliest possible opportunity to avoid any possible dispute amongst the applicant and government if the responsibilities cannot be identified eventually.

Nature Conservation

5.2.13 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

No strong view on the application including the tree preservation proposal and complementary planting proposal.

Environmental Aspect

5.2.14 Comments of the Director of Environmental Protection (DEP):

No objection to the application since no insurmountable environmental problem is anticipated, and no planning approval condition is required.

Drainage Aspect

5.2.15 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&I, DSD):

- (a) a holistic detailed Drainage Impact Assessment (DIA) of the whole development, including the planned residential development, access road and pedestrian link, is required at the detailed design stage as the size/arrangement of the building is still preliminary. The detailed DIA should verify the drainage impact for the planned residential development, access road and pedestrian link, and after development;

- (b) the mitigation measures shall be provided to cope with the increase of runoff discharging to the downstream and other areas concerned; and
- (c) no comment on the review application from the drainage viewpoint.

Water Supplies Aspect

5.2.16 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C,WSD):

No objection to the application and our previous comments on the s.16 planning application are still valid as detailed in **Annex F**.

Local Views

5.2.17 Comments of the District Officer (Wan Chai), Home Affairs Department (DO(WC), HAD):

- (a) the application was discussed at the Development, Planning and Transport Committee (DPTC) of the Wan Chai District Council (WCDC) meeting held on 26.7.2018. DPTC members expressed strong views opposing to the application which included comments on the disturbance caused by the applicant making repeated planning applications, concerns over the future management and security problems of the proposed public pedestrian link, damage to the adjacent green belt and the importance of timely consultation with WCDC as detailed in paragraph 9.1.16 in **Annex A**. DPTC's concerns should be duly taken into account in the review application;
- (b) DO(WC) has no comment on submitted FIs but received one local comment from a WCDC member objecting to the review application, whose reasons of objection and concerns are similar to DPTC's concerns in (a) above and the public comments/views as detailed in paragraph 6.4 below. The major views are summarized as follows:
 - (i) the considerations by TD and PlanD on the application are supported, it is applicant's responsibility to justify the geotechnical limitations of the Site; and there is no basis to raise query as the application has been processed in accordance with the established laws;
 - (ii) the applicant failed to demonstrate that the proposed access road is the only feasible solution in the s.16 application despite such comments and queries have repeatedly been raised by government departments. The applicant's repeated submissions are a disregard of the concerns of the WCDC and the public and has caused annoyance;
 - (iii) due to the geotechnical constraint, it is obvious that the residential units that can be accommodated at the Site are less than that desired by the applicant. The applicant is not yet able

to demonstrate the car parking and loading/unloading facilities for the planned residential development would not be up to standard as a result of such limitation;

- (iv) no detailed information such as the deeds of mutual covenant, agreement or lease, etc. documents are provided in relation to the construction of the proposed pedestrian link;
- (v) the factor of safety for the massive concrete wall is far above the required standard to cater for the proposed private access road and the car parking facilities for the planned residential development, in which the adverse landscape impact should be duly considered;
- (vi) the proposed development does not comply with the TPB-PG No. 10 and will adversely destroy the natural landscape of the green belt; and
- (vii) the visual impact assessment submitted by the applicant clearly underestimates the impact of tree felling on the neighbourhood and his claim for “full compensation” of the affected landscape is far from reality.

6. Public Comments Received During Statutory Publication Period

6.1 On 8.3.2019, 3.5.2019 and 28.2.2020, the review application, FI-1 and FI-4 were published for public inspection respectively. During the first three weeks of the respective statutory publication periods, a total of 3,004 comments were received from a Legislative Councillor, WCDC member, 23 Incorporated Owners (ICs) and management offices of nearby residential developments³, nearby residents/locals/individual members of the public and two concern groups (Central and Western Concern Group and Tai Hang Concern Association). A brief summary of the public comments received is as follows:

	Supporting/ Positive Comments	Objecting/ Express Concerns	Total
s.17 Review	1	1,131	1,132
Publication of FI-1	2	1,152	1,154
Publication of FI-4	1	717	718
Total	4	3,000 (incl. 2,913 standard letters and/or with same or similar content)	3,004

³ *Trafalgar Court; Sunrise Court; Royal Court; Wah Fung Mansion; Morengo Court**; *Rosedale; Scenic Lodge; Jolly Villa; Winway Court; Block 2 One Wang Fung Terrace (Grandview Mansion)*; 4A-4D Wang Fung Terrace; Y.I.; The Legend; Fuk Kwan Mansion; Kanfield Mansion; Carnation Court*; The Elegance*; Yukon Heights*; 1 Tai Hang Road*; and Illumination Terrace**; [* denotes the residential developments submitted comments on the review application but not at the s.16 planning application stage] (**Plan R-2a**)

- 6.2 Out of 3,004 public comments received, 4 are supporting comments while the remaining 3,000 comments object to or express their concerns on the application. Full set of the public comments is at **Annex G** (in CD-Rom).
- 6.3 The supporting comments are from individual members of the public who consider the proposed pedestrian link would benefit the residents and improve accessibility for the disabled and senior citizens, and the proposed access road would facilitate traffic circulation in upper and lower Tai Hang Road.
- 6.4 The objecting comments are from 23 ICs and management offices of nearby residential developments, nearby residents/locals/individual members of the public and two concern groups as mentioned in paragraph 6.1 above. The major points raised in the public comments received on the review application are similar to those received on the s.16 application and their views are summarized below:

Concern on the Proposed Access Road and Pedestrian Link

- (a) lack of justifications for the proposed access road and traffic arrangement as the only viable option for the Site, lack of information about the planned residential development (e.g. car parking spaces and loading/unloading facilities), adverse traffic impact on Tai Hang Road and the adjacent transport network and endangering road and pedestrian safety, etc.;
- (b) support the Board's decision rejecting the application, no new information for the review application has been provided, no justification for the proposed pedestrian link, no local need for the link and lack of details on its future management and maintenance responsibilities, and DevB should not support the application;

Adverse Impacts on the Surrounding

- (c) excessive slope works and slope cutting affecting slope stability and safety; adverse impact on the foundation and structural safety of the neighbouring developments, drainage & flooding, and landscape of the neighbourhood and the "GB" zone;
- (d) the elevated deck structure for the proposed access road and excessive foundation and podium structures (about 15m) for the planned residential development will result in adverse visual impact, causing eyesore and adverse visual impact, etc.;

Affecting Local Community

- (e) loss of public space and deprive public enjoyment to the vegetated green belt, and causing disturbance to the residential neighbourhood in Wun Sha Street, etc.; and

Procedural Matter

- (f) concern on the abuse of procedure with repeated applications with similar proposals by the applicant, and request for extension of publication period, etc.

- 6.5 At the s.16 planning application stage, a total of 9,229 public comments were received. Of which, 5,693 comments gave support or raised positive comments on the application and 3,536 comments raised objection to or expressed their concerns on the application as detailed in paragraph 10 in **Annex A** with full set of the public comments at **Appendix III in Annex A**.

7. Planning Considerations and Assessment

- 7.1 The applicant applies for a review of the MPC's decision on 18.1.2019 to reject the s.16 application for a proposed access road serving exclusively a planned residential development at an adjoining "R(B)" site and a proposed pedestrian link connecting upper Tai Hang Road to Ormsby Street/Wu Sha Street. The Site falls within areas zoned "GB", "R(A)1", "R(B)" and area shown as 'Road' on the OZP. The rejection reasons are stated in paragraph 1.2 above. In support of the review application, the applicant has submitted FIs (**Annexes E-1 to E-5**) including a revised feasibility study of various options on slope stabilization measures and a revised podium height of the planned residential development at 71.9mPD. Since the rejection of the s.16 application by MPC on 18.1.2019, there has been no material change in the planning circumstances of the case. In spite of the applicant's FIs, relevant departments have advised that their previous comments on the s.16 planning application remain valid. Hence, the planning considerations and assessments made at the s.16 application stage are still valid for the review application.

Planning Intention

- 7.2 The Site is about 2,203.9m² in size and of which, 95% is government land and 53% is zoned "GB" comprising mainly vegetated slope. The proposed access road serving the planned residential development falls largely within the "GB" zone (**Plans R-2a, R-2b, R-3 & R-8**). The planning intention of the "GB" zone is primarily for the conservation of the natural environment and to safeguard it from encroachment by urban type developments. As the proposed access road serves as an exclusive vehicular access to the planned residential development at 4-4C Tai Hang Road, it is not in line with the planning intention of the "GB" zone. In addition, there is a general presumption against development in "GB" zone. According to the TPB PG-No.10, any application for development within "GB" zone must be justified with very strong planning grounds and any proposed development must not involve extensive clearance of existing vegetation.

Vehicular Access for the Planned Residential Development

- 7.3 Similar to other existing residential developments along lower Tai Hang Road, the existing building at 4-4C Tai Hang Road (currently vacant) has vehicular access via lower Tai Hang Road (**Plans R-2b & R-4**). The applicant states that given the geotechnical constraints and the need to meet provision standards for internal transport facilities, both the two-way ramp and car-lift options are technically not feasible as illustrated in the submitted geotechnical assessment and layout (**Drawing R-3b**). Given limited space for vehicular access via lower Tai Hang Road due to the proposed slope upgrading works for the planned residential development at 4-4C Tai Hang Road, a new access from upper Tai Hang Road is required (**Plan R-2b**). However, H(GEO) considers that the proposed slope works is only a 'preferred

solution⁴ as shown in the applicant's geo-technical and design options assessments (**Annex E-4**) and there is at least one feasible alternative scheme which can retain the current vehicular access from lower Tai Hang Road while maintaining the stability of land (**Drawing R-3a**). Hence, the proposed new access road from upper Tai Hang Road is not the only viable option for the planned residential development at 4-4C Tai Hang Road from the geotechnical perspective.

- 7.4 The applicant claims that limiting access from lower Tai Hang Road will only result in a residential development at 4-4C Tai Hang Road with inadequate car park, loading/unloading facilities and building services according to the current standards. As mentioned above, the applicant's slope work proposal is only a 'preferred solution' but not the only viable option. C for T considers that, based on the applicant's schematic drawings, it seems not impossible to provide vehicular ingress and egress to the subject lot at lower Tai Hang Road. C for T also advises that the applicant could submit detailed justification for his consideration if the HKPSG requirements cannot be met due to site constraints. Hence, it is premature to conclude that there is insufficient space to accommodate the required facilities. From the traffic planning perspective, C for T considers that the proposed access road alone will not bring overall traffic benefit to the adjacent road network and there is no strong justification for such proposal. Hence, no exceptional circumstance has been demonstrated to warrant special consideration for the review application. The application is also not in compliance with criterion (b) of the TPB PG-No. 10 (paragraph 4 in **Annex A** refers). In addition, DLO/HKE advises that the proposed access from upper Tai Hang Road is not in accordance with the existing lease conditions and, in general, direct grant of government land will not be entertained where the concerned land is capable of separate alienation.

Visual and Landscape Impact

- 7.5 The proposed access road (especially the associated structures of the spiral down ramp leading onto lower Tai Hang Road) and the pedestrian link would have adverse visual impact. With the proposed access from upper Tai Hang Road (at about 74mPD to 71.9mPD), the podium of the planned residential development including spiral vehicular ramp would require the support of stilted structure with more than 47m in height when measuring from lower Tai Hang Road (at about 23.5mPD) (**Drawing R-6**). Notwithstanding the reduction in podium height of the planned residential development by some 3.45m in the applicant's latest proposal, which is considered minor in the overall context, there will be a significant visual impact arising from the proposed development (**Drawings R-4 & R-5**). With the proposed access road from upper Tai Hang Road, it would result in a much taller development when compared with a similar development with direct access from lower Tai Hang Road. However, the applicant has not demonstrated the overall visual impact of the proposed development (including the proposed access road, ramp/stilted structures of about 47m high, the planned residential development and the pedestrian link) from viewpoints along both lower and upper Tai Hang Road. Both CA/CMD2 and CTP/UD&L have raised their concerns on the overall visual impact and how such

⁴ The applicant examined 5 options of slope stabilization measures under the GPRR (Appendix 3 of **Appendix Ia in Annex A**). Three options were identified as feasible, and the option recommended is to accommodate slope stabilization measures and the new transport arrangement and requirements in developing the Site. The applicant has submitted revised feasibility study on slope stabilization measures at **Annex E-4 & Annex E-5** which include various engineering schemes. Amongst the options, two schemes are considered as feasible and Scheme 7A is recommended as it could provide the maximum space for construction of the proposed access.

impact could be minimized. In the absence of any submission on this aspect in the review application, the overall potential visual impact cannot be ascertained.

- 7.6 DLCS raises concerns on the felling of some mature trees locating within the Site. CA/CMD2 has also raised concerns on landscape and tree felling/compensatory planting proposals for the proposed access road and considers that the maintenance responsibility of the compensatory plantings and the irrigation system for the proposed pedestrian link should be ascertained at the application stage rather than at the detailed design stage to ensure survival of the plantings and vegetation. CTP/UD&L has reservation on the proposal which would not only adversely affect the general landscape quality of the area, but also have substantial residual impact on the existing landscape resources. In this regard, as a majority portion of the Site falls within the “GB” zone, the application does not comply with criteria (c) and (d) of the TPB PG-No. 10 (paragraph 4 in **Annex A** refers).

Implementability of the Proposed Pedestrian Link

- 7.7 The proposed pedestrian link (except the section on the podium of the planned residential development and the passenger lift within the lot) falls mainly within government land. At the s16 planning application stage, concerned government departments including C for T, CHE/HK, H(GEO) and DLO/HKE have raised queries on various implementation issues of the proposed pedestrian link including its technical feasibility, land administration, management and maintenance responsibilities etc. In support of the review application, the applicant has indicated his willingness for modification of the government lease to stipulate the responsibility of the proposed pedestrian link to be borne by the applicant, and for discussion with relevant government departments to set up financial arrangements for the future management and maintenance (**Annex E-3**). However, no details or actual proposal have been put forward for consideration or agreement by concerned government departments. DLO/HKE has reservation on the future maintenance and management liability given the scale of the proposed pedestrian link and other liabilities associated with the proposed access road and the slope. As the proposed pedestrian link has assumed the proposed access road at upper Tai Hang Road, which has yet been demonstrated to be the only viable option, the design of the proposed pedestrian link together with its environmental and visual impacts, technical feasibility as well as management and maintenance aspects cannot be ascertained at this juncture. The applicant has therefore failed to demonstrate the implementability of the proposed pedestrian link.

Public Comments

- 7.8 There are strong local objections to the proposed development as reflected in DO(WC)’s comments and a large number of adverse public comments raising concerns on environment, visual and landscape impacts of the proposed development. For the concerns/issues raised in the adverse public comments as summarised in paragraph 6.4 above, the departmental comments and the assessment as set out in paragraphs 5 and 7.2 to 7.7 above respectively are relevant. There are public concerns on the repeated submissions and requests for deferment made by the applicant throughout the process. It should be noted that the application has been processed in accordance with the provisions of the Ordinance and the relevant TPB Guidelines. Under the Ordinance, there are no restrictions, amongst others, on any person and/or the number of submissions in seeking planning application for any site-specific development and/or the development being sought, provided that all the

statutory planning procedures and planning guidelines have been complied with. On agreeing to the applicant's latest request for deferment on 6.12.2019, the Board has clearly indicated that it would be the last deferment.

8. **Planning Department's Views**

8.1 Based on the assessment made in paragraph 7, having taken into account the public comments mentioned in paragraph 6 above, and given that there is no change in the planning circumstances since the consideration of the subject application by the MPC on 18.1.2019, PlanD maintains its previous view of not supporting the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "GB" zone which is primarily for conservation of the natural environment and to safeguard it from encroachment by urban-type development. There is a general presumption against development in "GB" zone, and there is no strong justification for a departure from such planning intention;
- (b) the applicant fails to demonstrate that the proposed access road is the only viable option in geotechnical terms to serve the planned residential development and that the proposed access road does not result in adverse visual and landscape impacts; and
- (c) the applicant fails to demonstrate the implementability of the proposed pedestrian link and that the proposed link does not result in adverse visual and landscape impacts.

8.2 Alternatively, should the Board decide to approve the application, it is suggested that the permission shall be valid until 14.8.2024, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the design, provision, management and maintenance of the proposed access road and pedestrian link as proposed by the applicant to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (b) the proposed pedestrian link and associated pedestrian access should be open for public use at all times to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) prior to commencement of works for the proposed pedestrian link and associated pedestrian access, the submission of a construction traffic impact assessment and detailed temporary traffic arrangement plans to the satisfaction of the Commissioner of Transport or of the Town Planning Board;
- (d) the submission and implementation of a traffic management plan for the proposed development to the satisfaction of the Commissioner for Transport

or of the Town Planning Board;

- (e) the submission of a revised Geotechnical Planning Review Report and the implementation of the necessary geotechnical remedial works identified therein, in respect of the section of the proposed pedestrian link between the planned residential development at 4-4C Tai Hang Road and Ormsby Street to the satisfaction of the Director of Civil Engineering and Development or of the Town Planning Board;
- (f) the submission of a revised Drainage Impact Assessment and the implementation of the mitigation measures identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (g) the submission and implementation of a landscape proposal for the proposed access road and pedestrian link to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Annex H**.

9. Decision Sought

- 9.1 The Board is invited to consider the application for a review of the MPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

10. Attachments

Annex A	MPC Paper No. A/H6/87A
Annex A-1	Undertaking Letter (Appendix If of MPC Paper No. A/H6/87A)
Annex B	Extract of minutes of the MPC meeting held on 18.1.2019
Annex C	Secretary of the Town Planning Board's letter dated 1.2.2019
Annex D	Applicant's letter dated 22.2.2019 requesting for review of MPC's decision
Annex E-1	Applicant's letter dated 18.4.2019 (FI-1)
Annex E-2	Applicant's letter dated 28.6.2019 (FI-2)
Annex E-3	Applicant's letter dated 13.9.2019 (FI-3)
Annex E-4	Applicant's letter dated 14.2.2020 (FI-4)
Annex E-5	Applicant's letter dated 24.4.2020 (FI-5)
Annex F	Detailed comments of government departments
Annex G	Public comments (CD-Rom)

Annex H	Recommended advisory clauses
Drawings R-1 & R-2	Proposed pedestrian routing and pedestrian flows for the Proposed Pedestrian Link
Drawings R-3a & R-3b	Usable space within the planned residential development at the “R(B)” zone
Drawings R-4 & R-5	Photomontages showing the proposed pedestrian link and the planned residential development from lower Tai Hang Road and Wun Sha Street
Drawing R-6	Elevation of the proposed revised access road & pedestrian link
Plan R-1	Location plan
Plans R-2a & R-2b	Site plans
Plan R-3	Aerial photos
Plans R-4 to R-8	Site photos

PLANNING DEPARTMENT
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