

**Minutes of 1264th Meeting of the
Town Planning Board held on 25.2.2022**

Present

Permanent Secretary for Development
(Planning and Lands)
Ms Bernadette H.H. Linn

Chairperson

Mr Lincoln L.H. Huang

Vice-chairperson

Mr Wilson Y.W. Fung

Mr Stephen L.H. Liu

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Dr C.H. Hau

Mr Alex T.H. Lai

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Dr Jeanne C.Y. Ng

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

Professor Roger C.K. Chan

Dr Conrad T.C. Wong

Dr Hon Y.S. Wong

Chief Traffic Engineer/New Territories East
Transport Department
Mr Ken K.K. Yip

Chief Traffic Engineer/New Territories West
Transport Department
Ms Carrie K.Y. Leung

Chief Engineer (Works)
Home Affairs Department
Mr Paul Y.K. Au

Assistant Director (Environmental Assessment)
Environmental Protection Department
Mr Terence S.W. Tsang

Director of Planning
Mr Ivan M.K. Chung

Deputy Director of Planning/District
Mr C.K. Yip

Secretary

Absent with Apologies

Mr Thomas O.S. Ho

Dr Lawrence K.C. Li

Mr C.H. Tse

Dr Venus Y.H. Lun

Director of Lands

Mr Andrew C.W. Lai

In Attendance

Assistant Director of Planning/Board

Ms Lily Y.M. Yam

Chief Town Planner/Town Planning Board

Ms Johanna W.Y. Cheng

Senior Town Planner/Town Planning Board

Ms Carmen S.Y. Chan

Opening Remarks

1. The Chairperson said that the meeting would be conducted with video conferencing arrangement.

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1263rd Meeting held on 21.1.2022

[The item was conducted in Cantonese.]

2. The draft minutes of the 1263rd Meeting held on 21.1.2022 were sent to Members on 25.2.2022. Subject to any proposed amendments by Members on or before 28.2.2022, the minutes would be confirmed.

[Post-meeting Notes: The minutes were confirmed on 28.2.2022 without amendments.]

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

(i) Report on matters relating to re-scheduling of Town Planning Board Meeting on 11.2.2022

3. The Secretary reported that in light of the pandemic situation and the special work arrangement for government departments, the regular meeting originally scheduled for 11.2.2022 had been re-scheduled with the following arrangements:

(a) the consideration of representations and comments of the Draft Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/19 had been rescheduled and a

meeting date would be fixed later;

- (b) the re-consideration of Representation No. R9 submitted by Tung Chun Company Limited and the related Comments No. C1758 to C1926 in respect of the Draft Kwai Chung Outline Zoning Plan No. S/KC/26 had been re-scheduled to the current meeting;
- (c) Members agreed by circulation to adjourn the consideration of review application No. A/TM-LTYT/337-1 to another date under section 17(4A) of the Town Planning Ordinance (the Ordinance). The application would be considered in the current meeting; and
- (d) Members agreed by circulation the five TPB Papers regarding the Information Note and Hearing Arrangements for the Consideration of Representations and Comments in respect of the following OZPs:
 - (i) Draft Lam Tei and Yick Yuen OZP No. S/TM-LTYT/11;
 - (ii) Draft Mui Wo North OZP No. S/I-MWN/1;
 - (iii) Draft Sha Lo Wan and San Tau OZP No. S/I-SLW/1;
 - (iv) Draft Sham Wat and San Shek Wan OZP No. S/I-SW/1; and
 - (v) Draft Pui O Au OZP No. S/I-POA/1.

(ii) Town Planning Appeal Decision Received

Town Planning Appeal No. 4 of 2019

Proposed Office, Shop and Services and Eating Place in “Residential (Group A)9”
Zone, 36 Gage Street, Sheung Wan, Hong Kong

(Application No. A/H3/436)

4. The Secretary reported that the following Members had declared interests on the item for owning properties in the Sai Ying Pun and Sheung Wan area; and/or having affiliation/ business dealings with Sino Land Company Limited (Sino), which was the parent company of the appellant, Sheen Honour Limited and Ove Arup & Partners Hong Kong

Limited (ARUP) which was one of the appellant's consultant during the planning application stage:

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| Mr K.K. Cheung | - his firm having current business dealings with Sino and ARUP; |
| Mr Alex H.T. Lai | - his former firm having current business dealings with Sino and ARUP; |
| Mr Franklin Yu | - his firm having current business dealings with ARUP; |
| Professor Roger C. K. Chan | - his spouse owning a flat in Sai Ying Pun; |
| Dr Conrad T.C. Wong | - being the director of companies owning properties in Sai Ying Pun; |
| Mr Stephen L.H. Liu | - his company owning an office unit on Queen's Road Central; |
| Mr L.T. Kwok | - his serving organisation providing services in Sai Ying Pun district; and |
| Mr C.H. Tse | - being the voluntary company secretary (non-remunerated) of the Hong Kong News-Expo, a revitalised project at the Bridges Street Market, Central. |

5. Mr C.H. Tse had tendered apologies for being unable to attend the meeting. As the item was to report the Town Planning Appeal Board (TPAB)'s decision on the appeal case and no discussion was required, the above Members who had declared interests on the item could stay in the meeting.

6. The Secretary reported that the subject appeal was against the Town Planning

Board (the Board)'s decision to reject on review an application No. A/H3/436 for proposed office, shop and services and eating place at 36 Gage Street, Sheung Wan, Hong Kong (the Site), which fell within an area zoned "Residential (Group A)9" ("R(A)9") on the Sai Ying Pun & Sheung Wan Outline Zoning Plan (OZP).

7. The appeal was heard by the Town Planning Appeal Board (TPAB) from 15.3.2021 to 18.3.2021. On 17.1.2022, the appeal was dismissed by TPAB for the reasons that (i) the Town Planning Board Guidelines for Application for Office Development in "R(A)" zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 5) imposed a requirement on the Appellant to demonstrate that there was a demand for increased office space in the district where the Site was located in (i.e. Sheung Wan) but the Appellant had failed to demonstrate that there was such demand; and (ii) as the Site was situated in a predominantly residential area, the planning criteria of the TPB PG-No. 5 in paragraph 2(e) that the proposed office building should be compatible with the existing and planned land uses of the locality and it should not be located in a predominantly residential area had not been satisfied.

8. The Secretary also drew Members' attention that the Board's reasons for rejecting the review application were not adopted by TPAB.

9. Members noted the decision of TPAB.

(iii) Appeal Statistics

10. The Secretary reported that as at 21.2.2022, a total of 13 cases were yet to be heard by the TPAB and two appeal decisions were outstanding. Details of the appeal statistics were as follows:

Allowed	37
Dismissed	168
Abandoned/Withdrawn/Invalid	210
Yet to be Heard	13
<u>Decision Outstanding</u>	<u>2</u>
Total	430

(iv) Approval of Draft Outline Zoning Plan(OZP) and Urban Renewal Authority Development Scheme Plan (URA DSP)

11. The Secretary reported that on 8.2.2022, the Chief Executive in Council approved the following outline zoning plans (OZPs) and development scheme plan (DSP) under section 9(1)(a) of the Town Planning Ordinance:

- (a) Tsuen Wan OZP (renumbered as No. S/TW/35);
- (b) Mong Kok OZP (renumbered as No. S/K3/34); and
- (c) Urban Renewal Authority Shantung Street/Thistle Street DSP (renumbered as No. S/K3/URA4/2).

12. The approval of the above OZPs and DSP was notified in the Gazette on 18.2.2022.

(v) Proposed Practice for Handling of Temporary Use in Government Buildings/Premises in the Urban and New Town Areas

13. Highlighting that a paper on the subject was circulated to members before the meeting, the Secretary said that the Notes of the Outline Zoning Plans (OZPs) in urban and new town areas stipulated that temporary uses (expected to be 5 years or less) of any land or building were always permitted as long as they complied with other relevant legislation, the conditions of the lease and any other government requirements ('5-year rule'). According to previous practice of the Town Planning Board (the Board), that provision was not applicable to temporary uses in permanent buildings. In 2018, the Board agreed to facilitate transitional housing monitored by the Task Force under the Transport and Housing Bureau in permanent buildings in the urban and new town areas, which could be regarded as temporary use subject to the '5-year rule'.

14. To better utilize land resources to meet acute community demand and to streamline the planning procedures, it was proposed that the '5-year rule' should also be

applicable to temporary use in permanent government buildings/premises in the urban and new town areas as long as its temporary nature could be ascertained by meeting the following criteria: (i) the concerned buildings/premises were held by the government; (ii) prior policy support for the proposed temporary use was obtained from the relevant policy bureau; (iii) the relevant tenancy documents, e.g. short term tenancy, were issued by the relevant government departments and the tenure of use on a fixed term of five years or less was specified; and (iv) the temporary use was still required to conform to any other legislations, the conditions of the government tenancies, and other government requirements, as may be applicable. Planning permission from the Board was still required for proposed temporary use (including those in permanent government buildings/premises) of not more than three years in the rural areas unless the use was permitted in the Notes of the relevant zone, following the provisions as set out in the Notes of the OZPs for the rural areas.

15. Members had no question to raise and agreed with the proposal which would take immediate effect.

Tsuen Wan and West Kowloon District

Agenda Item 3

[Open meeting (Presentation and Question Sessions only)]

Re-consideration of Representation No. R9 submitted by Tung Chun Company Limited and the Related Comments No. C1758 to C1926 in respect of the Draft Kwai Chung Outline Zoning Plan No. S/KC/26
(TPB Paper No. 10800)

[The item was conducted in Cantonese.]

16. The Secretary reported that the re-consideration of the representation No. R9 (R9) submitted by the Tung Chun Company Limited (Tung Chun) was related to the Court of Appeal's judgment on a judicial review (JR) case. Ove Arup & Partners Hong Kong Ltd. (ARUP), LWK & Partners (HK) Limited and MVA Hong Kong Limited (MVA) were three of the consultants of Tung Chun for submitting the representation on the draft Kwai Chung Outline Zoning Plan (OZP) No. S/KC/26 and/or a section 16 application (No. A/KC/444) related to the representation site located at 1-7 Cheung Wing Road, Kwai Chung (the Site). The following Members had declared interests on the item:

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| Mr Thomas O.S. Ho | - having current business dealings with ARUP and MVA; |
| Mr K.K. Cheung | - his firm having current business dealings with ARUP and LWK. The representative of R9 had mentioned the case to him; |
| Mr Alex T. H. Lai | - his former firm having current business dealings with ARUP and LWK; |
| Mr Franklin Yu | - having current business dealings with ARUP;
and |

Mr Ricky W.Y. Yu - having past business dealings with LWK.

17. Members noted that Mr Thomas O.S. Ho had tendered apologies for being unable to attend the meeting and Mr K.K. Cheung would not attend the meeting for this item. As Messrs Alex T.H. Lai, Franklin Yu and Ricky W.Y. Yu had no involvement in Tung Chun's submission on the representation and s.16 application No. A/KC/444, they could stay in the meeting.

Requests for Deferral

18. The Secretary reported that one email and two letters submitted by related commenters (C1786, C1787 and C1788) of R9 on the draft OZP requesting deferral of the subject hearing meeting were received just one day before as they were unable to join the meeting due to the severe epidemic situation. The letters and e-mail had been circulated to Members before the meeting. According to 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. 33A), as those requests for deferment were only submitted less than two weeks before the meeting, they would be discussed at the meeting. The Chairperson said that Members would deliberate on whether to accede to the deferral requests before inviting the attendees to the hearing.

19. The Secretary said that PlanD did not support the deferral requests for the following reasons: (i) as stated in TPB PG-No.33A, there was a statutory time limit to submit a draft OZP to the Chief Executive in Council (CE in C) and deferment of consideration of representations and comments would not normally be acceded to unless there was very strong reason to do so. For the subject case, the statutory time limit had lapsed as R9 had lodged three JR applications against the Board's decision in 2013, 2014 and 2018 for not meeting their representations. The re-consideration hearing of R9 and the related Comments was to follow up on the Court of First Instance order for the JR applications handed down in 2018. Since the lodge of the first JR application in 2013, there were three rounds of OZP amendments involving four sites for public/private housing developments, deferment of the hearing meeting would further delay the provision of public housing and land sale programme for the private housing site; (ii) the three commenters supported R9 and their written

comments in support of the supplementary information submitted by R9 were highlighted in the Paper and attached at Annex IV of the Paper; (iii) the hearing meeting was originally scheduled on 21.1.2022 and had already been deferred for a month due to the pandemic situation; and (iv) a set of precautionary measures for epidemic prevention had been adopted for today's meeting.

20. The Board generally agreed with the above assessment and decided not to accede to the requests for deferment. The Board then proceeded to the hearing.

[Dr Frankie W.C. Yeung, Dr Hon Y.S. Wong, Messrs Ricky W.Y. Yu, Ivan M.K. Chung and Terence S.W. Tsang joined the meeting at this point.]

Presentation and Question Sessions

21. The Chairperson said that notification had been given to the representer (R9) and the related commenters inviting them to attend the hearing, but other than those who were present or had indicated that they would attend the hearing, the rest had either indicated not to attend or made no reply. As reasonable notice had been given to the representer (R9) and the related commenters, Members agreed to proceed with the hearing of the representation and comments in their absence.

22. The following representatives of Planning Department (PlanD) and the representer (R9)'s representatives were invited to the meeting at this point:

PlanD Representatives

Mr Derek P.K. Tse - District Planning Officer/ Tsuen Wan and West Kowloon (DPO/TWK)

Mr Stephen C.Y. Chan - Senior Town Planner/Kwai Tsing (STP/KT)

Representer (R9)

R9 – Tung Chun Company Ltd.

Dr Jimmy C.H. Wong]

Ms Leung Siu Yin]	
Mr Cheung Shui Fung]	
Ms Lily Sze]	Representer's representatives
<i>KTA Planning Ltd</i> -]	
Mr Kenneth To]	
Ms Kitty Wong]	

23. The Chairperson extended a welcome. She then briefly explained the procedures of the hearing. She said that PlanD's representatives would be invited to brief Members on the representation and related comments. The representer (R9)'s representatives would then be invited to make oral submission and 10 minutes would be allocated for making the presentation. There was a timer device to alert the representer's representatives two minutes before the allotted time was to expire, and when the allotted time limit was up. A question and answer (Q&A) session would be held after the representer's representatives had completed their oral submissions. Members could direct their questions to PlanD's representatives or the representer's representatives. After the Q&A session, PlanD's representatives and the representer's representatives would be invited to leave the meeting. The Town Planning Board (the Board) would then deliberate on the representation and the related comments in their absence and inform the representer and the related commenters of the Board's decision in due course.

24. The Chairperson invited PlanD's representative to brief Members on the representation and comments.

25. With the aid of a PowerPoint presentation, Mr Derek P.K. Tse, DPO/TWK, briefed Members on the representation and comments, including the background of the amendments relating to the representation site of R9 (the Site), the grounds/proposal of the representer and related commenters, planning assessments and PlanD's views on the representation and related comments as detailed in TPB Paper No. 10800 (the Paper).

26. The Chairperson then invited R9's representatives to elaborate on the representation.

R9 – Tung Chun Company Ltd.

27. With the aid of a PowerPoint presentation, Mr Kenneth To, R9's representative, made the following main points:

- (a) the representer wished to resolve the building height restriction (BHR) issue so that the redevelopment proposal for over a thousand residential flats could be expedited. R9's current proposal was to revise the BHR of the Site from 120mPD to 145mPD;
- (b) the chronology of events was highlighted as follows:
 - (i) when Tung Chun first considered redevelopment of the soya sauce factory on the Site in the 1980s, the Site was not subject to plot ratio (PR) restriction on the OZP. A land exchange for redevelopment of the factory on the Site for industrial/godown use at a PR of 15 and with a requirement for provision of a public Road 27E within the Site was executed and premium was paid in September 1990;
 - (ii) a PR restriction of 9.5 for the Site was stipulated on the draft OZP gazetted in October 1990. The redevelopment proposal of the Site at PR 15 could not be realized;
 - (iii) in 1992, the Site was rezoned from "Industrial" to "Comprehensive Development Area" ("CDA") with no PR restriction nor BHR. A Master Layout Plan (MLP) for a factory/godown development with PR of 15 was approved by the Board in June 1993 and the general building plans were approved in December 1997;
 - (iv) due to the change in redevelopment plan, a MLP under application No. A/KC/241 for a proposed hotel and service apartment development at a PR of 6.36 was approved by the Board in March 2000. In 2003, a PR restriction of 6.36 was stipulated on the "CDA" zone of the Site;

- (v) subsequently, the industrial area near the Site was rezoned from “Industrial” to “Other Specified Uses” annotated “Business” but the Site remained under a “CDA” zoning;
 - (vi) in 2012, the Board stipulated a BHR of 120mPD on the Site which R9 opposed and lodged judicial review applications against the Board’s decision not to uphold its representation; and
 - (vii) considering the government’s policy to increase housing supply, the representer submitted a MLP under application No. A/KC/444 for comprehensive development with 1,300 flats, eating place, shop and services and office uses at a PR of 6.36 and with minor relaxation of BHR from 120mPD to 145mPD to the Board in 2017. The application was approved by the Board in 2019 (the 145mPD Scheme);
- (c) in the 145mPD scheme, the residential towers were positioned in the eastern side of the Site as it was subject to severe traffic noise impacts from Cheung Wing Road and the Cheung Wing Road interchange and an office block had to be located at the west side abutting Cheung Wing Road to mitigate the traffic noise impact. The 145mPD scheme allowed for a stepped building height (BH) design with the office tower being low to medium-rise. Besides, a landscaped area of about 4,200m² could be provided, with the central part for residents’ use and a northwestern portion for public use. The Chief Town Planner/Urban Design and Landscape of PlanD considered that the 145mPD Scheme was not excessively tall and was visually compatible with the surrounding context. R9 was keen to implement the 145mPD Scheme;
- (d) in comparison, the notional scheme prepared by them with the same PR of 6.36 and compliant BHR of 120mPD (the 120mPD Scheme) showed that two more single-aspect residential towers and a high rise office tower would be required to accommodate the permitted GFA, with the towers having the same height lining along the Cheung Wing Road site boundary in a congested manner with substantial visual mass. Given

the site levels between 13mPD to 18mPD, the absolute BH permissible under a BHR of 120mPD was only about 100m. The 145mPD Scheme was a more visually pleasing and permeable development with interesting building design and built form;

- (e) from experience, applicants normally would need to refine the approved MLP, thereby entailing submission of planning applications. If the BHR remained at 120mPD, each and every of such future planning applications would also need to seek minor relaxation of BHR and government departments might repeatedly require them to justify the proposed BH whenever an application was made. Stipulating a BHR of 145mPD for the Site could simplify future MLP submissions and provide more certainty for R9;
- (f) the Site was zoned “CDA” which required planning permission from the Board on all development proposals under Column 2 uses of the Notes of the OZP. Even if the BHR was revised to 145mPD, MLP submission was still needed and the Board could still maintain control and scrutiny on the development mix, scale, design and layout of the development, among others; and
- (g) the reason for stipulating a BHR of 120mPD at the Site was to avoid excessively tall and out-of-context building. However, when the Board considered the 145mPD Scheme in 2019, it considered that the proposed development at 145mPD was visually compatible with the developments in the surrounding areas. Besides, the former Kwai Chung Public School site further southwest of the Site was recently rezoned for public housing development with a BHR of 145mPD, which was the same as the representer’s proposed BHR for the Site.

28. To supplement, Dr Jimmy C.H. Wong, R9’s representative, made the following main points:

- (h) the Tung Chun factory had been located in the area for 70 years. Their

operation at the Site had not created adverse impact to the area in the past. In future, they would create a better environment for the neighborhood, such as providing Road 27E and open space for public use through the redevelopment proposal;

- (i) the open space proposed for public use under the 145mPD Scheme would be 20% more than that of the 120mPD Scheme. As a stakeholder of the community, they hoped to implement the 145mPD Scheme that could provide a visually permeable development in the congested setting, help improve the traffic environment and also simplify the future procedures for MLP submissions; and
- (j) the Board was urged to respect the MLP of the Site approved in 2019 with BH of 145mPD and revise the BHR for the Site from 120mPD to 145mPD.

29. As the presentations from PlanD's representatives, and the representer's representatives had been completed, the meeting proceeded to the Q&A session. The Chairperson explained that Members would raise questions to PlanD's representatives or the representer's representatives to answer. The Chairperson then invited questions from Members.

30. The Chairperson and some Members raised the following questions to PlanD's representatives:

- (a) whether the 145mPD Scheme approved by the Board in March 2019 would be affected if the BHR of the Site remained at 120mPD;
- (b) what the representer had to do before the expiry date of the planning permission;
- (c) what the PlanD's views were on the representer's opinion that revising the BHR to 145mPD could smoothen the future submissions for revised MLP;

- (d) what amendments to the key development parameters of approved schemes would be regarded as Class A and Class B amendments under the relevant Town Planning Board Guidelines;
- (e) if the BHR of 120mPD was maintained, whether a fresh planning application was required if a revised scheme had BH exceeding that of the 145mPD Scheme;
- (f) the sequence pertaining to imposition of BHR of 120mPD for the Site and the Board's approval of the 145mPD Scheme; and
- (g) whether the Site could accommodate the allowable PR with BHR of 120mPD.

31. In response, Mr Derek P.K. Tse, DPO/TWK, made the following main points:

- (a) the 145mPD Scheme was approved with conditions by the Metro Planning Committee (MPC) on 22.3.2019 and was valid until 22.3.2023. Hence, if the BHR was maintained at 120mPD, the applicant could still proceed with the development in accordance with the Scheme, including submission of general building plans and application for modification of the lease before the expiry date to commence the 145mPD Scheme;
- (b) in general, the Board would grant planning permission for permanent development with a validity period of four years, which was also adopted in the subject 145mPD Scheme. The development had to be commenced before expiry of the planning permission. To fulfil the requirement to commence the development, the applicant could obtain approval of buildings plans before expiry of the planning permission. There was no requirement for completion of the development before the expiry date. The applicant would also be expected to comply with the approval conditions of the application as far as possible within the validity period. If the applicant could not commence the development within the specified time-limit, he could apply to the Board for extension of commencement of

the planning permission which was subject to the Board's approval based on circumstances of the case;

- (c) amendments to the approved MLP would require further planning permission even if the BHR was revised to 145mPD, except Class A amendments, which were always permitted as specified in the Town Planning Board Guidelines for Class A and Class B amendment to Approved Development Proposals (TPB PG-No. 36B). Where the amendments were classified as Class B, they could be processed by way of a more simplified s.16A application. A fresh planning application would be required if the amendments fell outside the scopes of the Class A and Class B amendments;
- (d) according to TPB PG-No. 36B, amendments such as reduction of PR, increase in total area of public open space, changes in location of public open space on the same street/podium level and not the subject of environmental mitigation measures, could be regarded as Class A amendments. Reduction of public open space would be an example of Class B Amendment. For BH, reduction of BH was a Class A amendment; and if there was BHR stipulated on the OZP, increase in BH of the approved scheme over and above the stipulated BHR would require a fresh planning application;
- (e) according to TPB PG-No. 36B, if BHR on the Site was maintained at 120mPD, an amendment to increase the BH beyond 145mPD as approved under the 145mPD Scheme would require a fresh planning application. The planning application would be considered by the Board based on the planning and design merits, having regard to the Board's decision on the previously approved scheme;
- (f) a comprehensive review was conducted for the Kwai Chung Planning Area in 2012 with a view to incorporating BHR on the OZP, among others. In April 2012, a BHR of 120mPD was imposed for the Site. In 2017, the applicant submitted the 145mPD Scheme. Upon consideration of the

planning and design merits of the 145mPD Scheme, the application was approved with conditions in March 2019 upon further consideration by the MPC; and

- (g) the Site with a maximum BH of 120mPD was able to accommodate the gross floor area equivalent to the allowable PR of 6.36.

32. Some Members raised the following questions to R9's representatives:

- (a) the progress of general building plans submission and the target submission date;
- (b) the comparison between the approved 145mPD Scheme and the 120mPD Scheme in terms of its massing and building layout; and
- (c) as the proposed 145mPD Scheme had been approved with conditions by the Board in 2019, why it was considered necessary to revise the BHR to 145mPD for the Site.

33. In response, Mr Kenneth To, R9's representative, made the following main points:

- (a) the general building plans were under preparation and some technical issues needed to be resolved. The general building plans were targeted to be submitted within 2022;
- (b) a comparison table of the 120mPD Scheme and the 145mD Scheme showed that with the same PR of 6.36 and floor-to-floor height of 3.15m, one office block (22 storeys) with BH of 120mPD would be erected in the 120mPD Scheme while a stepped BH office block (2 to 3 storeys to 12 storeys) was proposed in the 145mPD Scheme. The 120mPD Scheme proposed 6 domestic blocks of 26 storeys and domestic site coverage of 20% while the 145mPD Scheme proposed 4 domestic blocks of 34 to 36 storeys with lower domestic site coverage of 15%. Under the 120mPD Scheme, the landscaping area would be about 3,500m²

which would be enclosed by building blocks, while in the 145mPD Scheme, a landscaping area of about 4,500m² with one open-side facing the pedestrian street would be provided; and

- (c) if the BHR on the OZP was revised to 145mPD, when R9 proposed refinements to the approved scheme which required fresh planning application, there was no need to seek minor relaxation of BH and to repeatedly justify the planning and design merits for relaxation of the BHR. From experience, it was common to refine the approved MLP several times before finalization. By revising the BHR to 145mPD, it would obliterate the need for the representer to repeatedly adjust and agree on the extent of minor relaxation of BHR sought with relevant government departments for each planning application.

Representer's Proposed Amendment to BHR

34. Mr Kenneth To, R9's representative, further supplemented that maintaining a stepped BH profile say from the harbourfront to the hillside for areas visible to the public might be worth pursuing, for example, the stepped BH for North Point and Quarry Bay areas which was visible when viewing towards the Hong Kong East harbourfront. However, the stepped BH concept for the subject OZP with the height bands from 120mPD (where the Site was located) to 160mPD toward the uphill was not very meaningful. The stepped BH concept on the OZP as illustrated on Plan 9 of the TPB Paper No. 10507 used a 3D computer model image to present a bird's-eye view. That was not a realistic view for the general public. When viewing the cityscape from pedestrian level along Kwai Chung Road as shown on some site photos, the intended stepped BH was not noticeable. Besides, the BH of several developments within the BH band of 120mPD had already exceeded or would exceed 120mPD. There appeared to be no strong reason to maintain the BH band of 120mPD and the reason for maintaining a stepped BH was rather academic.

35. In response, Mr Derek P.K. Tse, DPO/TWK, said that according to PlanD's review of the BHRs on the OZP in 2018, the BHR of 120mPD at the Site was recommended to be maintained having regard to the updated planning assessments, in particular the additional need for consideration of the requirement of Sustainable Building Design

Guidelines (SBDG) at that time. The concept of maintaining a stepped BH in the planning area should also be maintained.

36. A Member asked about the mechanism to control the development if the BHR of the Site was revised to 145mPD. In response, Mr Derek P.K. Tse, DPO/TWK, said that as the Site would still be zoned “CDA”, the same s.16 planning application mechanism as stipulated in the Notes of “CDA” zone under the OZP, i.e. submission of a MLP together with the necessary technical assessments to the Board for consideration, would remain.

37. The same Member asked about the differences in the Board’s consideration of future planning applications, if the BHR of 120mPD was retained or if it was revised to 145mPD as proposed by R9. The Chairperson said that if the Board decided to amend the BHR of the Site to 145mPD, any future planning applications with BH not more than 145mPD did not need to seek minor relaxation of BHR. That would mean that a BH of 145mPD would have to be taken as given when the Board considered any such future applications and the applicant would not be required to demonstrate the planning and design merits for a BH not higher than 145mPD. Whereas if the BHR was retained as 120mPD, the applicant would need to satisfy the Board that there were planning and design merits to support the minor relaxation of BHR to 145mPD, as they did in the previously approved planning application (No. A/KC/444). If the BHR of 120mPD was retained, the basis for approving the 145mPD Scheme would be duly taken into account when the Board considered any future applications involving an exceedance of the stipulated BHR.

38. Dr Jimmy C.H. Wong, R9’s representative, supplemented that two years had been spent to obtain approval for the 145mPD Scheme. The lot owner would unlikely be willing to go through the same prolonged period to seek the same relaxation of BHR when pursuing further amendments to the development scheme or be willing to seek a relaxation beyond 145mPD. If the BHR for the Site could be revised to 145mPD, it would provide more design flexibility for them to revise the scheme considering the Site was highly constrained by traffic noise impacts.

Procedural Matters

39. A Member asked whether the public would be consulted if the Board decided to

revise the BHR of the Site to 145mPD after the hearing. Mr Derek P.K. Tse, DPO/TWK, responded that if the Board decided to propose amendment to the BHR, the proposed amendment to the OZP would be published for three weeks for further representations. The Board would hold a hearing to consider any adverse further representations received before deciding whether to amend the OZP by the proposed amendments.

40. In response to another Member's question, the Chairperson said that if the Board decided not to uphold R9 and to maintain the BHR of 120mPD for the Site, the draft OZP would be submitted to CE in C for approval. As the 145mPD Scheme approved by the Board in 2019 was still valid, the applicant could obtain approval of building plans to commence the development before expiry of the planning permission. In this regard, approval of the draft OZP with BHR of 120mPD for the Site would not affect the implementation of the 145mPD Scheme.

41. As Members had no further questions to raise, the Chairperson said that the Q&A session was completed. She thanked PlanD's representatives and R9's representatives for attending the meeting. The Board would deliberate on the representation and related comments in closed meeting and would inform R9 and the related commenters of the Board's decision in due course. PlanD's representatives and R9's representatives left the meeting at this point.

Deliberation Session

42. The Chairperson recapitulated that R9 could implement the 145mPD Scheme approved by the Board within the validity period of the planning permission. When formulating the BHRs for OZPs, the Board had adopted a consistent approach and the same assumptions, and had taken into account a number of factors, including the GFA/PR permitted under respective zonings, recommendations from visual impact assessments and air ventilation assessments, SBDG requirements etc. The Board did not formulate BHRs based on specific schemes approved in planning applications; whereas approval for exceedance of the stipulated BHRs should be based on planning and design merits of specific schemes. Members might consider whether there were reasons to agree to R9's request for the Board to revise the BHR to 145mPD for the Site on the basis of such a BH having been accepted for an approved scheme, and for the purpose of providing convenience for the making of future

refinements to the scheme via planning applications.

43. Some Members said that the formulation of a BHR of 120mPD for the Site was not an academic exercise as claimed by R9. Members generally considered that the BHR of 120mPD imposed on the Site should be maintained as it was based on a comprehensive BHR review in 2012 and 2018 conducted for the Kwai Chung Planning Area that had followed the same approach for reviewing BHRs for other OZPs, and had taken into account assessments on visual and air ventilation aspects. On the other hand, the 145mPD Scheme was approved based on the planning and design merits of that scheme and was not a basis for the Board to decide on the BHR for the Site as stipulated on the OZP.

44. Members noted R9's concern on the need to repeatedly provide justifications to support the minor relaxation of BHR to 145mPD in their future refinements to the approved scheme via planning applications, even if the refinements did not involve change in BH. Responding to this concern, Members were of the view that when considering any future planning applications on the Site, it would only be reasonable for the Board to take into account the planning history of the case and its previous considerations and decision on approving similar applications (e.g. application No. A/KC/444).

45. Whilst not agreeing to amend the BHR, two Members noted R9's concerns on the planning application procedures and said that when opportune, there might be review on ways to simplify the planning procedures. The Chairperson said that R9 should be encouraged to make use of the existing pre-submission arrangement to seek advice from PlanD and other government departments prior to submission of planning applications for any refined schemes.

46. The Chairperson concluded that Members generally agreed that the BHR of the Site should be maintained at 120mPD and the OZP should not be amended to meet R9's representation and that the grounds of R9 and the related comments had been addressed as detailed in the Paper and the presentations and responses given at the meeting.

47. After deliberation, the Board decided not to uphold R9 and considered that the draft Kwai Chung Outline Zoning Plan (OZP) should not be amended to meet the representation for the following reasons:

- “(a) the Building Height Restriction (BHR) for the representation site (the site) is formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development intensity with incorporation of Sustainable Building Design Guidelines (SBDG) permissible under the Kwai Chung Outline Zoning Plan (OZP). It would not affect the development intensity of the site permitted under the OZP and the development right. Better designed and sustainable buildings are not guaranteed with more relaxed building height (BH) control;
- (b) imposition of BHR of 120mPD for the site as well as BHRs for other relevant sites within the OZP is to avoid excessively tall and out-of-context buildings which would adversely affect the overall valley-like and foothill setting of the Kwai Chung Planning Area. It helps maintain the integrity of the stepped building height concept. Deletion of BHR or relaxation of BHR to 145mPD or 169mPD at the site would jeopardise the integrity of the overall stepped BH concept and result in a development out of context with the surrounding area. There is no strong justification for supporting the proposal to relax the BHR of the site to 145mPD and 169mPD as that approved by the Metro Planning Committee (the Committee) of the Town Planning Board (the Board) under Applications No. A/KC/444 and A/KC/241;
- (c) the stipulation of BHR of 120mPD at the site on the OZP is to provide a clear planning intention in respect of the permissible BH at an early stage of the planning process, allowing the restriction to be more transparent and open to public scrutiny. The 120mPD BHR still allows a development to be pursued at the site with sufficient design flexibility;
- (d) in considering Applications No. A/KC/241 and A/KC/444 for the site submitted by the representer No. R9, the Committee of the Board had taken into account their own planning and design merits in approving the scheme-based planning applications with the specific proposed BHs. Relaxation of the BHR would not be permitted without demonstration of

the individual merits, including that on planning and design aspects, under the planning application mechanism;

- (e) building design is determined by the interplay of various factors such as plot ratio, site coverage, BH, design and disposition of building. BHRs *per se* would not result in bulkier buildings and impose undue constraint on the design flexibility of future redevelopments. The BHR for the site allows flexibility in designing the buildings and does not preclude the incorporation of SBDG, green features and innovative architectural design to promote a good building design; and
- (f) whether a development would be pursued is a commercial decision taking into account a host of factors, instead of the BHR alone. The need to cater for greater design flexibility and redevelopment incentives has to be balanced against the community aspirations for a better living environment with more compatible building developments.”

48. The Board also agreed that the draft OZP, together with their respective Notes and updated Explanatory Statements, were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council for approval.

[Mr K.K. Cheung joined the meeting at this point.]

Agenda Item 4

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/K1/261

Renewal of Planning Approval for Temporary Eating Place (Restaurant) for a Period of 2 Years in “Government, Institution or Community” Zone, B/F (Portion) and G/F (Portion), Hong Kong Scout Centre, 8 Austin Road, Tsim Sha Tsui, Kowloon
(TPB Paper No. 10810)

[The item was conducted in Cantonese.]

49. The Secretary reported that the following Members have declared interests on the item for owning properties in the Tsim Sha Tsui area :

- Dr Conrad T.C. Wong - he and his spouse being directors of a company which owned a property in Tsim Sha Tsui; and
- Mr Stanley T.S. Choi - his spouse being a director of a company which owned properties in Tsim Sha Tsui.

50. Members noted that the properties of the companies of Dr Conrad T.C. Wong and the spouse of Mr Stanley T.S. Choi did not have direct view of the application site, they could stay in the meeting.

Presentation and Question Sessions

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

- Mr Derek P.K. Tse - District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK)
- Mr Clement Miu - Senior Town Planner/Yau Tsim Mong (STP/YTM)
- Fotton Surveyors Limited-] Applicant's representative
Mr Tang Kwok Fai]

52. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representative to brief Members on the review application.

53. With the aid of a PowerPoint presentation, Mr Clement Miu, STP/YTM, briefed Members on the background of the review application including the consideration of the application by the Metro Planning Committee (MPC) of the Town Planning Board (the Board),

departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10810 (the Paper).

54. The Chairperson then invited the applicant's representative to elaborate on the review application.

55. Mr Tang Kwok Fai, the applicant's representative, made the following main points:

- (a) the restaurant at the application premises (the Premises) served the staff and guests of the Scout Association of Hong Kong (SAHK) and had catered for the need of the locals, particular the elderly residents in the neighbourhood;
- (b) the Premises could only be used as canteen according to the approved general building plans. However, a canteen could only serve SAHK and it was not commercially viable for the operator to run a canteen with limited customers and irregular patronage dependent on functions held by SAHK;
- (c) the applicant was a tenant of the Premises and being an restaurant operator, he had no knowledge on how to identify suitable social welfare facilities to be accommodated in the Premises;
- (d) the renewal application complied with the TPB PG-No. 16 for 'Application for Development/Redevelopment within "Government, Institution or Community" ("G/IC") zone for Uses other than Government, institution and community (GIC) Uses' and TPB PG-No. 34D for 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development'; and
- (e) the subject restaurant had closed down due to rejection of the renewal application by the MPC. Members were sincerely requested to give

favourable consideration to renew the application for a period of 2 years to support employment and economy of Hong Kong.

56. As the presentations of PlanD's representative and the applicant's representative had been completed, the Chairperson invited questions from Members.

57. The Chairperson and some Members raised the following questions to PlanD's representatives:

- (a) when the Board approved the previous application at the Premises, the Board clearly indicated that the Premises should be for GIC uses in the long term. In this regard, PlanD was requested to advise whether the Board's request was directed to SAHK rather than the current applicant and whether the SAHK had provided any response to the Board's previous request to provide GIC use in the Premises;
- (b) whether SAHK had provided any views on the current application;
- (c) whether the renewal application could be submitted by an applicant different from the original applicant of the approved application (i.e. SAHK);
- (d) whether a canteen use, which was always permitted under the "G/IC" zone, could also serve the staff/visitors/users of the telephone exchange and cross-boundary coach terminus within the same "G/IC" zone;
- (e) what welfare facilities did the Social Welfare Department (SWD) consider to be suitable for accommodation in the Premises (including the basement portion of the Premises);
- (f) the floor area requirements of the welfare facilities suggested by the SWD;
- (g) the actual demand for those welfare facilities suggested by the SWD;

- (h) whether there were any plans from SWD to rent/acquire the Premises for provision of welfare facilities;
- (i) whether the provision of GIC facilities within the Premises would contravene the conditions of the land lease and the approved general building plans; and
- (j) what other food serving facilities were in the Hong Kong Scout Centre (HKSC) and whether those were for serving the staff and visitors of the SAHK only, and information on similar restaurant uses in the locality.

58. In response, Mr Derek P.K. Tse, DPO/TWK and Mr Clement Miu, STP/YTM, made the following main points:

- (a) the two previously approved applications (Nos. A/K1/255 and 259) were submitted by SAHK for the same use. When the Board approved the last application upon review, a shorter approval period was intended to allow time for SAHK to review the possibility of accommodating GIC uses at the Premises. The request for review of use of the Premises for GIC uses was directed to SAHK, and not the current applicant who was the restaurant operator. PlanD was not in a position to confirm whether SAHK had approached any government departments to explore the provision of GIC facilities in the Premises since the last approval;
- (b) the SAHK had not submitted any comment on the application at both the s.16 application and s.17 review stages;
- (c) the renewal application could be submitted by the tenant, rather than the SAHK, the original applicant and owner of the Premises, as long as the owner's consent/notification requirements were satisfied;
- (d) according to the Definition of Terms used in statutory plans, 'Canteen' means 'any premises where food or drinks are sold for consumption on

the premises exclusively to persons working in the building or on the site where the premises are located, or exclusively to members of a particular organization and the premises are located within the compound of the organization'. As the telephone exchange and the cross-boundary coach terminus were located within the HKSC building, the canteen could also serve the staff/visitors/users of those two facilities from statutory planning point of view;

- (e) having noted that majority of the Premises was located at the basement level with no natural lighting and ventilation, SWD advised that two welfare facilities were suitable for accommodation in the Premises, i.e. the Home Care Services (HCS) for Frail Elderly Persons, which was a facility mainly for off-site distribution to the target group and the Community Rehabilitation Day Centre (CRDC), which was mainly to provide a space for administrative services and holding activities for the needy;
- (f) according to SWD, the internal floor area (IFA) requirement for an HCS for Frail Elderly Persons was about 275m² and the IFA requirement for a CRDC was about 356m². The total GFA of the Premises was about 1,955 m², which was sufficient to accommodate one each of the two welfare facilities;
- (g) according to the Labour and Welfare Bureau, there were about 4,000 elderly waiting for the HCS for Frail Elderly Persons in July 2021 and the waiting time was about 5 months for each person;
- (h) the SWD had been implementing a programme to purchase private premises for accommodating welfare facilities. Although the subject premises was not a target premises for purchase by the SWD at the moment, the SWD was aware that the Premises had potential for provision of welfare facilities;
- (i) according to comments from the Lands Department (LandsD) in

paragraph 4.4.2 of the Paper, the HKSC fell within Kowloon Inland Lot which was held under Conditions of Grant in 1990 as varied or modified by a Modification Letter and a No-objection Letter. One of the Special Conditions stipulated that the lot should be for, inter alia, building(s) comprising a headquarters for the SAHK including other ancillary accommodation and facilities as should be approved by the Director of Social Welfare. Subject to LandsD's advice, the provision of welfare facilities might be regarded as 'facilities as should be approved by the Director of Social Welfare' and might be permissible under that lease condition. From planning perspective, social welfare facilities were Column 1 uses always permitted in "G/IC" zone. On the approved general building plans, the premises was for 'canteen' use but amendments to the general building plans to convert the Premises for welfare uses could be submitted to the Buildings Department for approval; and

- (j) other than the restaurant previously operating at the basement level, lounge and banquet hall facilities, a scout clubhouse with catering facilities and staff canteen were located at UG/F, 8/F and 13/F of the HKSC respectively. Those facilities might be regarded as ancillary use for members of SAHK and the staff/guests of the hostel. If the catering facilities served the general public, they would be regarded as 'eating place' which required planning permission. Within 300m from the HKSC, there were quite a number of Chinese restaurants and other types of eating places.

59. The Chairperson and a Member asked the applicant whether the rental agreement between the restaurant operator and the SAHK specified that the restaurant was to serve the staff and members of SAHK and visitors to HKSC and whether the restaurant operator knew that planning application was required to operate a restaurant at the Premises when signing the agreement. In response, Mr Tang Kwok Fai, the applicant's representative, said that there were no particular requirements in the rental agreement to restrict customers to those relating to SAHK or visitors to HKSC. It was not commercially viable to operate only a canteen for HKSC. When they started to operate the restaurant, the Premises was covered

by a planning permission for temporary restaurant use. Waiver fees for the restaurant use had been paid. As the previous planning permission had expired, the short term waiver had also expired. The Board was urged to give sympathetic consideration to renew the application for two years to allow them to survive the difficult operating conditions under the pandemic.

60. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in the absence of the applicant and its representative and inform the applicant of the Board's decision in due course. The Chairperson thanked PlanD's representatives and the applicant's representative for attending the meeting. They left the meeting at this point.

[Mr Stephen L.H. Liu left the meeting at this point.]

Deliberation Session

61. The Chairperson recapitulated that in the two previously approved applications submitted by SAHK, the Board had made it clear to SAHK that they should try to provide more community services in the Premises that was in line with the planning intention of the "G/IC" zone and could help to address the shortfall in the provision of GIC facilities in the Tsim Sha Tsui area. A shorter approval period was granted for the last application to provide time for SAHK to review the possibility of accommodating GIC uses at the premises in the future. Irrespective of whether SAHK had approached relevant government departments to address the Board's previous concerns, the Board was told that the SWD had indicated that two welfare facilities would be suitable facilities to be accommodated at the Premises.

62. Members, in general, supported MPC's decision for not approving the renewal application. Some Members expressed that the last application (No. A/K1/259) for temporary eating place (restaurant) use submitted by the SAHK was approved for renewal for 2 years upon review only on sympathetic grounds in view of the enormous hardship faced by businesses due to the pandemic situation back then. The SAHK was fully aware of the Board's intention that the renewal granted to the last application should be the last renewal and no further renewal of approval would be given, SAHK should consider using the

Premises for GIC facilities since then. For the current application, the SWD had identified suitable welfare facilities that could possibly operate from the Premises and would cater for the demand in the district. The provision of GIC/welfare facilities at the Premises would be in line with the planning intention of the “G/IC” zone and would be more beneficial to the public as compared to operating a Chinese restaurant.

63. A Member noted the area of the Premises was more than enough for provision of the two proposed welfare facilities and said that where possible, the Premises should be fully utilised for provision of more GIC facilities to serve the community. A Member indicated that there was huge demand for facilities like HCS for Frail Elderly Persons and non-government organisations (NGO) were eager to identify suitable premises for providing such facilities.

64. Although the application was submitted by the operator of the restaurant, the Chairperson suggested to convey the decision of the review application to SAHK (being the owner of the Premises and a NGO) and reiterate the Board’s concern that suitable GIC uses should be identified for the Premises and to also inform SAHK of SWD’s suggestions for welfare facilities that could possibly be accommodated in the Premises for its consideration and necessary action. A Member had reservation on the idea of writing to SAHK as it was considered not appropriate for the Board to put pressure on SAHK to make available private premises within the HKSC for other community facilities and trusted that SAHK could better utilize the premises for their own activities and training courses. The majority of Members agreed with the Chairperson’s suggestion and indicated that the purpose of the letter was merely to encourage SAHK to provide GIC facilities at the Premises in accordance with the planning intention of the OZP. The Chairperson said the Secretariat would follow up accordingly.

65. After deliberation, the Board decided to reject the application for the following reason:

“the applicant fails to demonstrate that no suitable Government, institution and community (GIC) uses could be accommodated in the application premises. The proposed continuous use of the premises for ‘Eating Place (Restaurant)’ within “G/IC” zone would jeopardise the provision of GIC facilities serving the

needs of the local residents and/or a wider district.”

[Professor Johnathan W.C. Wong, Messrs Alex T.H. Lai and Ken K.K. Yip left the meeting, and Ms Carrie K.Y. Leung joined the meeting at this point.]

Tuen Mun & Yuen Long West District

Agenda Item 5

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/TM-LTYT/337-1

Proposed Extension of Time for Commencement of the Approved Residential Development (Flat) and Minor Relaxation of Building Height Restriction for a Period of 2 Years until 23.6.2023 (i.e. Additional 2 Years from the Original Approval) at Lots 464 S.A ss.1, 464 S.B, 465, 472 S.A RP and 472 S.B RP in D.D. 130, San Hing Road, Lam Tei, Tuen Mun, New Territories
(TPB Paper No. 10804)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

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

- | | |
|-----------------------|---|
| Mr Kepler S.Y. Yuen | - District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YLW), PlanD |
| Mr Alexander W.Y. Mak | - Senior Town Planner/Tuen Mun (STP/TM), PlanD |
| Mr Keith C.H. Fung | - Town Planner/ Yuen Long West, PlanD |

<i>Toco Planning Consultants Ltd</i> -]	
Mr Chan Tat Choi]	
Mr Wei Cheuk Hung James]	Applicant's representatives
<i>John Hui & Associates</i> -]	
Mr Chan Ka Ho]	

67. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representatives to brief Members on the review application.

68. With the aid of a PowerPoint presentation, Mr Alexander W.Y. Mak, STP/TM, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10804 (the Paper). PlanD maintained its view of not supporting the application.

69. The Chairperson then invited the applicant's representative to elaborate on the review application.

70. With the aid of the visualiser, Mr Chan Tat Choi, the applicant's representative, made the following main points:

- (a) the applicant, who was the land owner, was treated unfairly by the government. The application was approved by the Board and the applicant acted proactively in pursuing implementation of the approved development by submission of a land exchange application (LEA) to the Lands Department (LandsD). However, the processing of the submitted LEA had been put on hold by LandsD;
- (b) with approval of the LEA pending, the site boundary of the approved scheme could not be finalized. It was not feasible to submit buildings plan nor conduct technical assessments to fulfil the relevant approval

conditions, such as finalisation of the location of the vehicular access, noise impact assessment, or submission of the drainage proposal;

- (c) a similar application (No. A/TM-LTYT/273-1) also fell within the planned comprehensive public housing development at San Hing Road and Hong Po Road. That applicant had submitted general building plans for several times but all were rejected by the Building Authority;
- (d) he questioned why the area of the proposed public housing site could not exclude the areas covered by the two approved planning applications. Furthermore, there were other pieces of vacant land nearby that could be used for the public housing development; and
- (e) the applicant had continuously communicated with relevant government departments in the last four years to try to implement the approved scheme. If the LEA could be approved, the site boundary could be fixed and it would not take long to finalise the revised technical assessments required under the approval conditions. Granting the extension of the time (EOT) of two years for commencement of the approved scheme was sufficient to allow the applicant to implement the approved scheme. Also, the implementation of the approved scheme would not have adverse impacts on the nearby public housing development as the application only involved a small portion of the public housing site.

71. As the presentations of PlanD's representative and the applicant's representative had been completed, the Chairperson invited questions from Members.

72. The Chairperson asked whether assessment criterion (a) as stated in the Town Planning Board Guidelines on EOT for Commencement of Development (TPB PG-No. 35C) relating to 'whether there had been material change in planning circumstances since the original permission was granted' was a relevant consideration of the current application. In response, Mr Kepler S.Y. Yuen, DPO/TMYLW, said that the planning assessment for the EOT application had considered all the criteria as stated in TPB PG-No. 35C. When the RNTPC considered the subject EOT application, the decision for a town planning appeal case for a

similar EOT application (No. A/TM-LTY Y/273-1) involving the same public housing site and relating to the criterion (a) was taken into consideration. Hence, the RNTPC did not include that as a rejection reason for the subject EOT application. Although ‘material change in planning circumstances’ was not included in the suggested rejection reason in the Paper following the RNTPC’s decision, it was indicated in the planning assessment in Section 8 of the Paper that PlanD considered that there was a material change in planning circumstances as the government had already demonstrated its strong commitment on implementing the public housing development by rezoning an area, including the application site, to “Residential (Group A)” (“R(A)”) on the draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTY Y/11 gazetted on 20.8.2021. If the Board considered it appropriate, criterion (a) of TPB PG-No 35C could also be included in the rejection reason for the review application.

73. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in the absence of the applicant and its representatives and inform the applicant of the Board’s decision in due course. The Chairperson thanked PlanD’s representatives and the applicant’s representatives for attending the meeting. They left the meeting at this point.

Deliberation Session

74. Members, in general, agreed that the EOT should not be approved. A Member indicated that there should be sufficient time for the applicant to obtain approval of general building plans for the approved scheme and the reason given by the applicant for not doing so was not valid.

75. All Members agreed that there was a material change in planning circumstance since the granting of the last permission as a larger area covering the application site which was originally zoned “Residential (Group E)” for a lower density development had been rezoned to “R(A)” to facilitate the proposed public housing development with higher development density. Hence, criterion (a) of TPB PG-No. 35C regarding material change in planning circumstances should be incorporated into the rejection reason.

76. A Member said that the rejection reason should be reworded to reflect that

criterion (a) (i.e. having material change in planning circumstances) was the key reason to reject the EOT, followed by criterion (f) (i.e. the applicant had failed to demonstrate that there was good prospect to commence the proposed development as LandsD would not process the LEA, and the last being criterion (e) (i.e. the applicant had failed to demonstrate that reasonable actions were taken to comply with the approval conditions). Members agreed.

77. After deliberation, the Board decided to reject the application for the following reason:

“the application is not in line with Town Planning Board Guidelines on Extension of Time for Commencement of Development (TPB PG-No. 35C) in that there has been a material change in planning circumstances since the granting of last permission as there is a clear intention and plan for a public housing development covering the application site, and the applicant fails to demonstrate that there is a good prospect to commence the proposed development within the applied extension period and that genuine effort has been made in taking reasonable actions for the implementation of the approved development.”

Sha Tin, Tai Po & North District

Agenda Item 6

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-KLH/598

Proposed House (New Territories Exempted House - Small House) in “Agriculture” and “Village Type Development” Zones, Lot 263 S.D ss.15 in D.D. 9, Kau Lung Hang, Tai Po (TPB Paper No. 10811)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

78. The following representatives of the Planning Department (PlanD) were invited

to the meeting at this point:

Ms Margaret H. Y. Chan - District Planning Officer/Shan Tin, Tai Po and North (DPO/STN)

Mr Tony Y. C. Wu - Senior Town Planner/Country Park Enclaves (STP/CPE)

79. The Chairperson extended a welcome and informed Members that the applicant had indicated not to attend the meeting. She then invited PlanD's representatives to brief Members on the review application.

80. With the aid of a PowerPoint presentation, Ms Margaret H. Y. Chan, DPO/STN, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10811(the Paper). PlanD maintained its previous view of not supporting the application.

81. As the presentation from PlanD's representative had been completed, the Chairperson invited questions from Members.

82. Members raised the following questions:

- (a) whether the Small House application submitted on 28.6.2017 at the application site (the Site) as mentioned in paragraph 5.2.1 (d) of the Paper was referring to the subject planning application for a Small House development;
- (b) noting that the Site was held under Block Government Lease demised for agricultural use, whether Small House development was permitted under the lease; and
- (c) the applicant in his written submission mentioned that the Site fell

entirely within the village ‘environs’ (‘VE’) of Yuen Leng and Kau Lung Hang Villages and more than 50% of the footprint of the proposed Small House was within the “V” zone. Whether the said figures quoted by the applicant were correct and if affirmative, whether those were sound justifications.

83. In response, Ms Margaret H.Y. Chan, DPO/STN, and Mr Tony Y.C. Wu, STP/CPE, made the following main points:

- (a) the Small House application mentioned in paragraph 5.2.1 (d) referred to the applicant’s application for Small House grant submitted to LandsD. It was different from the subject planning application for Small House being considered by the Board;
- (b) Small House development on a lot held under Block Government Lease demised for agricultural use might be permitted by LandsD by way of granting building licenses or other appropriate means. If the planning application was approved by the Board, the LandsD would process the applicant’s application for Small House grant according to their prevailing policies and procedures; and
- (c) both the Site and the proposed Small House footprint fell entirely within the ‘VE’ of Yuen Leng and Kau Lung Hang but only 49% of the footprint fell within the “V” zone according to PlanD’s calculation. According to the Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories, sympathetic consideration might be given if not less than 50% of the proposed NTEH/Small House footprint fell within the ‘VE’ of a recognized village and there was a general shortage of land in meeting the demand for Small House development in the “V” zone of the village. While the total number of outstanding Small House applications for Yuen Leng and Kau Lung Hang Villages was 117, about 6 ha of land (equivalent to about 240 Small House sites) was available within the relevant “V” zones and sufficient to meet the outstanding Small House applications. Hence, the

application did not meet the said Interim Criterion.

84. As Members had no further questions to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application. The Chairperson thanked PlanD's representatives for attending the meeting. They left the meeting at this point.

Deliberation Session

85. Members noted that the application did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that there was no general shortage of land in meeting the demand for Small House development in the "V" zones, and there was no major change in the planning circumstances since the consideration of the application by the RNTPC. Members generally agreed with the RNTPC's decision and the review application should be rejected for the same reasons.

86. After deliberation, the Board decided to reject the application for the following reasons:

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the “Village Type Development” (“V”) zone of Yuen Leng and Kau Lung Hang which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.”

Agenda Item 7

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-KLH/599

Proposed House (New Territories Exempted House - Small House) in “Agriculture” and “Village Type Development” Zones, Lot 975 S.A in D.D. 7, Wai Tau Tsuen, Kau Lung Hang, Tai Po

(TPB Paper No. 10812)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

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

Ms Margaret H. Y. Chan - District Planning Officer/Shia Tin, Tai Po and North (DPO/STN)

Mr Tony Y. C. Wu - Senior Town Planner/Country Park Enclaves (STP/CPE)

88. The Chairperson extended a welcome and informed Members that the applicant had indicated not to attend the meeting. She then invited PlanD’s representatives to brief Members on the review application.

89. With the aid of a PowerPoint presentation, Ms Margaret H. Y. Chan, STP/DPO, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10812 (the Paper). PlanD maintained its previous view of not supporting the application.

90. As the presentation of PlanD’s representatives had been completed, the Chairperson invited questions from Members.

91. As Members had no question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application. The Chairperson thanked PlanD's representatives for attending the meeting. They both left the meeting at this point.

Deliberation Session

92. Members noted that there was no major change in the planning circumstances since the consideration of the application by the RNTPC. Members agreed with the decision of RNTPC and that the review application should be rejected. As the applicant had submitted a sewerage plan to connect the proposed house with the existing public sewer in the review application which was acceptable by relevant government departments, the related rejection reason (b) in the section 16 application needed not be included as a rejection reason of the review application.

93. After deliberation, the Board decided to reject the application for the following reasons:

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the “Village Type Development” (“V”) zone of Wai Tau Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.”

Procedural Matters

Agenda Item 8

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments on the Draft Tsing Yi Outline Zoning Plan No. S/TY/31
(TPB Paper No. 10813)

[The item will be conducted in Cantonese.]

94. The Secretary reported that the amendment item involved a public housing development to be implemented by the Hong Kong Housing Authority (HKHA) and the Housing Department (HD) was the executive arm of HKHA. The Engineering Feasibility Study (EFS) for the aforesaid amendment item was conducted by the Civil Engineering and Development Department (CEDD) with WSP (Asia) Limited (WSP) as one of the consultants of the EFS. Representations and comments had been submitted by the Conservancy Association (CA) (R89/C2), the Hong Kong Bird Watching Society (HKBWS) (R90), Kadoorie Farm and Botanic Garden (KFBG) (R91), World Wide Fund For Nature Hong Kong (WWF-HK) (R93), Designing Hong Kong Limited (DHKL) (R94/C1), and Ms Mary Mulvihill (R4792/C1621). The following Members had declared interests on the item for having affiliation/business dealings with HKHA, CEDD, consultants of the EFS and/or the representers/commenters:

Mr Paul Y.K. Au - being a representative of the Director of Home
(as Chief Engineer (Works), Affairs who was a member of the Strategic
Home Affairs Department) Planning Committee and Subsidized Housing
Committee of HKHA;

Mr Andrew C.W. Lai - being a member of HKHA;
(as Director of Lands)

- Dr Lawrence W.C. Poon - his spouse being an employee of HD (the executive arm of HKHA) but not involved in planning work;
- Mr K.K. Cheung - his firm having current business dealings with HKHA, WSP, KFBG and DHKL, past business dealings with CA, and hiring Ms Mary Mulvihill on a contract basis from time to time;
- Mr Alex H.T. Lai - his former firm having current business dealings with HKHA, WSP, KFBG and DHKL, past business dealings with CA, and hiring Ms Mary Mulvihill on a contract basis from time to time;
- Dr C.H. Hau - conducting contract research projects with CEDD, being a member of HKBWS and a life member of CA and his spouse being the Vice Chairman of the Board of Directors of CA, and a former member of the Conservation Advisory Committee of WWF-HK;
- Mr Thomas O.S. Ho - having current business dealings with HKHA, personally knowing Mr Paul Zimmerman, the co-founder and Chief Executive Officer of DHKL;
- Dr Conrad T.C. Wong - having current business dealings with HKHA;
- Mr Franklin Yu - being a member of the Building Committee and Tender Committee of HKHA;

- Mr K.W. Leung - being a member of the executive board of HKBWS and the chairman of the Crested Bulbul Club Committee of HKBWS;
- Dr Hon Y.S. Wong - being a member of Funds Management Sub-Committee of Finance Committee of the HKHA;
- Mr L.T. Kwok - his serving organisation operating a social service team which was supported by HKHA and had openly bid funding from HKHA; and
- Mr Daniel K.S. Lau - being a member of the HKHS which had discussed with HD on housing development issues

95. Members noted that Messrs Thomas O.S. Ho and Andrew C.W. Lai had tendered apologies for not being able to attend the meeting, and Mr Alex T.H. Lai had already left the meeting. As the item was procedural in nature, Members agreed that the other Members who had declared interests could stay in the meeting.

96. The Secretary briefly introduced the TPB Paper No. 10813. On 2.7.2021, the draft Tsing Yi Outline Zoning Plan (OZP) No. S/TY/31 (the Plan) was exhibited for public inspection under s.5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 5,277 valid representations were received. 322 other submissions were made with identity information missing which should be considered as invalid and treated as not having been made pursuant to sections 6(2)(b) and 6(3)(b) of the Ordinance. The valid representations were subsequently published for three weeks and a total of 1,627 valid comments were received. Eight other submissions were made with identity information missing and should be considered as invalid and treated as not having been made pursuant to sections 6A(2) and 6A(3)(b) of the Ordinance.

97. Since the representations/comments received on the OZP were of similar nature, the hearing of all representations and comments was recommended to be considered by the

full Town Planning Board (the Board) collectively in one group. To ensure efficiency of the hearing, a maximum of 10 minutes presentation time would be allotted to each representer/commenter in the hearing session. Consideration of the representations and comments by the full Board was tentatively scheduled for April 2022.

98. After deliberation, the Board noted that the representations/comments with the required identity information missing for the OZP as mentioned in paragraphs 1.3 and 1.4 of the Paper should be considered as invalid and treated as not having been made, and agreed that:

- (a) the valid representations and comments should be considered collectively in one group by the Board; and
- (b) a 10-minute presentation time would be allotted to each representer/commenter.

Agenda Item 9

[Open Meeting]

Application to the Chief Executive under Section 8(2) of the Town Planning Ordinance for Extension of Time Limit for Submission of the Draft Ping Shan Outline Zoning Plan No. S/YL-PS/19 to the Chief Executive in Council for Approval
(TPB Paper No. 10814)

[The item was conducted in Cantonese.]

99. The Secretary reported that the proposed amendments were related to two proposed public housing sites in Ping Shan to be developed by the Hong Kong Housing Authority (HKHA) and the Housing Department was the executive arm of HKHA. The Engineering Feasibility Studies (EFSs) for the aforesaid amendment items were conducted by the Civil Engineering and Development Department (CEDD) with Black & Veatch Hong Kong Limited (B&V) and AECOM Asia Co. Limited (AECOM) being two of the consultants of the EFSs. Representations/comments had been submitted by Ms Mary Mulvihill (R60/C4) and Hong Kong Bird Watching Society (HKBWS) (C2). The following Members had declared interests on the

items:

- Mr Paul Y.K. Au
*(as Chief Engineer (Works),
Home Affairs Department)*
- being a representative of the Director of Home Affairs who was a member of the Strategic Planning Committee and Subsidized Housing Committee of HKHA;
- Mr Andrew C.W. Lai
(as Director of Lands)
- being a member of HKHA;
- Dr Lawrence W.C. Poon
- his spouse being an employee of HD (the executive arm of HKHA) but not involved in planning work;
- Mr K.K. Cheung
- his firm having current business dealings with HKHA, B&V and AECOM, and hiring Ms Mary Mulvihill on a contract basis from time to time;
- Mr Alex H.T. Lai
- his former firm having current business dealings with HKHA, B&V and AECOM, and hiring Ms Mary Mulvihill on a contract basis from time to time;
- Dr C.H. Hau
- conducting contract research project with CEDD, having past business dealings with AECOM and being an ordinary member of the HKBWS;
- Mr Thomas O.S. Ho
- having current business dealings with HKHA and AECOM;

- Dr Conrad T.C. Wong - having current business dealings with HKHA;
- Mr Daniel K.S. Lau - being a member of the HKHS which had discussed with HD on housing development issues
- Mr Franklin Yu - being a member of the Building Committee and Tender Committee of HKHA;
- Mr L.T. Kwok - his serving organisation operating a social service team which was supported by HKHA and had openly bid funding from HKHA;
- Dr Hon Y.S. Wong - being a member of Funds Management Sub-Committee of Finance Committee of the HKHA;
- Mr Ricky W.Y. Yu - being the director and chief executive officer of Light Be (Social Realty) Company Limited which had a temporary transitional housing project in Ping Shan; and
- Mr K.W. Leung - being a member of the executive board of HKBWS and the chairman of the Crested Bulbul Club Committee of HKBWS.

100. Members noted that Messrs Thomas O.S. Ho and Andrew C.W. Lai had tendered apologies for not being able to attend the meeting, and Mr Alex T.H. Lai had already left the meeting. As the item was procedural in nature, Members agreed that the other Members who had declared interests could stay in the meeting.

101. The Secretary briefly introduced the TPB Paper No. 10814 (the Paper). On 7.5.2021, the draft Ping Shan Outline Zoning Plan No. S/YL-PS/19 (the draft OZP) was

exhibited for public inspection under s.5 of the Town Planning Ordinance (the Ordinance). During the exhibition periods, a total of 62 valid representations and 4 valid comments on the representations were received. According to the statutory time limit, the draft OZP should be submitted to the Chief Executive in Council (the CE in C) for approval on or before 7.4.2022. Consideration of the representations and comments by the full Board under section 6B of the Ordinance was originally scheduled for 21.1.2022 and was subsequently rescheduled for 11.2.2022 in view of the novel coronavirus epidemic. Due to the latest position related to the epidemic, the hearing of the representations and comments had been further rescheduled the date of which had not yet been fixed. It was anticipated that there would be insufficient time for the whole plan-making process including submission of the draft OZP to the CE in C for approval to be completed within the 9-month statutory time limit (i.e. on or before 7.4.2022). There was a need to seek the Chief Executive's (CE) agreement for an extension of the statutory time limit for six months to allow sufficient time to complete the plan-making process.

102. After deliberation, the Board agreed that the CE's agreement should be sought under section 8(2) of the Ordinance to extend the time limit for submission of the draft OZP to the CE in C for a period of six months from 7.4.2022 to 7.10.2022.

Agenda Item 10

[Open Meeting]

Any Other Business

103. There being no other business, the meeting was closed at 1:45 p.m.