

**APPLICATION FOR AMENDMENT OF PLAN**  
**UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. Y/ST/38**

- Applicant** : Royal Billion Investment Limited represented by Llewelyn-Davies Hong Kong Ltd
- Plan** : Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/33 at the time of submission
- Approved Sha Tin OZP No. S/ST/34 currently in force
- Application Site** : Lots 379 and 380 RP in D.D.186, Tung Lo Wan Hill Road, Sha Tin
- Site Area** : About 15,410m<sup>2</sup>
- Lease** : (a) Lot 379 (about 118.9m<sup>2</sup>) -  
(i) New Grant Building Lot  
(ii) No house erected on the lot shall be more than two storeys in height (i.e. developable floor area of about 237.8m<sup>2</sup>)  
(iii) No building erected on the lot shall be used as “Chai Tong” or for any other purpose of a similar nature
- (b) Lot 380 RP (about 15,291.7m<sup>2</sup>) – New Grant Agricultural Lot
- Zonings** : “Green Belt” (“GB”) (99.07%) with a small portion in “Government, Institution or Community” (“G/IC”) (0.93%) (at the time of submission and remains unchanged on the OZP No. S/ST/34 currently in force)
- Proposed Amendment** : To rezone the application site from “GB” and “G/IC” to “Residential (Group B)4” (“R(B)4”) subject to maximum plot ratio (PR) of 2.1 and maximum building height (BH) of 165mPD

**1. The Proposal**

- 1.1 The applicant seeks planning permission to rezone the application site (the Site) from “GB” and “G/IC” to “R(B)4” to facilitate a private residential development at the Site subject to a maximum PR of 2.1 and a maximum BH restriction of 165mPD. According to the Notes of the OZP for “R(B)” zone, ‘Flat’ and ‘House’ are Column 1 uses permitted as of right. A set of Notes proposed by the applicant is at **Appendix II**.
- 1.2 According to the indicative scheme submitted by the applicant, the proposed development comprises four residential towers with BH of 18 to 20 storeys over one level of resident’s clubhouse, one level of tower lobby and three levels of carpark at ~~158.8~~ **158.5**mPD to 164.9mPD and six houses with BH of five storeys at 95mPD to 103.5mPD. The site coverage of the proposed development is not more than 33% and would provide about 390 units.

- 1.3 In view of the sloping topography of the Site, the residential towers and houses are proposed on two platforms. All the residential towers and houses are confined to the eastern portion of the Site. Terraced walls with tree and shrub plantings and a 6m peripheral green area are proposed as green buffer to integrate with the surroundings. The drawings of the indicative scheme provided by the applicant are at **Drawings Z-1 to Z-9**.
- 1.4 The major development parameters of the **indicative development scheme** provided by the applicant are as follows:

<b>Indicative Development Parameters</b>	
<b>Site Area</b>	About 15,410m <sup>2</sup>
<b>Maximum Domestic PR</b>	Not more than 2.1
<b>Maximum Domestic GFA</b>	Not more than 32,361m <sup>2</sup>
<b>Maximum BH at Main Roof</b>	Not more than 165mPD
Residential Towers	158.5 to 164.9mPD
Houses	95 to 103.5mPD
<b>No. of Storeys</b>	
Residential Towers	
- Domestic	18 to 20
- Resident's Clubhouse	1
- Tower Lobby	1
- Carpark	3
Houses	5
<b>No of Block</b>	
Residential Towers	4
Houses	6
<b>Site Coverage</b>	Not more than 33%
<b>No. of Flats</b>	390
<b>Average Flat Size</b>	About 83m <sup>2</sup>
<b>Private Open Space</b>	Not less than 1,170m <sup>2</sup>
<b>No. of Parking Spaces</b>	
Private Car Parking Spaces	111
Visitors Parking Spaces	21
Motorcycle Parking Spaces	4
<b>No. of Loading/Unloading Bays</b>	
Goods Vehicle Loading/Unloading Bays	5

- 1.5 According to the indicative Landscape Master Plan (LMP) and landscape design and tree preservation proposal (**Appendix Ic**), not less than 1,170m<sup>2</sup> of private open space will be provided within the proposed development (**Drawings Z-10 to Z-11**). Among the 321 trees located within the Site, 160 of them, which are mostly located at the western portion of the Site, are proposed to be retained. The remaining 161 of them, including 19 dead trees, are proposed to be felled. 305 trees are proposed as tree compensation at a compensation ratio of 1:1.89. A walking trail with seating is proposed at the western portion of the Site

- 1.6 The Visual Impact Assessment (VIA) submitted by the applicant (**Drawings Z-12 to Z-21**) proposed mitigation measures including provision of 15m-wide building separation, landscaping at lower level and tree planting along the periphery are introduced in the design. The VIA concludes that the proposed development is visually compatible with the surrounding area.
- 1.7 The Site is currently served by the existing Tung Lo Wan Hill Road which connects with the roundabout of Mei Tin Road and ends at the Sha Tin North Fresh Water Service Reservoir adjacent to the Site with a cul-de-sac. The section of the existing Tung Lo Wan Hill Road between the Site and the roundabout is proposed to be widened from a single track access with a width of about 3.5m to 5.5m into a 7.3m single two-lane carriageway with 2m-wide footpath on one side. The applicant undertakes to design and construct the road widening works to the satisfaction of the Transport Department and Highways Department, and be responsible for the future management and maintenance before relevant Government departments take up such responsibilities. Besides, a lay-by will be provided at the entrance of the proposed development for a possible green minibus (GMB) stand (**Drawing Z-22**).
- 1.8 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 27.12.2017 (**Appendix I**)
  - (b) Supporting planning statement (**Appendix Ia**)
  - (c) Further Information (FI) received on 24.1.2018 (**Appendix Ib**) providing additional justifications
  - (d) FI received on 29.3.2018 with revised development parameters together with submission of revised technical assessment reports and responses to Government departmental and public comments. (**Appendix Ic**)
- 1.9 The application was originally scheduled for consideration by the Rural and New Town Planning Committee (the Committee) on 16.3.2018. Upon request by the applicant, the Committee agreed to defer a decision on the application for two months on 16.3.2018. On 24.1.2018 and 29.3.2018, the applicant submitted FI (**Appendices Ib and Ic**) and the application is re-scheduled for consideration by the Committee on 15.6.2018.

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supporting planning statement and FI received on 24.1.2018 and 29.3.2018 (**Appendices Ia to Ic**). They can be summarized as follows:

*In line with Government housing policy to increase housing supply*

- (a) The current rezoning proposal is in line with the Government's policy of housing supply in order to meet the imminent housing need of Hong Kong. According to the Policy Address, certain areas falling on "GB" zone that are less sensitive or turned into brownfield long ago should be reviewed for potential housing development.

- (b) The Site meets the criteria adopted by the Government in identifying suitable “GB” sites for housing development. In particular, it is located at the southern fringe of the subject “GB” zone with low conservation value, and is formed with a devegetated platform ready for development. In addition, the Site is readily connected to a public road without the need for new road provision.
- (c) Despite the Site was previously approved with conditions for a proposed single house development, in view of the change in planning circumstances that there is a consensus to review suitable land resources for housing development with higher development intensity, the current application is submitted to rezone the Site from “GB” zone into housing development in order to better utilize the valuable land resources.
- (d) The current application proposing to rezone the Site from “GB” could provide about 390 units accommodating a population of about 1170, which could contribute to the housing supply of Hong Kong.

*Unique history of the site*

- (e) The Site has a unique site history, which was once zoned “R(B)” on the draft Sha Tin OZP No. LST/69, and later rezoned to the current zonings due to the sub-standard access road. Part of the Site is covered by a New Grant Building Lot with land entitlement for housing development. This rezoning proposal will not become an undesirable precedent.

*Optimised development intensity*

- (f) The Site is located at the fringe of some existing “R(B)” sites including the Peak One with a PR of about 2.36 and a BH of about 14-16 storeys, and Pristine Villa with a PR of about 1.651 and a BH of about 8-10 storeys. The proposed development with a maximum PR of 2.1 and a maximum BH of 165mPD, is considered compatible with the residential developments in the surroundings and the wider context of Sha Tin.

*Innovative building design and careful site planning*

- (g) In order to minimise the extent of cut-and-fill of a slope with existing vegetation at the western portion, sensible scheme design has been adopted including a 6m greenery area as periphery green buffer and a proposed tree compensatory ratio of 1:1.89. The LMP further proposes a minimum of 20% greenery area be provided.
- (h) As illustrated in the VIA, a building separation with a minimum width of 15m will be provided between the two groups of mid-rise tower blocks to ensure the permeability across the Site and to soften the form of the proposed structures. By formulating a ramp leading to the car park as soon as branching off from the internal roundabout at the vehicular site access point, the space occupied by the internal road and EVA is minimized as far as practicable.

*Provision of upgraded local road and GMB lay-by*

- (i) The proposed widening of Tung Lo Wan Hill Road is proved technically feasible in the TIA submitted. This proposed road widening together with the proposed GMB lay-by could serve both the proposed development and the Sha Tin North Fresh Water Service Reservoir, which also serve as an archery ground under the management of Leisure and Cultural Services Department.

*Sustainable development*

- (j) Various technical assessments have been conducted to ascertain the feasibility of the proposed development. Through the implementation of appropriate mitigation measures, no insurmountable technical problems will be resulted in the current rezoning proposal.

*Local concerns addressed*

- (k) With the proposed widening of Tung Lo Wan Hill Road proved technically feasible, the local concern that there are difficulties in providing access road to the Site is properly addressed.

### 3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

- 4.1 The Site is located in Area 40 of Sha Tin New Town and was zoned “R(B)” on the draft Sha Tin OZP No. LST/69 gazetted on 25.8.1978. Part of Area 40 including the Site was later rezoned from “R(B)” to “GB” on the draft Sha Tin OZP No. LST/69E gazetted on 6.5.1983. The rezoning was based on the findings of detailed planning and engineering investigations by an inter-departmental working group on To Fung Shan development. The investigations concluded that the To Fung Shan woodland should be preserved and enhanced. Major part of To Fung Shan would not be suitable for large scale residential development on accessibility and landscaping grounds. Any massive residential development would involve substantial cut and fill operations, which would destroy the existing fine natural vegetation and good quality woodland.
- 4.2 During the statutory period for public inspection of the above-mentioned draft Sha Tin OZP No. LST/69E, only one objection against the proposed rezoning of part of Area 40 from “R(B)” to “GB” was received. That objection, however, was not relevant to the Site. Since then, the “GB” zoning of the Site remains unchanged.

### 5. **Previous Applications**

*Rezoning Requests*

- 5.1 The Site was the subject of two previous s.12A rezoning applications for residential development (**Plan Z-1**). The first rezoning application (No. Y/ST/3) was submitted in November 2006 and later withdrawn. The second rezoning application (No. Y/ST/4) was submitted in May 2007 for rezoning the Site from “GB” to “Comprehensive Development Area (2)” (“CDA(2)”) with a maximum GFA of 744.6m<sup>2</sup> and a maximum BH of 3 storeys over one-storey of car park. The Committee decided on 1.2.2008 not to agree to the application on the grounds that the application site together with the surrounding “GB” areas were covered with dense vegetation and mature trees, which served as a green backdrop to the area; and the proposed “CDA” zoning would be misleading as it might imply that the whole application site,

including areas covered by dense vegetation, would be suitable for comprehensive development.

5.2 The following is a summary of the two proposals:

No.	Site Area	Plot Ratio	GFA	Site Coverage	No. of Storeys	No. of Units	Building Height	Parking Spaces	RNTPC's Decision
Y/ST/3	1,936.5m <sup>2</sup>	0.4	774.6m <sup>2</sup>	20.10%	3 storeys over 1 storey carport	1	16m	5	Withdrawn on 18.2.2008
Y/ST/4	15,410m <sup>2</sup>	0.05	774.6m <sup>2</sup>	2.53%	3 storeys over 1 storey carport	1	16m	2	Rejected on 1.2.2008

### *Planning Applications*

5.3 The Site is also the subject of nine previous s.16 applications for residential developments (**Plan Z-1**). All of them, except application No. A/ST/673, were either withdrawn or rejected mainly on the grounds of being not in line with the planning intention of "GB" zone, failure to demonstrate that the development would not have adverse drainage, nature conservation and landscape, visual and traffic impacts, and setting of undesirable precedent.

5.4 Application No. A/ST/673 for single house development with a GFA of 518.17m<sup>2</sup> and a BH of 16m was approved with conditions on 7.11.2008 on the grounds that the scale and intensity of development is compatible with the surrounding area and would not cause adverse visual impact and there is no objection from Government departments concerned. The commencement of development was subsequently extended to 7.11.2016 under application No. A/ST/673-1, and the planning permission lapsed on 8.11.2016.

5.5 The following is a summary of those rejected planning applications:

No.	Proposed Development	Site Area (m <sup>2</sup> )	Plot Ratio	GFA (m <sup>2</sup> )	No. of Storeys	Site Coverage	Building Height	No. of Units	Unit Size (m <sup>2</sup> )	Parking Spaces	RNTPC/TPB's Decision
A/ST/264	twenty-two 2-storey houses	15,410	0.4	6,164	2 (excluding carports)	20%	4m	22 houses	280	44	Rejected by RNTPC on 16.4.1993
A/ST/365	two 8-storey residential blocks	15,410	0.4	6,164	12 (including carports)	5.7%	118.9mPD	64 flats	94	96	Rejected by RNTPC and TPB on 17.3.1995 and 14.7.1995
A/ST/579	six 10 to 13-storey residential blocks	15,411	1.467	23,735	10-13 (excluding carports)	15.9%	152.5mPD	235 flats	89 & 66	366	Rejected by RNTPC on 16.5.2003
A/ST/627	two 8-storey residential blocks	15,410	0.4	6,160	8 (excluding carports)	12.5%	--	64 flats	--	96	Withdrawn on 1.11.2005
A/ST/631	nine 2 to 3-storey houses and four 5-storey residential blocks	15,410	0.4	6,160	2-5 (excluding carports)	20%	146.8mPD	9 houses 20 flats	from 172 to 466	51	Rejected by RNTPC and TPB on 17.2.2006 and 23.6.2006
A/ST/673	single house development	15,410	0.034	518.17	3 over one storey of carport	1.82%	16m	1 house	--	2	Approved with conditions on 7.11.2008 and extended until 6.11.2016
A/ST/864	six 4-storey houses and a 2-storey clubhouse	15,592	0.4	6,236.80	3 over one storey of carport	22.8%	15m	6 houses	--	4	Withdrawn on 25.6.2015
A/ST/888	single house development	18,500 (including about 3139.9m <sup>2</sup> of adjoining Government land)	0.12	1,836	3 over one storey of carport	4.49%	15m	1 house	--	2	Rejected by RNTPC and TPB on 19.2.2016 and 5.8.2016
A/ST/912	single house development	15,410	0.034	518.03	2 over one storey of carport	2.14%	11.65m	1 house	--	2	Rejected by RNTPC on 26.5.2017

## 6. Similar Application

There is no similar application for rezoning to “R(B)4” within the same “GB” and “G/IC” zones on the OZP.

## 7. The Site and its Surrounding Areas (Plans Z-1 to Z-5c)

7.1 The Site is:

- (a) located on sloping ground with existing site level ranging from 77mPD to 130mPD;
- (b) mostly covered with dense vegetation, trees and some vacant structures, with a minor portion (about 2,000m<sup>2</sup>) formed in the southern portion (**Plan Z-2**); and
- (c) accessible by Tung Lo Wan Hill Road, the upper section of which is less than 4.5m in width.

7.2 The surrounding areas have the following characteristics:

- (a) to the north is the Lutheran Theological Seminary and To Fung Shan Road and to the east is the To Fung Shan Christian Centre;
- (b) to the south is the Sha Tin North Service Reservoir;
- (c) to the further south and southeast are private residential developments, namely Peak One, Pristine Villa, Sky One and the Great Hill; and
- (d) apart from some temporary structures on the hill slope, the surrounding areas are mostly covered with mature vegetation and trees and predominantly natural in character.

## 8. Planning Intentions

- 8.1 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development in this zone.
- 8.2 The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.

## **9. Comments from Relevant Government Bureaux/Departments**

9.1 The following Government bureaux/departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

9.1.1 Comments of the District Lands Officer/Shia Tin, Lands Department (DLO/ST, LandsD):

- (a) Lot No. 379 and Lot No. 380 R.P in D.D. 186 are both held under New Grant No. 7022. Lot No. 379 is a building lot subject to the General Conditions of Sale and Special Condition No. 2(a) published in Government Notification No. 364 of 1934. In brief, except with the written permission of LandsD, no house erected on the lot shall be more than two storeys in height and no building erected on the lot shall be used as a “Chai Tong” or for any other purpose of a similar nature. Lot No. 380 R.P. is an agricultural lot subject to the General Conditions of Sale and Special Condition No. 1(a), (b) and (c) published in Government Notification No. 364 of 1934;
- (b) regarding the applicant’s proposal to widen the section of Tung Lo Wan Hill Road located at north of Mei Tin Road/ Tung Lo Wan Hill Road roundabout which is currently not under the management and maintenance of TD and HyD, the applicant should ascertain if TD and HyD will take over the management and maintenance responsibility of the concerned road upon completion of the proposed road works; LCSD’s prior agreement should also be sought as the proposed road works will affect Tung Lo Wan Hill Road Garden which is currently held by LCSD under government land allocation no. GLA-ST 336. Besides, if gazettal under section 5 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370) is required for the proposed road works, the applicant shall undertake to pay all expenses including administrative costs and compensations etc. arising therefrom and, what is more important, there is no guarantee that the proposed road works can eventually be authorised to proceed;
- (c) in case that no Government departments will take up the management and maintenance of the concerned road, the future flat owners could be asked to take up maintenance of road which may need to be jointly used by other parties. In this regard, the potential implication behind should be seriously considered by the Government as a whole; and
- (d) if the Board approves the application, the owner is required to apply for a land exchange from LandsD to implement the proposal. However, there is no guarantee that the land exchange application will be approved by LandsD. Such application, if received, will be considered by LandsD acting in its capacity as the landlord at its sole discretion and any approval given will be subject to such terms and conditions including, among others, payment of premium and administrative fee as may be imposed by LandsD.



## Traffic

### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) Whilst TD has no in-principle objection to the application, the critical traffic issue of this application is the proposed widening at Tung Lo Wan Hill Road. The applicant shall seek confirmation from the relevant departments (e.g. CEDD, WSD, LandsD, etc.) that the proposed widening is both technical feasible and acceptable to these departments. Unless the applicant could provide any documents to prove that relevant departments have confirmed that the proposed road widening is both technical feasibility and acceptable to them, it would be premature to conclude that the proposed road widening at Tung Lo Wan Hill Road is technically feasible at this stage;
- (b) it is noted that the developer proposes to take up the construction, management and maintenance responsibility of the proposed widening of Tung Lo Wan Hill Road (**Drawing Z-22**), which is currently not managed by TD. In this regard, the proposed access road with a gradient of 1 in 6 has exceeded the absolute maximum gradient specified in Transport Planning and Design Manual (TPDM) and does not comply with the TPDM requirements. TD will only consider taking up the traffic management of the concerned road provided that it would comply with TPDM requirements. He trusts that LandsD would offer comments on the arrangement proposed by the developer from lands management point of view;
- (c) for the proposed GMB lay-by (**Drawing Z-22**), if the access road is maintained and managed by the private developer/owners, prior consent from the private developer/owners shall be obtained for the proposed GMB service; and
- (d) parking provision for the 12 units of flat size 288m<sup>2</sup> (now proposing 24 parking spaces) shall follow the HKPSG requirement, i.e. 19 parking spaces, unless justified.

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

- (a) for the proposed road widening works outside the Site, the Geotechnical Planning Review Report submitted by the applicant does not provide any technical details. He is therefore unable to provide any geotechnical comments on the proposed road widening works at this stage; and
- (b) the GEO shall provide geotechnical comments on the detailed design of the works upon receipt of the submissions via referral from the relevant authorities.

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

- (a) the proposed road widening works of Tung Lo Wan Hill Road will likely affect a number of trees within the Tung Lo Wan Hill Road Garden. The local residents and public may express their concerns on this matter. From tree preservation point of view, the works proponent may explore

other alternatives if practicable so as to minimize the number of LCSD's trees to be affected;

- (b) subject to genuine need with full justifications for carrying out the works, the applicant should refer to the DEVB Technical Circular (Works) No 7/2015 for proper submission of tree removal application if necessary. Upon receiving the details of the affected trees including tree photos and the tree survey report, further comments will be provided; and
- (c) for the proposed road widening works at Tung Lo Wan Hill Road, there is a genuine operational need for LCSD to reserve a right of way for the future users of the archery ground.

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

- (a) the access to the proposed development via Tung Lo Wan Hill Road is a WSD access road leading to Sha Tin North Fresh Water Service Reservoir under the maintenance of WSD. Formal application to WSD for using the WSD access road and prior approval of WSD are required. The applicant is required to observe the conditions for the use of waterworks access road should it be granted by WSD; and
- (b) for the proposed extension and modification of Tung Lo Wan Hill Road, WSD shall not take up the future management and maintenance of the road. The project proponent shall take up such responsibilities and give the right of way to WSD for the operation and maintenance of Sha Tin North Fresh Water Service Reservoir. Besides, a waterworks reserve along the concerned road shall be provided to WSD for the operation and maintenance of water mains. No structure shall be erected over this waterworks reserve and such area shall not be used for storage or car-parking purposes. The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorize. No trees/shrubs shall be planted within the waterworks reserve.

**Nature Conservation**

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

*General comments*

- (a) the applicant stated that the detailed design and extent of the slope stabilization, cutting or filling works are not available at this stage. Indeed, noting from the comments of GEO, CEDD, geotechnical features within and immediately adjacent to the Site may be affected by the proposed development and the extent of mitigation works is subject the detailed investigation and stability assessment at later stage. As such, the applicant's claim that "the extent of any slope works will not extend further beyond the compensatory planting area" seems doubtful and thus the overall impact on the native secondary woodland cannot be ascertained.

- (b) the ecological value of the secondary woodland in the Site was rated moderate in the Ecological Impact Assessment (EcoIA) submitted by the applicant (**Appendix Ic**), and it was proposed in the EcoIA that the western part of the secondary woodland to be preserved. Nevertheless, the detailed design and extent of slope works are yet available. Considering that the development proposal is only indicative in nature, the inclusion of the secondary woodland in the rezoning application might not guarantee the preservation of this piece of woodland as proposed in the EcoIA;
- (c) in addition, the compensatory planting area appears to be a reserved area for future slope works and could be dissolved subsequently. The applicant should clarify his claim that “the extent of any slope works will not extend further beyond the compensatory planting area”;
- (d) in the Response-to-Comments table in **Appendix Ic**, the compensatory planting area has been counted towards the reprovisioning of woodland loss. The applicant is advised that the approach of removing a piece of native secondary woodland to provide for a compensatory planting area is considered unacceptable;
- (e) in view of the uncertainty of the exact extent of woodland loss and the questionable compensatory planting, the conclusion that the overall residual impact will be reduced to an acceptable level is ungrounded;

*Specific comments on the EcoIA:*

*Response to Comments Table*

- (f) the applicant has mistakenly referred the woodland to be lost as low ecological value in the Response-to-Comments table in **Appendix Ic**, which should be moderate ecological value;

*S.5.3.2 of the EcoIA*

- (g) the applicant should elaborate with supporting reference for the statement “In general, indirect construction phase impacts on non-wetland in Hong Kong arising from human disturbances, noise and dusts are relatively minor...”. In addition, the applicant should explain with supporting reference why the species of conservation importance identified in the area were considered disturbance-insensitive;

*S.5.3.3 of the EcoIA*

- (h) it is unreasonable to assume that the surrounding mature secondary woodland is disturbance-insensitive simply by virtue of its dense vegetation;

*S.5.3.4 of the EcoIA*

- (i) the applicant should advise whether the claim “the absence of any notable avifauna flight-lines in the wider area” is supported with any flight-line survey/literature;

*S.6.2.2 of the EcoIA*

- (j) the flora species of conservation interest *Gnetum luofuense* (羅浮買麻藤) should be included in the protection plan, to be located and tagged to avoid disturbance and impact from any construction activities;

*S.6.2.3 of the EcoIA*

- (k) it is noted that the estimated loss of secondary woodland has been revised from 0.56ha to 0.86ha to include the compensatory planting area. His comments (d) above is applicable; and

*S.6.4.2 of the EcoIA*

- (l) detailed information of the reference “(... AFCD 2012)” cannot be found. The applicant should check and revise.

**Geotechnical**

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

- (a) he has no in-principle objection to the application;
- (b) the applicant should commit to undertake natural terrain hazard study and provide any necessary mitigation measures as part of the development as stated in the submitted Geotechnical Planning Review Report (**Appendix Ic**); and
- (c) the applicant is reminded that a number of existing geotechnical features lie within and immediately adjacent to the Site and may affect or be affected by the proposed development. As such, details of the investigation and assessment of the effects of the proposed development on these geological features, and vice versa, together with a proposal of any necessary slope stabilization works should be submitted in conjunction with the development proposal to relevant authorities for processing. The GEO shall provide comments on the detailed design of the works in terms of geotechnical safety concern upon receipt of the submissions via referral from the relevant authorities.

**Urban Design and Landscape**

9.1.8 Comments of the Chief Architect/CMD2, Architectural Services Department (CA/CMD2, ArchSD):

- (a) it is noted that the proposed Towers 2 & 3 with 20 domestic storeys is about 100% higher than adjacent Pristine Villa with 8-10 domestic storeys and about 25% higher than adjacent Peak One with 14-16 domestic storeys. It is undesirable from visual impact point of view and may not be compatible with the adjacent developments;
- (b) the proposed development with building height substantially higher than adjacent residential developments may set an undesirable case for similar applications.

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

Urban Design and Visual

- (a) the applicant should accurately reflect the proposed development in the photomontages of the VIA. However, it is considered that some of these photomontages are not in a right scale, particularly viewpoint 8 (**Drawing Z-19**), in which the visual impacts of the proposed development are underestimated; The visualization materials (i.e. photomontages) should be accurate and clear to demonstrate the three-dimensional relationship of the proposed development with the surrounding context in supporting the VIA;
- (b) she considers that the proposed development will block majority of the existing view towards the Sha Tin New Town from the walking trail at viewpoint 8 (**Drawing Z-19**). Even with mitigation measures, the proposed development at 165mPD will remain tall as the walking trail is located in a close distance with the proposed development. Therefore, the visual impact at VP8 is considered to be significantly adverse. The photomontage of the VIA at VP8 therefore could not effectively reflect the potential visual impact of the proposed development.
- (c) the Site is located on a high topographic level in a scenic setting with the Needle Hill ridgeline as a backdrop overlooking the Sha Tin New Town development and Shing Mun River Channel. The Site is on sloping ground in a secluded area near Sha Tin North Service Reservoir where the immediate surroundings are densely vegetated and predominantly natural in character. Access to the Site is through Tung Lo Wan Hill Road to its immediate southeast. The Site is situated at the fringe of the “GB” zone which acts as a buffer between Shing Mun Country Park and developments in Sha Tin. Its further north comprises 1-3 storeys of village houses and a cluster of religious and burial facilities while major residential development of medium-rise (including 15 storeys Peak One, 1-5 storeys Sky One, 9-11 storeys Pristine Villa and 3-11 storeys Great Hill in which BH ranges from about 44 to 108mPD with PR ranging from about 0.7 to 2.36) within the existing “R(B)” zone are located to its south further down Tung Lo Wan Hill Road towards the Sha Tin New Town (**Plan Z-2**). In view that the site topography and context is characterized with natural greenery landscape with a few residential development along Tung Lo Wan Hill Road, the proposed development at a higher site level with maximum BH of 20 storeys (equivalent to 165mPD) is considered not responsive to the local context as its BH is still substantially taller than other existing residential developments including Pristine Villa, Great Hill and Peak One, etc. which are located at a lower site level;
- (d) the “GB” zone along the mountain backdrop of Needle Hill provides greenery sustaining the visual amenity of the area. Given that the Site falls within the “GB” buffer between the Shing Mun Country Park and Sha Tin New Town, there allows visual access between the Sha Tin Town Centre and the undulating hillslopes towards the distant backdrop, which are currently visual resources enjoyed by public viewers in the vicinity. The approval of proposed rezoning would likely invite similar applications which may in turn attract proliferation of similar development in area within "GB" zone and its cumulative effect may

result in further degradation of natural environment.

### Landscape

- (e) she has some reservation on the application from the landscape planning perspective;
- (f) it appears part of the walking trail (including flight of steps) and some seating decks at the north-western part of the Site have not taken into consideration of the preservation of existing trees. It is noted some locations have conflicts with the tree protection zones which may cause potential damage to tree roots and affect tree health in long term;
- (g) there is no detailed tree survey on the proposed widening of Tung Lo Wan Hill Road to assess the potential impact on existing trees and no landscape impact assessment on other landscape resources where applicable. For the affected trees, prior agreement on tree felling and compensatory tree planting proposals should be sought from the relevant tree management department(s) and copy of such agreement should be provided in the application;
- (h) the foreground of the photomontage of Viewpoint 5 (**Drawing Z-16**) does not tally with the situation that the Tung Lo Wan Hill Road is on a gradient not flat as shown and the other side of the road (outside Site) is not landscape;
- (i) the road widening only proposed footpath on one side but not both; and
- (j) her detailed comments on the landscape section, landscape master plan and open space provision are at **Appendix II**.

### **Heritage Conservation**

#### 9.1.10 Comments of the DLCS:

- (a) although there is no graded/proposed grade historic building nor item on the “List of New Items for Grading Assessment” on the Site, the Site is only 34m away from the Tao Fong Shan Christian Centre at No.33 Tao Feng Shan Road, Sha Tin, which is a compound of Grade 2 historic buildings. The FI (**Appendix Ic**) fails to fully address the potential impact of the proposed development on the Tao Fong Shan Christian Centre; and
- (b) in order to ensure the heritage value of the Grade 2 historic compound will be properly preserved both physically and visually, the applicant is requested to, before commencement of any works and to the satisfaction of the Antiquities and Monuments Office, assess the likely impact of the proposed development to the graded historic building compound, including but not limited to physical and visual impacts, and recommend appropriate mitigation, protective and/or monitoring measures according to the assessment results.

### **Environment**

#### 9.1.11 Comments of the Director of Environmental Protection (DEP):

- (a) he has no in-principle objection to the application;
- (b) the Site is situated at the top end of Tung Lo Wan Hill Road and the applicant has proposed a MLP with setback from the road. The environment assessment (EA) (**Appendix Ic**) shows that adverse road traffic noise impact will be mitigated to meet the relevant requirement of the HKPSG by adopting a setback of the proposed houses from the road;
- (c) since the validity of the results of the road impact assessment presented in the EA relies on the validity of the traffic forecast data, the traffic forecast data should be endorsed by the relevant authorities and documented in the EA for reference;
- (d) there is a typo in S.6.1.2 in the EA reading “a total of 434 residential units...”. The applicant should revise accordingly; and
- (e) for S.6.1.2 in the EA, the applicant should clarify if the adoption of fertilizer and pesticide is required in the landscaping area. If yes, the applicant is reminded to implement mitigation measures in order to prevent release of nutrients to underground water or nearby water bodies.

### **Fire Safety**

#### 9.1.12 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department;
- (b) Emergency Vehicular Access (EVA) arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by Buildings Department; and
- (c) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

#### 9.1.13 Comments of Chief Building Surveyor/New Territories East (2) and Rail, Buildings Department (CBS/NTE(2)&R, BD)

- (a) she has no objection to the application;
- (b) unless the Site abuts on a specified street of not less than 4.5m wide, its development intensity shall be determined by the Building Authority under Building (Planning) Regulation (B(P)R) 19(3);
- (c) EVA shall be provided to the site complying with B(P)R 41D;
- (d) PNAP APP-2, HKPSG and the advice of C for T will be referred to when

determining exemption of GFA calculation for carparking spaces; and

- (e) detailed comments would be given at plan submission stage.

### **Drainage**

9.1.14 Comments of the Chief Engineer/Mainland South, Drainage Services Department(CE/MS, DSD):

- (a) he has no comments on the drainage and sewerage impact assessments (**Appendix Ic**) submitted by the applicant; and
- (b) there is no mechanism in the s.12A application to require and ensure the applicant to implement the proposed mitigation measures in the drainage and sewerage impact assessments. Relevant conditions should be imposed in the land exchange stage for the development.

### **Water Supply**

9.1.15 Comments of CE/C, WSD:

- (a) he has no objection to the application;
- (b) water mains in the vicinity of the above site cannot provide standard fire-fighting flow;
- (c) due to the relatively high elevation level and remoteness of the site, the project proponent shall make use of his private off-site sump and pump system to effect adequate water supply pressure to the subject development. The project proponent shall be responsible for the construction, operation and maintenance of the private off-site water supply system to the satisfaction of WSD for the use of the proposed development;
- (d) existing salt water main is located beside the proposed private off-site sump and pump system. Salt water instead of temporary mains fresh water for flushing (TMF) should be adopted to serve the proposed development for flushing purpose; and
- (e) in view that the proposed development is located in close proximity to the existing Sha Tin North Fresh Water Service Reservoir, the applicant is required to observe the followings during execution of the works:
  - (i) stability of areas of cut and fill;
  - (ii) stability of temporary works;
  - (iii) adequacy of temporary and permanent site drainage;
  - (iv) suitable siting of discharge points; and
  - (v) particle velocity and vibration amplitude should be limited to 13mm/sec and 0.1 mm respectively.



### **District Officer's Comments**

9.1.16 Comments of the District Officer/Shu Tin, Home Affairs Department (DO/ST, HAD):

- (a) she has no specific comments on the application at this stage; and
- (b) it is noted that the Owners' Committees and other management bodies of Pristine Villa, Peak One, Sky One, and the indigenous inhabitants representatives and rural representatives of Tung Lo Wan Village in the vicinity of the Site have grave concerns about developments in their neighbourhood.

9.2 The following departments have no objection to/comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Director of Food and Environmental Hygiene;
- (c) Commissioner of Police; and
- (d) Project Manager/New Territories East, Civil Engineering and Development Department.

## **10. Public Comments Received During Statutory Publication Period**

10.1 On 5.1.2018 and 13.4.2018, the application and its FI were published for public inspection. During the first three weeks of the statutory public inspection periods, a total of 73 public comments were received from the Chairperson of Sha Tin Rural Committee, the Village Representative of Tung Lo Wan Village, a Sha Tin District Council member, Incorporated Owners of Pristine Villa and The Great Hill, residents of Peak One and The Great Hill, World Wide Fund for Nature Hong Kong, Kadoorie Farm & Botanic Garden Corporation, Green Sense and private individuals (**Appendix III**). 50 of them object to the application while the remaining 23 of them support the application in the form of standard letters. Their views are summarized as follows:

### *Objecting Views (50)*

- (a) the proposed development would generate adverse traffic impact along Tung Lo Wan Hill Road and To Fung Shan Road, and would affect the passage of emergency vehicles and school buses which pose danger and inconvenience to local residents;
- (b) the proposed development is not in line with the planning intention of "GB" zone, and is not compatible with the surrounding area. Such rezoning proposal, if approved, would set an undesirable precedent in the future;
- (c) the proposed development would damage the existing natural environment and result in habitat fragmentation as it involves vegetation clearance within the dense natural woodland;
- (d) the feasibility of the proposed road widening work remains uncertain;

- (e) the proposed development would generate air and noise pollution and have adverse visual impact on nearby residents. It is also difficult to assess if there is any negative impact on the water quality of adjacent reservoir;
- (f) the increase in population arising from the proposed development would put additional pressure on the provision of community facilities; and
- (g) substantial works would have adverse impacts on the village's fung shui and life, health and property of the nearby villagers.

*Supporting Views (23) in form of standard letters*

- (h) The proposed widening of Tung Lo Wan Hill Road is anticipated to benefit the local residents.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for the rezoning of the Site from "GB" and "G/IC" to "R(B)4" subject to a maximum PR of 2.1 and a maximum BH of 165mPD, where 'Flat' and 'House' would be permitted as of right, to facilitate a private residential development at the Site. According to the indicative development scheme submitted by the applicant, the proposed development comprises four 20-22 storeys high-rise residential towers on top of a 5-storey podium at ~~158.8~~ **158.5**mPD to 164.9mPD and six 5-storeys houses at 95mPD to 103.5mPD.
- 11.2 The planning intention of the "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. The Site serves the function as a buffer between the urban areas of Sha Tin New Town and the Shing Mun Country Park. In fact, the Site and its surrounding area was rezoned from "R(B)" to "GB" in 1983 as it is considered not suitable for large scale residential developments on accessibility and landscaping grounds. Any massive residential development would involve substantial cut and fill operations which would destroy the existing fine natural vegetation and good quality woodland. The "GB" zoning of the Site remains unchanged and there is no major change in planning circumstances since then.
- 11.3 While medium-density residential developments including Peak One, Sky One, Pristine Villa and The Great Hill with BHs reaching 44mPD to 108mPD are located to the south of the Site, these developments are located on much lower platforms and are separated from the Site by the existing Sha Tin North Water Reservoir zoned "G/IC" (**Plan Z-2**). The Site, which is located on a relatively higher topographical level than the existing medium-density residential developments, currently forms an integral part of a large piece of "GB" zone to the north of the existing Sha Tin North Water Reservoir zoned "G/IC".

### Urban Design and Visual

- 11.4 The Site, situated on a sloping ground covered with dense vegetation, trees and vacant structures, is located on a high topographic level in a scenic setting with the Needle Hill ridgeline as a backdrop overlooking the Sha Tin New Town development and Shing Mun River Channel where the immediate surroundings are densely vegetated and predominantly natural in character. The subject "GB" zone

where the Site is located also serves as a “GB” buffer between Shing Mun Country Park and developments in Sha Tin. While the major residential developments including Peak One, Sky One, Pristine Villa and The Great Hill with BHs reaching 44mPD to 108mPD are located to the south further down Tung Lo Wan Hill Road towards the Sha Tin New Town (**Plan Z-2**), CTP/UD&L, PlanD considers that the proposed development with a maximum BH of 165mPD is not responsive to the local context as the proposed BH is substantially taller than other existing residential developments located at a lower site level.

- 11.5 The proposed development is anticipated to affect the landscape and aesthetic value of To Fung Shan area. In particular, it will block majority of the existing view towards the Sha Tin New Town from the walking trail. However, for the VIA submitted, CTP/UD&L, PlanD considers that some of the photomontages are inaccurate and fails to effectively reflect the potential visual impact of the proposed development. CA/CMD2, ArchSD also considers that the proposed development is undesirable from visual impact point of view and may not be compatible to the adjacent developments.

#### Landscape

- 11.6 CTP/UD&L, PlanD has reservation on the application from the landscape planning perspective as the proposed walking trail and seating decks at the north-western part of the Site fail to take into consideration the preservation of existing trees and would have conflicts with the tree protection zone. There is also no detailed assessment on the proposed widening of Tung Lo Wan Hill Road to assess the potential impact on existing trees and landscape resources. DLCS also considers that other alternatives maybe explored so as to minimize the number of LCSD’s trees to be affected.
- 11.7 H(GEO), CEDD considers that geotechnical features within and immediately adjacent to the Site may be affected by the proposed development. As such, the applicant’s claim that the extent of any slope works will not extend further beyond the compensatory planting area is doubtful, DAFC considers that the overall impact on the native secondary woodland, which is of moderate ecological value, resulted from the proposed development cannot be ascertained at this stage. Besides, considering that the development proposal is indicative in nature, the inclusion of the secondary woodland in the rezoning application, where ‘Flat’ and ‘House’ uses would be permitted as of right in the proposed “R(B)4” zone, might not guarantee the preservation of this piece of woodland.

#### Traffic

- 11.8 As a traffic improvement measure, the applicant proposed to widen a section of Tung Lo Wan Hill Road which falls outside the Site. C for T considers that the proposed widening of Tung Lo Wan Hill Road is the critical traffic issue of the application, and the applicant should seek confirmation from the relevant departments that the proposed road works is both technical feasible and acceptable to these departments. In this regard, the applicant fails to prove that relevant departments have confirmed that the proposed road widening is both technical feasibility and acceptable to them. Whilst the applicant undertakes to design and construct the road widening works to the satisfaction of the TD and HyD, and be responsible for the future management and maintenance before relevant Government departments take up such responsibilities, C for T considers that the proposed access road does not comply with the TPDM requirements and will not take up the traffic management of the concerned road. Besides, H(GEO), CEDD also considers that there is insufficient information provided by the applicant to

demonstrate the geotechnical feasibility of the proposed road widening works at this stage. In this regard, it is premature to conclude that the proposed road works is technically feasible or acceptable to relevant departments, and the prospect of the implementation of the proposed road works is doubtful. Given that no Government department has agreed to take up the management and maintenance of the concerned road and the management and maintenance responsibility of the concerned road upon its completion has not been resolved, the scenario that the future flat owners being required to take up such responsibility may not be a desirable arrangement as it might lead to potential implications and create legal disputes in long term.

#### Heritage Conservation

- 11.9 From heritage conservation point of view, DLCS considers that the applicant should assess any possible impacts of the proposal and associated works on the Tao Fong Shan Christian Centre, which is a Grade 2 historic building, located in the proximity of the Site. The applicant, however, has not provided relevant assessment for DLCS' consideration. Other Government departments including EPD, DSD and WSD have no objection to/comment on the application.

#### Setting of Undesirable Precedent

- 11.10 Given the planning intention of the "GB" zone, and that the Site falls within the "GB" buffer between the Shing Mun Country Park and Sha Tin New Town which allows visual access between the Sha Tin Town Centre and the green backdrop of Needle Hill, the approval of application would set an undesirable precedent for other similar rezoning applications in the area for other residential developments. The cumulative effect of approving these applications would result in further degradation of natural environment, and compromise the integrity of the "GB" buffer between the Shing Mun Country Park and Sha Tin New Town.
- 11.11 The Site was rezoned from "R(B)" to "GB" in 1983 as the major part of To Fung Shan would not be suitable for large scale residential development on accessibility and landscaping grounds. The Site was the subject of two previous s.12A and nine previous s.16 planning applications for various residential developments with proposed GFA ranging from 518.03m<sup>2</sup> to 23,735m<sup>2</sup>. Except application No. A/ST/673 for a single house development with a proposed GFA of 518.17m<sup>2</sup> which was approved with conditions in 2008, all of them were either withdrawn or rejected. Application No. Y/ST/4 for rezoning the Site from "GB" to "CDA(2)" was rejected as the Site together with the surrounding "GB" areas were covered with dense vegetation which served as a green backdrop to the area and the proposed "CDA" zoning would be misleading that the whole Site would be suitable for comprehensive development. The s.16 applications were rejected for being not in line with the planning intention of "GB" zone, failure to demonstrate that the development would not have adverse drainage, nature conservation and landscape, visual and traffic impacts, and setting of undesirable precedent. In this regard, the single house development with a proposed GFA of 518.17m<sup>2</sup> approved under application No. A/ST/673 is substantially different from the current proposal with a proposed GFA of 32,361m<sup>2</sup> for 390 flats. Therefore, the planning circumstances of that application are not relevant to the subject application.
- 11.12 Among 73 public comments received, 23 of them support the application as the proposed widening of Tung Lo Wan Hill Road would benefit the local residents. The remaining 50 of them object to the application on the grounds of anticipated adverse traffic, visual, environment, air quality, noise and water quality impacts,

infeasibility of the proposed road widening works, and the additional pressure on the provision of community facilities due to the additional population. In this regard, the planning assessment and comments of Government departments above are relevant.

## **12. Planning Department's Views**

12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department does not support the application for the following reasons:

- (a) the Site together with the surrounding “GB” zone was covered with dense vegetation and mature trees, which serves as a green backdrop to the area. The current zoning is considered appropriate and there is no strong justification to rezone the Site from “GB” to “R(B)4” from land use planning point of view;
- (b) the applicant fails to demonstrate that the proposed rezoning would not have adverse visual, landscape and nature conservation impacts on the surrounding areas;
- (c) the applicant fails to demonstrate the feasibility of the proposed road widening works; and
- (d) the approval of the subject application will set an undesirable precedent for other similar development proposals in the “GB” zone. The cumulative impact would result in further degradation of natural environment, and compromise the integrity of the “GB” buffer between the Shing Mun Country Park and Sha Tin New Town.

12.2 Alternatively, should the Committee decide to agree / partially agree to the subject application, the proposed amendments to the Sha Tin OZP would be submitted to the Committee for approval prior to gazetting under Section 5 of the Town Planning Ordinance upon reference back of the OZP.

## **13. Decision Sought**

13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.

13.2 Should the Committee decide not to agree to the application, Members are invited to advise what reasons for the decision should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application form received on 27.12.2017
<b>Appendix Ia</b>	Supplementary planning statement
<b>Appendix Ib</b>	FI received on 24.1.2018 providing additional justifications
<b>Appendix Ic</b>	FI received on 29.3.2018 with revised development parameters together with submission of revised technical assessment reports and responses to Government departmental and public comments
<b>Appendix II</b>	A set of Notes for “R(B)4” zone proposed by the applicant
<b>Appendix III</b>	Detailed Departmental Comments
<b>Appendix IV</b>	Public Comments
<b>Drawing Z-1</b>	Indicative Master Layout Plan
<b>Drawing Z-2</b>	Indicative Basement 2 Floor Plan
<b>Drawing Z-3</b>	Indicative Basement 1 Floor Plan
<b>Drawing Z-4</b>	Indicative Ground Floor Plan
<b>Drawing Z-5</b>	Indicative Club House Plan
<b>Drawing Z-6</b>	Indicative Section Plan
<b>Drawing Z-7</b>	Indicative Long Section Plan
<b>Drawing Z-8</b>	Indicative Elevation Plan
<b>Drawing Z-9</b>	Artist Impression
<b>Drawing Z-10</b>	Indicative Landscape Master Plan
<b>Drawing Z-11</b>	Indicative Landscape Section Plan
<b>Drawings Z-12 to Z-21</b>	Photomontages
<b>Drawing Z-22</b>	Proposed Widening of Tung Lo Wan Hill Road
<b>Plan Z-1</b>	Location plan
<b>Plan Z-2</b>	Site plan
<b>Plans Z-3a and Z-3b</b>	Aerial photos
<b>Plan Z-4</b>	UAV photo
<b>Plans Z-5a to Z-5c</b>	Site photos

**PLANNING DEPARTMENT  
JUNE 2018**