

城市規劃委員會

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北角政府合署十五樓

CB(1)320/13-14(03)

TOWN PLANNING BOARD

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來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.:

13 November 2013

Ms Sharon Chung,
Clerk to Panel on Development,
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong.

Dear Ms Chung,

Panel on Development

**Urgent Meeting to Discuss
the Arrangements of the Town Planning Board for
Receiving Public Representations and Comments and Related Issues**

I refer to your letter dated 6 November 2013 addressed to the Secretary for Development inviting representatives of the Administration and the Chairman of the Town Planning Board (TPB) to attend the meeting of the Panel on 26 November 2013 or at an earlier date to be advised by the Administration. The letter has been referred to TPB by the Development Bureau for reply regarding the part of the invitation to the TPB Chairman. I have been authorized by TPB to reply.

Although TPB is an administrative and not a judicial body, it exercises a statutory function as specified in the Town Planning Ordinance (Cap. 131) and is duty-bound at common law to do so independently and impartially: see for example *Real Estate Developers Association v Town Planning Board* [1996] 6 HKPLR 179, para 59; *Kaisilk Development Ltd v Secretary for Planning, Environment and Lands*, HCAL 148/1999, para 22 (Cheung J); *Capital Rich Development Ltd v Town Planning Board*, HCAL 51/2004, para 69. TPB is now in the midst of conducting a meeting to consider the representations and comments submitted in respect of the Draft Central District (Extension) Outline Zoning Plan No. S/H24/8 (the said OZP), which is part of the statutory process

under Cap. 131. The meeting has already started and is currently scheduled to continue until mid-December 2013.

Members of TPB have carefully considered the Panel's invitation and noted the issues proposed to be discussed. They have come to the view that, having regard to its said statutory and common law duties, it would be inappropriate for TPB including its Chairman to discuss the issues with the Panel when TPB is still conducting the meeting under the statutory process in accordance with Cap. 131.

For the information of the Panel Chairman and Members, TPB has received 9,815 representations and 9,242 comments in respect of the said OZP, and over 1,000 representers and commenters have already indicated that they will attend the meeting. Having regard to the circumstances, TPB has discussed thoroughly and considers that there is a need to make special meeting arrangements for the hearing of the representers and commenters. It has thus drawn up a set of special meeting arrangements, pursuant to section 2C(3) of Cap.131, which are clearly set out in the "Guidance Notes on Attending the Meeting for Consideration of the Representations and Comments in respect of the Draft Central District (Extension) Outline Zoning Plan No. S/H24/8" (Guidance Notes). In this context, TPB wishes to emphasize that, due to the large numbers and the numerous sessions which have to be arranged for the hearing of oral submissions, the scheduling of an initial time limit of 10-minute for each representer/commenter, subject to the TPB's flexible arrangement for any request for further speaking time, is considered necessary and reasonable. Moreover, there are other measures in the Guidance Notes which provide further flexibility for the Meeting arrangements (for example, an authorized representative may speak on behalf of more than one representer/commenter and, in so doing, make use of the cumulative time allotted to all the represented persons). In relation to the five sessions of the meeting held thus far, a number of representers had already taken advantage of the flexible arrangements under the Guidance Notes and had their speaking time extended by either obtaining the authorizations of other representers or requesting TPB for further time for their oral submissions.

The Guidance Notes are available on TPB's website, and a copy is attached for the Panel's easy reference. They set out the detailed meeting arrangements and the relevant circumstances based on which the arrangements have been drawn up.

In relation to the letter from Dr Hon Kenneth CHAN Ka-lok dated 4 November 2013, we wish to inform the Panel Chairman and Members that TPB has, by letter dated 8 November 2013, provided a detailed reply to Dr Chan. In that reply, TPB has explained to him the flexible arrangements that

representers (including Dr Chan himself) could use and invited Dr Chan to inform TPB how much extra time he would need to complete his oral submission so that TPB could, having regard to his request and the overall scheduling of the said meeting, make appropriate arrangement for him. Before Dr Chan left the meeting room at his allotted session on 4 November 2013, he had informed TPB that he could not estimate how much extra time he would require. This was after Dr Chan had already spoken for 20 minutes, since he was also the authorized representative of another representer who had let Dr Chan make use of his pre-scheduled 10 minutes.

TPB is awaiting Dr Chan's response to its invitation as aforesaid.

In the light of the above considerations, Members of TPB respectfully request that the discussion with the Panel be deferred until after TPB has completed its meeting to consider the representations and comments in respect of the said OZP. As a constructive suggestion, may I propose that the Panel's meeting scheduled for 28 January 2014 might possibly be a suitable occasion for such purpose, provided that the meeting to consider the representations and comments shall have been completed before then. In this connection, we will liaise with you in due course. We trust the Chairman and other members of the Panel will show their understanding in this matter.

Yours sincerely,



(Ophelia Y.S. WONG)
Secretary, Town Planning Board

Encl.

c.c. Chairman, Town Planning Board

**GUIDANCE NOTES ON ATTENDING THE MEETING FOR
CONSIDERATION OF THE REPRESENTATIONS AND COMMENTS
IN RESPECT OF THE DRAFT CENTRAL DISTRICT (EXTENSION)
OUTLINE ZONING PLAN NO. S/H24/8**

INTRODUCTION

- 1 The following notes give information and guidance on attending the meeting of the Town Planning Board (TPB) for consideration of the representations and comments in respect of the draft Central District (Extension) Outline Zoning Plan No. S/H24/8 (the draft OZP) under section 6B of the Town Planning Ordinance (the Ordinance). The representer/commenter who intends to attend the meeting should read these notes carefully.
- 2 If further information or assistance is required, please contact **the Town Planning Board Secretariat at 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong (North Point Government Offices) (Tel: 2231 4629 or 2231 4810).**

HEARING BY THE FULL TOWN PLANNING BOARD

- 3 The representations and comments will be considered by the full TPB collectively in a meeting which will commence on 4 November 2013 and continue for a number of days.

WHO CAN ATTEND

- 4 Each representer/commenter is entitled to attend the meeting and to be heard in the allotted session, either in person or by an authorized representative under section 6B of the Ordinance. If any representer/commenter decides to appoint an authorized representative for the meeting, he should complete the authorization form attached to the letter from the TPB Secretariat dated 21 October 2013 and give it to his authorized representative. The authorized representative will only be allowed to represent the representer/commenter at the meeting if he brings along the duly completed authorization form with him and his identity is duly verified by the TPB Secretariat. A representer/commenter who has appointed an authorized representative is also allowed to attend the meeting. Subject to available capacity, he may be permitted to be in the TPB meeting room or in the viewing rooms referred to in paragraph 5 below for the purpose of following the proceedings.
- 5 Each commenter is entitled to attend the meeting when the representation in respect of which his comment was made is heard. If he wishes, he can observe such meeting sessions via video-link facility in Room 1401 or other designated rooms in North Point Government Offices, starting from the first day of the meeting on 4 November 2013.
- 6 The representatives of the Planning Department (PlanD) and other government departments, where appropriate, will also be invited by TPB to attend the meeting.

REGISTRATION FOR ATTENDANCE

- 7 Written authorization for authorized representatives and proof of identity of the representers/commenters who appear in person and of their authorized representatives (if appointed) will be required. The TPB Secretariat will check the Identity Cards/Passports of the attendees in order to ensure that the persons attending as representers/commenters or authorized representatives are the persons entitled to attend in such capacity. Persons who do not cooperate may be refused entry into the meeting room, although they may still be allowed to view the proceedings in the public viewing room at 1/F, North Point Government Offices.
- 8 Representers/commenters who have indicated to the TPB that they wish to attend the meeting have all been allotted a session during which oral submissions from them or their authorized representatives will be heard. They should attend this session of the meeting at the date and time indicated in the TPB's notice of meeting to them.

TPB PAPER

- 9 All representers and commenters will be provided with the relevant TPB paper 7 days before the first day of the meeting, i.e. 28 October 2013 (the attachments of the TPB paper will be uploaded to TPB's website for downloading/viewing by representers/commenters).

PRESENTATION TIME

Setting and Allocation of Speaking Time

- 10 TPB fully respects the rights of the representers and commenters to be heard, as well as the need to ensure procedural fairness. Without prejudice to the aforesaid, TPB has to deal with the situation arising from the large number of representations and comments. Having taken into account all relevant circumstances and matters including the similarities in nature of these representations and comments as submitted, and the grounds relied upon therein, as well as the statutory timeframe within which TPB has to submit the draft OZP to the Chief Executive in Council, a time limit will be imposed on the oral submissions of each representer/commenter. With a view to ensuring fair treatment, all representers and commenters (whether they attend in person or through their authorized representatives) will be given the same time limit.
- 11 Because of the large number of representations and comments received, a total of 10 minutes is the time allotted to each representer and commenter for such purpose. TPB has the responsibility of ensuring the smooth conduct of the meeting and may, in discharging such responsibility, stop any oral submission which is repetitive, abusive or on any other reasonable grounds even before the allotted time has expired.
- 12 Where a representer/commenter has authorized a representative to speak on his behalf, such representative will take over the 10-minute time slot allocated to the representer/commenter.
- 13 If an authorized representative is appointed by more than one representer/commenter to represent them, that authorized representative may use the cumulative time allotted to all the persons he represents to make his oral submissions. For example, if an authorized representative is appointed by three representers and one commenter, he may use a total of up to 30 minutes for his oral submissions on behalf of the three representers at the session of the meeting when the representers are scheduled to be heard and a total of up to 10 minutes for his

oral submissions on behalf of the commenter at the session of the meeting when the commenter is scheduled to be heard.

- 14 The authorized representative may himself be a representer/commenter, and may represent not only himself but also a number of other representers/commenters. Such authorized representative will not be allowed to speak longer than the total amount of time allotted to himself (if he himself is one of the representers/commenters entitled to attend the meeting) and the other representer/commenter whom he represents.

Time Keeping

- 15 A time-keeper will be appointed by the TPB Secretariat and his function is to ring a bell or another similar device 2 minutes before the allotted 10-minute time is up to alert the representer/commenter that the time limit of 10 minutes is about to expire and then when the allotted 10-minute time limit is up every time. Upon the ringing of this device when the allotted 10-minute limit is up, the speaker must stop immediately.

Presentation by Electronic Media

- 16 If, at the meeting, a representer/commenter or his authorized representative chooses to present the submission by electronic media such as video/record tape, he still will not be allowed to exceed the total allotted time. The submission of such electronic media for broadcasting at the meeting by a representer/commenter who does not attend the meeting in person or by an authorized representative will not be allowed.

Request for Further Time

- 17 Request for further time or adjournment of the oral submissions from a representer/commenter or his authorized representative will be considered by TPB and TPB retains a discretion which will only be exercised upon sufficient cause shown and after taking into account all relevant circumstances. If a representer/commenter or his authorized representative requests for an extension of time, he will be informed that TPB will consider his request and, if his request is allowed, he will be either given further time in the same allotted session to make his submissions (if time permits), or notified of the date when he will be invited to return for such purpose.

CONTENT OF ORAL SUBMISSIONS

- 18 Each oral submission may elaborate further or highlight the essential points in support of the subject representation/comment. Such submission should be confined to the ground of representation/comment already made to TPB (i.e. representations made when the draft plan was exhibited under section 5 of the Ordinance and comments made when the representations were available for public inspection under section 6(4) of the Ordinance).
- 19 To ensure a smooth and efficient conduct of the meeting, the Chairman of TPB may request the representer/commenter not to repeat unnecessarily the same points of arguments which have already been presented by the others at the same meeting. If the same point has already been made by other representers/commenters/authorized representatives in the meeting, the Chairman of TPB can in his discretion disallow repetition.
- 20 In order not to unnecessarily prolong the meeting process, the oral submissions made in the meeting should avoid reading out or repeating statements contained in the written

representations/comments made under section 5/section 6(4) of the Ordinance which the TPB Secretariat has already provided to members of TPB.

- 21 During the meeting, the representers, commenters, authorized representatives and representatives of government department may only address TPB at the invitation of the Chairman of TPB. The meeting should not be taken as an occasion for cross-examination among concerned parties.

GENERAL PROCEDURE AT THE MEETING

- 22 Each session of the meeting will be held in the following sequence:

- (a) the Chairman of TPB will first make an opening remark and explain the procedure of the meeting;
- (b) the Chairman will invite the representative(s) of PlanD and/or other relevant government departments to give a summary of the facts, background and PlanD's views on the case;
- (c) the Chairman will invite the representers/commenters/their authorized representatives to make oral submissions in turn. The order of presentation to TPB will follow the reference number already given to each representation and comment; and
- (d) after the submissions, members of TPB will be invited to ask questions which may require the representers/commenters/their authorized representatives and/or the representatives of government departments to answer. The Chairman may refer such questions to any specific representer, commenter, authorized representative and/or representative of government department.

- 23 The deliberation part of the meeting will be conducted behind closed doors in accordance with section 2C(1) and 2C(2)(a) of the Ordinance .

ORDER AND BEHAVIOUR

- 24 The rules for keeping the order inside the meeting room are as follows:

- (a) loudhailers and banners will not be allowed to be brought into the meeting room;
- (b) all attendees must behave in an orderly manner and remain seated during the conduct of the meeting;
- (c) all attendees are expected to show courtesy to one another by allowing them to make their presentations without being disturbed by people talking amongst themselves or by passing comments;
- (d) offensive and insulting language must not be used at the meeting;
- (e) photo-taking or recording is not allowed in the meeting room; and
- (f) clamour, shouting and commotion are prohibited.

- 25 Any person who fails/refuses to follow any of the above rules or causes any disturbance to the conduct of the meeting will be given warnings by the Chairman of TPB. After repeated warnings, the Chairman of TPB can ask that person to leave the meeting room. Once excluded, that person should not be allowed to return for the remaining part of the meeting.
- 26 The Chairman of TPB has full discretion to control the conduct of the meeting and all attendees must follow his instructions. Attendees who do not do so may be asked to leave the meeting room and uncooperative attendees may be removed from the meeting room if necessary at the direction of the TPB Chairman.

DECISION OF TPB

- 27 After giving consideration to the representations and comments, TPB will decide whether or not to propose amendments to the draft OZP in the manner proposed in the representation or otherwise in the manner that, in the opinion of TPB, will meet any of the representations. If TPB decides to propose amendments to the draft OZP, such proposed amendments shall be published for further representations in accordance with the provisions of the Ordinance.
- 28 The decision of TPB will be conveyed to the representers and commenters in writing by the Secretary of TPB as soon as possible after the minutes of TPB have been confirmed.
- 29 Pending formal notification, any representer and commenter may seek verbal advice on the decision of TPB from the TPB Secretariat after completion of the consideration and deliberation of the representations and comments, or make reference to the Gist of Decision which is available on the TPB's website after completion of the consideration and deliberation of the representations and comments. He may also request for an interim written reply on TPB's decision. Such request should be made in writing to the Secretary of TPB. The interim reply should not be treated as a formal notification of the decision of TPB.

**TOWN PLANNING BOARD SECRETARIAT
NOVEMBER 2013**